



**City Commission Agenda  
Civic Center, 2 Park Drive South, Great Falls, MT  
Commission Chambers Room 206  
January 16, 2018**

**CALL TO ORDER 7:00 P.M.**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL/STAFF INTRODUCTIONS**

**AGENDA APPROVAL**

**PROCLAMATIONS**

Black History Month and Catholic Schools Week.

**PETITIONS AND COMMUNICATIONS**

*(Public comment on any matter that is not on the agenda of the meeting and that is within the jurisdiction of the City Commission. Please keep your remarks to a maximum of 3 minutes. When at the podium, state your name and address for the record.)*

1. Miscellaneous reports and announcements.

**NEIGHBORHOOD COUNCILS**

2. Miscellaneous reports and announcements from Neighborhood Councils.

**BOARDS AND COMMISSIONS**

3. Appointments, Regional Airport Authority Board.
4. Designate a representative to the Policy Coordinating Committee.
5. Miscellaneous reports and announcements from Boards and Commissions.

**CITY MANAGER**

6. Miscellaneous reports and announcements from the City Manager.

**CONSENT AGENDA**

*The Consent Agenda is made up of routine day-to-day items that require Commission action. Items may be pulled from the Consent Agenda for separate discussion/vote by any Commissioner.*

7. Minutes, January 2, 2018, Commission Meeting.
8. Total Expenditures of \$3,702,987 for the period of December 16, 2017 through January 3, 2018, to include claims over \$5,000, in the amount of \$3,512,804.
9. Contracts List.
10. Set a public hearing on Resolution 10227, Swimming Pool Fees for February 6, 2018.

**Action: Approve Consent Agenda as presented or remove items for separate discussion and/or vote**

## **PUBLIC HEARINGS**

11. Ordinance 3184, rezone the east approximately 12 feet wide by 132.5 feet long portion of Lions Park and sale of said property.

*Action: Conduct joint public hearing and adopt or deny Ord. 3184, and approve or deny the Buy-Sell Agreement and authorize the City Manager to execute all documents necessary to complete the sale to PBA Properties, LLC. (Presented by Craig Raymond)*

12. Resolution 10214 to annex and Ordinance 3178 to assign a zoning classification of C-2 General Commercial to the property described in Certificate of Survey 5114 located immediately north of the property addressed as 1025 NW Bypass.

*Action: Conduct joint public hearing and adopt or deny Res. 10214 and adopt or deny Ord. 3178. (Presented by Craig Raymond)*

## **OLD BUSINESS**

## **NEW BUSINESS**

## **ORDINANCES/RESOLUTIONS**

13. Ordinance 3170, Repealing and Replacing Title 12, of the Official Code of the City of Great Falls (OCCGF), Pertaining to Streets and Sidewalks.

*Action: Accept or not accept Ord. 3170 on first reading and set public hearing for February 6, 2018. (Presented by Sara Sexe)*

14. Resolution 10223, Submit the Question of Whether the City of Great Falls Should Establish Park District Number 1 on the May 8, 2018 Ballot.

*Action: Set a public hearing on Resolution 10223 for February 6, 2018. (Presented by Steve Herrig)*

15. Resolutions 10224 and 10225, Annexation of existing lots within Thaniel Addition, Phase 1, and Repeal of Resolutions 10178 and 10179.

*Action: Adopt or deny Res. 10224 and 10225 and repeal or not repeal Res. 10178 and 10179. (Presented by Craig Raymond)*

## **CITY COMMISSION**

16. Miscellaneous reports and announcements from the City Commission.

17. Commission Initiatives.

## **ADJOURNMENT**

*(Please exit the chambers as quickly as possible. Chamber doors will be closed 5 minutes after adjournment of the meeting.) Commission meetings are televised on cable channel 190 and streamed live at <https://greatfallsmt.net>. City Commission meetings are re-aired on cable channel 190 the following Wednesday morning at 10 am, and the following Tuesday evening at 7 pm.*



**Item:** Appointments, Regional Airport Authority Board

**From:** City Manager's Office

**Initiated By:** City Commission

**Presented By:** City Commission

**Action Requested:** Appoint two members to the Regional Airport Authority Board

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission appoint \_\_\_\_\_ and \_\_\_\_\_ to three-year terms through December 31, 2020, to the Regional Airport Authority Board.”

2. Mayor calls for a second to the motion, Commission discussion, public comment, and calls for the vote.

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**Summary:**

Richard Swensen and Brad Talcott were appointed to the Board in February 2012. They have both served two full terms. In accordance to Resolution 10059, the maximum uninterrupted length of service on any single board or commission shall be two (2) consecutive terms.

Advertising for the vacancy began in October through the local media and the City’s website. Three applications were received.

The Airport Authority and the Airport Authority Board has decided not to make recommendations on appointing new Board Members. The City Commission conducted interviews of the three applicants during a special work session on January 16, 2018.

**Purpose:**

The Regional Airport Authority consists of seven members, four appointed by the City Commission and three appointed by the Cascade County Commission. The Authority serves as the governing and policy setting body for the operation and management of the Great Falls International Airport. Its duties include employing the Airport Director, who hires staff and oversees the day-to-day operations of the Great Falls International Airport.

Continuing members of this board are:

Vincent R. Bakke (City)

Sean Hoven (City)

Dan Rooney (County)

Debra Evans (County)

Michael Buck (County)

Citizens interested in serving on the board:

Joe McKenney

Anthony J. Aretz

Todd Timboe

**Fiscal Impact:**

Members serve without compensation.

**Alternatives:**

Advertise to seek other citizen interest.

ATTACHMENTS:

- Airport Board Applications



**BOARDS AND COMMISSIONS  
CITIZEN INTEREST FORM**

(PLEASE PRINT OR TYPE)

*Thank you for your interest. Citizen volunteers are regularly appointed to the various boards and commissions. This application subject to Montana Right to Know laws.*

Board/Commission Applying For: Regional Airport Authority Board		Date of Application: November 6 <sup>th</sup> 2017
Name: Joe McKenney		
Home Address: 500 Deer Dr, Great Falls, MT 59404		Email address: joem@montana.com
Home Phone: 406.868.2980	Work Phone: 406.452.9026	Cell Phone: 406.868.2980
Occupation: Entrepreneur	Employer: Self/ Cart Wheel Casino	
Would your work schedule conflict with meeting dates? No <span style="float: right;">Yes o No o (If yes, please explain)</span>		
Related experiences or background: I've served on many community, business and political boards (see attachment). One of the most important things is identifying challenges and working as a team while enacting solutions that move the organization forward.		
Educational Background: Billings West High – Graduate U.S. Navy – Advanced Aviation Electronics - Graduate University of Montana – Wildlife Biology - Attended		
<b>IF NECESSARY, ATTACH A SEPARATE SHEET FOR YOUR ANSWERS TO THE FOLLOWING:</b>		
Previous and current service activities: See attached.		
Previous and current public experience (elective or appointive): See attached.		
Membership in other community organizations: See attached.		

Have you ever worked for or are you currently working for the City of Great Falls? Yes <input type="radio"/> No <input type="radio"/>	If yes, where and when?
No	
Do you have any relatives working or serving in any official capacity for the City of Great Falls? Yes <input type="radio"/> No <input type="radio"/>	If yes, who, which department, and relationship?
No	
Have you ever served on a City or County board? Yes <input type="radio"/> No <input type="radio"/>	If yes, what board and when did you serve?
Yes – GFDA early 2,000’s	
Are you currently serving on a Board? Yes <input type="radio"/> No <input type="radio"/>	If yes, which board?
Yes – No city/county boards, but I am serving on two business boards.	
Please describe your interest in serving on this board/commission?	
An effective and successful regional airport is vital for the economic well-being and future growth of our community.	
Please describe your experience and/or background which you believe qualifies you for service on this board/commission?	
I have enormous experience serving on boards concerning community, business and public policy. I respect and encourage differing viewpoints and opinions. With open and thoughtful dialogue solutions to challenges can be achieved.	
Additional comments:	
Serving on a board is a public position. I will do my best to represent the board and community with honor, integrity and good character.	
Signature	Date: 11/6/17

If you are not selected for the current opening, your application may be kept active for up to one year by contacting the City Manager's office. Should a board/commission vacancy occur within 30 days from the last City Commission appointment, a replacement member may be selected from citizen interest forms submitted from the last advertisement. For more information, contact the City Manager's office at 455-8450.

**Return this form to:**  
 City Manager's Office  
 P.O. Box 5021  
 Great Falls, MT 59403

Fax:  
 (406) 727-0005

Email:  
[kartis@greatfallsmt.net](mailto:kartis@greatfallsmt.net)

Joe McKenney  
500 Deer Dr.  
Great Falls MT 59404

**Previous and current service or community organizations**

- 1) Past - Great Falls Development Authority – Board of Directors
- 2) Past – Montana Chamber of Commerce – Board of Directors
- 3) Past - Our Lady of Lourdes School – School Board – Chairman
- 4) Past - Montana Coin Machine Operators Association – Board of Directors
- 5) Past – Amusement and Music Operators Association – Board of Directors (National)
- 6) Past – Great Falls Pachyderm Club – President
- 7) Past – Great Falls Police Department Citizen’s Academy - Graduate
- 8) Current – Cascade County Tavern Association – Board of Directors
- 9) Current – Montana Gaming Industry Association – President
- 10) Current – Montana Tavern Association – Member
- 11) Current – Great Falls Area Chamber of Commerce - Member

**Previous and current public experience (elective or appointive)**

- 1) Past - State Representative – Montana House of Representatives (1999-2007)
- 2) Past – House Business and Labor Committee – Chairman
- 3) Past – House Ethics Committee - Chairman
- 4) Past – House/Senate Economic Affairs Committee – Chairman
- 5) Past – Governors (Martz) Committee on Tax Reform – Chairman
- 6) Past – House Education Committee – Member
- 7) Past – House Energy and Telecommunications Committee – Member
- 8) Past – Republican National Convention (2000) – Montana Delegate
- 9) Past – Cascade County Republican Central Committee – Chairman

**Entrepreneur Background**

- 1) Past – H&M Associates – President/owner - Amusement and gaming machine vender
- 2) Past – North Central Gaming – President/owner – Amusement and gaming machine vender
- 3) Past - Fun Factory Pizza – President/owner – Family Entertainment Center
- 4) Past - Legends Sports Pub & Grill – President/owner – Family sports pub
- 5) Current – Cart Wheel Casino & Liquor Store – President/owner – Casino and liquor store

**BOARDS AND COMMISSIONS  
CITIZEN INTEREST FORM  
(PLEASE PRINT OR TYPE)**



*Thank you for your interest. Citizen volunteers are regularly appointed to the various boards and commissions. This application subject to Montana Right to Know laws.*

Board/Commission Applying For:  Airport Authority Board		Date of Application:  Nov 8, 2017
Name:  Dr. Anthony J. Aretz		
Home Address: 4701 Flood Rd. Great Falls, MT 49404		Email address:  anthony.aretz@uprovidence.edu
Home: 513-373-1055 Cell: 513-373-1055 Work: 406-791-5300		
Occupation:  University President	Employer:  University of Providence	
Would your work schedule conflict with meeting dates?    Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (If yes, please explain) I do travel occasionally, but if I have meeting dates in advance I can mitigate potential conflicts.		
Related experiences or background: Private Pilot with over 400 hours (not current), Retired USAF Lt Col, PhD in Engineering Psychology with an aviation psychology concentration, raised on and worked at our family owned airport and FBO with a flight school and maintenance operations--Aretz Airport in Lafayette, IN (now closed). Familiar with airport operations.		
Educational Background: BS-Human Factors Engineering with an aviation concentration (USAF Academy-1980) MA-Applied Behavioral Science in Human Factors (Wright State University-1982) PhD-Engineering Psychology with a concentration in aviation psychology (Univ. of Illinois-1990)		
<b>IF NECESSARY, ATTACH A SEPARATE SHEET FOR YOUR ANSWERS TO THE FOLLOWING:</b>		
Previous and current service activities: Current--Great Falls Chamber Board of Directors, Great Falls Development Authority Board of Directors, Montana Defense Alliance Executive Committee.		
Previous and current public experience (elective or appointive): None.		



Membership in other community organizations: None.

Form updated November 2015

Page 1

Have you ever worked for or are you currently working for the City of Great Falls? Yes  No  If yes, where and when?

Do you have any relatives working or serving in any official capacity for the City of Great Falls? Yes  No  If yes, who, which department, and relationship?

Have you ever served on a City or County board? Yes  No  If yes, what board and when did you serve?

Are you currently serving on a Board? Yes  No  If yes, which board?

Please describe your interest in serving on this board/commission? I have been involved with aviation in one way or another my entire life, including my professional career. It is in my blood and I enjoy working on aviation related programs, projects, and other activities. I also travel a lot and use the airport frequently. I believe an excellent community airport is a key economic driver. I also enjoy serving the common good.

Please describe your experience and/or background which you believe qualifies you for service on this board/commission? Having helped my family operate a small airport and FBO, having taught and conducted research on topics dealing with pilot performance and human error, having experience in the USAF, and having been the CEO of two universities with multi-million dollar budgets and associated risk and compliance issues, I feel I offer a breadth of experience and knowledge that will help the board fulfill its mission.

Additional comments:

Signature



Date:

Nov 8, 2017

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**BOARDS AND COMMISSIONS  
CITIZEN INTEREST FORM**  
(PLEASE PRINT OR TYPE)

*Thank you for your interest. Citizen volunteers are regularly appointed to the various boards and commissions. This application subject to Montana Right to Know laws.*

Board/Commission Applying For: <b>REGIONAL Airport Authority</b>		Date of Application: <b>11-26-17</b>
Name: <b>Todd Timboe</b>		
Home Address: <b>549 Fox Drive Great Falls, MT.</b>		Email address: <b>todd.timboe@wipfli.com</b>
Home Phone: <b>406-727-6439</b>	Work Phone: <b>406-727-1798</b>	Cell Phone: <b>406-788-5282</b>
Occupation: <b>CPA</b>	Employer: <b>Wipfli - Partner</b>	
Would your work schedule conflict with meeting dates? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (If yes, please explain)		
Related experiences or background: <b>34 yrs - Partner with Joseph Eve. Experience Auditing governmental organizations. MONTANA'S 1st Certified Fraud Examiner (CFE)</b>		
Educational Background: <b>BS - Accounting, University of MONTANA</b>		
<b>IF NECESSARY, ATTACH A SEPARATE SHEET FOR YOUR ANSWERS TO THE FOLLOWING:</b>		
Previous and current service activities: <b>Former Treasurer and Chairman of Board - Multiple Sclerosis Society - MONTANA Chapter</b>		
Previous and current public experience (elective or appointive):		
Membership in other community organizations: <b>Former Board Member and Chairman - Meadow Lark Country Club</b>		

Have you ever worked for or are you currently working for the City of Great Falls? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, where and when?	
Do you have any relatives working or serving in any official capacity for the City of Great Falls? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, who, which department, and relationship?	
Have you ever served on a City or County board? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, what board and when did you serve?	
Are you currently serving on a Board? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, which board?	
Please describe your interest in serving on this board/commission? Lived in Great Falls for over 50 yrs. My CPA firm extensively utilizes our airport as our staff travels all over the country on a weekly basis. Airport Authority is critical to the growth and viability of Great Falls and central Montana.	
Please describe your experience and/or background which you believe qualifies you for service on this board/commission? CPA, familiar with local government budgets and the annual external audit process as well as grant compliance requirements.	
Additional comments:	
Signature	
Date:	11-26-17

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**Item:** Designate City Commission Representative to the Policy Coordinating Committee

**From:** Andrew Finch, Senior Planner

**Presented By:** Craig Raymond, Planning & Community Development Director

**Action Requested:** Designation by the City Commission of one of its membership to serve as its representative on the Policy Coordinating Committee for transportation planning in the Great Falls Metropolitan Area.

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**Suggested Motion:**

Commissioner moves:

“I move that the City Commission designate \_\_\_\_\_ as our representative to the Policy Coordinating Committee.”

Mayor requests a second to the motion, Commission discussion, public comment, and calls for the vote.

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**Staff Recommendation:**

That the Commission designate one of its members to serve as its representative on the Policy Coordinating Committee for transportation planning.

**Summary:**

As a member agency of the Policy Coordinating Committee (PCC) for transportation planning, the City Commission must designate one of its members to serve as its representative on PCC.

**Background:**

The Great Falls Metropolitan Transportation Planning Process is a federally mandated program designed to provide a cooperative, comprehensive and continuing process for identifying, prioritizing and funding the transportation needs of the City of Great Falls and surrounding growth areas.

The planning process is guided by the Transportation Advisory Committee (TAC), a group of transportation practitioners representing various area transportation stakeholders. The role of the TAC is to advise the Policy Coordinating Committee (PCC), which is the representative body ultimately responsible for overseeing transportation planning within the Great Falls Metropolitan Area.

The City's participation in the Transportation Planning Process is outlined in a 2005 Cooperative Agreement among the various agencies involved in transportation in the Great Falls area. This Agreement outlines the roles, responsibilities and mutual understandings of the cooperating and participating agencies. In the Agreement, as well as in the PCC's Bylaws, the PCC representatives are listed as:

Commission Designee – City of Great Falls

Chairman – Great Falls Transit District Board

Chairman – Great Falls Planning Advisory Board

Chairman – Cascade County Planning Board

District Administrator – Montana Department of Transportation

District Administrator – Federal Highway Administration (Non-voting)

The “Commission Designee” allows the City Commission flexibility in appointing its representative, rather than it being the highest elected official. In addition, there are no stated limitations on length of service of the appointee. The Commission last appointed a representative, Commissioner Fred Burow, in 2010. With the retirement of Commissioner Burow, the City Commission must designate a new representative. Because there is no stated term for the appointment, the City Commission may change its designated representative at any time.

**Alternatives:**

The City Commission could elect to not designate a representative, thereby electing to not participate in the transportation planning process.



**Item:** Minutes, January 2, 2018, Commission Meeting.

**From:** City Clerk's Office

**Presented By:** City Commission

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ATTACHMENTS:

- ▣ Draft Minutes, January 2, 2018, Commission Meeting

## JOURNAL OF COMMISSION PROCEEDINGS

January 2, 2018

Regular City Commission Meeting  
Commission Chambers Room 206

### CALL TO ORDER 7:00 P.M.

### PLEDGE OF ALLEGIANCE

### ROLL CALL/STAFF INTRODUCTIONS

City Commission members present: Bob Kelly, Mary Moe, Tracy Houck, Bill Bronson and Owen Robinson. Also present were City Manager Greg Doyon and Deputy City Manager Chuck Anderson; Deputy City Clerk Darcy Dea; Public Works Director Jim Rearden; Planning and Community Development Director Craig Raymond; Finance Director Melissa Kinzler; Human Resources Director Gaye McInerney; Park and Recreation Director Steve Herrig; Assistant City Attorney Joe Cik; and Police Chief Dave Bowen.

### AGENDA APPROVAL

No changes were proposed by the City Manager or City Commission. The agenda was approved as submitted.

### SWEARING IN

Swearing In - Neighborhood Council Members.

Mayor Kelly performed the swearing in ceremony for Zach Angstead, Neighborhood Council 1; Sueann Strickland, Neighborhood Council 2; Kathleen Gessaman, Neighborhood Council 3; Darrell Beauchamp, Neighborhood Council 6; Karen Grove, Michael Wm. Brainard and Barbara Going, Neighborhood Council 8.

*\*\* Action Minutes of the Great Falls City Commission. Please refer to the audio/video recording of the meeting for additional details \*\**

## PETITIONS AND COMMUNICATIONS

### 1. Miscellaneous reports and announcements.

**Brett Doney**, Great Falls Development Authority (GFDA), 300 Central Avenue, extended an invitation to attend the Ignite Great Falls 2018 kickoff on January 19th at the Meadowlark Country Club. He encouraged the Commission to nominate female-owned businesses for the Fire Within Awards. Mr. Doney reported that the Peak Fitness Center at West Bank Landing was now open, and that the additional 72 units at the Talus Apartments have been occupied.

## NEIGHBORHOOD COUNCILS

### 2. Appointments, Great Falls Citizen's Council (Council of Councils).

**Mayor Kelly moved, seconded by Commissioner Bronson, that the City Commission appoint Commissioner Robinson and Commissioner Moe to serve on the Great Falls Citizen's Council also known as Council of Councils for the January 31, 2018 meeting; appoint Mayor Kelly and Commissioner Houck to serve on the Council for the May 22, 2018 meeting; and appoint Commissioner Bronson to serve on the Council for the October 23, 2018 meeting.**

Mayor Kelly asked if there was any discussion amongst the Commissioners.

Commissioner Houck reported that she would be unable to attend the May 22nd meeting.

Mayor Kelly requested that Commissioner Houck attend the October 23rd meeting and that Commissioner Bronson would attend the May 22nd meeting.

Commissioner Bronson stipulated to the amendment.

Mayor Kelly asked if there were any comments from the public. Hearing none, Mayor Kelly called for the vote.

Main Motion, with amendments carried 5-0

3. **Miscellaneous reports and announcements from Neighborhood Councils.**

There were no miscellaneous reports and announcements from representatives of Neighborhood Councils.

Mayor Kelly extended an invitation to representatives of Neighborhood Councils to present at the work sessions.

**BOARDS AND COMMISSIONS**

4. **Appointment, City-County Board of Health.**

**Commissioner Bronson moved, seconded by Commissioner Houck, that the City Commission appoint Commissioner Robinson to the City-County Board of Health as the Mayor's representative, effective January 2, 2018.**

Mayor Kelly asked if there was any discussion amongst the Commissioners.

Commissioner Robinson expressed support with regard to his appointment.

Mayor Kelly thanked Commissioner Bronson for his years of service.

Mayor Kelly asked if there were any comments from the public. Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0



5. **Appointments, Ethics Committee.**

**Commissioner Sheehy Moe moved, seconded by Commissioner Bronson, that the City Commission appoint Carl Rostad for an initial three year term, appoint Carmen Roberts for an initial two year term and appoint Katrina Stark for an initial one year term to the Ethics Committee.**

Mayor Kelly asked if there was any discussion amongst the Commissioners.

Commissioner Moe commented that she was impressed with the diversity of the four Candidates.

Mayor Kelly echoed Commissioner Moe's comments and pointed out that the Candidates' applications were available on the City website.

Mayor Kelly asked if there were any comments from the public. Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0

6. **Final Plat of West Ridge Addition Phase VIII, previously known as Peretti Addition Tract 2, located in the SE ¼ Section 26, Township 21 North, Range 3 East, PM, City of Great Falls, Cascade County, MT.**

Planning and Community Development Director Craig Raymond reported that this is a request to approve or deny the final plat of Westridge Phase 8. The subject property is located along the northern edge of the City of Great Falls, north of 41st Avenue NE and west of 2nd Street NE. The subject property consists of 4.91 acres.

Director Raymond explained that the applicant is proposing to proceed with Phase VIII of West Ridge Addition which will include 2-unit townhomes as well as single family homes. This phase would create 18 lots for townhomes as well as dedicate part of Choteau Avenue Northeast and 2nd Street Northeast. The lots on the approved preliminary plat for the western portion of Phase VIII would range in size from 8,385 square feet to 8,439 square feet. Phase VIII also contains two single family lots that are approximately 11,000 square feet to the east of 2nd Street Northeast. The approved preliminary plat is consistent with the zoning which was recently amended by the City Commission to Planned Unit Development (PUD) in order to accommodate this mix of residential uses.

As with the previous phases of Westridge, Director Raymond reported that the developer is required to construct the necessary infrastructure and utilities that will serve the development. These improvements shall be installed at the Owner's expense in accordance with the requirements of the Official Code of the City of Great Falls (OCCGF) and the governing Improvement Agreement previously approved by the City Commission and Developer. Assuming City Commission approval, the project developer will be required to provide financial surety acceptable to the City for the improvements to be constructed, which include:

Roadways - The Owner proposes to connect Phase VIII of the subject property to existing City roadways by extending 2nd Street Northeast to the limits of Phase VIII and dedicating Choteau Avenue Northeast. It is recommended that the west end of Choteau Avenue have a temporary, gravel-surfaced cul-de-sac turnaround installed. An easement may be required from the owner of

Thaniel Addition for the turnaround. Boulevard style sidewalks will be constructed along each lot frontage at the time of home construction, and will connect to the existing sidewalk network.

Utilities: The on-site improvements required for the development of the subject property shall be installed as shown on the final construction plans that are submitted to, and approved by the Public Works Department. The on-site improvements shall include everything required to provide water, sanitary sewer, stormwater management. The Improvement Agreement for West Ridge Addition, Phases VII – XI, outlines the Owner’s permanent and temporary stormwater management requirements in sections 12.4 and 20. The Owner has worked with the City Public Works and Planning and Community Development Departments and the developer of Thaniel Addition for the general location of a future regional stormwater management facility immediately north on an adjacent property. This facility will be designed and installed at a later date. In the meantime, the Owner will be required to provide temporary stormwater management facilities.

Director Raymond explained that the basis for decision to approve, conditionally approve, or deny a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrate that development of the proposed subdivision meets the requirements of Mont. Code Ann. (MCA) § 76-3-608. The governing body shall issue written findings of fact that weigh the criteria in of (MCA) § 76-3-608 (3).

Director Raymond reported that at the conclusion of a public hearing held on December 12, 2017, the Planning Advisory Board recommended the City Commission approve the Final Plat of West Ridge Addition Phase VIII, subject to the fulfillment of the following Conditions of Approval as outlined in the agenda report which are consistent with the preliminary plat conditions of approval.

**Commissioner Houck moved, seconded by Commissioner Robinson, that the City Commission approve the final plat of West Ridge Phase VIII as legally described in the staff report, and the accompanying Findings of Fact, subject to the Conditions of Approval being fulfilled by the applicant.**

Mayor Kelly asked if there was any discussion amongst the Commissioners or comments from the public. Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0

Mayor Kelly pointed out that approving the final plat would increase lots, which increases the City's tax base, as well as revenue.

**7. Miscellaneous reports and announcements from Boards and Commissions.**

There were no miscellaneous reports and announcements from members of boards and commissions.

Mayor Kelly reported that a list of advisory boards had been circulated to the Commission, and explained that the Commission could informally indicate which boards they would want to be a part of.

**CITY MANAGER**

8. **Miscellaneous reports and announcements from the City Manager.**

City Manager Greg Doyon reported that Disaster & Emergency Services Manager Dave Nordel would be taking a new position in Billings at the end of the month, and thanked him for his experience that he brought to the position.

Manager Doyon reported that there would be a swearing-in ceremony for new police officer, Clayton Henderson, on January 3rd in the Commission Chambers.

Manager Doyon requested that the Commission provide different ideas that could help make presenting the budget more interesting.

There was a quarterly update with the City County Health Department.

Manager Doyon reminded citizens that it is illegal to dump the snow into the streets. He expressed appreciation to the departments that have to work outside in the cold.

**CONSENT AGENDA**

9. Minutes, December 19, 2017, City Commission Meeting.
10. Contracts List.
11. Total Expenditures of \$3,362,200 for the period of November 30, 2017 through December 20, 2017, to include claims over \$5,000, in the amount of \$1,754,028.
12. Reschedule Commission Meeting Date from November 6, 2018 to November 7, 2018.
13. Approve the declaration of equipment as surplus.
14. Approve the purchase of one new 2018 Autocar ACX64 tandem axle truck with new Heil PT 1000 25-yard rear load refuse packer to Kois Brothers Equipment Company Inc., of Great Falls for \$218,900, including trade-in, through NJPA (National Joint Powers Alliance).

15. Approve Final Payment for the Miscellaneous Drainage Improvements NW Side Alleys Phase 1, in the amount of \$50,652.16 to Geranios Enterprises LLC, and \$511.64 to the State Miscellaneous Tax Fund and authorize the City Manager to make the payments. **OF**  
**1666.3**
  
16. Approve Professional Services Agreement with Robert Peccia & Associates in the amount of \$95,860, for the preparation of the Great Falls Area Long Range Transportation Plan Minor Update. **OF**  
**1661.2**
  
17. Award a contract in the amount of \$565,000.00 to Planned and Engineered Construction Inc. (PEC) for the Sanitary Sewer Trenchless Rehabilitation, Phase 20, and authorize the City Manager to execute the construction contract documents. **OF**  
**1674.6**

**Commissioner Bronson moved, seconded by Commissioner Houck, that the City Commission approve the Consent Agenda as presented.**

Mayor Kelly asked if there was any discussion amongst the Commissioners.

Referring to item 13, Commissioner Robinson inquired if City employees or Commissioners could bid on surplus equipment.

Assistant City Attorney Cik responded that if a bid was open to the public, there would not be a conflict, however it would be best practice not to.

Referring to item 16, Mayor Kelly reported that the \$95,860 would be paid for by Federal Transportation Funds. Referring to item 12, he explained that there is a general election on November 6th. With regard to Item 10E, Mayor Kelly reported that the increase was a modification.

Mayor Kelly asked if there were any comments from the public. Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0

### **PUBLIC HEARINGS**

18. **Resolution 10219, Conditional Use Permit for a “Construction Material Sales” land use upon the property at 1800 Northwest Bypass.**

Planning and Community Development Director Craig Raymond reported that this item is a request to conduct a public hearing to consider the adoption of Resolution 10219 and to approve a Conditional Use Permit (CUP) for the establishment of a construction material sales use at the subject property. The subject property is located at 1800 NW Bypass, which is on the South side of Northwest Bypass and west of Watson Coulee Road.

Director Raymond reported that R&S Roofing Supply is proposing to utilize the property to construct a 10,000 square foot building to be used for the sale of construction materials. There are currently two buildings and a telecommunications tower located on the property. One of the existing buildings is used for storage and the second is used for office space. The applicant wishes to keep the two existing buildings, add the new building, and remove the tower structure. According to the Official Code of the City of Great Falls (OCCGF) §17.64.020, “a non-conforming nonresidential use may also be changed to another nonconforming use, or may be increased or expanded, through a conditional use permit procedure.” In this case, the applicant is requesting a CUP to change the nonconforming tower use to another nonconforming use listed in the ordinance – a “Construction Material Sales” building. The underlying zoning on the property is M-2 Mixed Use Transitional which is why this particular use requires the CUP. The proposed use appears to be a good fit for the property and surrounding area with appropriate infrastructure to serve the proposed use and additional buildings.

Director Raymond explained that the basis for decision for a CUP is listed in the OCCGF §17.16.36.040. The Zoning Commission's recommendation and the City Commission's decision to approve, conditionally approve, or deny an application shall be based on whether the application, staff report, public hearing, Zoning Commission recommendation, or additional information demonstrates that the decision of the City Commission shall at a minimum consider the criteria which are included in the agenda report.

At the conclusion of a public hearing held on November 28, 2017, the Zoning Commission recommended the City Commission approve the CUP, subject to the fulfillment of the following Conditions of Approval and as outlined in the agenda report:

1. General Code Compliance: The proposed project shall be developed consistent with the conditions of approval adopted by the City Commission, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies. City Commission Meeting - January 2, 2018 Page 98 of 173.
2. Changes in Use: Conditional Uses are regulated as such because they may, without conditions, have negative and/or offsite impacts. Therefore, a significant change in the character or intensity of use may void the CUP. Proposed changes should be reviewed with the Administrator, who may require that the Permit be amended following the same public process used for its adoption.
3. Expiration: The CUP shall expire one year after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.
4. Abandonment: If a conditional use is established, but ceases to operate for more than six months, the CUP shall expire.
5. Design Review Board Process: The applicant shall submit the proposed project to City Staff for review by the Design Review Board and shall be subject to the Design Review Board's recommendations.
6. Right of Way: The driveway approach to Watson Coulee Road must meet current City Code requirements and design standards. If a sidewalk is ever to be installed along the west side of Watson Coulee Road, the owner shall cover the cost of sidewalk along the frontages.

Mayor Kelly declared the public hearing open.

No one spoke in support of or in opposition to Resolution 10219.

**Commissioner Robinson moved, seconded by Commissioner Houck, that the City**

**Commission adopt Resolution 10219, subject to the applicant fulfilling the listed Conditions of Approval.**

Mayor Kelly asked if there was any discussion amongst the Commissioners. Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0

19. **Resolution 10220, Conditional Use Permit for a “Contractor Yard, Type II” land use upon the property at 611 8th Avenue North.**

Planning and Community Development Director Craig Raymond reported that this item is a request to conduct a public hearing and to consider the adoption of Resolution 10220 and to approve a Conditional Use Permit (CUP) for the formal and legal establishment of a contractor yard type II. The subject property is located at 611 8th Avenue North, which is on the north side of 8th Avenue South and East of 6th Street North.

Director Raymond reported that M&D construction has been operating at the property for several years. Over the years however, the use of the property has changed and expanded. Earlier this year, the City received a complaint about the activity from a resident located in the neighborhood to the south. Although the property had traditionally been used for construction businesses for many years, it is the expansion of that use that requires a formal review and approval of a CUP. Director Raymond explained that after receiving the complaint, staff met with the applicants to discuss what property improvements would be necessary for the requested Conditional Use to be considered compatible with the residential environment located to the south of 8th Avenue North. The lots in the neighborhood are zoned R-9 Mixed Residential while the area to the north of 8th Avenue North is zoned Mixed-Use Transitional. There is a very clear break in land use activity between the residential uses to the south of the avenue and the generally industrial uses to the north of the avenue.

Director Raymond explained that in order to soften the transition between the existing contractor yard and this residential environment, planning staff worked with the applicant to propose improvements such as decorative fencing, berming, landscaping, and appropriate access and parking. The applicant has been cooperative with staff and has embraced the effort to be good neighbors to the nearby residential area and parks.

The basis for decision for a CUP is listed in the Official Code of the City of Great Falls (OCCGF) §17.16.36.040. The Zoning Commission's recommendation and the City Commission's decision to approve, conditionally approve, or deny an application shall be based on whether the application, staff report, public hearing, Zoning Commission recommendation, or additional information demonstrates that the decision of the City Commission shall consider the criteria which are included in the agenda report.

Director Raymond reported that at the conclusion of a public hearing held on November 28, 2017, the Zoning Commission recommended the City Commission approve the CUP, subject to the fulfillment of the following Conditions of Approval and as outlined in the agenda report:

1. General Conditions of Compliance: The proposed project shall be developed consistent with the conditions of approval adopted by the City Commission, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.

2. Changes in Use: Conditional Uses are regulated as such because they may, without conditions, have negative and/or offsite impacts. Therefore, a significant change in the character or intensity of use may void the CUP. Proposed changes should be reviewed with the Administrator, who may require that the Permit be amended following the same public process used for its adoption.
3. Expiration: The CUP shall expire one year after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.
4. Abandonment: If a conditional use is established, but ceases to operate for more than six months, the CUP shall expire.
5. Future Lighting: Any future lighting modifications shall be reviewed by City Planning Staff before installation.
6. Site Plans: A detailed Site Plan showing all improvements including parking, fencing, berming, and landscaping shall be submitted to the City within thirty days of approval of the permit by the City Commission. The design and installation of the improvements, including maintenance of, must be approved by the City prior to installation.
7. Expiration of Improvements Installation: All submitted improvements to the property including parking, berm, landscape, and fencing improvements shall be installed by the applicant and inspected by City Staff by July 1, 2018, or the permit shall be null and void.
8. Alley: No rolled millings be placed within the alley and that the alley not be gated off where it dead ends into the property site.
9. Shared Property Line with City: The sanitary sewer manhole on the northwest corner of the site shall be left unobstructed by the berm. Also, the approach at the southwest property corner shall continue to allow access to the City-owned parcel to the west.
10. Right of Way: New curbs, sidewalk, driveway, etc. shall be to current City Code requirements. The applicant or applicant's contractor shall adhere to the standard permit process for this work and the curb replacement shown on the plans.

Mayor Kelly declared the public hearing open.

Speaking in support of Resolution 10220 were:

**Spencer Woith**, 1725 41st Street South, Woith Engineering, representing the applicant, provided a handout that showed what the landscaping in the berm would look like. Mr. Woith reported that the landscaping and screening would help with the visual aspect of hiding the construction yard, and that the applicant would make improvements to the sidewalks. Mr. Woith concluded that other mixed uses could generate larger amounts of daily traffic than the construction yard.

**Rhett Hulett**, 814 7th Street North, owner of M&D Construction, commented that he is working with the neighbors with regard to lighting and aesthetics and that he wants to be a positive part of the neighborhood.

**Brett Doney**, Great Falls Development Authority (GFDA), 300 Central Avenue, commented that M&D Construction has been a wonderful community member for 30 years, and that the improvements would be a positive improvement to the industrial-commercial area.

Speaking in opposition to Resolution 10220 were:

**Anders Blewett**, 225 3rd Avenue North, expressed opposition to the Conditional Use Permit, as well as M&D Construction operating in violation of the zoning Ordinance. Mr. Blewett further expressed concern with regard to previous zoning regulations.

**Andrea Blewett**, 324 4th Avenue North, expressed concern whether a berm would suffice with blocking the view, as well as the number and tonnage limit of trucks in the construction yard.

**Myrl Nardinger**, 812 13th Street North, commented that there was a big difference between a Contractor Yard Type II land use and an M-2 Mixed use. Mr. Nardinger expressed concern with regard to property values being affected, as well as the berm not being tall enough to block the view of the semi trucks.

**Zander Blewett**, 324 4th Avenue North, concurred with Mr. Nardinger's comment that a Contractor Yard Type II land use was a massive change from a M-2 Mixed use.

**Barb Walden**, 703 Park Drive, opined that M&D Construction would not be a good fit for the Great Falls Original Townsite. She expressed concern with regard to allowing a construction yard to operate in the Original Townsite increasing property taxes, as well as safety concerns.

Mayor Kelly closed the public hearing and asked the will of the Commission.

**Commissioner Bronson moved, seconded by Commissioner Houck, that the City Commission deny Resolution 10220.**

Mayor Kelly asked if there was any discussion amongst the Commissioners.

Commissioner Bronson commented that the applicant had made an effort to come into compliance with the appropriate requirements of the Land Development Code, however granting a Conditional Use Permit (CUP) would not be consistent with the City's Growth Policy.

Commissioner Bronson explained that a CUP must establish that it would not be detrimental to the public, injurious, impede normal and orderly development of the surrounding properties. He commented that those requirements have not been established by M&D Construction. Commissioner Bronson further explained that an appropriate ingress and egress have not been established. He expressed concern with regard to the intersection handling more and larger vehicles, as well as allowing uses bordering on an Industrial area having a negative effect on Gibson Park.

Commissioner Moe expressed concern that the proposal advanced through the Planning and Zoning Commission, as well as Neighborhood Council. She expressed the same concerns that Commissioner Bronson had outlined. Referring to Mr. Nardinger's comment that M&D is attempting to be a good neighbor, Commissioner Sheehy Moe commented that there is not a guarantee that M&D would be at that location forever.

Commissioner Robinson commended Mr. Woith with regard to the improvements that have been made in that area, and Mr. Hulett for building the M&D Construction Company. He expressed concern that eventually M&D Construction would out grow the current location. Commissioner Robinson commented that he was impressed with Neighborhood Council's involvement with the proposal.

Commissioner Houck received clarification that if the CUP was denied, M&D Construction would either have to move to another location or scale back to a legal non conforming use. She further received clarification that M&D Construction would be given a reasonable amount of



time to move, and that nothing would be done to the property until someone proposed a redevelopment of it. Commissioner Houck inquired if the motion could be tabled at this point.

Commissioner Robinson received clarification that it would be a legal non-conforming if M&D stored their equipment elsewhere, and continued to operate at the location.

Mayor Kelly explained that the City has a responsibility to the citizen that launched the complaint, however he expressed concern with regard to the heavy traffic that is in that neighborhood.

Responding to Commissioner Houck's inquiry to table the motion, Mayor Kelly announced that the motion was made to deny the CUP.

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 5-0

**OLD BUSINESS**

**NEW BUSINESS**

20. **Agreement Between City of Great Falls and Montana Public Employees' Association, Inc. (MPEA)**

Human Resources Director Gaye McInerney reported that the City and Montana Public Employees' Association (MPEA) completed the negotiations process for a new two year contract period from July 1, 2017 through June 30, 2019. The City employs 77 MPEA members across its work force to include the following departments; Police, Fire, Finance, Planning and Community Development, Park and Recreation, Public Works, Library, Municipal Court, Great Falls Housing Authority and Neighborhood Council.

Director McInerney further reported that negotiations began on July 24, 2017 and that a consensus was reached on December 20, 2017. Members of the negotiating team worked to update basic contractual language in order to make the Agreement more clear, understandable, and consistent.

**Commissioner Robinson moved, seconded by Commissioner Houck, that the City Commission approve the labor agreement between the City of Great Falls and the Montana Public Employees' Association, Inc.**

Mayor Kelly asked if there was any discussion amongst the Commissioners.

Mayor Kelly inquired about the number of full time employees. Director McInerney responded that she would provide the number later. Mayor Kelly received clarification that Longevity Pay is new to this contract, however it is coinciding with the other contracts that were negotiated for this year.

Commissioner Bronson commended Staff and Union members for the time and effort that was put into negotiating the contract.

Commissioner Robinson commented that negotiations are more respectful now than they use to be.

Mayor Kelly asked if there were any comments from the public. Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0

## **ORDINANCES/RESOLUTIONS**

21. **Resolution 10226, to Amend Resolution 10197, Extending the Effective Period for nuisance abatement to July 2, 2018 for property located at 2612 1st Avenue South.**

Planning and Community Development Director Craig Raymond reported that on July 5, 2017, the City Commission adopted Resolution 10197 declaring the property located at 2612 1st Avenue South a nuisance. Resolution 10197 ordered the nuisance abated and authorized staff to force abatement if necessary. Due to inclement weather and a delay in awarding the abatement contracts, additional time is necessary to complete the abatement.

Staff is requesting an additional seven (7) months to complete the ordered abatement of the property. By adopting the resolution under consideration, the effective date of Resolution 10197 will be extended to July 2, 2018. All other provisions of Resolution 10197 remain the same.

**Commissioner Houck moved, seconded by Commissioner Bronson, that the City Commission adopt Resolution 10226.**

Mayor Kelly asked if there was any discussion amongst the Commissioners.

Commissioner Houck received clarification that finding a licensed painter who could deal with a lead paint abatement was an issue with regard to the requested extension.

Mayor Kelly asked if there were any comments from the public. Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0

## **CITY COMMISSION**

22. **Appointment, Mayor Pro-Tempore.**

**Mayor Kelly moved, seconded by Commissioner Robinson, that the City Commission appoint Bill Bronson to serve as Mayor Pro-Tempore effective immediately, for a two-year term or until the City Commission has held an election.**

Mayor Kelly asked if there was any discussion amongst the Commissioners or comments from the public. Hearing none, Mayor Kelly called for the vote.

Motion carried 4-0-1 Commissioner Bronson abstaining

23. **Miscellaneous reports and announcements from the City Commission.**

None

24. **Commission Initiatives.**

Referring to a memorandum that summarized the views of departments comments on the possible participation in the opioid litigation, Commissioner Bronson requested that this be put on an agenda for an upcoming Commission meeting. No one disagreed.

Commissioner Houck reported that the Upper Missouri River Heritage Planning Inc. has been working on collaborative projects, and that the intent would be to move forward with a plan that would be submitted to congress for a designation of a Heritage area.

Mayor Kelly expressed appreciation to the Public Works department with regard to snow removal, as well as to the police department for their work.

Commissioner Robinson commented that he is pleased that Manager Doyon will continue his employment with the City.

**ADJOURNMENT**

There being no further business to come before the Commission, **Mayor Kelly moved, seconded by Commissioner Bronson, to adjourn the regular meeting of January 2, 2018, at 8:45 p.m.**

Motion Carried 5-0

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**Mayor Bob Kelly**

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**City Clerk Lisa Kunz**

**Minutes Approved:**



**Item:** Total Expenditures of \$3,702,987 for the period of December 16, 2017 through January 3, 2018, to include claims over \$5,000, in the amount of \$3,512,804.

**From:** Fiscal Services

**Initiated By:** City Commission

**Presented By:** Melissa Kinzler, Fiscal Services Director

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ATTACHMENTS:

- ▣ 5000 Report



**ITEM:** \$5,000 Report  
 Invoices and Claims in Excess of \$5,000

**PRESENTED BY:** Fiscal Services Director

**ACTION REQUESTED:** Approval with Consent Agenda

**LISTING OF ALL ACCOUNTS PAYABLE CHECKS ISSUED AVAILABLE ONLINE AT**  
**[www.greatfallsmt.net/fiscalservices/check-register-fund](http://www.greatfallsmt.net/fiscalservices/check-register-fund)**

**TOTAL CHECKS ISSUED AND WIRE TRANSFERS MADE ARE NOTED BELOW WITH AN**  
**ITEMIZED LISTING OF ALL TRANSACTIONS GREATER THAN \$5000:**

ACCOUNTS PAYABLE CHECK RUNS FROM DECEMBER 21, 2018 - JANUARY 3, 2018	3,685,678.83
MUNICIPAL COURT ACCOUNT CHECK RUN FOR DECEMBER 16, 2017 - DECEMBER 28, 2017	17,308.50
<b>TOTAL: \$</b>	<b><u>3,702,987.33</u></b>

**GENERAL FUND**

**OTHER ADMIN**

CASCADE CITY COUNTY HEALTH DEPT	2ND HALF OF ANNUAL CONTRIBUTION	125,000.00
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**PARK & RECREATION**

MAYFLOWER TRANSIT LLC	MOVING EXPENSES	7,834.71
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**SPECIAL REVENUE FUND**

**LIGHTING DISTRICT**

TYLER TECHNOLOGIES	MAINTENANCE AGREEMENT 02/01/18- 1/31/2019	7,221.34
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**STREET DISTRICT**

WOITH ENGINEERING INC	OF 1622.2 AMENDMENT #2 36TH AVE NE IMPROVEMENTS (SPLIT AMONG FUNDS)	7,518.00
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**DEBT SERVICE**

**SOCCER PARK GO BONDS**

US BANK ASSOCIATION	DEBT SERVICE SERIES 2014A	11,674.38
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**GENERAL OBLIGATION TAXABLE BONDS**

US BANK ASSOCIATION	DEBT SERVICE SERIES 2014B	9,775.00
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**WEST BANK TID BONDS**

US BANK ASSOCIATION	DEBT SERVICE SERIES 2009A	44,876.25
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US BANK ASSOCIATION

DEBT SERVICE SERIES 2012

11,982.50

**CAPITAL PROJECTS**

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**GENERAL CAPITAL**

UNITED MATERIALS OF GREAT FALLS	REPAIR CIVIC CENTER PARKING LOTS CRACK SEAL	31,444.22
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**ENTERPRISE FUNDS**

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**WATER**

US BANK NA	DEBT SERVICE WRF 17366	319,275.36
US BANK NA	DEBT SERVICE WRF 18398	241,142.36
US BANK NA	DEBT SERVICE WRF 15329 SERIES 2014	86,711.17
US BANK NA	DEBT SERVICE WRF- 09125R	130,540.00
US BANK NA	DEBT SERVICE WRF-10152B SERIES 2009	9,872.50
US BANK NA	DEBT SERVICE WRF-01024 SERIES 2000	100,790.00
NALCO COMPANY	CHEMICALS	6,048.00
ED BOLAND CONSTRUCTION INC	OF 1625.2 GORE HILL TANK REPLACEMENT	12,014.39
UNITED MATERIALS OF GREAT FALLS	OF 1716 8TH AVE N WATER MAIN REPLACEMENT	44,417.02
WOITH ENGINEERING INC	OF 1622.2 AMENDMENT #2 36TH AVE NE IMPROVEMENTS (SPLIT AMONG FUNDS)	1,074.00

**SEWER**

US BANK NA	DEBT SERVICE SERIES 2013B	213,800.00
US BANK NA	DEBT SERVICE SERIES 2013A	236,715.00
US BANK NA	DEBT SERVICE SERIES 2002B	341,170.00
US BANK NA	DEBT SERVICE SERIES 2012	123,546.20
US BANK NA	DEBT SERVICE SERIES 2009	8,723.75
MORRISON-MAIERLE INC	WWTP SANITATION DUMP STATION	10,724.21
VEOLIA WATER NORTH AMERICA	MONTHLY WWTP OPERATION CONTRACT	233,851.99
VEOLIA WATER NORTH AMERICA	MONTHLY CONTRACTED CAPITAL IMPROVEMENTS	12,500.00
WOITH ENGINEERING INC	OF 1622.2 AMENDMENT #2 36TH AVE NE IMPROVEMENTS (SPLIT AMONG FUNDS)	1,074.00

**STORM DRAIN**

US BANK NA	DEBT SERVICE SERIES 2004	143,383.75
US BANK NA	DEBT SERVICE SRF-17396	154,711.38
WOITH ENGINEERING INC	OF 1622.2 AMENDMENT #2 36TH AVE NE IMPROVEMENTS (SPLIT AMONG FUNDS)	1,074.00

**911 DISPATCH CENTER**

CENTURYLINK	DISPATCH MONTHLY LINE CHARGE	5,841.70
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**INTERNAL SERVICES FUND**

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**FISCAL SERVICES**

ANDERSON ZURMUEHLEN AND CO FINAL BILLING ANNUAL AUDIT SERVICE 9,600.00

**INFORMATION TECHNOLOGY**

DELL MARKETING LP 30 ERS PC'S 3050 SFF 19,266.00

**CENTRAL GARAGE**

MOUNTAIN VIEW CO-OP FUEL-DIESEL 24,341.76  
YELLOWSTONE COUNTRY MOTORS 2-2018 RAM 4X4 QUAD CABS 56,324.00

**TRUST AND AGENCY**

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**COURT TRUST MUNICIPAL COURT**

CITY OF GREAT FALLS FINES & FORFEITURES COLLECTIONS 12,201.00

**PAYROLL CLEARING**

STATE TREASURER MONTANA TAXES 45,885.00  
ICMA RETIREMENT TRUST EMPLOYEE CONTRIBUTIONS 8,105.20  
FIREFIGHTER RETIREMENT FIREFIGHTER RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS 58,387.00  
STATEWIDE POLICE RESERVE FUND POLICE RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS 65,322.41  
PUBLIC EMPLOYEE RETIREMENT PUBLIC EMPLOYEE RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS 122,756.03  
US BANK FEDERAL TAXES, FICA & MEDICARE 213,486.66  
AFLAC EMPLOYEE CONTRIBUTIONS 11,346.40  
LABORERS INTERNATIONAL UNION EMPLOYEE CONTRIBUTIONS 25,834.80  
WESTERN CONF OF TEAMSTERS EMPLOYEE CONTRIBUTIONS 14,977.67  
MONTANA OE - CI TRUST FUND EMPLOYEE CONTRIBUTIONS 25,295.42  
NATIONWIDE RETIREMENT SOLUTIONS EMPLOYEE CONTRIBUTIONS 26,848.62  
MONTANA VEBA HRA EMPLOYEE CONTRIBUTIONS 5,942.03  
STATE OF MONTANA UNEMPLOYMENT INSURANCE 4TH QTR 35,585.30

**ULRRWSD AGENCY PHASE I**

US BANK NA DEBT SERVICE SRF-08169 8,337.50  
US BANK NA DEBT SERVICE WRF-06088 11,977.50

**ULRRWSD AGENCY PHASE II**

US BANK NA DEBT SERVICE WRF-09143 9,056.25

**ULRRWSD AGENCY PHASE III**

US BANK NA DEBT SERVICE WRF-10194 5,600.00

**CLAIMS OVER \$5000 TOTAL:**

\$ 3,512,803.73





**Item:** Contracts List

**From:** City Clerk's Office

**Presented By:** City Commission

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ATTACHMENTS:

- ▣ Amended Contracts List

**COMMUNICATION TO THE CITY COMMISSION**

**DATE: January 16, 2018**

**ITEM:** CONTRACTS LIST  
 Itemizing contracts not otherwise approved or ratified by City Commission Action  
 (Listed contracts are available for inspection in the City Clerk’s Office.)

**PRESENTED BY:** Lisa Kunz, City Clerk

**ACTION REQUESTED:** Ratification of Contracts through the Consent Agenda

**MAYOR’ S SIGNATURE:** \_\_\_\_\_

**CONTRACTS LIST**

	<b>DEPARTMENT</b>	<b>OTHER PARTY (PERSON OR ENTITY)</b>	<b>PERIOD</b>	<b>AMOUNT</b>	<b>PURPOSE</b>
<b>A</b>	Public Works – Engineering	Montana Department of Transportation (MDT)	Summer 2018	NA	Amendment One to Great Falls Construction Agreement for Federal Aid Project No. CMDO 5299(129), also known as UPN 9205000, Great Falls ADA sidewalk improvements on sections of Central Avenue West, 6 <sup>th</sup> Street SW <b>OF 1614</b> (CR 041817.10A)
<b>B</b>	Public Works – Engineering	Woith Engineering, Inc.	01/2018	\$9,027	Amendment 3 to Professional Services Agreement for 36 <sup>th</sup> Avenue NE Improvements. This amendment increases the design services scope and extends contract to January 31, 2018 <b>OF 1622</b> (CR 031913.4I, 040114.4D and 041916.12G)

<b>C</b>	Public Works – Engineering	Country Club Towers Condominiums	Perpetual	Recording fees paid by developer	Utility Easement (Sewer Main) and Right of Access situated in the Country Club Tower Condo Subdivision of Great Falls, Section 14, Township 20 North, Range 03 East, Cascade County, MT, commencing at the east corner of Tract 1A, Block 3, Country Club Addition (CR Ord. 3182 120517.16)
<b>D</b>	Public Works – Engineering	Billings Holdings LLC	Perpetual	Recording fees paid by developer	Utility Easement (Water Main) and Right of Access situated in the Tietjen Triangle Addition, Section 14, Township 20 North, Range 03 East, Block 001, Lot 001, Cascade County, MT, commencing at the northwest corner of Lot 1B, Block 1, Tietjen Triangle Addition (CR Ord. 3182 120517.16)
<b>E</b>	Public Works – Engineering	Billings Holdings LLC	Perpetual	Recording fees paid by developer	Utility Easement (Sewer Main) and Right of Access situated in the Country Club Addition, Section 14, Township 20 North, Range 03 East, Tract 1A, Block 3, Cascade County, MT, commencing at the southeast corner of Lot 1B, Block 1, Tietjen Triangle Addition (CR Ord. 3182 120517.16)
<b>F</b>	Public Works – Engineering	Billings Holdings LLC	Perpetual	Recording fees paid by developer	Utility Easement (Water Main) and Right of Access situated in the Country Club Addition, Section 14, Township 20 North, Range 03 East, Tract 1A, Block 3, Cascade County, MT, commencing at the southeast corner of Lot 1B, Block 1, Tietjen Triangle Addition (CR Ord. 3182 120517.16)



**Item:** Resolution 10227, Swimming Pool Fees

**From:** Park & Recreation Department

**Initiated By:** Park & Recreation Department

**Presented By:** Steve Herrig, Park & Recreation Director

**Action Requested:** Set Public Hearing on Resolution 10227, Swimming Pool Fees

**Suggested Motion:**

1. Commissioner moves:

"I move the City Commission (set/not set) a public hearing on Resolution 10227, Swimming Pool Fees for February 6, 2018."

2. Mayor requests a second to the motion, Commission discussion, public comment, and calls for the vote.

**Staff Recommendation:**

Staff recommends the City Commission set a public hearing on Resolution 10227, Swimming Pool Fees for February 6, 2018.

	<u>Current Fees</u>	<u>Proposed Fees</u>
<b>Mitchell Pool Access</b>		
Adult	5.00	5.00
Youth 3-17	3.00	3.00
Children 2 & under	Free - 1 child per paying adult, \$2.00 add'l child (was \$1.50)	
<b>Mitchell Pool Access with Water Slides and Flow Rider</b>		
Adult	12.00	12.00
Youth 3-17	10.00	10.00
*Includes tubes & boards		
<b>Water Tower/Jaycee/Natatorium Access Open Swim</b>		
Adult	3.50	4.00
Youth 3-17	2.50	3.00
Children 2 & under	Free - 1 child per paying adult, \$2.00 add'l child (was \$1.50)	
<b>Water Exercise</b>		
Daily	4.00	4.00
Monthly Pass	30.00	30.00

Punch Card (10 times)	40.00	40.00
<b>Adult Lap Swim</b>		
Daily	4.00	4.00
Monthly Pass	30.00	30.00
<b>Electric City Water Park/Mitchell Pool/Water Slide Rental</b>		
Water Park, Two Hours (Up to 499 people)	750.00	750.00
500-999 people	850.00	850.00
1,000-1,199	1150.00	1150.00
1,200-1,500	1350.00	1350.00
Water Park, Additional Hour	500.00	500.00
Mitchell only, 2 hours (500 people maximum)	500.00	500.00
Flow Rider only, 2 hours (400 people maximum)	500.00	500.00
<b>Jaycee/Water Tower Private Rental</b>		
Two Hours 50 people & under	150.00	150.00
Two Hours 50 people & over	200.00	200.00
<b>Natatorium Private Rental</b>		
Two Hours 50 people & under	130.00	130.00
Two Hours 50 people & over	170.00	170.00

**Background:**

The Pool Fund has been identified by the City Manager as an “At Risk Fund.” The Pool Fund received \$267,861 in General Fund support in FY2017 and FY2018 to supplement the pool budget. Pool admission fees were last raised in 2014. The proposed changes include a \$.50 increase for open swim fees at the Natatorium, Water Tower and Jaycee Pools, and a \$.50 increase at the Mitchell Pool for children 2 and under and accompanied by an adult. It also eliminates the non-resident fee which was never implemented. The proposed fee increase is projected to generate around \$6,140 towards the operations of the pools (\$4,311 for Water Tower and Jaycee, and \$1,829 for the Natatorium).

**Fiscal Impact:**

The proposed increases would generate approximately \$6,140 in additional revenue for the swimming pools based on comparable attendance in 2017. (Revenues at the outdoor pools are weather dependent.)

**Alternatives:**

Alternatives would include additional general fund subsidy or a reduction in services and/or facilities.

**Concurrences:**

The Park and Recreation Advisory Board recommended the City Commission adopt the new pool fees at their January 8, 2018 meeting.

ATTACHMENTS:

- Resolution No. 10227 Swimming Pool Fees 2018

**RESOLUTION NO. 10227**

**A RESOLUTION ESTABLISHING SWIMMING POOL FEES FOR ELECTRIC CITY WATER PARK, WATER TOWER, JAYCEE, AND NATATORIUM SWIMMING POOLS**

**WHEREAS**, the Park and Recreation Department’s primary focus is to enhance the overall health and livability of our community; and

**WHEREAS**, the City Commission adopted Resolution 10050, “A Resolution to Establish Swimming Pool Daily Fees for Mitchell, Water Tower, Jaycee, and Natatorium Swimming Pools” on February 18, 2014. Said fees have not been adjusted since that time; and

**WHEREAS**, having considered the cost of operation, administration and maintenance of all of the swimming pools, it is deemed necessary and appropriate to adjust fees associated therewith, thereby reducing the subsidy from the general fund.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, AS FOLLOWS:**

That Resolution 10050 is hereby repealed; and

Fees for the Electric City Water Park, Water Tower, Jaycee, and Natatorium swimming pools are hereby established as follows:

**Mitchell Pool Access**

Adult	5.00
Youth 3-17	3.00
Children 2 & under	Free – 1 child per paying adult, \$2.00 each add’l child

**Mitchell Pool Access with Water Slides and Flow Rider**

Adult	12.00*
Youth 3-17	10.00*

\*Includes tubes/boards

**Water Tower/Jaycee/Natatorium Access Open Swim**

Adult	4.00
Youth 3-17	3.00
Children 2 & under	Free – 1 child per paying adult, \$2.00 each add’l child

**Water Exercise**

Daily	4.00
Monthly Pass	30.00
Punch Card (10 times)	40.00

**Adult Lap Swim**

Daily	4.00
Monthly Pass	30.00

**Electric City Water Park/Mitchell Pool/Water Slide Rental**

Water Park, Two Hours (Up to 499 people)	750.00
500-999 people	850.00
1,000-1,199	1,150.00
1,200 – 1,500	1,350.00
Water Park, Additional Hour	500.00

Mitchell only, 2 hours (500 people maximum)	500.00
Flow Rider only, 2 hours (400 people maximum)	500.00
<b>Jaycee/Water Tower Private Rental</b>	
Two Hours 50 people & under	150.00
Two Hours 50 people & over	200.00
<b>Natatorium Private Rental</b>	
Two Hours 50 people & under	130.00
Two Hours 50 people & over	170.00

This Resolution shall become effective upon adoption.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana,  
February 6, 2018.

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Bob Kelly, Mayor

ATTEST:

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Lisa Kunz, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

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Sara Sexe, City Attorney



**Item:** Public Hearing - Ordinance 3184 - An Ordinance by the City Commission to rezone the east approximately 12 feet by 132.5 feet of Lot 8, Block 49, Black Eagle Falls Addition and authorize the sale of said property

**From:** Charles Sheets, Planning and Community Development

**Initiated By:** PBA Properties, LLC, Represented by Bob Alfred

**Presented By:** Craig Raymond, Director, Planning and Community Development

**Action Requested:** City Commission adopt Ordinance 3184, the accompanying Basis of Decision, the Buy-Sell Agreement, and Draft Easement Agreement - all pertaining to the sale of the property to PBA Properties, LLC.

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**Public Hearing:**

1. Mayor conducts public hearing, calling three times each for proponents and opponents.
2. Mayor closes public hearing and asks the will of the Commission.

**Suggested Motion:**

1. Commissioner moves:

I. "I move that the City Commission (adopt/deny) Ordinance 3184 and the accompanying Basis of Decision."

Mayor requests a second to the motion, Commission discussion, and calls for the vote.

and;

II. "I move that the City Commission (approve/deny) the Buy-Sell Agreement and draft Easement Agreement and the sale of the property to PBA Properties, LLC and authorize the City Manager to execute all documents necessary to effect the sale."

Mayor requests a second to the motion, Commission discussion, and calls for the vote.

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**Staff Recommendation:**

Staff recommends the City Commission approve the proposed rezoning and the proposed sale of the



property to PBA Properties, LLC. The vote on the proposed sale requires a 4/5 vote of the Commission.

### **Summary:**

PBA Properties, LLC, is proposing to purchase an approximately 12 feet wide by 132.5 feet long portion of Lions Park in order to construct an elevator addition onto the existing commercial property.

At the conclusion of a public hearing held on November 14, 2017, the Zoning Commission recommended the City Commission approve the rezoning request for the east 12 feet wide by 132.5 feet long strip of Lions Park, represented on the proposed Amended Plat of Lots 7 and 8, Block 49, Black Eagle Falls Addition, from POS Park and Open Space to C-2 General Commercial, as described in the staff report and the Findings of Fact placed into the record.

Additionally, PBA Properties, LLC representative Bob Alfred attended the February 13, 2017, Park and Recreation Advisory Board meeting regarding the proposed purchase of this very small property located in a portion of Lions Park to provide enough land for an elevator to be added to the existing building owned by PBA Properties located at 2815 10th Avenue South. The Board approved the purchase, contingent upon the buyer meeting all requirements set by the City, and Mr. Alfred was advised that he would need to return at a later date for final approval. After obtaining an appraisal of the subject property, Mr. Alfred attended the Park and Recreation Advisory Board Meeting on September 11, 2017. The Board recommended that the City Commission approve the sale of the approximately 12 feet wide by 132.5 feet long portion of Lions Park. The proposed sale is contingent upon all City stated requirements being met and is contingent upon rezoning of the property as set forth above.

### **Background:**

The subject property is located just west of the State Farm Insurance office at 2815 10th Avenue South and is a 1,590 square foot portion of Lions Park that directly adjoins the existing commercial property. PBA Properties, LLC is proposing to purchase the subject park land and combine it with the existing commercial property in order to construct an elevator that will provide ADA compliant access to the second floor of the structure. At the September 11, 2017, Park and Recreation Advisory Board meeting, the owner's member representative, Bob Alfred, received the Board's positive recommendation to purchase the subject property. A land value appraisal of \$9,000.00 was completed by McKay/Rowen Appraisal Service based on a survey by Woith Engineering. This proposed sale is not subject to competitive bidding under the Official Code of the City of Great Falls (OCCGF) 3.04.050, as under 3.04.050.A.1., there is no actual potential for more than one party interested in making a bid. If the rezoning and sale are approved, PBA Properties, LLC intends to construct the elevator as soon as possible for the commercial structure.

Final approval of the property purchase is still subject to City Commission consideration and approval by a 4/5 vote, under the OCCGF 3.04.010. The approximately 12 feet wide by 132.5 feet long property contains no structures but does have five mature pine trees. The existing trees at the western edge will remain within the park boundary and will be required to be protected from damage during the construction of the elevator and in perpetuity. The existing trees provide a buffer between the City Park and the commercial property. Further, PBA Properties, LLC will be required to provide an easement to the City regarding care and maintenance of the trees. A draft of the easement is attached to this Agenda Report.

The rezoning request is required because the 1,590 square foot property is currently zoned Parks and open space (POS). In order for the property to be combined with the existing 6,547 square feet of Lot 8

for the future elevator addition project, it must be rezoned to General commercial (C-2) so the property has unified zoning and the elevator addition can be permitted in compliance with the Land Development Code. In addition to the necessary zoning change, the applicant will also need to file an amended plat with the Cascade County Clerk and Recorder's Office. The proposed amended plat is an administrative review but is included as a part of the application to pair with the rezoning request.

Public Notice for the Planning Advisory Board/Zoning Commission Public Hearing was published in the *Great Falls Tribune* on October 29, 2017. Written notice of the public hearing was mailed to the Neighborhood Council chair for Neighborhood Council #9. Planning and Parks and Recreation staff attended a Neighborhood Council #9 meeting held on December 14, 2017. After staff presentation and discussion, the Council voted to support the proposal.

**Fiscal Impact:**

The subject property is located within City limits. If the rezoning application is approved, PBA Properties, LLC will be able to move forward with its proposed purchase of the subject park land and construct the elevator addition. This will slightly increase the property's assessed value without impacting the park in any way. Providing services is expected to be a negligible cost to the City because the remaining insurance business property is already served.

The property was appraised at \$9,000, and PBA Properties, LLC has offered to purchase the property for that amount, along with payment of all closing costs. Any money from the sale of the park land goes into the City's Park Trust Fund.

**Alternatives:**

If there are justifiable reasons to do so, the City Commission could deny the requested action to the extent allowed in City Code and State Statute. This would cause the proposed sale of property to be suspended or not completed.

**Concurrences:**

Representatives from the City's Park and Recreation and Legal Departments have been involved throughout the review and approval process for this project, and will continue throughout the permit approval process.

ATTACHMENTS:

- ▢ Ordinance 3184
- ▢ Aerial map 2815 10th Ave S
- ▢ Zoning map 2815 10th Ave S
- ▢ Draft Amended Plat 2815 10th Ave S
- ▢ BASIS OF DECISION 2815 10TH AVE S
- ▢ Buy-Sell Agreement
- ▢ Amendment No.1 to Buy Sell Agreement
- ▢ Draft Easement Agreement

**ORDINANCE 3184**

**AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS TO REZONE THE EAST APPROXIMATELY 12 FEET BY 132.5 FEET OF LOT 8, BLOCK 49, BLACK EAGLE FALLS ADDITION: AS SHOWN ON THE PROPOSED AMENDED PLAT OF LOTS 7 AND 8, BLOCK 49, BLACK EAGLE FALLS ADDITION TO GREAT FALLS FROM POS PARK AND OPEN SPACE TO C-2 GENERAL COMMERCIAL DISTRICT**

\* \* \* \* \*

**WHEREAS**, the subject property located in the southeast corner of Lions Park and directly adjoining the commercial property of 2815 10<sup>th</sup> Avenue South is presently zoned POS Park and Open Space; and

**WHEREAS**, the property owner of 2815 10<sup>th</sup> Avenue South proposes to purchase the east approximately 12 feet by 132.5 feet of Lot 8, Block 49, Black Eagle Falls Addition and combine it with his property of Lot 7, Block 49, Black Eagle Falls Addition, in order to construct a elevator to the second story of his property and has petitioned the City of Great Falls to rezone subject 12 feet by 132.5 feet portion of unused park to match the zoning upon the commercial property of C-2 General Commercial; and

**WHEREAS**, the Great Falls Zoning Commission conducted a public hearing on November 14, 2017, to consider said rezoning from POS Park and Open Space to C-2 General Commercial district and, at the conclusion of said hearing, passed a motion recommending the City Commission rezone the east 12 feet by 132.5 feet of Lot 8, Block 49, Black Eagle Falls Addition; and,

**WHEREAS**, notice of assigning said zoning classification to and sale of the subject property was published in the *Great Falls Tribune* advising that a public hearing on this zoning designation would be held on the 16<sup>th</sup> day of January, 2018, before final passage of said Ordinance herein; and

**WHEREAS**, following said public hearing, it was found and decided that the zoning map amendment on said property meets the Basis of Decision requirements in the Official Code of the City of Great Falls (OCCGF), Section 17.16.29.050, and that the said rezoning designation be made.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:**

Section 1. It is determined that the herein requested rezoning meets the criteria and guidelines cited in Mont. Code Ann §76-2-304, and Section 17.16.29.050 of the OCCGF.

Section 2. That the east approximately 12 feet by 132.5 feet of Lot 8, Block 49, Black Eagle Falls Addition, be rezoned to C-2 General Commercial district, subject to the setbacks, and all other applicable regulatory codes and ordinances.

Section 3. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the City Commission.

ACCEPTED by the City Commission of the City of Great Falls, Montana on first reading December 5, 2017.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading January 16, 2018.

\_\_\_\_\_  
Bob Kelly, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Kunz, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
Sara Sexe, City Attorney

State of Montana    )  
County of Cascade  : ss  
City of Great Falls )

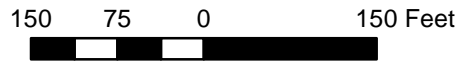
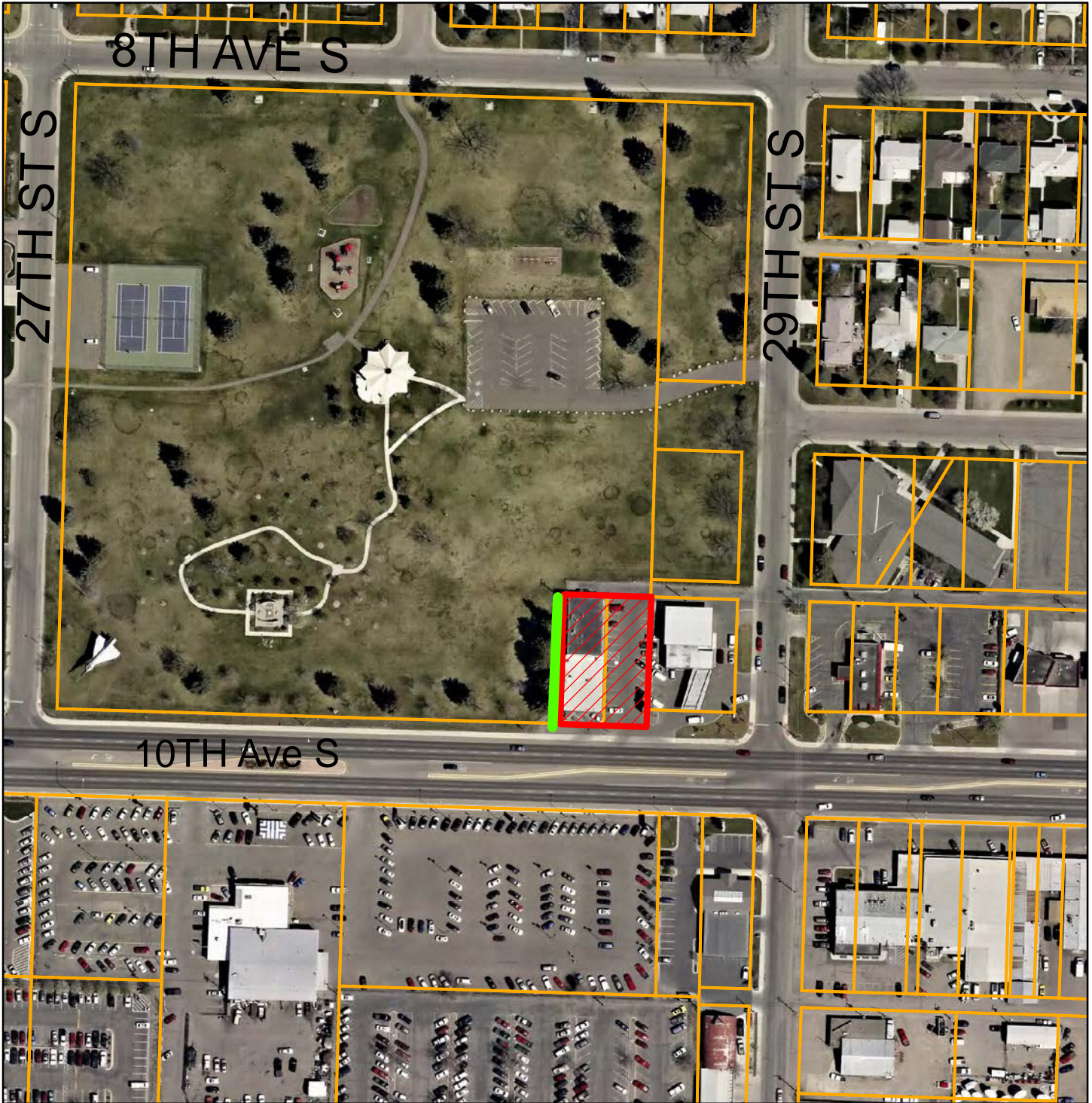
I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3184 on the Great Falls Civic Center posting board and the Great Falls City website.

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Lisa Kunz, City Clerk

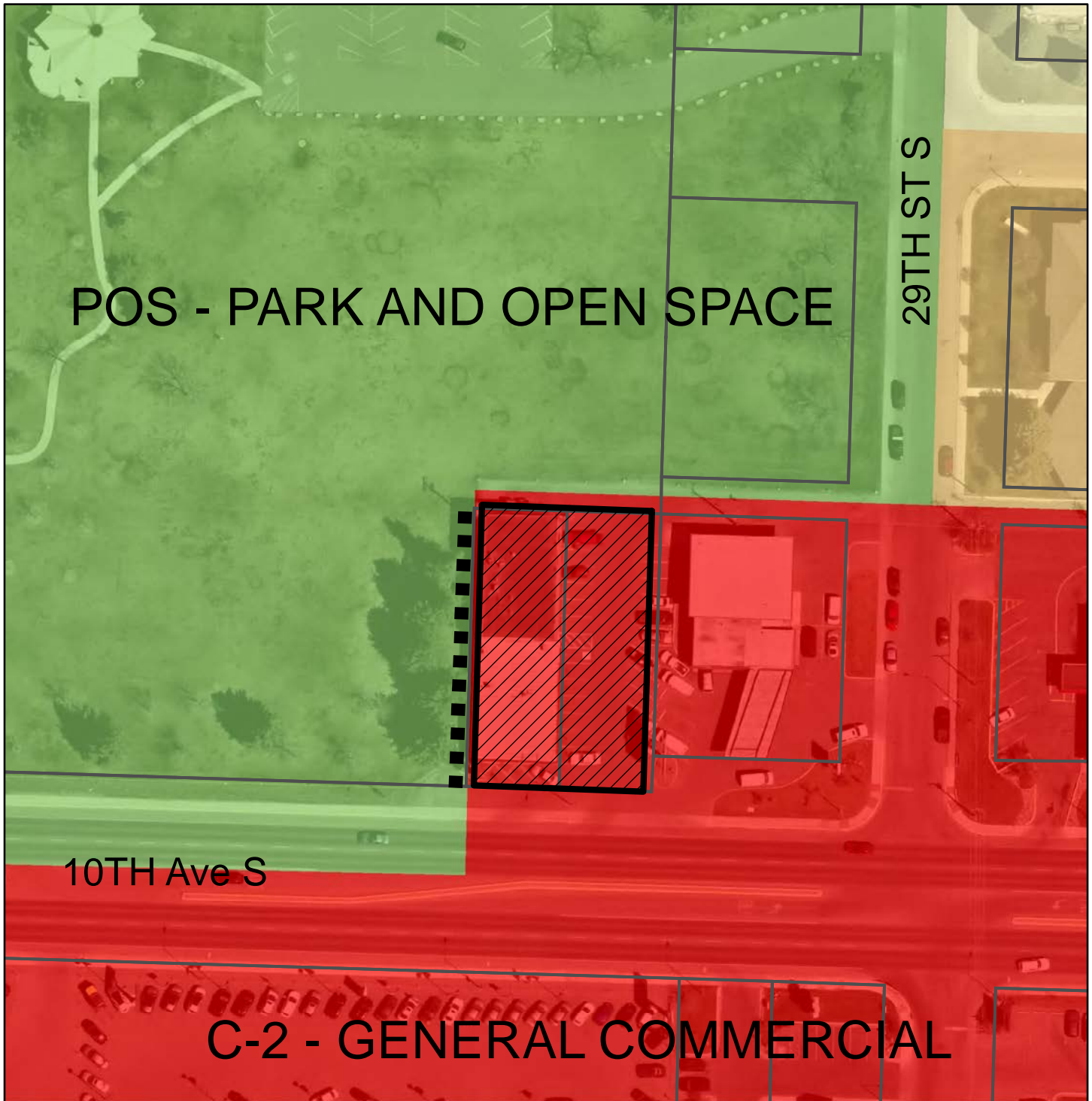
(CITY SEAL)

# AERIAL MAP

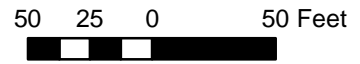


-  2815 10th Ave S
-  Subject Park Land
-  Tracts of Land

# ZONING MAP



- Tracts of Land
- Subject Park Land
- 2815 10th Ave S



# AMENDED PLAT OF LOTS 7 AND 8, BLOCK 49 BLACK EAGLE FALLS ADDITION TO THE CITY OF GREAT FALLS A SUBDIVISION IN THE SW 1/4 SECTION 8, T.20N., R4E., P.M.MT, CASCADE COUNTY, MONTANA

THE PURPOSE OF THIS AMENDED PLAT IS THE RELOCATION OF COMMON BOUNDARY LINES WITHIN A PLATTED SUBDIVISION

### LEGEND

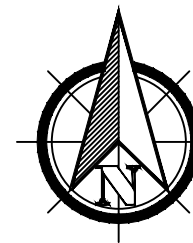
- |                                      |   |
|--------------------------------------|---|
| — PLAT BOUNDARIES                    | ⊕ STREET MONUMENT                                       |
| - - - EXISTING PROPERTY LINES        | ○ FOUND MONUMENT AS NOTED                               |
| — RELOCATED PROPERTY LINE            | ◆ FOUND 2" AC R-O-W MONUMENT "MDOT 11702LS" SET A 5/8"Ø |
| - - - DIMENSION LINES                | ● REBAR W/ BLUE PLASTIC CAP - "SIDOR 39515"             |
| — SECTION LINE                       | SF SQUARE FEET  |
| - - - OLD PROPERTY LINES (ABANDONED) | AC ALUMINUM CAP   |
| — CENTERLINE                         | /// CITY DEDICATED PARK LAND                            |
| P.O.B. POINT OF BEGINNING            | ( ) 2ND SUPPLEMENT TO PAPPIN HEIGHTS - RECORD DISTANCE  |
| T.P.O.B. TRUE POINT OF BEGINNING     |   |

### AREAS

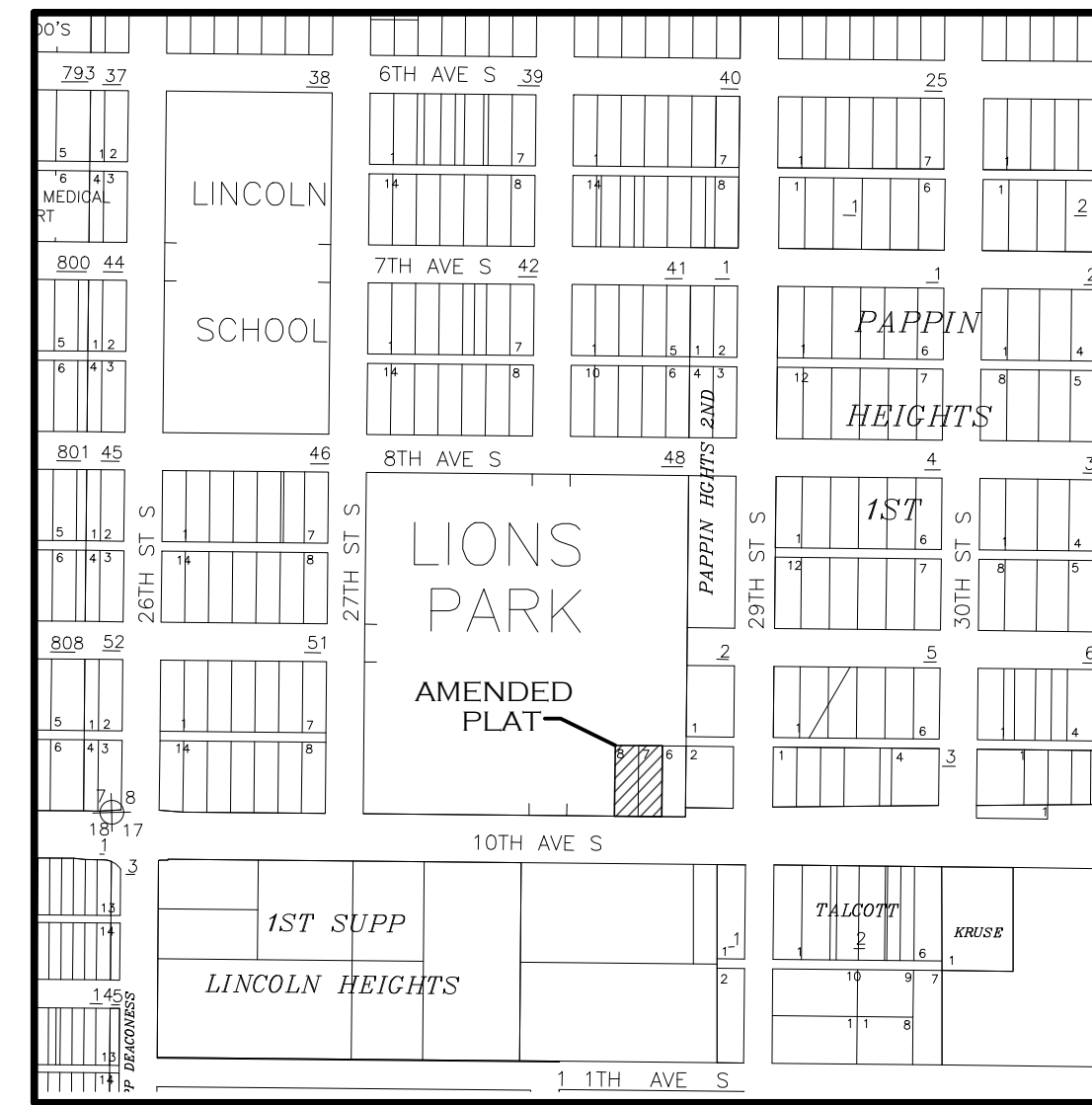
LOT 7A 8134 SF = 0.187 ACRES  
LOT 8A 5003 SF = 0.115 ACRES  
TOTAL 13137 SF = 0.302 ACRES

### BASIS OF BEARING

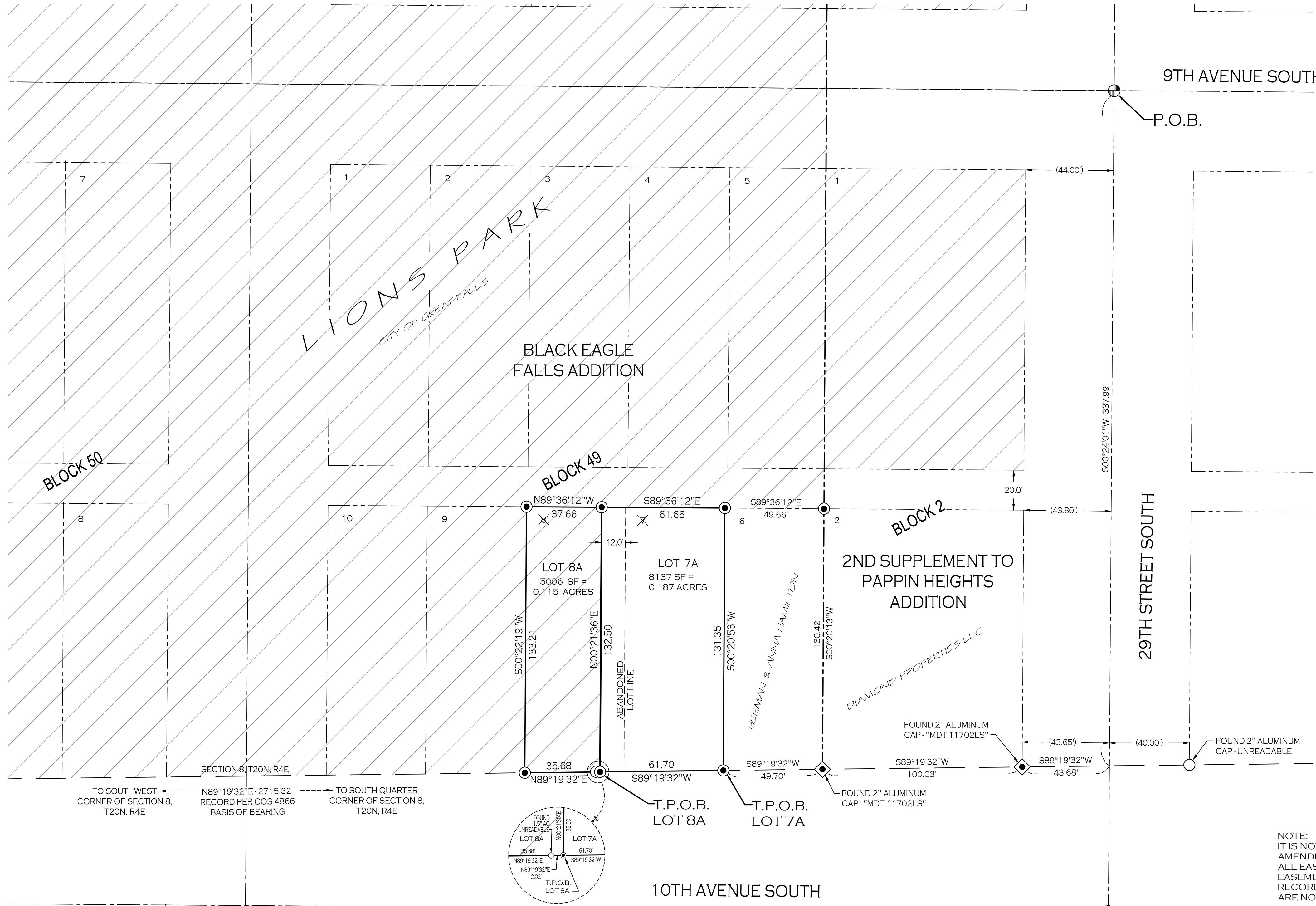
GEODETIC NORTH BASED ON THE SOUTH BOUNDARY OF SECTION 8 T20N R4E PER COS 4866, THEODORE M. BROWN, MONTANA DEPARTMENT OF TRANSPORTATION, 2013.



0 30 60  
SCALE: 1" = 30'



**VICINITY MAP**



**CERTIFICATE OF SURVEY**  
WE, THE UNDERSIGNED PROPERTY OWNERS, DO HEREBY CERTIFY THAT WE HAVE CAUSED TO BE SURVEYED AND PLATTED INTO A LOTS AS SHOWN BY THE ATTACHED AMENDED PLAT, THE TRACTS OF LAND TO BE KNOWN AS THE AMENDED PLAT OF LOTS 7 AND 8, BLOCK 49 BLACK EAGLE FALLS ADDITION TO THE CITY OF GREAT FALLS, A SUBDIVISION IN THE SW 1/4 SECTION 8, T20N, R4E, P.M. MT, CASCADE COUNTY, MONTANA, MORE FULLY DESCRIBED AS FOLLOWS:

**LOT 7A:** BEGINNING AT THE CENTERLINE STREET MONUMENT AT THE INTERSECTION OF 9TH AVENUE SOUTH AND 29TH STREET SOUTH, GREAT FALLS, MONTANA; THENCE 500°24'01"W, A DISTANCE OF 337.99 FEET ALONG THE CENTERLINE OF 29TH STREET SOUTH TO A POINT ON THE SOUTH LINE OF SECTION 8, T20N, R4E, P.M. MT, CASCADE COUNTY, MONTANA; THENCE 589°19'32"W, A DISTANCE OF 43.68 FEET TO A POINT AT THE SOUTHEAST CORNER OF BLOCK 2, 2ND SUPPLEMENT TO PAPPIN HEIGHTS ADDITION TO THE CITY OF GREAT FALLS, MONTANA, AS FILED IN THE OFFICE OF THE CLERK AND RECORDER OF CASCADE COUNTY, MONTANA; THENCE CONTINUING S89°19'32"W, A DISTANCE OF 100.03 FEET TO A POINT AT THE SOUTHEAST CORNER OF BLOCK 49 BLACK EAGLE FALLS ADDITION TO THE CITY OF GREAT FALLS, MONTANA, AS FILED IN THE OFFICE OF THE CLERK AND RECORDER OF CASCADE COUNTY, MONTANA; THENCE CONTINUING S89°19'32"W, A DISTANCE OF 49.70 FEET TO THE TRUE POINT OF BEGINNING OF LOT 7A, BLOCK 49, BLACK EAGLE FALLS ADDITION; THENCE CONTINUING S89°19'32"W, A DISTANCE OF 61.70 FEET TO A POINT, THE PRECEDING FOUR COURSES BEING ALONG THE SOUTH LINE OF THE SAID SECTION 8; THENCE N00°21'36"E, A DISTANCE OF 132.50 FEET TO A POINT; THENCE S89°36'12"E, A DISTANCE OF 61.66 FEET TO A POINT; THENCE S00°20'53"W, A DISTANCE OF 131.35 FEET TO THE TRUE POINT OF BEGINNING. LOT 7A CONTAINS 0.187 ACRES.

**LOT 8A:** BEGINNING AT THE CENTERLINE STREET MONUMENT AT THE INTERSECTION OF 9TH AVENUE SOUTH AND 29TH STREET SOUTH, GREAT FALLS, MONTANA; THENCE 500°24'01"W, A DISTANCE OF 337.99 FEET ALONG THE CENTERLINE OF 29TH STREET SOUTH TO A POINT ON THE SOUTH LINE OF SECTION 8, T20N, R4E, P.M. MT, CASCADE COUNTY, MONTANA; THENCE S89°19'32"W, A DISTANCE OF 43.68 FEET TO A POINT AT THE SOUTHEAST CORNER OF BLOCK 2, 2ND SUPPLEMENT TO PAPPIN HEIGHTS ADDITION TO THE CITY OF GREAT FALLS, MONTANA, AS FILED IN THE OFFICE OF THE CLERK AND RECORDER OF CASCADE COUNTY, MONTANA; THENCE CONTINUING S89°19'32"W, A DISTANCE OF 100.03 FEET TO A POINT AT THE SOUTHEAST CORNER OF BLOCK 49 BLACK EAGLE FALLS ADDITION TO THE CITY OF GREAT FALLS, MONTANA, AS FILED IN THE OFFICE OF THE CLERK AND RECORDER OF CASCADE COUNTY, MONTANA; THENCE CONTINUING S89°19'32"W, A DISTANCE OF 49.70 FEET TO A POINT; THENCE CONTINUING S89°19'32"W, A DISTANCE OF 61.70 TO THE TRUE POINT OF BEGINNING OF LOT 8A, BLOCK 49, BLACK EAGLE FALLS ADDITION, THE PRECEDING FOUR COURSES BEING ALONG THE SOUTH LINE OF THE SAID SECTION 8; THENCE N00°21'36"E, A DISTANCE OF 132.50 FEET TO A POINT; THENCE N89°36'12"W, A DISTANCE OF 37.66 FEET TO A POINT; THENCE S00°22'19"W, A DISTANCE OF 133.21 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 8; THENCE N89°19'32"E, A DISTANCE OF 35.68 FEET TO A POINT; THENCE CONTINUING N89°19'32"E, A DISTANCE OF 2.02 FEET TO THE TRUE POINT OF BEGINNING, THE PRECEDING TWO COURSES BEING ALONG THE SOUTH LINE OF THE SAID SECTION 8. LOT 8A CONTAINS 0.115 ACRES.

WE HEREBY CERTIFY THAT THIS RELOCATION OF COMMON BOUNDARIES IS EXEMPT FROM REVIEW AS A SUBDIVISION IN ACCORDANCE WITH 76-3-207(1)(d) MCA. "...FOR FIVE OR FEWER LOTS WITHIN A PLATTED SUBDIVISION, THE RELOCATION OF COMMON BOUNDARIES..."

WE FURTHER CERTIFY THAT THIS SURVEY IS EXCLUDED FROM REVIEW BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY IN ACCORDANCE WITH 17-36-605(2)(b) ARM. "A PARCEL THAT HAS A PREVIOUS APPROVAL ISSUED UNDER TITLE 76, CHAPTER 4, PART 1, MCA, IF: (i) NO FACILITIES OTHER THAN THOSE PREVIOUSLY APPROVED EXIST OR WILL BE CONSTRUCTED ON THE PARCEL; AND (ii) THE DIVISION OF LAND WILL NOT CAUSE APPROVED FACILITIES TO DEVIATE FROM THE CONDITIONS OF APPROVAL, IN VIOLATION OF 76-4-130, MCA. DATED THE \_\_\_\_ DAY OF \_\_\_\_\_, 2017

HERMAN HAMILTON ANNA HAMILTON  
STATE OF MONTANA )  
COUNTY OF CASCADE ) SS  
ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017, BEFORE ME, A NOTARY PUBLIC, IN AND FOR THE STATE OF MONTANA, PERSONALLY APPEARED, HERMAN HAMILTON AND ANNA HAMILTON KNOWN TO ME TO BE THE PERSON WHO EXECUTED THE FOREGOING CERTIFICATE OF SURVEY AND THEY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.  
SEAL

NOTARY PUBLIC, STATE OF MONTANA  
RESIDING AT GREAT FALLS, MONTANA  
MY COMMISSION EXPIRES \_\_\_\_\_  
PRINT NOTARY PUBLIC NAME \_\_\_\_\_

**PBA PROPERTIES**  
AUTHORIZED OFFICER  
STATE OF MONTANA )  
COUNTY OF CASCADE ) SS  
ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017, BEFORE ME, A NOTARY PUBLIC, IN AND FOR THE STATE OF MONTANA, PERSONALLY APPEARED, \_\_\_\_\_ KNOWN TO ME TO BE AN AUTHORIZED OFFICER OF PBA PROPERTIES AND THE PERSON WHO EXECUTED THE FOREGOING CERTIFICATE OF SURVEY AND HE/SHE ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME.  
SEAL

NOTARY PUBLIC, STATE OF MONTANA  
RESIDING AT GREAT FALLS, MONTANA  
MY COMMISSION EXPIRES \_\_\_\_\_  
PRINT NOTARY PUBLIC NAME \_\_\_\_\_

**CITY OF GREAT FALLS**  
GREGORY T. DOYON, City Manager,  
City of Great Falls, Montana  
STATE OF MONTANA )  
COUNTY OF CASCADE ) SS  
On this \_\_\_\_ day of \_\_\_\_\_, 2017, before me, a Notary Public, in and for the State of Montana, personally appeared, GREGORY T. DOYON known to me to be the City Manager of the City of Great Falls, Montana and the person who executed the foregoing Certificate of Survey and he acknowledged to me that he executed the same.

NOTARY PUBLIC, State of Montana  
Residing at Great Falls, Montana  
My Commission Expires \_\_\_\_\_  
Print Notary Public Name \_\_\_\_\_  
**CERTIFICATE OF SURVEYOR**

I, BENJAMIN T. SIDOR, PROFESSIONAL LAND SURVEYOR, MONTANA REG. NO. 39515, DO HEREBY CERTIFY THAT IN MARCH, 2016 I SURVEYED THE TRACT OF LAND SHOWN ON THE ATTACHED AMENDED PLAT OF LOTS 7 AND 8, BLOCK 49 BLACK EAGLE FALLS ADDITION TO THE CITY OF GREAT FALLS, CASCADE COUNTY, MONTANA, AND DESCRIBED IN THE CERTIFICATE OF SURVEY, AND THAT THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF TITLE 76, CHAPTER 3, PART 4, MCA.  
SEAL

BENJAMIN T. SIDOR, PLS  
MONTANA REG. NO. 39515

**CERTIFICATE OF COUNTY TREASURER**  
I, JAMIE BAILEY, COUNTY TREASURER OF CASCADE COUNTY, MONTANA, DO HEREBY CERTIFY THAT I HAVE EXAMINED THE RECORDS COVERING THE AREAS INCLUDED IN THE ACCOMPANYING AMENDED PLAT OF LOTS 7 AND 8, BLOCK 49 BLACK EAGLE FALLS ADDITION TO THE CITY OF GREAT FALLS, CASCADE COUNTY, MONTANA, AND FIND THAT THE TAXES ON THE SAME HAVE BEEN PAID FOR THE LAST FIVE YEARS. DATED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.

JAMIE BAILEY, CASCADE COUNTY TREASURER

**WOITH ENGINEERING INC**  
ENGINEERS & SURVEYORS  
P.O. BOX 7326, GREAT FALLS, MONTANA 59406

JOB NO: 1711  
F.B.NO: G.P.S.  
FILE: 1711A.PLAT  
DRAWN: G.C.  
DATE: 3/20/17

**1**



**ZONING MAP AMENDMENT –  
BASIS OF DECISION**

**PORTION OF LOT 8, BLOCK 49 BLACK EAGLE FALLS ADDITION:**

The basis for decisions on zoning map amendments is listed in the Official Code of the City of Great Falls § 17.16.40.030 of the Land Development Code. The recommendation of the Zoning Commission and the decision of City Commission shall, at a minimum, consider the following criteria:

1. The amendment is consistent with and furthers the intent of the City's Growth Policy.

- The proposed project is consistent with the overall intent and purpose of the 2013 City Growth Policy Update. The project specifically supports the following policies:

Physical - Land Use

- Phy4.1.5 Encourage and incentivize the redevelopment or adaptive reuse of vacant or underutilized properties so as to maximize the City's existing infrastructure.
- Phy4.2.1 Development density and intensity should be oriented toward areas of the City most capable of supporting it....[such as] Locations with adequate community facilities and areas with adequate or excess infrastructure capacity.
- Phy4.7.6 Encourage new development in areas contiguous to existing development in the City, where capacity exists or can be planned for. This type of growth is preferred in order to avoid the long-term cost to taxpayers off providing costly services in an inefficient way.

2. The amendment is consistent with and furthers adopted neighborhood plans, if any.

- No neighborhood plans have been adopted by City Commission at this time.

3. The amendment is consistent with other planning documents adopted by the City Commission, including the river corridor plan, transportation plan and sub-area plans.

- The subject property does not lie within land area associated with any adopted plans or sub-area plans, except for the Great Falls Area Long Range Transportation Plan, which does not have specific goals or objectives that address infill redevelopment.
- Given the limited area of the rezoning (adjacent portion of unused park land), the change to traffic patterns will be unnoticeable and therefore would have no impact upon any provisions in the Long Range Transportation Plan.

4. The code with the amendment is internally consistent.

- The rezoning of property is actually required to ensure code consistency because otherwise the property proposed for acquisition would have separate zoning than the insurance office parcel. Rezoning the property will unify the zoning for the property and allow the proposed elevator addition to comply with code.

5. The amendment is the least restrictive approach to address issues of public health, safety, and welfare.

- The existing insurance office building has no other viable option for second floor ADA access other than through the proposed elevator to be located on the west side of the structure. Allowing the unused portion of neighboring park land to be developed for accessibility to the commercial structure is addressing public safety and welfare.

6. The City has or will have the financial and staffing capability to administer and enforce the amendment.

- Approval of the rezoning proposal will allow for increased use of the Subject Property.
- The City has the financial and staffing capability to enforce the zoning map amendment if it is approved, and has the staffing available to address any subsequent development of the property.

# BUY-SELL AGREEMENT (Land)



This Agreement stipulates the terms of sale of this property. Read carefully before signing. This is a legally binding contract. If not understood, seek competent advice.

Date: September 11, 2017 PBA Properties, LLC  
~~Norman Hamilton, Anna Hamilton and or Assigns~~ [redacted], as

joint tenants with rights of survivorship,  tenants in common,  single in his/her own right,  Other \_\_\_\_\_  
(hereinafter called "Buyer") agrees to purchase, and the Seller agrees to sell the following described real property (hereinafter referred to as "Property"), commonly known as A 12' x 132.5' section of the southeast corner of Lion's Park  
in the City of Great Falls, County of Cascade  
Montana, legally described as: To be legally defined by official survey, see lines 159-160.

TOGETHER with all interest of Seller in vacated streets and alleys adjacent thereto, all easements and other appurtenances thereto, uncut timber and non-harvested crops and all improvements thereon except: No exceptions.

**PERSONAL PROPERTY:** The following items of personal property, free of liens and without warranty of condition, are included and shall be transferred by the bill of sale: None.

### PURCHASE PRICE AND TERMS:

\$ 9,000.00 Purchase Price: Nine Thousand (U.S. Dollars)

\$ ~~100.00~~ Earnest Money (credited to Buyer at closing)

\$ ~~8,900.00~~ Balance Due (not including closing costs, prepaids and prorations) payable as follows

[redacted] 9,000.00 (check one):  
 All cash at closing (no financing contingency); OR  
 Additional cash down payment at closing in the minimum amount of:  
 \$ \_\_\_\_\_  OR \_\_\_\_\_ % of the Purchase Price.  
Balance to be financed as indicated below:  
 Conventional  Other Financing  Seller Financing  Assumption  Home Equity  
 Other Cash at closing.

**CLOSING DATE:** The date of closing shall be (date) December 29, 2017 (the "Closing Date"). The parties may, by mutual agreement, close the transaction anticipated by this Agreement at any time prior to the date specified. The Buyer and Seller will deposit with the closing agent all instruments and funds necessary to complete the purchase in accordance with this Agreement. If third party financing is required by the terms of this Agreement (including assumptions, contracts for deed, and lender financing), the Closing Date may be extended without amendment by not more than 10 days to accommodate delays attributable solely to such third party financing.

**POSSESSION:** Seller shall deliver to Buyer possession of the property and allow occupancy:  
 when the closing agent is in receipt of all required, signed documents and all funds necessary for the purchase; OR  
 on the date of recording the deed, notice of purchaser's interest, OR

Seller shall provide keys and/or means to operate locks, mailboxes, security systems, alarms, garage door opener(s), and Homeowner's Association facilities, if applicable.

57 **PAYMENT/RECEIPT OF EARNEST MONEY:** Buyer agrees to provide Earnest Money in the amount of One Hundred  
58 U.S. Dollars (\$ 100.00 ) as evidenced by  Cash; OR  Check,  
59 the receipt of which is acknowledged by the undersigned Broker/Salesperson;  OR, \_\_\_\_\_  
60 \_\_\_\_\_  
61 \_\_\_\_\_

63 (Broker/Salesperson's Printed Name and Phone Number) (Signature of Broker/Salesperson)  
64 **To be signed only if in actual receipt of cash or check**  
65

66 If Buyer fails to pay the Earnest Money as set forth above, Buyer will be in default of this Agreement and Seller shall  
67 be entitled to immediately terminate this Agreement and declare any Earnest Money already paid by Buyer to be  
68 forfeited.  
69

70 **DEPOSIT OF EARNEST MONEY:** All parties to this transaction agree, unless otherwise provided herein, that the  
71 earnest monies will be deposited or delivered by the Broker/Salesperson listed above within ( 3 ) business  
72 days of the date all parties have signed the Agreement or N/A  
73 and such funds will be held in a trust account by Macek Companies, Inc.  
74

75 The parties agree that interest accruing on earnest money, if any, while deposited shall be payable to the holder of the  
76 earnest money unless otherwise agreed herein. If interest is payable to the holder of the earnest money it is agreed that  
77 sums so paid are consideration for services rendered.  
78

79 The parties authorize the holder of the earnest money to forward to the closing agent, upon its request, all or any  
80 portion of the earnest money required to complete the closing of the transaction.  
81

82 **FINANCING CONDITIONS AND OBLIGATIONS:**  
83

84 **BUYER'S REPRESENTATION OF FUNDS:** Buyer represents that they have sufficient funds for the down  
85 payment and closing costs to close this sale in accordance with this Agreement and are not relying upon any  
86 contingent source of such funds unless otherwise expressly set forth herein.  
87

88 **LOAN APPLICATION:** If Buyer fails to make written application for financing and pay to the lender any  
89 required fees, apply for assumption of an existing loan or contract, or initiate any action required for  
90 completion of a contract for deed by 5:00 P.M. (Mountain Time) (date) N/A  
91 Buyer will be in breach of this Agreement and Seller can exercise Seller's remedies under this Agreement.  
92

93 **CONTINGENCIES:** The contingencies set forth in this Agreement or on attached addenda shall be deemed to have  
94 been released, waived, or satisfied, and the transaction shall continue to closing, unless, by 5:00 p.m. (Mountain Time)  
95 on the date specified for each contingency, the party requesting that contingency has notified the other party or the  
96 other party's Broker/Salesperson in writing that the contingency is not released, waived, or satisfied. If a party has  
97 notified the other party on or before the release date that a contingency is not released, waived, or satisfied, the  
98 transaction is terminated, and the earnest money will be returned to the Buyer, unless the parties negotiate other terms  
99 or provisions.  
100

101 **FINANCING CONTINGENCY:**

102  This Agreement is contingent upon Buyer obtaining the financing specified in the section of this Agreement  
103 entitled "PURCHASE PRICE AND TERMS". If financing cannot be obtained by the Closing Date this Agreement  
104 is terminated and the earnest money will be refunded to the Buyer; **OR**  
105

106  This Agreement is contingent upon Buyer obtaining the financing specified in the section of this Agreement  
107 entitled "PURCHASE PRICE AND TERMS." Release Date: \_\_\_\_\_  
108

109 **APPRAISAL CONTINGENCY:**

110  Property must appraise for at least  the Purchase Price **OR** at least  \$ \_\_\_\_\_. If the Property  
111 does not appraise for at least the specified amount, this Agreement is terminated and earnest money refunded  
112 to the Buyer unless the Buyer elects to proceed with closing this Agreement without regard to appraised value.  
113 Written notice of Buyer's election to proceed shall be given to Seller or Seller's Broker/Salesperson within 5  
114 days of Buyer or Buyer's Broker/Salesperson receiving notice of appraised value; **OR**  
115

116  This agreement is contingent upon the Property appraising for at least  the Purchase Price **OR** at least  
117  \$ \_\_\_\_\_. Release Date: \_\_\_\_\_

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PBA Properties

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**TITLE CONTINGENCY:** This Agreement is contingent upon Buyer's receipt and approval (to Buyer's satisfaction) of the preliminary title commitment (the "Commitment") issued for the Property. Release Date: 10 days from Buyer's or Buyer Broker's/Salesperson's receipt of the Commitment.

Buyer may approve the Commitment subject to the removal of specified exceptions. However, Buyer may not object to the standard pre-printed exceptions (general exceptions not unique to the Property). If Buyer provides Seller written objections to the Commitment prior to the release date above, Seller shall have ten (10) days from receipt of those objections to satisfy said objections or propose to Buyer a plan by which the objections would be satisfied within a time frame satisfactory to Buyer. If within said ten (10) day period Seller has not either satisfied Buyer's objection to the Commitment or proposed to Buyer a plan by which the objections would be satisfied, Buyer shall have three (3) days after expiration of said ten (10) day period to notify Seller whether Buyer desires to (i) terminate this Agreement in which case the earnest money shall be returned to the Buyer or (ii) waive said objections in which case this Agreement shall remain in full force and effect. The two remedies stated above shall be Buyer's sole remedies if Seller and Buyer are unable to resolve Buyer's objections to the Commitment.

**PROPERTY INVESTIGATION:** This offer is contingent upon Buyer's independent investigation of the following conditions relating to the property, including but not limited to; covenants, zoning, access, easements, well depths, septic and sanitation restrictions, surveys or other means of establishing the corners and boundaries, special improvement districts, restrictions affecting use, special building requirements, future assessments, utility hook up and installation costs, environmental hazards, airport affected area, road maintenance obligations or anything else Buyer deems appropriate. Buyer agrees that any investigations or inspections undertaken by Buyer or on his/her behalf shall not damage or destroy the property, without the prior written consent of Seller. Further, Buyer agrees to return the property to its original condition and to indemnify Seller from any damage or destruction to the property caused by the Buyer's investigations or inspections, if Buyer does not purchase the property. Release Date: November 30, 2017

This offer is contingent upon Approval by Park Board & City Commission.  
Seller shall provide and Buyer shall approve any restrictions placed on the property by the Seller.

This Buy-Sell shall be contingent upon the Buyer being able to relocate any/all utility lines on the property if deemed necessary.

Release Date: December 15, 2017

This offer is contingent upon Seller to provide and Buyer to approve sale Deed.

Release Date: December 15, 2017

**ADDITIONAL PROVISIONS:** Buyer shall pay all closing costs.

Buyer shall provide and Seller shall approve an official survey to verify and identify legal description of land to be purchased.

Purchased land will be added with a boundary adjustment to create a new survey plat

This offer is contingent upon the successful completion and approval of all City processes for a zoning change from parkland to general commercial and lot aggregation with the property owned by Buyer.

Buyer shall take all reasonable efforts to preserve the existing trees on the property, and shall grant an easement to Seller to access the property for maintenance, replacement or repair of the trees on the property.

Buyer's Initials

176 **CONVEYANCE:** The Seller shall convey the real property by General Warranty  
177 deed, free of all liens and encumbrances except those described in the title insurance commitment, as approved by  
178 Buyer. The Seller shall convey the personal property by Bill of Sale.

179  
180 **WATER:** All water, including surface water or ground water, any legal entitlement to water, including statements of  
181 claim, certificates of water rights, permits to appropriate water, exempt existing rights, decreed basins or any ditches,  
182 ditch rights, or ditch easements appurtenant to and/or used in connection with the Property are included with the  
183 Property, except N/A

184  
185 Filing or transfer fees will be paid by  Seller,  Buyer,  split equally between Buyer and Seller.  
186 Documents for transfer will be prepared by N/A

187  
188 **WATER RIGHT OWNERSHIP UPDATE DISCLOSURE:** By Montana law, failure of the parties at closing or transfer  
189 of real property to pay the required fee to the Montana Department of Natural Resources and Conservation for  
190 updating water right ownership may result in the transferee of the property being subject to a penalty. Additionally, in  
191 the case of water rights being exempted, severed, or divided, the failure of the parties to comply with section 85-2-424,  
192 MCA, could result in a penalty against the transferee and rejection of the deed for recording.

193  
194 **MINERAL RIGHTS:** "Mineral rights" is a term used to describe the rights the owner of those rights has to use, mine,  
195 and/or produce any or all of the minerals and hydrocarbons including oil, gas, coal, sand, gravel, etc. lying below the  
196 surface of property. These mineral rights may be separate from the rights a property owner has for the surface of a  
197 property. In some cases, these mineral rights have been transferred to a party other than the property owner and as a  
198 result the subsurface mineral rights have been severed from the property owner's surface rights. If the mineral rights  
199 have been severed from the surface rights, the owner of the mineral rights has the right to enter the land and occupy it  
200 in order to mine the minerals even though they don't own the property. The undersigned Buyer acknowledges and  
201 agrees that neither the Seller nor the brokerage firms, brokers and salespersons involved in the transaction anticipated  
202 by this Agreement warrant or make any representations concerning the mineral rights, if any, for this Property and that  
203 neither the Seller nor the brokerage firms, brokers and salespersons involved in the Buyer's purchase of the Property  
204 have conducted an inspection or analysis of the mineral rights to and for the Property.

205  
206 **CLOSING AGENTS FEES:** Closing agents fees will be paid by  Seller  Buyer  Equally Shared.

207  
208 **TITLE INSURANCE:** Seller, at Seller's expense and from a title insurance company chosen by Seller, shall furnish  
209 Buyer with an ALTA Standard Coverage Owners Title Insurance Policy (as evidenced by a standard form American  
210 Land Title Association title insurance commitment) in an amount equal to the purchase price. Buyer may purchase  
211 additional owner's title insurance coverage in the form of "Extended Coverage" or "Enhanced Coverage" for an  
212 additional cost to the buyer. It is recommended that buyer obtain details from a title company.

213  
214 **CONDITION OF TITLE:** All mortgages, judgements and liens shall be paid or satisfied by the Seller at or prior to  
215 closing unless otherwise provided herein. Seller agrees that no additional encumbrances, restrictions, easements or  
216 other adverse title conditions will be placed against the title to the property subsequent to the effective date of the  
217 preliminary title commitment approved by the Buyer.

218  
219 **SECTION 1031 LIKE-KIND EXCHANGE:** If either Buyer or Seller intends for this transaction to be part of a Section  
220 1031 like-kind exchange, then the other party shall cooperate in the completion of the like-kind exchange provided the  
221 cooperating party does not incur any additional liability or cost in doing so. Any party who intends for this transaction to  
222 be part of a Section 1031 like-kind exchange may assign their rights under this Agreement to a qualified intermediary  
223 or any entity expressly created for the purposes of completing a Section 1031 like-kind exchange, notwithstanding the  
224 prohibition against the Buyer's assignment of this Agreement set forth in the "Binding Effect and Non-Assignability"  
225 section below.

226  
227 **SPECIAL IMPROVEMENT DISTRICTS:** Special Improvement Districts (including rural SIDs), including those that  
228 have been noticed to Seller by City/County but not yet spread or currently assessed, if any, will be:

- 229  paid off by Seller at closing;  
230  assumed by Buyer at closing; OR  
231

232 All perpetual SIDs shall be assumed by Buyer.

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PBA Properties LLC

233 **ASSOCIATION SPECIAL ASSESSMENTS:** Any special or non-recurring assessments of any non-governmental  
234 association, including those that have been approved but not yet billed or assessed. will be:  
235  paid off by Seller at closing;  
236  assumed by Buyer at closing; OR  
237  N/A

238  
239 **PRORATION OF TAXES AND ASSESSMENTS:** Seller and Buyer agree to prorate taxes, Special Improvement  
240 District assessments for the current tax year, as well as pre-paid rents, water and sewer system charges, heating fuel  
241 and tank rental, irrigation assessments, Homeowner's Association dues and/or common maintenance fees, if any, as  
242 of the date of closing unless otherwise agreed and: There shall be no exceptions.

243  
244  
245

246  
247 **CONDITION OF PROPERTY:** Seller agrees that the Property shall be in the same condition, normal wear and tear  
248 excepted, from the date of the execution of this Agreement up to the time Buyer takes possession of the Property.  
249 Seller will remove all personal property not included in this sale prior to closing.

250  
251 **NOXIOUS WEEDS DISCLOSURE:** Buyers of property in the state of Montana should be aware that some properties  
252 contain noxious weeds. The laws of the State of Montana require owners of property within this state to control, and to  
253 the extent possible, eradicate noxious weeds. For information concerning noxious weeds and your obligations as an  
254 owner of property, contact either your local County extension agent or Weed Control Board.

255  
256 **MEGAN'S LAW DISCLOSURE:** Pursuant to the provisions of Title 46, Chapter 23, Part 5 of the Montana Code  
257 Annotated, certain individuals are required to register their address with the local law enforcement agencies as part of  
258 Montana's Sexual and Violent Offender Registration Act. In some communities, law enforcement offices will make the  
259 information concerning registered offenders available to the public. If you desire further information please contact the  
260 local County Sheriff's office, the Montana Department of Justice, in Helena, Montana, and the probation officers  
261 assigned to the area.

262  
263 **BUYER'S REMEDIES:** (A) If the Seller fails to accept the offer contained in this Agreement within the time period  
264 provided in the BUYER'S COMMITMENT section, all earnest monies shall be returned to the Buyer. (B) If the Seller  
265 accepts the offer contained in this Agreement, but refuses or neglects to consummate the transaction within the time  
266 period provided in this Agreement, the Buyer may:

- 267 (1) Demand immediate repayment of all monies that Buyer has paid as earnest money, and upon the return of  
268 such money, the rights and duties of Buyer and Seller under this Agreement shall be terminated; OR  
269 (2) Demand that Seller specifically perform Seller's obligation under this Agreement; OR  
270 (3) Demand monetary damages from Seller for Seller's failure to perform the terms of this Agreement.

271  
272 **SELLER'S REMEDIES:** If the Seller accepts the offer contained in this Agreement and Buyer refuses or neglects to  
273 consummate the transaction within the time period provided in this Agreement, the Seller may:

- 274 (1) Declare the earnest money paid by Buyer be forfeited; OR  
275 (2) Demand that Buyer specifically perform Buyer's duties and obligations under this Agreement; OR  
276 (3) Demand that Buyer pay monetary damages for Buyer's failure to perform the terms of this Agreement.

277  
278 **BUYER'S AND SELLER'S CERTIFICATION:** By entering into this Agreement, each person or persons executing this  
279 Agreement, as Buyer or Seller, represents that he/she is eighteen (18) years of age or older, of sound mind, and  
280 legally competent to own or transfer real property in the State of Montana; and, if acting on behalf of a corporation,  
281 partnership, or other non-human entity, that he/she is duly authorized to enter into this Agreement on behalf of such  
282 entity.

283  
284 **FOREIGN PERSON OR ENTITY:** Section 1445 of the Internal Revenue Code provides for the withholding of tax  
285 upon the sale of U.S. real property owned by a foreign entity or foreign person unless the amount realized (usually the  
286 sales price) does not exceed \$300,000 and the Buyer intends to use the property as a residence. If the Seller is a  
287 foreign entity or foreign person, Seller acknowledges and agrees that the Buyer or closing agent is required to deduct  
288 and withhold the applicable tax from the proceeds of sale at closing and submit the tax to the Internal Revenue  
289 Service unless the transfer of the property satisfies an exception provided for in Section 1445 of the Internal Revenue  
290 Code.

Buyer's Initials

291 **AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE ACT:** The Agricultural Foreign Investment Disclosure Act  
292 of 1978 (AFIDA) requires any foreign person who acquires or transfers any interest, other than a security interest, in  
293 agricultural land to submit a report to the Secretary of Agriculture not later than 90 days after the date of the  
294 acquisition or transfer. If Buyer or Seller is or may be considered a foreign person under the AFIDA they are advised  
295 to consult with an appropriate professional concerning any reporting that may be required by the AFIDA.  
296

297 **CONSENT TO DISCLOSE INFORMATION:** Buyer and Seller hereby consent to the procurement and disclosure by  
298 Buyer, Seller, and Salespersons and their attorneys, agent, and other parties having interests essential to this  
299 Agreement, of any and all information reasonably necessary to consummate the transaction described in this  
300 Agreement, specifically including access to escrows for review of contracts, deeds, trust indentures, or similar  
301 documents concerning this property or underlying obligations pertaining thereto.  
302

303 **RISK OF LOSS:** All loss or damage to any of the above-described real property or personal property to any cause is  
304 assumed by Seller through the time of closing unless otherwise specified.  
305

306 **TIME IS OF THE ESSENCE:** Time is of the essence as to the terms and provisions of this agreement.  
307

308 **BINDING EFFECT AND NON-ASSIGNABILITY:** This Agreement is binding upon the heirs, successors and assigns  
309 of each of the parties hereto; however, Buyer's rights under this Agreement are not assignable without the Seller's  
310 express written consent.  
311

312 **ATTORNEY FEES:** In any action brought by the Buyer or the Seller to enforce any of the terms of this Agreement,  
313 the prevailing party in such action shall be entitled to such reasonable attorney fees as the court or arbitrator shall  
314 determine just.  
315

316 **COMMISSION:** The Seller's and/or Buyer's commitment to pay a commission in connection with this transaction is an  
317 integral part of this Agreement.  
318

319 **FAX/COUNTERPARTS/ELECTRONIC SIGNATURES:** This Agreement may be executed in counterparts and, when  
320 all counterpart documents are executed, the counterparts shall constitute a single binding instrument. Moreover, a  
321 signature transmitted by fax or other electronic means will be enforceable against any party, who executes the  
322 Agreement and transmits the signature by fax or other electronic means. The parties hereto, all agree that the  
323 transaction contemplated by this document may be conducted by electronic means in accordance with the Montana  
324 Uniform Electronic Transaction Act.  
325

326 **ENTIRE AGREEMENT:** This Agreement, together with any attached exhibits and any addenda or amendments  
327 signed by the parties, shall constitute the entire agreement between Seller and Buyer, and supersedes any other  
328 written or oral agreements between Seller and Buyer. This Agreement can be modified only in writing, signed by the  
329 Seller and Buyer.  
330

331 **EARNEST MONEY DISPUTES:** Buyer and Seller agree that, in the event of any controversy regarding the earnest  
332 money and things of value held by the Broker, closing agent, or any person or entity holding such money or property,  
333 unless mutual written instructions are received by the holder of the earnest money and things of value, Broker or  
334 closing agent shall not be required to take any action, but may await any proceedings, or, at Broker's or closing  
335 agent's option and sole discretion, may interplead all parties and deposit any monies or things of value in a Court of  
336 competent jurisdiction and may utilize as much of the earnest money deposit as may be necessary to advance the  
337 cost and fees required for filing such action.  
338

339 **ADDENDA AND/OR DISCLOSURES ATTACHED:** (Check all that apply.)

340  Contingency for Sale of Buyer's Property  Back-up Offer

341  Addendum for Additional Provisions

342  Water Rights Acknowledgement

343  \_\_\_\_\_

  
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PBA Properties



344 **RELATIONSHIP CONFIRMATION:** The parties to this agreement confirm that the real estate licensees identified  
345 hereafter have been involved in this transaction in the capacities indicated below and the parties have previously  
346 received the required statutory disclosures setting forth the licensees duties and the limits of their obligations to each  
347 party:

348 \_\_\_\_\_ of \_\_\_\_\_  
349 (name of licensee) (name of Brokerage company)

351 is acting as  Seller's Broker/Salesperson;  Dual Agent/Salesperson;  Statutory Broker.

353 Krista Macek of Macek Companies, Inc.  
354 (name of licensee) (name of Brokerage company)

355 is acting as  Buyer's Broker/Salesperson;  Dual Agent/Salesperson;  Statutory Broker;  
356  Seller's Broker/Salesperson (includes Seller's Sub-Broker or Salesperson).

358 **BUYER'S ACKNOWLEDGMENT:** Buyer acknowledges that he/she has examined the real and personal property.  
359 that Buyer enters into this Agreement in full reliance upon his/her independent investigation and judgement, that prior  
360 verbal representations by the Seller or Seller's agent or representatives do not modify or affect this Agreement, and  
361 that by signing this Agreement Buyer acknowledges having read and understood this entire Agreement.

363 **BUYER'S COMMITMENT:** I/We agree to purchase the above-described Property on the terms and conditions set  
364 forth in the above offer and grant to said Salesperson until (date) September 22, 2017, Nov. 8, 2017  
365 at 5:00  a.m.  p.m. (Mountain Time) to secure Seller's written acceptance, whether nor not that  
366 deadline falls on a Saturday, Sunday or holiday. Buyer may withdraw this offer at any time prior to Buyer being  
367 notified of Seller's written acceptance. If Seller has not accepted by the time specified, this offer is automatically  
368 withdrawn.

370 **I/WE HEREBY ACKNOWLEDGE** receipt of a copy of this Agreement bearing my/our signature(s).

371  
372 Buyer's Address: PO Box 6848 City Great Falls

373  
374 State MT, Zip Code 59406

375  
376 Buyer's Name Printed: ~~Heather Hamilton, Anna Hamilton and or assigns~~ PBA Properties LLC R.T.A.

377  
378 Dated this \_\_\_\_\_, at \_\_\_\_\_  am  pm (Mountain Time).

379  
380 \_\_\_\_\_

381 (Buyer's Signature) \_\_\_\_\_ (Buyer's Signature) \_\_\_\_\_  
member

\_\_\_\_\_  
Buyer's Initials


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\_\_\_\_\_  
Seller's Initials

382 **OFFER PRESENTATION:** This offer was presented to the Seller(s) on  
383  
384 Date: \_\_\_\_\_ Time \_\_\_\_\_  am  pm By: \_\_\_\_\_  
385 (Signature of person presenting the offer)

386 **SELLER'S COMMITMENT:** I/We agree to sell and convey to Buyer the above-described Property on the terms  
387 and conditions herein above stated. I/We acknowledge a receipt of a copy of this Agreement bearing my/our  
388 signature(s) and that of the Buyer(s) named above.

389 Seller's Address: PO Box 5021 City Great Falls  
391  
392 State Montana , Zip Code 59403  
393

394 Seller's Name Printed: City of Great Falls

395  
396 Dated this 11.2.17 , at 3:00  am  pm (Mountain Time).  
397   
398 \_\_\_\_\_  
399 (Seller's Signature) (Seller's Signature)

401 **ACTION TAKEN, IF OTHER THAN ACCEPTANCE:**  
402  
403 I/We acknowledge receipt of this Agreement bearing my/our initial(s) and the signature(s) of the Buyer(s) named above.  
404  
405  Rejected by Seller \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  Modified per Attached Counter \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
406 Seller's Initials Date Seller's Initials Date

**NOTE:** Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days as except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next business day.

**AMENDMENT NO. 1 TO BUY-SELL AGREEMENT**


THIS AMENDMENT is entered into this 28<sup>th</sup> day of November, 2017, by and between the CITY OF GREAT FALLS, a Municipal Corporation, hereinafter referred to as "CITY" and PBA Properties, LLC hereinafter referred to as "PBA" and agrees as follows:


1. CITY and PBA entered into a Buy-Sell Agreement for the purchase of a 12' x 132.5' section of the southeast corner of Lion's Park, Great Falls, Montana, dated the 2<sup>nd</sup> day of November, 2017; and
2. CITY and PBA mutually agree to modify the November 2, 2017 Agreement as follows:
  - Line 43.** The date of closing shall be (date) December 29, 2017 January 16, 2018 (the "Closing Date");
  - Line 58.** \_\_\_\_\_ U.S.Dollars (\$100.00) (\$0.00) . . . ;
  - Line 150.** \_\_\_\_\_ Release Date: December 15, 2017 January 16, 2018;
3. All other conditions and provisions of the Agreement entered into remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 to Buy-Sell Agreement the day and year first above written.

**CITY OF GREAT FALLS**

**PBA Properties, LLC**

By:   
Gregory T. Doyon, City Manager


By:   
Robert T. Alfred  
Member

Attest:

By: \_\_\_\_\_  
Lisa Kunz, City Clerk

(Seal of the City)

\*Approved as to Form:

By:   
Sara R. Sexe, City Attorney

\* By law, the City Attorney may only advise or approve contract or legal document language on behalf of the City of Great Falls, and not on behalf of other parties. Review and approval of this document was conducted solely from the legal perspective, and for the benefit, of the City of Great Falls. Other parties should not rely on this approval and should seek review and approval by their own respective counsel.

## E A S E M E N T

**THIS INDENTURE**, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between, **PBA PROPERTIES, LLC**, a Montana Limited Liability company, hereafter “PBA” the Party of the First Part and the **CITY OF GREAT FALLS, MONTANA**, a municipal corporation, hereafter “CITY”,

### W I T N E S S E T H:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, in hand paid, the receipt whereof is hereby acknowledged, PBA does by these presents, hereby bargain, sell, convey, transfer and grant unto the CITY, a perpetual easement for the repair, maintenance, irrigation, and replacement of trees and other vegetation and for public utilities, including but not limited to water, sewer, storm, and other public services, together with all necessary appurtenances thereto, in, under, through and across the real property hereinafter described together with the right to enter, excavate and remove material from the site for the repair, maintenance, irrigation, and replacement of said vegetation and utilities. The easement herein described covers a land area of 0.037 acres for a perpetual easement, as follows:

The east approximately 12 feet wide by 132.5 feet long strip of Lions Park, represented on the proposed Amended Plat of Lots 7 and 8, Block 49, Black Eagle Falls Addition.

It is understood and agreed that each of the following covenants and conditions attach and pertain to the foregoing grant of easement:

1. PBA shall allow the described property to be accessed and used by the CITY to repair, maintain, irrigate and replace trees and other vegetation, including allowing tree overhang to encroach upon the property, in a condition desired as determined by the CITY.
2. Routine maintenance of the property will be the responsibility of PBA, except that this easement may be utilized by the CITY as reasonably necessary for material storage, operation of equipment, and other activities described herein, which shall not interfere with any of the business activities on or near, or access to, the affected property.
3. The easement includes the right of the CITY and its agents, employees, contractors and authorized representatives to enter upon said easement for the purpose of access, vehicular access, and construction or maintenance or monitoring activities.
4. CITY agrees that in the event of any excavation within said easement for purpose of maintenance or repair, CITY or its agents shall backfill and/or restore the surface to its then existing condition, as determined by the CITY.
5. For the protection of said easement, PBA shall not make alterations or construct any buildings, fences, or other structures that will alter the current characteristics of the above described property. The exception to this shall be that the PBA may construct and

maintain an elevator and associated improvements which are attached or adjacent to the existing building to the east owned by the PBA.

6. This grant of easement shall run with the land and shall be binding upon and shall inure to the benefit of the City of Great Falls, Montana, its successors and assigns.

IN WITNESS WHEREOF, the Parties do hereunto affix their signatures this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**PBA PROPERTIES, LLC, Party of the First Part**

\_\_\_\_\_  
By: Robert T. Alfred  
Its: Member

STATE OF MONTANA     )  
County of Cascade       : ss.  
City of Great Falls     )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the State of Montana, personally appeared ROBERT T. ALFRED, known to me to be the member and registered agent of PBA PROPERTIES, LLC., the company that executed the within instrument, and acknowledged to me that such company executed the same.

IN WITNESS THEREOF, said grantee has caused its company name to be subscribed and its company seal to be affixed by its proper officer thereunto duly authorized on the day and year in this certificate first above written.

(NOTARIAL SEAL)

\_\_\_\_\_  
Notary Public for the State of Montana

**CITY OF GREAT FALLS, Party of the Second Part**

\_\_\_\_\_  
Bob Kelly, Mayor

**ATTEST**

\_\_\_\_\_  
Lisa Kunz, City Clerk

\_\_\_\_\_  
**CITY SEAL**

**APPROVED FOR LEGAL CONTENT:**

\_\_\_\_\_  
Sara R. Sexe, City Attorney

DRAFT



**Item:** Public Hearing - Resolution 10214 to annex and Ordinance 3178 to assign a zoning classification of C-2 General Commercial to the property described in Certificate of Survey 5114 located immediately north of the property addressed as 1025 NW Bypass

**From:** Andrew Finch, Senior Planner

**Initiated By:** Steve Vick, et al., Property Owner

**Presented By:** Craig Raymond, Director, Planning and Community Development

**Action Requested:** City Commission adopt Resolution 10214 and adopt Ordinance 3178, adopt the Findings of Fact, and approve the Annexation Agreement.

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**Public Hearing:**

1. Mayor conducts public hearing, calling three times each for proponents and opponents.
2. Mayor closes public hearing and asks the will of the Commission.

**Suggested Motion:**

Commissioner moves:

I. "I move that the City Commission (adopt/deny) Resolution 10214 to annex the property described on Certificate of Survey 5114 as "a tract of land, being a portion of vacated railroad right-of-way located in the SE1/4, NE1/4, Section 3, Township 20 North, Range 3 East, PMM, Cascade County, Montana and the accompanying Findings of Fact, and (approve/not approve) the Annexation Agreement for same."

Mayor requests a second to the motion, Commission discussion, and calls for the vote.

and;

II. " I move that the City Commission (adopt/deny) Ordinance 3178 and the accompanying Findings of Fact."

Mayor requests a second to the motion, Commission discussion, and calls for the vote.

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**Staff Recommendation:**

At the conclusion of a public hearing held on November 14, 2017, the Great Falls Planning Advisory Board/Zoning Commission recommended the City Commission approve the annexation and assignment of C-2 zoning to the subject property, subject to the following conditions:

**Conditions of Approval for Annexation:**

1. General Code Compliance. Development of the Subject Property shall be consistent with the conditions in this report, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.
2. Annexation Agreement. The Applicant shall execute and abide by the terms and conditions of, and pay all fees and reimbursements specified in the Annexation Agreement for the Subject Property. Said Annexation Agreement must be signed by the applicant and will be recorded by the City.
3. Aggregation of Lots. Upon annexation, the Applicant shall aggregate the Star Tract Addition and the Subject Property through an amended plat process to comply with the lot frontage requirements of OCCGF §17.24.110.A.3. Additionally, the amended plat shall include identification of a 20' public utility easement along an existing water line running through the lots to be aggregated; as well as, any other such easements either existing or necessary to accommodate existing utilities.

Staff recommends approval of Resolution 10214, Ordinance 3178, and the Annexation Improvement Agreement.

**Summary:**

The property owners (Applicant) are requesting that the City approve annexation of the Subject Property into the City of Great Falls. In addition to annexation, a zoning designation of C-2 General Commercial is proposed so that the parcel can be combined with the Star Tract Addition to the south, which is owned by the Applicant, already incorporated into the City of Great Falls, and zoned C-2 General Commercial. The proposed zoning designation upon the Subject Parcel is consistent with the zoning designations of adjacent properties. The full legal description of the Subject Property can be found upon the attached Certificate of Survey 5114 (Exhibit B – Certificate of Survey). The Subject Property is immediately adjacent to and under the same ownership as property addressed as 1025 Northwest Bypass.

Consistent with MCA §§7-2-4601 through 4625 and OCCGF, Title 17, Annexation by Petition, the Planning Advisory Board/Zoning Commission held a properly-noticed public hearing, reviewed the staff report and associated Findings of Fact, and considered agency comments prior to forwarding a recommendation to the City Commission.

In addition, the Planning Advisory Board/Zoning Commission considered the staff report, comments at the public hearing, and Basis of Decision for the request to assign C-2 General Commercial zoning to the Subject Property upon annexation.

No public comments have been received, either in favor or against the proposals.

**Background:**

In September 2017, the City received an application from Steve Vick, et al., requesting annexation of the Subject Property into the City of Great Falls and assignment of C-2 General Commercial zoning to the Subject Property. Steve Vick, Duane Vick, Deb Shellerud, and Kevin Vick (Applicant) represent 100% of the property owners seeking annexation, with the desire to combine the Subject Property with the adjoining Star Tract Addition, also owned by the Applicant, in order to more effectively market the vacant properties for commercial development. No development is proposed at this time.



### Property Description

The Subject Property is located north of the intersection of NW Bypass and 11th St. NW, and adjacent to the vacant Star Tract Addition addressed as 1025 NW Bypass – formerly the site of a gas station/convenience store. The Subject Property, which is also vacant, is former railroad right-of-way and, like most of this former right-of-way, does not abut a public or private street.

The Star Tract Addition to the City of Great Falls borders the Subject Property to the south, and a 20-foot strip of City-owned land lies to the north. Residential homes located in the Valley View Homes Addition are to the north of this City-owned strip of land. On the west edge of the parcel is a casino/restaurant within city limits and zoned C-2. To the east is a residence within city limits that is zoned C-2 General Commercial (Exhibit A – Existing Conditions).

The Subject Property comprises a rectangular parcel approximately 220 feet wide and 80 feet deep (Exhibit A – Existing Conditions). Prior to 1985, the land was part of the Chicago, Milwaukee & St. Paul Railroad that went bankrupt in the early 1980's and was subsequently sold, conveyed or abandoned. The Subject Property has remained vacant since the removal of the tracks.

### Existing Conditions

Currently, the Subject Property is zoned I-1 within Cascade County. The principal uses allowed in this zoning district include all those uses allowed in County-zoned Commercial Districts in addition to industrial uses associated with manufacturing, processing, fabrication, packaging, assembly, storage, and freight handling, or similar.

Existing utilities in the vicinity of the property include sewer, water, and stormwater facilities. An existing 12” water line runs north/south through the Star Tract and the Subject Property, and the property is within the City sewer service area. A sanitary sewer line can be accessed from the west and from the south (south side of NW Bypass). Stormwater lines can be accessed from adjacent properties to the west and east, although any development of the property would need to provide stormwater management, including on-site facilities, in compliance with current regulations. Since the area is already served by police and fire services (Fire Station #2 is located three blocks east), the property will be within existing service areas. Upon annexation, the property would be in Neighborhood Council #3.

### Basis of Decision: Annexation

The requirements for City Commission decisions on annexation requests and zoning upon annexation (zoning map amendment) can be found in OCCGF Title 17 (§17.16.7.010-090 and §17.16.40.010-070). The required review criteria and associated Findings of Fact that serve as the basis for decision ensure that the proposed annexation is consistent with relevant planning documents and the Growth Policy. Additionally, consideration is given to its probable effects upon other properties. The proposed annexation also must be in substantial compliance with Montana State land use statutes including the requirements for a petition method of annexation (MCA §§ 7-2-4601 through 4625). The attached *Basis of Decision: Findings of Fact* includes a full analysis of the annexation review criteria.

### Basis of Decision: Zoning Upon Annexation

Similar to the Annexation by Petition review criteria, the zoning map amendment process takes into consideration the goals and objectives contained within area planning documents and the City's Growth Policy. The attached *Basis of Decision: Findings of Fact* includes a full analysis of the zoning review criteria.

### Conclusion

The effect of the proposed annexation and the proposed zoning of the Subject Property as C-2 General

Commercial upon annexation will have no substantial impact to the health, safety and welfare of the City. It is anticipated that the future use of the property will be compatible with neighboring uses if C-2 General Commercial zoning is assigned to the property.

**Fiscal Impact:**

No negative City fiscal impacts will result from the recommended action. When development proposals are submitted to the City, sanitary sewer and water services will be extended to the property at the developer's expense. No roadway improvements are necessary. Because this is an "infill" annexation, the service radii of neither fire nor police need be extended.

**Alternatives:**

If there are justifiable reasons to do so, and if the City Commission adopts alternate findings of fact, the City Commission could deny the requested actions to the extent allowed in City Code and State Statute.

**Concurrences:**

Representatives from the City's Public Works Department have been involved throughout the review and approval process for this project. Neighborhood Council #3 representatives were notified of the proposed actions.

ATTACHMENTS:

- Resolution 10214
- Resolution 10214 Attachment A
- Exhibit A: Existing Conditions
- Exhibit B: Certificate of Survey 5114
- Exhibit C: Findings of Fact/Basis of Decision
- Exhibit D: Annexation Agreement
- Ordinance 3178

RESOLUTION 10214

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO EXTEND THE BOUNDARIES OF THE CITY OF GREAT FALLS TO INCLUDE A TRACT OF LAND IN CERTIFICATE OF SURVEY 5114 AND MORE PARTICULARLY DESCRIBED AS: A PORTION OF VACATED RAILROAD RIGHT-OF-WAY IN THE SE¼ NE¼ SECTION 3, TOWNSHIP 20N, RANGE 3E, PMM, CASCADE COUNTY, MONTANA, IN ACCORDANCE WITH THE PROVISION OF SECTION 7-2-4601, MONTANA CODE ANNOTATED; AS SHOWN ON THE MAP ATTACHED HERETO AS ATTACHMENT “A” AND BY THIS REFERENCE MADE A PART HEREOF.

\* \* \* \* \*

WHEREAS, the City of Great Falls is a city incorporated under the laws of the State of Montana, and having a population of more than ten thousand (10,000) is a city of the first class; and,

WHEREAS, there is contiguous to said City, but without the boundaries thereof, a certain tract of land situated in the County of Cascade, State of Montana, and described as follows:

A tract of land described in Certificate of Survey #5114 as: A portion of vacated railroad right-of-way in the SE¼ NE¼ Section 3, Township 20N, Range 3E, PMM Cascade, County, Montana.

And as shown on the map attached hereto marked Attachment “A”, and by this reference made a part hereof; and,

WHEREAS, Section 7-2-4601, Montana Code Annotated, provides that whenever the owners of real property contiguous to any incorporated city of the first class petition to have said property made a part of the municipal corporation, such lands may be

embraced within the corporate limits thereof and the boundaries of such city of the first class extended so as to include the same; and,

WHEREAS, the owner of the hereinabove described property has submitted a petition to have the subject property annexed to the City of Great Falls; and,

WHEREAS, the City Commission finds that it is to the best interest of the City of Great Falls and its inhabitants to proceed with the incorporation of said territory into the City of Great Falls; and,

WHEREAS, all of the proceedings herein have been conducted in strict compliance with and in conformity to the laws of the Montana Code Annotated, Title 7, Chapter 2, Part 46, Annexation by Petition, and all conditions, acts, and actions required to be performed precedent to and in the passage and adoption of this resolution have been properly and legally done, and performed.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

That the boundaries of the City of Great Falls, Montana, be, and the same are hereby extended so as to embrace and include within the corporate limits of said city, all of the land hereinabove described, included as: "a tract of land described in Certificate of Survey #5114 as a portion of vacated railroad right-of-way in the SE¼ NE¼ Section 3, Township 20N, Range 3E, PMM Cascade, County, Montana" as shown on attached Exhibit "A."

BE IT FURTHER RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

That the Cascade County Clerk and Recorder is hereby authorized and directed to change the appropriate boundaries of the City of Great Falls, Montana, to include said tract of land; and,

That this Resolution shall become effective from and after the date of the filing of said document in the office of the Cascade County Clerk and Recorder.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 16<sup>th</sup> day of January, 2018.

---

Bob Kelly, Mayor

ATTEST:

---

Lisa Kunz, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

---

Sara R. Sexe, City Attorney

# CERTIFICATE OF SURVEY NO. 5114

A TRACT OF LAND BEING A PORTION OF VACATED RAILROAD RIGHT-OF-WAY IN THE  
SE1/4 NE1/4 SECTION 3, T. 20 N., R. 3 E., P.M.M., CASCADE COUNTY, MONTANA

# Attachment "A"

### PURPOSE

THE PURPOSE OF THIS SURVEY IS TO RETRACE AN EXISTING TRACT OF LAND THAT WAS AGGREGATED INTO A TRACT OF LAND (STAR TRACT) THAT HAD BEEN PREVIOUSLY ANNEXED INTO THE CITY OF GREAT FALLS. AT THE TIME OF THIS SURVEY, THE TRACT DESCRIBED HEREIN HAS NOT BEEN FORMALLY ANNEXED INTO THE CITY OF GREAT FALLS.

### LEGAL DESCRIPTION:

A TRACT OF LAND BEING A PORTION OF VACATED RAILROAD RIGHT-OF-WAY IN THE SE1/4 NE1/4 SECTION 3, T. 20 N., R. 3 E., P.M.M., CASCADE COUNTY, MONTANA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF 11TH ST. NW. AND 8TH AVE. NW, WHICH IS A FOUND IRON PIN LOCATED INSIDE OF A CENTERLINE MONUMENT CASE; THENCE ALONG THE CENTERLINE OF 11TH ST. NW, N00°05'43"E A DISTANCE OF 279.92 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF NORTHWEST BYPASS; THENCE DEPARTING THE CENTERLINE OF 11TH ST. NW. AND ALONG THE NORTH RIGHT-OF-WAY OF NORTHWEST BYPASS, S89°48'33"E A DISTANCE OF 179.16 FEET TO AN ANGLE POINT; THENCE DEPARTING SAID NORTH RIGHT-OF-WAY, N00°05'43"E A DISTANCE OF 112.52 FEET TO A POINT THAT LIES ON THE SOUTH RIGHT-OF-WAY OF THE VACATED CHICAGO, MILWAUKEE, AND SAINT PAUL RAILROAD, SAID POINT IS ALSO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED; THENCE N00°05'43"E A DISTANCE OF 80.6 FEET TO AN ANGLE POINT; THENCE N83°09'38"W A DISTANCE OF 220.68 FEET TO AN ANGLE POINT; THENCE S00°05'43"W A DISTANCE OF 80.6 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY OF THE VACATED CHICAGO, MILWAUKEE, SAINT PAUL RAILROAD; THENCE ALONG SAID VACATED RIGHT-OF-WAY S83°09'38"E A DISTANCE OF 220.68 FEET TO THE POINT OF BEGINNING, CONTAINING 0.405 ACRES.

### CERTIFICATE OF SURVEYOR:

I, MARK LEO, PROFESSIONAL ENGINEER AND LAND SURVEYOR, MONTANA REGISTRATION NUMBER 12920 ES, DO HEREBY CERTIFY THAT DURING THE MONTHS OF JULY-AUGUST 2017, THAT I PERFORMED, OR IT WAS PERFORMED UNDER MY DIRECT SUPERVISION, THE SURVEY THAT THE ACCOMPANYING MAP REPRESENTS AND THAT THIS SURVEY IS IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN 76-3-402 AND 403, M.C.A., AND THAT THE MONUMENTS FOUND AND SET ARE OF THE CHARACTER AND OCCUPY THE POSITIONS SHOWN HEREON.

DATED THIS 15<sup>th</sup> DAY OF SEPTEMBER, 2017.

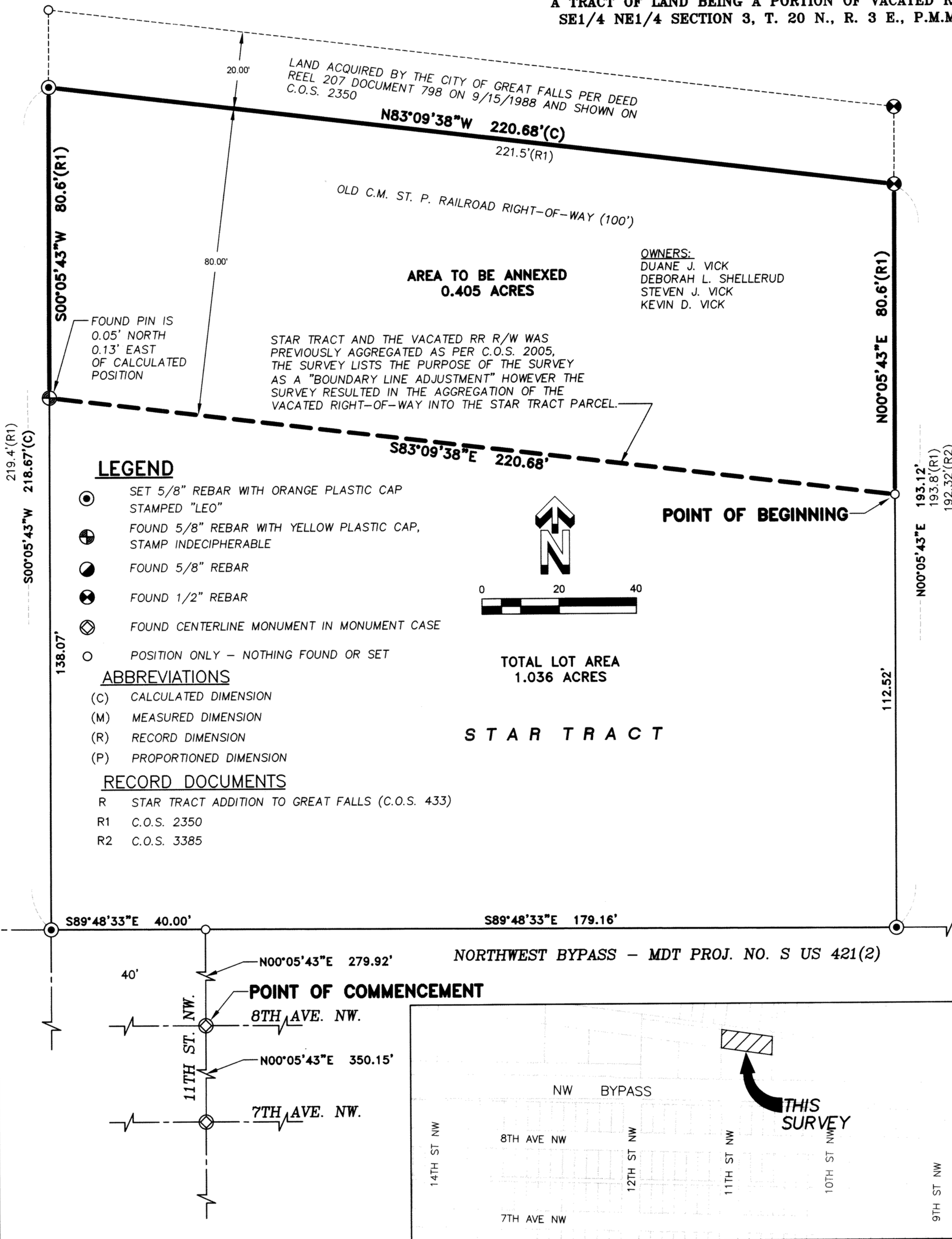


MARK LEO, PROFESSIONAL ENGINEER AND LAND SURVEYOR, MT REGISTRATION NUMBER 12920 ES

### BASIS OF BEARINGS

THE BEARING SOURCE FOR THIS SURVEY IS BASED ON GPS OBSERVATIONS OF RECORD POSITIONS OF EXISTING MONUMENTS TO BEST FIT THE VARIOUS BEARING SOURCES. REFERENCE BEARINGS ARE SHOWN ON THE ACCOMPANYING MAP.

**NOTE:** THE INTENT OF THIS SURVEY WAS NOT TO SHOW ALL EASEMENTS. EASEMENTS OF RECORD MAY EXIST AND MAY NOT BE SHOWN.



### LEGEND

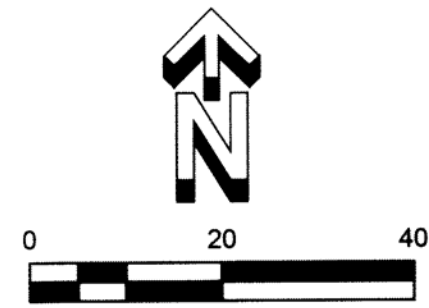
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- ⊕ FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP, STAMP INDECIPHERABLE
- FOUND 5/8" REBAR
- FOUND 1/2" REBAR
- ⊙ FOUND CENTERLINE MONUMENT IN MONUMENT CASE
- POSITION ONLY - NOTHING FOUND OR SET

### ABBREVIATIONS

- (C) CALCULATED DIMENSION
- (M) MEASURED DIMENSION
- (R) RECORD DIMENSION
- (P) PROPORTIONED DIMENSION

### RECORD DOCUMENTS

- R STAR TRACT ADDITION TO GREAT FALLS (C.O.S. 433)
- R1 C.O.S. 2350
- R2 C.O.S. 3385



TOTAL LOT AREA  
1.036 ACRES

**S T A R T R A C T**

**S-0005114 CS**

Total Pages: 1 R 25 50 By: tmarc08/09/2017 11:00:33 AM  
Cascade County, Rina Fl Moore - Clerk & Recorder

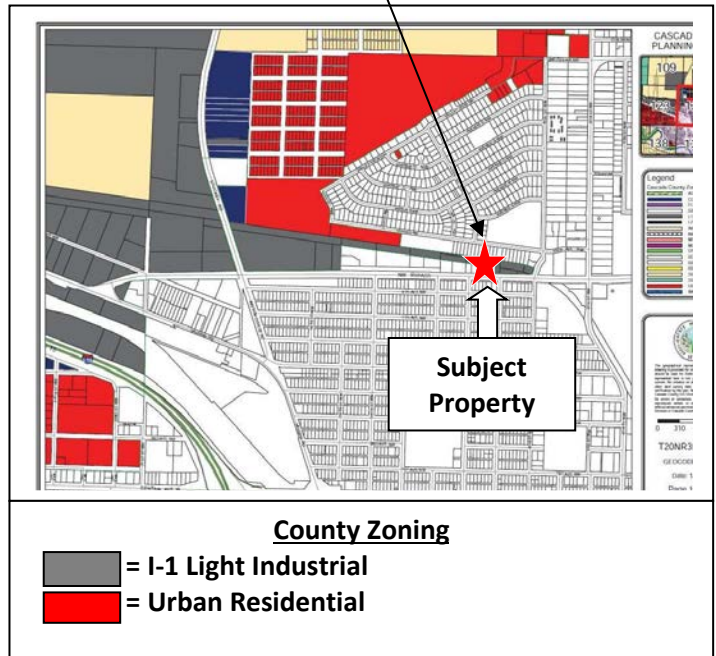
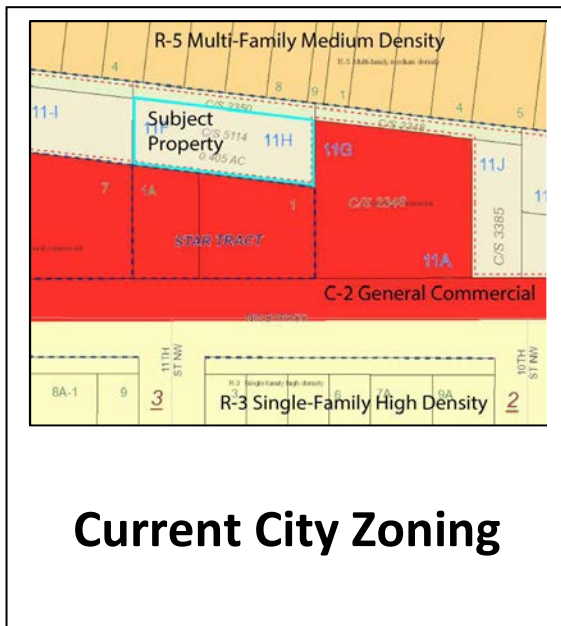
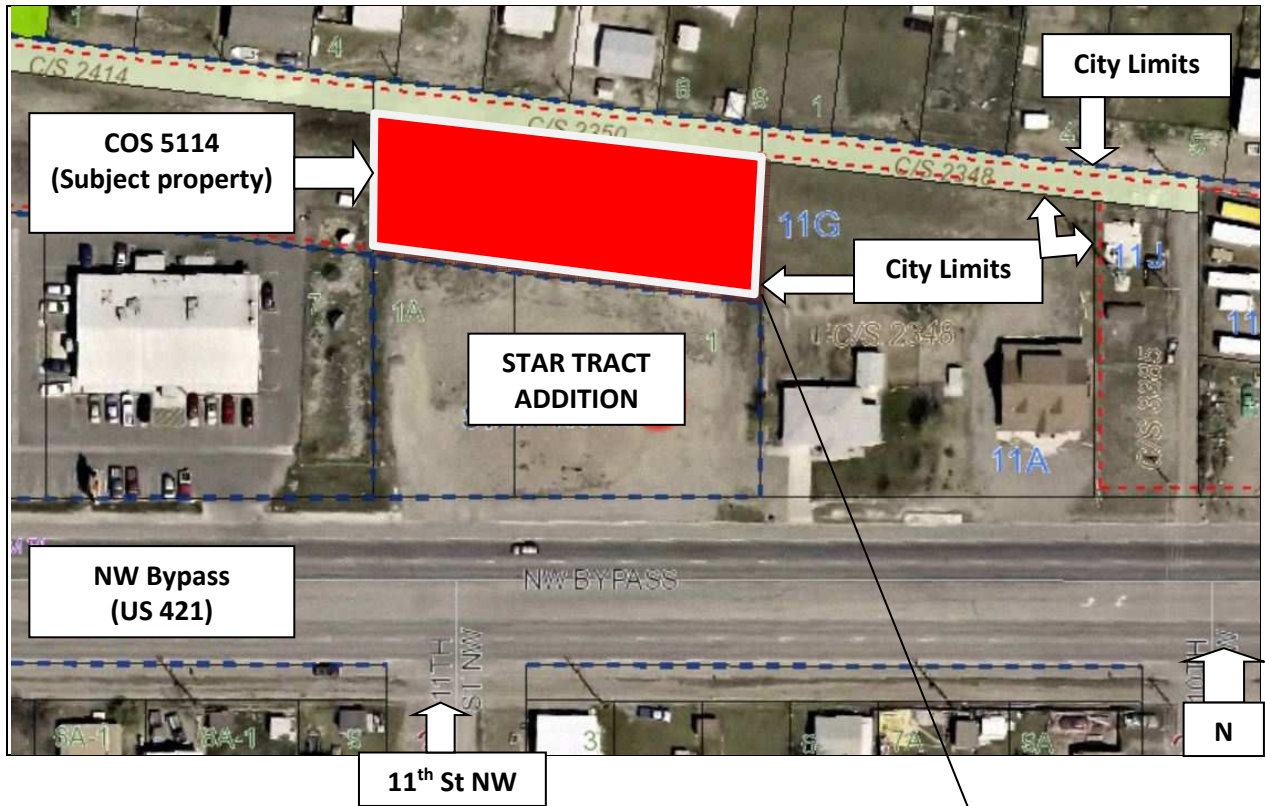
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JOB NO.: 17BJ	DRAWING NAME: 17BJ-ANNEX	SHEET: 1 OF 1
FILE NO.:	DRAWN BY: CRB	DATE: 8/9/17



**BIG SKY CIVIL & ENVIRONMENTAL, INC**

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(406)727-3656 FAX  
www.bigskyce.com

ENGINEERS - PLANNERS - DESIGNERS - LAND SURVEYORS - ENVIRONMENTAL SPECIALISTS



## EXHIBIT A: COS 5514 -EXISTING CONDITIONS

# CERTIFICATE OF SURVEY NO. 5114

A TRACT OF LAND BEING A PORTION OF VACATED RAILROAD RIGHT-OF-WAY IN THE  
SE1/4 NE1/4 SECTION 3, T. 20 N., R. 3 E., P.M.M., CASCADE COUNTY, MONTANA

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DATED THIS 1<sup>ST</sup> DAY OF SEPTEMBER, 2017.

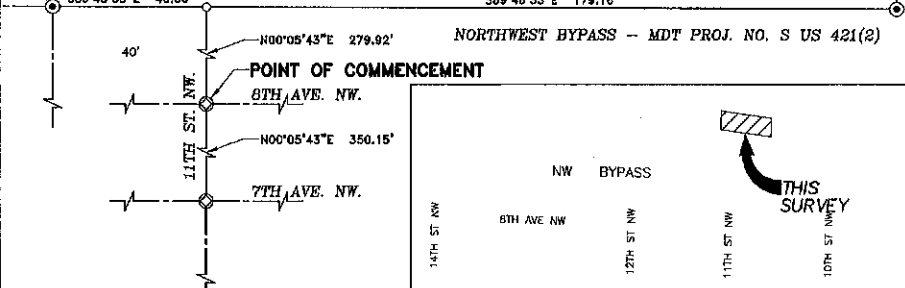
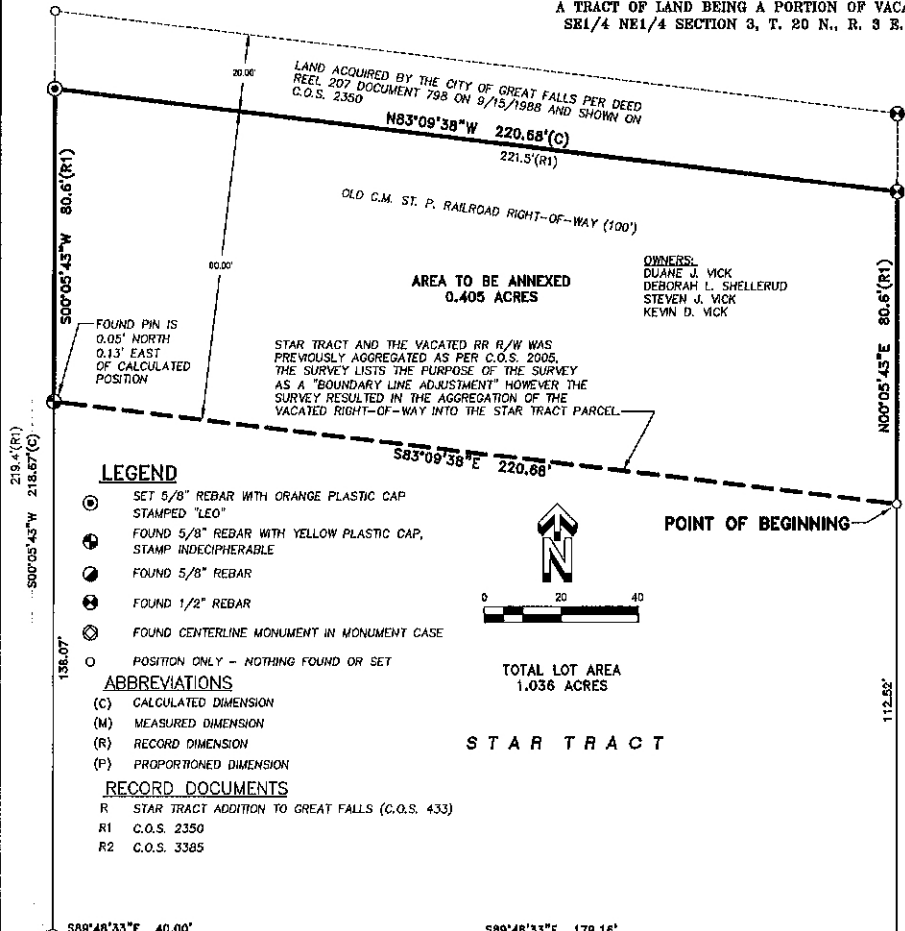


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**S-0005114 CS**

Total Pages: 1 of 28. Issued by: Mark Leo, 09/08/2017 11:00:33 AM  
Transaction: Survey - 17BJ-ANNEX

SHEET TITLE: <b>RETRACEMENT--ANNEXATION</b>			
JOB NO.: 17BJ	DRAWING NAME: 17BJ-ANNEX	SHEET 1	OF 1
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www.bisfyce.com



## COS 5114 (VICK ANNEXATION)

### ANNEXATION BY PETITION – BASIS OF DECISION AND FINDINGS OF FACT

#### 1. The subject property is contiguous to the existing City limits.

- The property is contiguous to existing City limits.
- The Subject Property shares a common boundary line with the northern boundary of Star Tract Addition, which is within City limits.

#### 2. The proposed annexation is consistent with the City's growth policy.

- The proposed project is consistent with the overall intent and purpose of the 2013 City Growth Policy Update. The project specifically supports the following policies:

##### Physical - Land Use

- Phy4.1.5 Encourage and incentivize the redevelopment or adaptive reuse of vacant or underutilized properties so as to maximize the City's existing infrastructure.
- Phy4.2.1 Development density and intensity should be oriented toward areas of the City most capable of supporting it...[such as] Locations with adequate community facilities and areas with adequate or excess infrastructure capacity.
- Phy4.2.5 Promote orderly development and the rational extension of infrastructure and City services.
- Phy4.7.4 Do not permit the development of land unless all necessary facilities are in place to serve new development, or a development agreement is in place to ensure that those facilities will be provided when needed.
- Phy4.7.5 require all annexation to demonstrate a commitment to meet the City's development standards, including connecting to the City water and wastewater service. This commitment may be demonstrated through the implementation of the conditions stated in the applicable annexation agreement and or developer's agreement.
- Phy4.7.6 Encourage new development in areas contiguous to existing development in the City, where capacity exists or can be planned for. This type of growth is preferred in order to avoid the long-term cost to taxpayers off providing costly services in an inefficient way.

#### 3. The proposed annexation is consistent with applicable neighborhood plans, if any.

- No neighborhood plans have been adopted for this area.

#### 4. The proposed annexation is consistent with other planning documents adopted by the City Commission, including a river corridor plan, transportation plan, and sub-area plans.

- The subject property does not lie within land area associated with any adopted plans or sub-area plans, except for the Great Falls Area Long Range Transportation Plan, which does not have specific goals or objectives that address annexation of parcels.
- Given the limited area of annexation and rezoning (one parcel), the change to traffic patterns would presumably be unnoticeable and therefore would have no impact upon any provisions in the Long Range Transportation Plan.

5. The City has, or will have, the capacity to provide public services to the subject property.

- The City has the capacity to provide public services to the property: Water, sewer and stormwater mains are available in the vicinity of the property at this time.
- Currently, the subject property does not have direct access to a public Right of Way. The proposed annexation will facilitate aggregation of lots so that the Subject Property will have physical access to NW Bypass, increasing the usability of the property, overall.
- Because this is an “infill” annexation, the service radii of neither fire nor police need be extended. Therefore, adequate fire, police and emergency services can be provided with no additional impact upon said services.

6. The subject property has been or will be improved to City standards.

- At the time of development, the property will be improved to comply with City standards.

7. The owner(s) of the subject property will bear all of the costs of improving the property to City standards and or/the owner(s) has signed an agreement waiving the right of protest to the creation of a special improvement district created to pay, in whole or in part, any necessary improvement.

- The owner or developer of the property will bear all the costs of improving the property as outlined in the draft Annexation Improvement Agreement.

8. The subject property has been or will be surveyed and officially recorded with the County Clerk and Recorder.

- The subject property was surveyed and filed with the County Clerk and Recorder as Certificate of Survey No. 5114 on September 1, 2017.

9. The City will provide both water and sewer service to the subject property that may require potable water and waste water treatment and disposal.

- At the time of development, sewer and water will be provided by the developer and reviewed for compliance by the City Public Works Department.

10. The subject property is not located in an area the City Commission has designated as unsuitable for annexation.

- The property is located in area suitable for annexation.

11. The subject property is not located in another city or town. (See: 7-2-4608 (1), MCA)

- The Subject Property is located in the county, but not in another city or town.

12. The subject property is not used in whole or in part for agriculture, mining, smelting, refining, transportation, or any other industrial or manufacturing purpose or any purpose incidental thereto. (See: 7-2 -4608 (2), MCA)

- Currently, the Subject Property sits vacant and is not currently used for any of the above-referenced uses.
- Prior to 1985, the Subject Property was part of a linear transportation corridor operated by

the Chicago, Milwaukee and St. Paul railroad company. Commonly referred to as the Milwaukee Road, the railroad company went bankrupt and the property was relinquished.

### **ZONING MAP AMENDMENT – BASIS OF DECISION AND FINDINGS OF FACT**

The basis for decisions on zoning map amendments is listed in the Official Code of the City of Great Falls § 17.16.40.030 of the Land Development Code. The recommendation of the Zoning Commission and the decision of City Commission shall, at a minimum, consider the following criteria:

1. The amendment is consistent with and furthers the intent of the City's Growth Policy.

- Refer, Annexation Review Criterion #2, Annexation Basis of Decision (pg. 1)

2. The amendment is consistent with and furthers adopted neighborhood plans, if any.

- No neighborhood plans have been adopted by City Commission at this time.

3. The amendment is consistent with other planning documents adopted by the City Commission, including the river corridor plan, transportation plan and sub-area plans.

- Refer, Annexation Review Criterion #4, Annexation Basis of Decision (pg. 1)

4. The code with the amendment is internally consistent.

- Since this is Zoning Upon Annexation, the designation of C-2 General commercial zoning for this parcel will insure consistency with the code and surrounding land uses as well.

5. The amendment is the least restrictive approach to address issues of public health, safety, and welfare.

- Annexation of the parcel and applying zoning that is consistent with adjacent uses facilitates infill development at this location.
- In its current condition, development of the parcel is difficult due to the lack of access.
- Infill development will maximize the utilization of existing infrastructure, which benefits the public.
- If the annexation application is denied, the land-locked parcel will remain undeveloped and potentially cause a financial hardship for the property owner. Therefore, processing the rezoning/map amendment request is the least restrictive approach.

6. The City has or will have the financial and staffing capability to administer and enforce the amendment.

- Approval of the annexation and zoning proposal will allow for increased use of the Subject Property.
- The City has the financial and staffing capability to enforce the zoning map amendment if it is approved, and has the staffing available to address any subsequent development of the property.

**ANNEXATION AGREEMENT**

**A TRACT OF LAND BEING A PORTION OF VACATED RAILROAD  
RIGHT-OF-WAY IN THE SE ¼ NE ¼ SECTION 3, TOWNSHIP 20 N,  
RANGE 3 E, P.M.M., CASCADE COUNTY, MONTANA**

The following is a binding Agreement dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018, between Steve Vick, et al., of 2140 E Hanley Ave., Dalton Gardens, ID 83815, hereinafter referred to as "Owner," and the City of Great Falls, Montana, a municipal corporation of the State of Montana, hereinafter referred to as "City", regarding the requirements for annexation of a tract of land described in Certificate of Survey #5114 as a portion of vacated railroad right-of-way in the SE ¼ NE ¼ Section 3, Township 20 North, Range 3 East, P.M.M. Cascade, County, Montana, hereinafter referred to as "Subject Property". Owner of the aforementioned Subject Property agrees to and is bound by the provisions of this Agreement, and by signing this Agreement therefore agrees to terms herein applicable to the Subject Property.

**1. Supporting Documents.**

- A. Certificate of Survey #5114, filed of record in the Clerk and Recorder’s Office of Cascade County, Montana.
- B. Star Tract Addition plat.
- C. Legal documents, including but not limited to any easements, articles of incorporation, bylaws, covenants, and declarations establishing the responsibilities of Owner recorded in the Clerk and Recorder’s Office of Cascade County, Montana.

**2. City Fees and Charges.**

- A. Owner shall pay the following fees as provided by City policy and resolution:
  - a. Storm Drain Fee (\$250/acre x 0.405 acres) \$101.25
  - b. Recording fees for Annexation Agreement and Resolution \$ 88.00  
(\$11 per page x 8 pages)

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Total Fees paid by applicant to City: \$189.25

Fees paid by applicant are in addition to the \$500 application fee for Annexation and \$2,000 for Zoning Map Amendment, which have been paid prior to this Annexation Agreement.

- B. The total fees summarized in Section A above shall be paid to the City no later than 30 days after City Commission action to annex the Subject Property into the City.

C. The absence of any fee from this Agreement which is lawfully charged by the City in connection with construction activity associated with Subject Property shall not constitute a waiver by the City.

### **3. Future Improvements**

Owner agrees to install all improvements necessary for development of the property, at such time as the Owner proposes same. Improvements may be public or private, and may include, but not be limited to, water main or service line extensions; sanitary sewer main or service line extensions; storm water management facilities, either onsite, or offsite if directly attributable to impact from the development.

### **4. Site Conditions.**

The Owner warrants that it has conducted site investigations sufficient to be aware of all natural conditions, including, but not limited to, flooding, slopes, and soils characteristics, that may affect the installation of improvements upon the Subject Property and its development for the approved use. The Owner further warrants that all plans submitted pursuant to this Agreement and all applications for building permits upon the Subject Property will properly account for all such conditions. The Owner holds the City harmless for natural conditions and for any faults in their own assessment of those conditions.

### **5. Maintenance Districts.**

Owner hereby agrees to waive its right to protest and appeal the lawful creation by City of maintenance districts for any proper purpose including but not limited to fire hydrant, lighting and street maintenance, and shall pay the proportionate share of the costs associated with said maintenance districts as they may be applied to the Subject Parcel. This includes existing districts which may be extended or expanded to include the Subject Parcel.

### **6. Aggregation of Parcels upon Annexation.**

Upon approval of annexation of Subject Property, Owner shall aggregate Subject Property and the Star Tract Addition adjoining to the south. Aggregation will allow the Subject Property to meet the lot frontage standard required by 17.24.110, OCCGF. Owner agrees that this requirement is a condition of annexation, and annexation will not be finalized until aggregation is complete. Additionally, the amended plat recording said aggregation shall include identification of a 20' public utility easement along the western portion of the aggregated parcels. Said easement shall formalize existing easements, and shall be approximately 10 feet either side of the centerline of the existing water main running north/south through Star Tract Addition and the Subject Property and one connecting to that line from the west. Final location of easement to be reflected on the amended plat shall be agreed upon between the City and Owner prior to filing. Any other existing easements shall also be noted on the amended plat.

## **7. City Acceptance and Zoning.**

In consideration of the terms of this Agreement, the City hereby accepts a tract of land as legally described on Certificate of Survey #5114 for incorporation by annexation into the corporate limits of the City of Great Falls, Montana, with an assigned zoning classification of C-2 General Commercial.

## **8. Indemnification.**

The Owner shall indemnify, hold harmless and defend the City of Great Falls, its officers, agents, servants and employees and assigns from and against all claims, debts, liabilities, fines, penalties, obligations and costs including reasonable attorney fees, that arise from, result from or relate to obligations relating to that owner's property described herein. Upon the transfer of ownership of property, the prior owner's (whether it is the Owner that signed this agreement or a subsequent owner) indemnity obligation herein for the transferred property is released as to that owner and the indemnity obligation runs to the new owner of the property. Only the owner of the parcel of property at the time the City incurs the claim, debt, liability, fine, penalty, obligation or cost is obligated to indemnify, and no owner of property is obligated to indemnify for adverse conditions on property owned by someone else. This indemnification by the owner of the property shall apply unless such damage or injury results from the gross negligence or willful misconduct of the City.

## **9. Binding Effect.**

The provisions, covenants and terms of this Agreement shall run with the land and bind the present owners, their devisees, heirs, successors, and assigns; and any and all parties claiming by, through, or under them, shall be taken to agree and covenant with each of the parties to the Agreement, their devisees, heirs, successors and assigns, to conform to the provisions, covenants and terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day, month and year first hereinabove written.

THE CITY OF GREAT FALLS, MONTANA

A Municipal Corporation of the State of Montana

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Gregory T. Doyon, City Manager

ATTEST:

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Lisa Kunz, City Clerk

(Seal of City)

APPROVED FOR LEGAL CONTENT\*:

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Sara R. Sexe, City Attorney

\*By law, the City Attorney may only advise or approve contract or legal document language on behalf of the City of Great Falls, and not on behalf of other parties. Review and approval of this document was conducted solely from the legal perspective, and for the benefit, of the City of Great Falls. Other parties should not rely on this approval and should seek review and approval by their own respective counsel.

Steve Vick, et al. (Owner)

By: \_\_\_\_\_

Its: \_\_\_\_\_

State of \_\_\_\_\_ )

:ss.

County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, the undersigned, a Notary Public for the State of \_\_\_\_\_, personally appeared \_\_\_\_\_, known to me to the persons whose names are subscribed to the instrument within and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

\_\_\_\_\_

Notary Public for the State of \_\_\_\_\_

(NOTARIAL SEAL)



ORDINANCE 3178

AN ORDINANCE ASSIGNING A ZONING CLASSIFICATION OF C-2 GENERAL COMMERCIAL TO THE PROPERTY IN CERTIFICATE OF SURVEY 5114 AND MORE PARTICULARLY DESCRIBED AS: A TRACT OF LAND BEING A PORTION OF VACATED RAILROAD RIGHT-OF-WAY IN THE SE ¼ NE ¼ SECTION 3, T20N, R3E, PMM, CASCADE COUNTY, MONTANA.

\* \* \* \* \*

WHEREAS, Steve Vick et al., have petitioned the City of Great Falls to annex the subject property, consisting of ±0.405 acres, as legally described above; and,

WHEREAS, Steve Vick et al., have petitioned the City of Great Falls to assign a zoning classification of C-2 General Commercial to the subject property, upon annexation to City; and,

WHEREAS, notice of assigning said zoning classification to the subject property was published in the *Great Falls Tribune*, advising that a public hearing on this zoning assignment would be held on the 16<sup>th</sup> day of January, 2018, before final passage of said Ordinance herein; and,

WHEREAS, following said public hearing, it was found and decided that said zoning classification be assigned.

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF GREAT FALLS, STATE OF MONTANA:

Section 1. It is determined that the herein requested zoning classification assignment will meet the criteria and guidelines cited in Section 76-2-304 Montana Code Annotated, and Section 17.16.40.030 of Title 17, Land Development Code, Official Code of the City of Great Falls.

Section 2. That the zoning classification of “C-2 General Commercial” be assigned to the subject property.

Section 3. That this Ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the City Commission or upon filing in the office of the Cascade County Clerk and Recorder the resolution annexing said property, as legally described above, into the corporate limits of the City of Great Falls, Montana, whichever event shall occur later.

APPROVED by the City Commission on first reading December 19, 2017.

ADOPTED by the City Commission of the City of Great Falls, Montana, on second reading January 16, 2018.

\_\_\_\_\_  
Bob Kelly, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
Sara R. Sexe, City Attorney

State of Montana     )  
County of Cascade   : ss  
City of Great Falls   )

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3178 on the Great Falls Civic Center posting board and the Great Falls City website.

(CITY SEAL)

\_\_\_\_\_  
Lisa Kunz, City Clerk



**Item:** Ordinance 3170, "An Ordinance Repealing and Replacing Title 12, Of The Official Code Of The City Of Great Falls (OCCGF), Pertaining To Streets And Sidewalks."

**From:** City Attorney's Office

**Initiated By:** City Attorney's Office

**Presented By:** Sara Sexe, City Attorney

**Action Requested:** Accept Ordinance 3170 on first reading and set public hearing for February 6, 2018.

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**Suggested Motion:**

1. Commissioner moves:

"I move that the City Commission (accept/not accept) Ordinance 3170 on first reading and set public hearing for February 6, 2018."

2. Mayor calls for a second to the motion, Commission discussion, public comment, and calls for the vote.

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**Staff Recommendation:**

Staff recommends that the City Commission accept Ordinance 3170 on first reading and set the public hearing for February 6, 2018.

**Background:**

Members of the City Commission and Staff have examined numerous sections of the OCCGF and have noticed various types of deficiencies throughout the Code. In an effort to cure these issues, City staff has assembled input from the different departments to continue a comprehensive revision of the Code.

The Ordinance under consideration would repeal and replace OCCGF Title 12, pertaining to streets and sidewalks. The majority of the amendments are non-substantive. Non-substantive changes include chapter re-designation to put chapters in correct numerical order, typographical errors, and reformatting of subsections.

The first proposed substantive change is replacing all references to, "the governing body" with "Commission" or "City Commission". This change is appropriate because the City Commission is the

City's governing body and should be designated as such in the OCCGF.

The next substantive proposed change is designating property owners as primarily responsible for violations of the Title including boulevard encroachments. This change is part of the overall strategy with OCCGF code enforcement. The strategy requires property owners to be responsible for their property.

Other proposed substantive changes include eliminating Public Works approved transit shelters from the codified list of specifically recognized boulevard encroachments and eliminating off street parking in the boulevard. Transit shelters perform a valuable function and should be authorized in the boulevard. Additionally, parking in the boulevard areas causes problems with easement access and should not be allowed.

Additionally, Ordinance 3170 proposes minor changes to the encroachment permit issuance process. The changes would include exempting non-advertising benches, non-advertising transit shelters, and non-advertising bicycle racks from the annual fee, at the discretion of the City Manager or designee. The changes would also allow the permit to be discontinued, upon the written request of the property owner, with good cause shown.

Changes are also proposed for setting fees and insurance requirements. Ordinance 3170 would allow applicable fees to be set by Commission resolution, not by ordinance. Fees may need to be updated on a varying basis, and Staff believes this change is necessary to allow for fee adjustments to be accomplished by resolution, a less formal procedural basis and ordinance. Codified insurance requirements for contractors would be revised to incorporate the statutory limits set by Mont. Code Ann. §2-9-108.

The Ordinance under consideration would establish formalized appeal processes for denial or revocation of excavation permits, sidewalk and curb permits, and street improvement permits. As with other revisions to the OCCGF, it is important to formalize these procedures to eliminate any confusion and provide applicants with appropriate due process.

Language regarding street processions would be consolidated by Ordinance 3170, and street closure permits would be dictated by OCCGF Title 9; processes for fun runs, motorcade, parades and other processions are one, rather than having separate ordinances. Additionally, criteria for application review and appeal provisions are added, to provide staff guidance in evaluating applications and to provide applicants an avenue for disputing staff decisions. These changes will eliminate inconsistencies within the OCCGF, and street closure permits for public events, other than in parks, would be administered by the City Manager's office.

Finally, Ordinance 3170 would establish clear penalty provisions for Title 12 violations, re-assign sidewalk code enforcement duties from Great Falls Police Department to the Public Works Department, eliminate the special sidewalk and curb fund and construction costs assessments, clarify where bicycles may be ridden on sidewalks, and require that trees being removed from boulevards be replaced. These substantive changes are minor are necessary to eliminate inconsistencies with current practice. The referenced fund and assessments were never implemented, and it is appropriate for Public Works to supervise sidewalk code enforcement.

Ordinance 3170 Exhibit "A" is a document illustrating proposed changes as compared to the existing provisions. Exhibit "B" attached to this agenda report, illustrates the proposed Code provisions which would replace the current provisions in a clean format.

**Concurrences:**

Planning and Community Development Department  
Finance Department  
City Clerk's Office  
City Manager's Office  
Park and Recreation Department  
Great Falls Police Department  
Public Works Department  
Great Falls Fire Rescue

ATTACHMENTS:

- ▣ Ordinance 3170
- ▣ Ordinance 3170 Exhibit "A"
- ▣ Ordinance 3170 Exhibit "B"

**ORDINANCE 3170**

**AN ORDINANCE REPEALING AND REPLACING TITLE 12 OF  
THE OFFICIAL CODE OF THE CITY OF GREAT FALLS  
(OCCGF), PERTAINING TO STREETS AND SIDEWALKS**

\* \* \* \* \*

**WHEREAS**, the City Commission established Title 12 of the OCCGF outlining provisions pertaining to Streets and Sidewalks; and

**WHEREAS**, the City Commission has recognized deficiencies throughout OCCGF Title 12, including but not limited to, typographical, grammatical, formatting, and referencing deficiencies; and

**WHEREAS**, the City Commission wishes to cure the deficiencies contained in OCCGF Title 12; and

**WHEREAS**, the City Commission wishes to make several substantive amendments to current Streets and Sidewalks regulations; and

**WHEREAS**, the City Commission wishes to clarify language by removing references to “the governing body” in OCCGF Title 12; and

**WHEREAS**, the City Commission wishes to remove codified fee amounts from OCCGF Title 12; and

**WHEREAS**, the City Commission wishes to amend provisions related to Sidewalks and Streets code enforcement responsibilities to create better consistency with other provisions of the OCCGF and, where applicable, the Montana Code Annotated.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:**

Section 1. Title 12 of the OCCGF pertaining to Streets and Sidewalks shall be amended as depicted in Exhibit “A” attached hereto, which removes any language indicated by a ~~strikeout~~ and adds any language which is **bolded**; and

Section 2. This ordinance shall be in full force and effect thirty (30) days after second reading and final adoption by the City Commission.

ACCEPTED by the City Commission of the City of Great Falls, Montana on first reading January 16, 2018.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading February 6, 2018.

\_\_\_\_\_  
Bob Kelly, Mayor

ATTEST:

(CITY SEAL)

\_\_\_\_\_  
Darcy Dea, Deputy City Clerk

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
Joseph P. Cik, Assistant City Attorney

State of Montana    )  
County of Cascade  : ss  
City of Great Falls )

I, Darcy Dea, Deputy City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3170 on the Great Falls Civic Center posting board and the Great Falls City website.

\_\_\_\_\_  
Darcy Dea, Deputy City Clerk

(CITY SEAL)

Title 12 STREETS, ~~AND~~ SIDEWALKS, TREES, AND SHRUBBERY

**Title 12 STREETS, ~~AND~~ SIDEWALKS, TREES, AND SHRUBBERY**

**Chapter**

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Chapter ~~4~~ **1**- BOULEVARDS

Chapter ~~6~~ **2**- DISCOVERY GALLERY

Chapter ~~8~~ **3**- OBSTRUCTIONS IN STREETS AND PUBLIC PLACES

Chapter ~~12~~ **4**- EXCAVATIONS

Chapter ~~14~~ **5**- PARADES, PROCESSIONS, FUN RUNS AND STREET CLOSURES

Chapter ~~16~~ **6**- STREET MAINTENANCE

Chapter ~~18~~ **7**- VEHICLE REMOVAL

Chapter ~~20~~ **8**- RIGHT-OF-WAY VACATION FEES

Chapter ~~24~~ **9**- STREET NAMES

Chapter ~~28~~ **10**- SIDEWALKS AND CURBS

Chapter ~~32~~ **11**- SIDEWALK MAINTENANCE

Chapter ~~33~~ **12**- EMERGENCY SNOW ROUTE

Chapter ~~36~~ **13**- PRIVATE DRIVEWAYS AND CROSSWALKS

Chapter ~~40~~ **14**- TREES AND SHRUBBERY

Chapter ~~44~~ **15**- TREE REMOVAL



Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

**Chapter 41 BOULEVARDS**

**Sections:**

- ~~12.4.010 Definitions and responsibility.~~
- ~~12.4.020 Clear vision triangle – defined – responsibility.~~
- ~~12.4.030 Vehicle parking – prohibited where – exception.~~
- ~~12.4.040 Boulevard encroachment permit – issuance conditions.~~
- ~~12.4.060 Violation – penalty.~~

- 12.1.010 Definitions.**
- 12.1.020 Adjoining owners’ responsibility.**
- 12.1.030 Clear vision triangle – defined – responsibility.**
- 12.1.040 Vehicle parking – prohibited where – exception.**
- 12.1.050 Boulevard encroachment permit – issuance conditions.**
- 12.1.060 Exceptions.**
- 12.1.070 Violation – penalty.**

~~12.4.010 — Definitions and responsibility.~~

**12.1.010 Definitions.**

**Unless otherwise specified in this chapter the following definitions shall apply:**

- A. ~~Definitions.~~ "Boulevard" ~~within the City~~ is that area within any **City** street, avenue, or highway right-of-way, not occupied by street paving, curb and gutter, and sidewalks.
- B. ~~An "Inside Boulevard"~~ is the boulevard area on the property line side of the sidewalk.
- C. ~~An "Outside Boulevard"~~ is the boulevard area on the street side of the sidewalk. Except as permitted under Section 12.4.040**1.050**, no boulevard area may be encumbered by any obstacle whatsoever.
- D. "Obstacle" means any strung wire or netting, any fence or railing, or any barrier or structure of any kind whatsoever, ~~but~~ **Obstacle** does not include trees, **or the following:**
  - 1. ~~Ornamental lamp-posts;~~
  - 2. ~~Telephone or electric light poles;~~
  - 3. United States government mailboxes;
  - 4. ~~Signage~~ for structures on the National Historical Register provided by the Montana Historical Society;
  - 5. ~~Other~~ structures erected by permit to aid owners in caring for the boulevards adjoining their property. ~~The Director of Public Works may grant a special permit for a temporary barrier to protect newly sown grass on boulevard areas if such barrier will not endanger passers by.~~

(~~Ord. 2785, 2000~~)

Exhibit "A"

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

**12.1.020 Adjoining Owners' Responsibility.**

- A. It shall be the duty of the owners ~~and tenants~~ of any premises within the **City** limits ~~of the City~~ to maintain the boulevard section in front of, and adjoining, their premises in a safe ~~and substantial~~ condition **and in compliance with Official Code of the City of Great Falls (OCCGF) Title 12..**
- B. Any portion of the right-of-way which is not occupied by roadway section, curb and gutter, driveway, sidewalk, or crosswalk shall be maintained as required by the **OCCGF. Section 17.44 Landscaping.** ~~It is also the responsibility of corner lot owners/tenants to maintain the clear vision triangle as described in Section 12.4.020.~~
- C. **It is also the responsibility of corner lot owners to maintain the clear vision triangle as described in OCCGF 12.1.030.**
- D. **The Public Works Director or designee may grant a special permit for a temporary barrier to protect newly sown grass on boulevard areas, if such barrier will not create a safety hazard.**

~~(Ord. 2549 § 1(part), 1989).~~

~~(Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)~~

~~12.4.020~~ **12.1.030 Clear vision triangle—defined—responsibility.**

The clear vision triangle is the isosceles triangle having sides of forty-five (45) feet as measured along the back of the curb section of each intersecting roadway. The triangle ~~thus~~ begins at the point where the intersecting back of each curb line would meet, thence ~~thence~~ forty-five (45) feet along the back of each curb and diagonally across connecting the curb lines-, ~~See drawing.~~ **and is depicted as set forth in Exhibit 12.1.030.**

**Exhibit 12.1.030 Clear vision triangle**

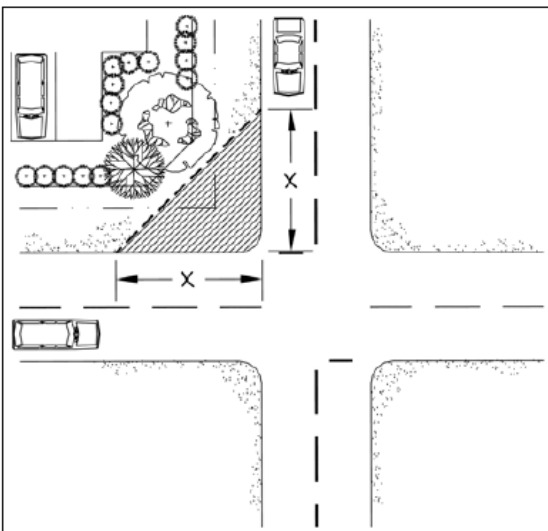


Exhibit "A"

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

- A. Any signs, fences, plant material, or other items placed in this area shall provide an unobstructed cross-visibility at a level between three (3) feet and eight (8) feet above street surface elevation. Trees having over eight (8) feet of clear trunk, as measured from the surface elevation with limbs and foliage trimmed in such a manner as not to extend into the cross-visibility, are permitted in the clear vision triangle.
- B. It is the responsibility of the owner or tenant of a corner lot to maintain the clear vision triangle by trimming or removing the cause of any sight obstruction within the area described above.
- C. No obstruction to cross-visibility shall be exempted or excluded from the application of this section because of the obstruction's existence.

~~(Ord. 2549 §1(part), 1989).~~

~~12.4.030 12.1.040~~ **Vehicle parking—prohibited where—exception.**

No vehicle shall be parked upon any boulevard area in the City except ~~in the following instances:~~

- A. Upon any lawfully constructed driveway, although no vehicle may be parked upon any sidewalk or sidewalk area; **or**
- ~~B. Upon any boulevard area in a residential area if the boulevard area has no curbing or has a curb cut access to the boulevard area;~~
- ~~C.~~ **B.** By permit issued under Section **OCCGF 12.4.0401.050**, boulevard encroachment permit.

~~(Ord. 2549 § 1(part), 1989).~~

~~(Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)~~

~~12.4.040 12.1.050~~ **Boulevard encroachment permit—issuance conditions.**

A temporary and revocable permit to allow encroachments upon any inside boulevard area or other public grounds, within any area of the City, may be granted to the owner or lessee of the adjoining property, **or a permitted owner or operator of bench signs or transit shelters**, by the City Manager or designee. Any such Boulevard Encroachment permit must comply with **all of** the following conditions:

- A. The encroachment, as proposed, must not be detrimental to the health, safety, or welfare of the public as a whole.;
- B. Payment to the City of a one (1) -time application fee **set by City Commission resolution** to defray administrative costs **must be paid prior to construction.** ~~The fee shall be established by City Commission resolution.;~~
- C. Payment to the City of an annual encroachment rental fee **set by City Commission resolution** based upon the square footage of encroachment. ~~The annual rental fee amount shall be established by City Commission resolution.~~ **Non-advertising transit shelters and non-advertising bicycle racks may be exempted from this annual fee, at the discretion of the City Manager or designee.**
- D. No encroachment permit may be granted to allow parking necessary to fulfill the **off-street parking** requirements of the off-street parking code as set forth in **OCCGF Title 17:36;**
- ~~E. In all locations where the sidewalk is constructed adjacent to the street curbing and in all locations where no sidewalk has been constructed, no permit may be granted for any encroachment within~~

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~~seven (7) feet from the back of the curb except in cases where artwork has been approved by the City and placed within the Business Improvement District as part of the Discovery Gallery.~~

~~(Ord. 2766; 2000)~~

- ~~FE.~~ **E.** Parking blocks shall be placed in the boulevard area for any permit issued for vehicle parking under this section, and **blocks** must be placed sufficiently back from the sidewalk area to keep parked vehicles at least two (2) feet from the sidewalk ~~or beyond the seven-foot sidewalk area provided in subsection E of this section;~~
- ~~GF.~~ **F.** The Boulevard Encroachment permit may be issued by the City Manager or designee, at the permit holder's risk upon receipt of a completed application and the processing fee. ~~Should~~ **Subject to the provisions of subsection (K) of this part, should** the City deem it necessary, the Boulevard Encroachment permit may be revoked upon giving thirty (30) days' notice in writing to the permit **holder**;
- ~~HG.~~ **G.** The City Manager or designee shall have authority to deny or immediately revoke any such permit wherever the public safety may be jeopardized or other traffic, utility or other **public** concerns are paramount;
- ~~H.~~ **H.** Any permits issued for fencing part of the boulevard area shall ensure that no fence is installed within two (2) feet of any sidewalk, ~~or where and if a sidewalk does not exist, within seven (7) feet~~ **the Public Works Director or designee shall determine the location of the back-curb section-fence;**
- ~~J.~~ **I.** The requirements of ~~Section OCCGF 12.4.0201.030,~~ clear vision triangle, must be met for any permit involving a corner lot;
- ~~KJ.~~ **J.** Any violation of the terms of ~~this~~ **the boulevard encroachment** permit shall be cause for immediate revocation at the time of the violation. If the permit holder chooses to reapply for a new permit, the entire permit process including any charges, must be repeated;
- K.** **Upon written request by the property owner, and good cause shown, a boulevard encroachment permit may be discontinued and removed from the property file maintained by the County Clerk and Recorder;**
- L.** Upon notice of revocation of a Boulevard Encroachment permit, the permit holder, **at the permit holder's expense**, shall remove or correct any encroachments affected by the revocation within ~~ten (10)~~ **thirty (30) calendar days**. The City shall not be held liable for any costs as a result of the revocation, removal, or corrections;
- M.** Once a permit has been revoked, should the ~~responsible party~~ **permit holder** fail to remove or correct the ~~situation~~ **condition causing the violation**, the City shall have the structure removed and the cost of the removal **shall be** assessed to the permit holder; **and**
- N.** In any case where ~~it is contended that~~ **a party objects to** the decision of the City Manager or designee, regarding an application, ~~was unfair, inequitable, or unreasonable,~~ the party objecting thereto ~~may~~ **must** appeal in writing **within fifteen (15) calendar days of the date of the decision** to the Board of Adjustment ~~and submitted for review by the City Commission.~~

~~(Ord. 2549 §1(part), 1989).~~

~~(Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)~~

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**12.1.060 Exceptions.**

The provisions of this chapter do not apply to the following:

- A. Transit shelters servicing designated routes as approved by the Public Works Director or designee, that do not unduly interfere with vehicle or pedestrian traffic and access to utilities and abutting properties in the immediate vicinity. A transit shelter shall be defined as a structure occupying no more than one hundred twenty (120) square feet in floor area and designed for the temporary shelter of transit passengers.**
- B. Pushcarts or any other non-motorized wheeled device may be moved or used on the City sidewalks under the following conditions:**
  - 1. No pushcart or other device shall exceed thirty-six (36) inches in width, five (5) feet in length and seven (7) feet in height; and**
  - 2. No vendor selling from a pushcart, or such device, shall conduct business in such a way as would restrict or interfere with the ingress or egress of abutting property owners or tenants or create or become a public nuisance, increase traffic or pedestrian congestion, or delay or constitute a traffic hazard, pedestrians or property, or obstruct adequate access for emergency services.**
- C. Statues may be permitted as approved by the Public Works Director, or designee, upon review of a traffic study and located in accordance therewith so as not to unduly interfere with vehicular or pedestrian traffic and access to utilities and abutting property in the immediate vicinity.**
- D. As permitted under this chapter, boulevard encroachment permits are allowed.**
- E. Handicap ramps, railing, and related improvements which comply with Americans With Disabilities Act requirements. Such improvements shall be approved by the Public Works Director or designee prior to construction. Prior to approval, the owner of the property shall make reasonable efforts to locate handicap ramps outside of the boulevard.**
- F. Where setbacks do not allow adequate space for steps to access doorways, steps may be placed in the boulevard if no other reasonable option exists.**

~~12.4.060~~ **12.1.070 Violation—penalty.**

- A. Any violation of the provisions of this chapter shall be considered a public offense punishable under the general penalty of the official code of the City set forth in Chapter OCCGF 1.4.070 of this Code.**
- B. A violation of the provisions of this chapter is hereby declared a nuisance as defined in OCCGF Title 8, Chapter 49.**

~~(Ord. 2549 § 1(part), 1989).~~

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

**Chapter 62 DISCOVERY GALLERY**

**Sections:**

[12.62.010 Intent.](#)

[12.62.020 Responsibilities.](#)

[12.62.030 Allowable boundaries—placement-approval process.](#)

[12.62.040 Clear Vision Triangle—comply with compliance.](#)

**12.62.010 Intent.**

The designation of a sidewalk gallery to display art works in downtown Great Falls is a continuation of the City's recognition and support of the Arts as a major economic and social base in the community. In addition, the involvement of the Business Improvement District in developing the proposal and project guidelines reflects ~~their~~ **its** own efforts to enhance the downtown as a vital community and commercial center.

**12.62.020 Responsibilities.**

- A. The artwork accepted by the City for placement in the Discovery Gallery ~~may~~ **becomes** the property of the City and will be positioned, relocated, or removed at the City's discretion, **unless the City allows in writing**. ~~In some instances, the artist will be permitted to retain ownership of the artwork.~~ Regardless of ownership, the City shall approve all plans to affix and place each piece of art. Nothing in this chapter shall diminish or be considered an exception to the principles of public safety and access as defined in **this** Title-12.
- B. The City shall be responsible for the repair and maintenance of the artwork unless ownership of the artwork is retained by the artist. In that event, the artist shall be responsible for the repair and maintenance of ~~their~~ **his or her** art.
- C. The artwork will be durable ~~in order~~ to minimize the threat of vandalism and the amount of maintenance.
- D. The Business Improvement District shall develop guidelines for the Discovery Gallery. At a minimum the guidelines shall address:
  - 1. Size of the art objects-;
  - 2. Materials-;
  - 3. Construction-;
  - 4. Spacing-;
  - 5. Textures and sounds-;
  - 6. Mechanical and other powered devices-;
  - 7. General accessibility to the art-;
  - 8. Themes-;
  - 9. Sight lines to commercial property-;
  - 10. Rights-of-way-;
  - 11. Costs, fees insurance-; **and**
  - 12. Application process and review.

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- E. The Business Improvement District shall also establish a review panel consisting of at least one (1) member of the Business Improvement District Board, one downtown retailer, one (1) artist, one City staff member, and one (1) architect or engineer.

**12.62.030 Allowable boundaries—placement-approval process.**

- A. The Discovery Gallery shall be within the boundaries of the Business Improvement District.
- B. The Discovery Gallery's width will be from the back of the curb to a maximum of seven (7) feet ~~inward~~ **inward**. The Discovery Gallery shall extend to the second parking space at each end of the block or one (1) space away at alleys.
- C. The Business Improvement District shall appoint a committee as described in ~~12.6.020-D~~ **12.2.020** to review all proposals submitted for the artwork which shall include a process for public comment. Said Committee shall forward a recommendation for the City Commission to accept or not-accept the proposed artwork. The Commission may hold a public hearing on the artwork proposals submitted for consideration.

**12.62.040 Clear Vision Triangle—~~comply with~~ compliance.**

All artwork in the Discovery Gallery shall ~~meet~~ **be displayed in a manner meeting** the requirements of OCCGF ~~12.4.020-12.1.030~~, the clear vision triangle.

## Chapter 8 3 OBSTRUCTIONS IN STREETS AND PUBLIC PLACES

### Section:

[12.83.010 Prohibited—applicability.](#)

[12.3.020 Penalty.](#)

**12.83.010 Prohibited—applicability.**

- A. Except as provided in ~~subsection C of this section~~ **Title**, it is unlawful for any person, or persons, or corporations, **or other entities** to erect, place, or locate, or cause to be erected, placed, or located, any building, fence or obstruction of any kind ~~whatsoever~~, in whole or in part, upon any street, **right-of-way (developed or undeveloped)**, avenue, alley, or other public grounds within the City. ~~Any person or persons or corporation who is convicted of a violation of any of the provisions of this chapter, shall be deemed guilty of a separate violation of this chapter for every twenty-four (24) hours the same remains un-removed.~~
- B. In the interest of the public health, welfare and safety, the City may remove **any** such obstruction **violating this chapter** and assess the costs of removal to the property owner; or where circumstances permit, and the public interest is not greatly jeopardized, notice may be given to the violator for removal of the obstruction, **subject to the following conditions:-**
  - 1. Such notice shall provide the time allowed for removal, include the Public Works Director's address and telephone number for information or hearing thereon, briefly describe the nature of the violation and the possible sanctions-; **and**
  - 2. ~~The~~ **If removal is not completed in compliance with the notice, the** City's costs of removal shall be assessed against the property.

~~C. Exceptions.~~

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- ~~1. Transit shelters as approved by the City Commission and located so as to not unduly interfere with vehicle or pedestrian traffic and access to utilities and abutting properties in the immediate vicinity.
  - ~~a. A transit shelter shall be defined as a structure occupying no more than one hundred twenty (120) square feet in floor area and designed for the temporary shelter of transit passengers.~~~~
- ~~2. Pushcarts or any other non-motorized wheeled device may be moved or used on the City sidewalks under the following conditions:
  - ~~a. No pushcart or other device shall exceed thirty six (36) inches in width, five (5) feet in length and seven (7) feet in height.~~
  - ~~b. No vendor selling from a pushcart or such device shall conduct business in such a way as would restrict or interfere with the ingress or egress of abutting property owners or tenants or create or become a public nuisance, increase traffic or pedestrian congestion, or delay or constitute a hazard to traffic, pedestrians or property or obstruct adequate access for fire or police.~~~~
- ~~3. Statuary as approved by the City Commission upon review of a traffic study and located in accordance therewith so as not to unduly interfere with vehicular or pedestrian traffic and access to utilities and abutting property in the immediate vicinity.~~
- ~~4. As permitted under Section 12.4.040, boulevard encroachment permit and Section 12.4.020, permitted structures.~~
- ~~5. Handicap ramps, railing and related improvements which comply with Americans With Disabilities Act requirements. Such improvements shall be approved by the Director of Public Works or designee prior to construction. Reasonable efforts shall be made to locate handicap ramps outside of the boulevard prior to approval.~~
- ~~6. Where setbacks do not allow adequate space for steps to access doorways, steps may be placed in the boulevard if no other reasonable option exists.~~

~~(Ord. 2549 § 1(part), 1989).~~

~~(Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)~~

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FOOTNOTE(S):

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~~—(1)—~~

~~Prior ordinance history: Prior code §§6-1-3(B) and (F) and Ordinances 2314, 2338, 2409 and 2460.~~

**12.3.020 Penalty.**

- A. Any violation of the provisions of this chapter shall be considered a public offense punishable under OCCGF 1.4.070.**
- B. A violation of the provisions of this chapter is hereby declared a nuisance as defined in OCCGF Title 8, Chapter 49.**



Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

**Chapter 12 4 EXCAVATIONS**

**Sections:**

[12.124.010 Application—required.](#)

[12.124.020 Application—fee.](#)

[12.124.030 Application—refusal—issuance.](#)

[12.124.040 Bond.](#)

[12.124.050 Insurance required.](#)

[12.124.060 Permittee responsibility.](#)

[12.124.070 License—suspension—revocation—limitation.](#)

**12.124.010 Application—required.**

- A. Excepting ~~where~~ **when** such person is operating under a contract with the City involving the opening of a public way, any person **properly licensed pursuant to OCCGF Title 5** desiring to excavate in, ~~or~~ cut through, **access**, or tear open the surface of any street, avenue, alley, sidewalk, or other public way within the City shall first file written application with the **Planning and Community Development Department (PLCD)** ~~Director of Public Works~~. The application shall state the object sought, the purpose for which the public way is to be excavated in, cut through, or broken open, the proposed area of such opening and the exact location thereof.

~~(Prior code §9-10-1).~~

**B. The application shall state the following:**

1. **The object sought;**
2. **The purpose for which the public way is to be excavated in, accessed, cut through, or broken open;**
3. **The proposed area of such opening; and**
4. **The exact location of the proposed opening.**

**12.124.020 Application—fee.**

The application shall be accompanied by the applicable following fee, **set by City Commission resolution**, payable to the City.:

- A. ~~For an opening not exceeding one hundred (100) square feet, there shall be and is a minimum fee of twenty dollars (\$20.00).~~
- B. ~~For an opening greater than one hundred (100) square feet, the fee shall be twenty dollars (\$20.00) plus ten cents (\$0.10) per square foot in excess of one hundred (100) square feet.~~

~~(Ord. 2485 §1, 1987; Ord. 2462 §2, 1987).~~

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

**12.424.030 Application—refusal—issuance.**

- A.** The **Planning and Community Development (PLCD) Director of Public Works or designee** may, in his/ or her discretion, grant or refuse to grant such application. **Justification for refusal includes, but is not limited to, the applicant's outstanding debt or obligation to the City.**
- B.** The refusal of the director to grant any such application is subject to review by the City Commission. **may be appealed, in writing, to the City Manager's office within fifteen (15) calendar days of the director's refusal. If the City Manager or designee affirms the refusal, the applicant may appeal, in writing, the decision to the City Commission within fifteen (15) calendar days of the City Manager's affirmation.**
- C.** ~~Where~~ **If the application is granted, whether by the PLCD Director, the City Manager, or the City Commission, the applicant shall accomplish the proposed work within the time allowed by the Public Works Director and under the Ddirector's supervision.; and,**
- D.** **All excavation shall be conducted** in accordance with rules, regulations and specifications on file in the Department of Public Works.;
- E.** **All excavation shall be thoroughly backfilled, and any such excavation or opening and shall be restored to the surface thereof to the condition it was prior to such excavation or opening, or better. Eexcept, that the City will replace all asphaltic surfacing in paved streets, with costs to be paid by the applicant, unless the Public Works Director or designee authorizes the applicant to replace the asphaltic surfacing.**
- F.** **Flowable fill shall be used to backfill trench excavation on arterial and collector streets when deemed necessary by the Street Division Supervisor or designee on local streets and alleys.**
- G.** **Flowable fill shall be used to cap street openings during the winter and whenever hot mix asphaltic surfacing is not available. The surface shall be maintained, by the permittee, until hot mix asphaltic surfacing becomes available.**

~~(Ord. 2476, 1987; prior code §9-10-3).~~

**12.424.040 Bond.**

Any applicant for permission **desiring** to excavate in, **access**, cut through, or tear open any City street, avenue, alley, sidewalk, boulevard, or any other public way must file with the City Clerk **PLCD Department** a bond in the penal sum that shall be established by City Commission resolution.;

**The bond shall:**

- A.** **Be payable to the City and/or the sState as their interests appear with respect to the expenditure of funds toward the construction of the street, avenue, alley, sidewalk, boulevard, or public way within the City;;**
- B.** **Be conditioned for the protection of the City and/or sState from and against any liability of any kind or character whatsoever which may arise as a result of the applicant's excavating in, cutting through, or opening up any such street, avenue, alley, sidewalk, boulevard, or other public way or which may in anyway or manner be connected with or related thereto, payable by the applicant; and**
- C.** **Be further conditioned that the permittee shall properly backfill and restore the surface of any and all excavations, openings, or cuttings made or dug in the public ways of the City, and shall do and complete all work in connection therewith in a good, competent, and workmanlike manner and in compliance with the specifications required therefore by the City and/or sState; and provided,**

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~~that where any applicant has at the time of the application for permit under the terms of this chapter, on file with the City Clerk, and in force, a water service line layer's license bond under the provisions of Chapter 13.04 of this Code, or a drain layer's license bond under the provisions of Chapter 13.20 of this Code, and the conditions of either of such bonds is amended by endorsement to protect the state as set forth above and to include the condition as required in this section, then such drain layer's license bonds or water service line layer's license bond shall stand in lieu of the bond required in this section.~~

~~(Ord. 2801, 2001; Prior code §9-10-4).~~

- D. **Remain on file with the PLCD Department; or**
- E. **Enforce a water service line layer's license bond under the provisions of OCCGF Title 13, or a drain layer's license bond under the provisions of OCCGF Title 13, and the conditions of either of such bonds shall be amended to include the conditions as required by this section.**

**12.124.050 Insurance required.**

Before any application to **excavate, cut, access or tear** open any public way is granted, such applicant shall furnish satisfactory evidence ~~that there has been issued to the applicant, and is in full force and effect,~~ **applicant's activities are properly covered by applicable liability insurance coverage,** ~~auto insurance and workers' compensation insurance~~ in an amounts that shall be set by City Commission resolution.

~~(Ord. 2801, 2001; Prior code §9-10-5).~~

**12.124.060 Permittee responsibility.**

- A. The permittee, in accepting and acting under a street opening permit granted under the provisions of this ~~section~~ **chapter**, agrees to assume full responsibility for injury to persons or losses or damage to property incurred by reason of or arising out of any act or omission of ~~such~~ **said** permittee in making ~~such~~ **said** excavation, cut, or opening or in failing to properly barricade, guard and warn the public of such excavation or trench, and further agrees to assume full responsibility for injury to persons and losses or damage to property incurred by reason of or arising out of any settlement of a restored area occurring within two (2) years of the date of completion of the permanent resurfacing.
- B. ~~If a~~Any settlement in a restored area **which** occurs within two (2) years of the date of completion of the permanent surfacing, ~~it~~ shall be considered as conclusive evidence of defective backfill. Upon failure or refusal of such permittee to correct such settlement within five (5) days after notice by the **Public Works** Director ~~or designee of Public Works~~ to do so, **the City may correct such settlement and** any expense incurred by the City in correcting such settlement shall be paid by the permittee.

~~(Prior code §9-10-6).~~

- C. **To the fullest extent permitted by law, the permittee shall fully indemnify, defend, and save City, its agents, representatives, employees, and officers harmless from and against any and all claims, actions, costs, fees, losses, liabilities or damages of whatever kind or nature arising from or related to the permittee's performance of the permitted excavation and the permittee's work, or work of any subcontractor or supplier to applicant.**

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**12.124.070 License—suspension—revocation—limitation.**

The provisions of this chapter are in no way intended, nor shall they be construed ~~so as~~ to limit or in any way repeal any of the provisions of ~~Chapters~~ **OCCGF Title 13.04 and 13.20** of this code with respect to the right of the City Commission to suspend or revoke the licenses, provided for in ~~Chapters~~ **OCCGF Title 13.04 and 13.20**, upon failure or refusal of any such licensee to refill properly any trench or excavation and to restore the surface thereof.

~~(Prior code §9-10-7).~~

**Chapter 14 5 PARADES, PROCESSIONS, FUN RUNS AND STREET CLOSURES**

**Sections:**

[12.145.010 Definitions.](#)

[12.145.020 Established and designated ~~parade~~ procession routes.](#)

[12.145.030 Public conduct during ~~parades, processions and fun runs.~~](#)

[12.145.040 Participants' conduct during ~~parades, processions and fun runs.~~](#)

[12.145.050 Application - contents.](#)

[12.145.060 Street closure permits for public events and block parties.](#)

**12.145.010 Definitions.**

The following words and phrases, when used in this chapter, shall have the **following** meanings ~~respectively ascribed to them.:~~

- A. ~~"Parade"~~ **"Procession"** means any march, **parade, motorcade, fun run, or procession other event**, consisting of people, animals, ~~or~~ vehicles, or combination thereof, except funeral processions, upon any public street, sidewalk or alley, which does not comply with normal and usual traffic regulations and controls and is expressly designed for the enjoyment of the public as well as the participants, **which is approved by the City under the provisions of this chapter.**
- B. "Motorcade" means an organized procession containing twenty-five (25) or more vehicles, except funeral processions, upon any public street, sidewalk or alley.
- C. ~~"Parade Procession Route"~~ **"Parade Procession Route"** means the route of travel of any parade, **march, motorcade, or fun run, or other procession**, to include the assembly, staging and disbanding areas.
- D. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of the State.

~~(Ord. 2734, 1998).~~

**12.145.020 Established and designated ~~parade~~ procession routes.**

**Processions are to proceed as follows:**

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- A1. **Parade Procession** to stage on Park Drive South, in **designated areas**, and proceed north past the east side of the Police Department onto 1st Avenue South, then east to Park Drive, then North to Central, then east to 8th Street, disbanding on the north and/or south side of Central Avenue-;
- B2. **Parade Procession** to stage on the north and/or south side of Central Avenue at 8th Street and proceed west on Central Avenue to Park Drive, then south to 1st Avenue South, then west until disbanding. ~~Any alternate route must be approved by the City-;~~ **or**
- C3. ~~Routes for other parades, processions or fun runs not requiring street closures can be~~ **Any alternate route approved and** designated at the discretion of the City **Manager or designee**.

(Ord. 2734, 1998).

**12.145.030 Public conduct during parades, processions and fun runs.**

- A. ~~Joining the parade.~~ No person shall knowingly ~~join~~ or **purposely**:
  - 1. ~~Participate in any parade, procession or fun run conducted in violation of any of the terms of the permit-;~~ **nor knowingly**
  - 2. ~~Join or participate in any permitted parade or procession without the consent and over the objection of the permittee; and/or, nor~~
  - 3. **Interfere** in any manner ~~interfere~~ with **it's the procession's** progress or orderly conduct.
- B. ~~Interference.~~ No person shall hamper, obstruct, impede, or interfere with any ~~parade or procession or with any person, vehicle or animal participation or used in a parade or procession.~~
- C. ~~Driving through parades or processions.~~ No driver of a vehicle shall drive between the vehicles or persons comprising a ~~parade or motorcade~~ **procession** when such vehicles or persons are in motion and are ~~conspicuously designated as~~ **traveling along** a ~~parade or procession route.~~ Nothing in this section shall prohibit an emergency vehicle from interrupting a ~~parade or procession for the purpose of responding to an emergency.~~
- D. ~~Viewing the Parade or Procession.~~ No person shall view, watch or observe the ~~parade or procession from the street or beyond the sidewalk curb or beyond the imaginary curb line that, if it existed, would extend through the intersection from corner to corner of any street perpendicular to the parade procession route.~~
- E. ~~Parking on parade route.~~ 4.—No vehicle larger than an automobile or pickup truck shall park along the ~~parade procession route during the parade procession.~~
- 2F. The City Manager, or designee, shall have the authority, when reasonably necessary, to prohibit parking of vehicles along a ~~parade procession route.~~ Signs shall be posted to such effect and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. **The applicant shall be responsible for posting and removing of signs.**

(Ord. 2734, 1998).

**12.145.040 Participants' conduct during parades, processions and fun runs.**

- A. It is unlawful for any persons in a ~~parade or procession~~ to deviate from the established or approved ~~parade procession route.~~
- B. No participant in a ~~parade or procession~~ shall throw, cast, or drop candy, trinkets, or any other articles. A violation of this provision shall be a misdemeanor punishable by a fine; ~~as set forth OCCGF 1.04.070~~ **not to exceed five hundred dollars (\$500.00)**. This does not prohibit a ~~parade~~

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**walking procession** participant from handing the candy or other articles directly to the spectators ~~providing the parade participant is walking.~~

- C. No participant in a ~~parade~~ or procession shall entice, or lure, or attempt to entice or lure, any spectator to leave the designated viewing area.
- D. No participant in a ~~parade~~ or procession shall operate any vehicle in a careless manner so as to endanger the safety and welfare of other ~~parade~~ **procession** participants or spectators.
- E. ~~Each~~ **As a condition to the permit, each** permittee shall provide ~~a persons, or a horses with a riders, to walk~~ or a persons in a small motorized vehicles, such as a golf cart, **to travel** on both sides of any ~~parade~~ **procession** vehicle **which is** larger than an automobile or pickup ~~as a condition to the permit.~~
- F. Any person operating a motor vehicle in a ~~parade~~ or procession shall ~~be posses~~ a licensed driver's license. All **participants in the procession shall follow all** applicable ~~seat belt motor vehicle laws~~ and/or ~~helmet laws~~ ~~must be complied with by all participants~~ **regulations.**

**12.145.050 Application - contents.**

- A. Any person, **firm, corporation, or other entity desiring** ~~who wants~~ to conduct a ~~parade, procession, band practice, or fun run,~~ **as defined in OCCGF 12.5.010**, shall apply to the Park and Recreation Department for a permit at least ~~one (1) month~~ **thirty (3) calendar days** in advance of the event date ~~and comply with the provisions set forth in such permit.~~ The application shall designate the intended route, date and time of the event.
- B. **Park and Recreation Department may approve, revise, or deny the application in consideration of the following factors:**
  - 1. **Promotion of the community as a whole;**
  - 2. **Provision of positive civic and economic benefit;**
  - 3. **Impact on neighboring business and properties;**
  - 4. **Impact on public uses, safety, and services;**
  - 5. **Consideration of frequency of closures;**
  - 6. **Consideration of the event's financial impact; and**
  - 7. **The applicant's performance under prior issued permits.**
- ~~BC.~~ Following approval from the City, the ~~requesting organization~~ **applicant** will be responsible for ~~notifying~~ **notification of** news media, ~~in~~ **and the associated costs of said notice, in** order to inform the public of the date, time and ~~parade~~ **procession** route.
- ~~CD.~~ The ~~organization sponsoring the parade~~ **applicant** will designate a person who can be contacted by the City to coordinate plans for the ~~parade or band practice~~ **procession.**
- ~~DE.~~ The ~~parade or band practice~~ **procession** shall not deviate from the designated route, time, or date approved in the permit. If, for any reason, the event is postponed, or canceled, the ~~City~~ **applicant** shall immediately ~~be notified~~ **notify the City.**
- ~~EF.~~ ~~Parades~~ **Processions** shall be scheduled between the hours of 9:00 a.m. and ~~noon.~~ ~~When parades cannot be held in the mornings and during this time period,~~ **12:00 p.m.** ~~s~~ **Special requests will be considered for processions at other times, provided arrangements can be made which, in the City's determination, will not impede normal traffic conditions or inhibit business in the downtown area.**

Exhibit "A"

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

- ~~FG.~~ ~~Organizations sponsoring parades~~ **The applicant** will be responsible for placing and removing barricades on the ~~parade~~ **designated procession** route side of the nearest designated alleys ~~and~~ streets no earlier than thirty (30) minutes prior to the start of the ~~parade~~ **procession** and, in no case, longer than fifteen (15) minutes following the end of the ~~parade~~ **procession**. Barricades ~~are may be~~ available at the Park and Recreation Department ~~and may be rented~~ **subject to a fee set by City Commission resolution**. It will be the responsibility of the ~~sponsoring organization~~ **applicant** to pick up from and return to the Park and Recreation Department all barricades used, and to contact the **Park and Recreation Director or designee, Supervisor** at least ~~two (2) weeks~~ **fourteen (14) calendar days** in advance to discuss a barricading plan acceptable to the City.
- ~~GH.~~ No sales ~~or~~ solicitations will be permitted by ~~parade~~ **procession** participants without proper licensing **in advance**.
- ~~HI.~~ ~~Applicants or~~ ~~Organizations sponsoring parades or band practices~~ **processions** will be required to remove all trash, paper and litter from the streets and sidewalks. Street cleaning arrangements must be made with the Public Works Street Division within ~~two (2) weeks~~ **fourteen (14) calendar days** of the event date.
- ~~IJ.~~ The Police Department will provide one (1) vehicle to escort the ~~parade~~**procession**. All other traffic and crowd control must be provided by the sponsoring organizations and, in no case, be less than two (2) people for each block of ~~parade or band practice~~ **procession** length.
- ~~JK.~~ ~~Sponsoring organizations will~~ **The applicant shall indemnify, defend and hold harmless** the City ~~harmless~~ from any and all claims, damages, losses and expenses arising from the ~~parade or band practice~~ **procession** or created by any of the participants. The ~~sponsoring organization~~ **applicant** shall be required to carry insurance for comprehensive general liability, automobile liability and designated premises in the amount of one million dollars (\$1,000,000.00) per occurrence and ~~one~~**two** million dollars (\$~~1~~**2**,000,000.00) aggregate, and list the City as an additional **named insured under the policy**. **Documentation of such insurance must be provided to the City at least 72 hours prior to the event.**
- ~~KL.~~ If determined necessary **by the City, considering the factors listed in B. above, or** due to the type, length, time or date of the ~~parade or band practice~~**procession**, the City ~~may require~~ additional provisions and safeguards **may be deemed in the public interest** ~~required as a condition of the permit~~.
- ~~LM.~~ Failure to comply with ~~these~~ **the provisions of this chapter** and other permit requirements will be cause for rejection of future ~~parade or band practice~~ **procession** permits requested by the **applicant**.
- ~~M.~~ ~~Any organization requesting a permit for other events such as motorcades, processions or fun runs will comply with any and all specific rules and requirements promulgated by the City.~~

~~(Ord. 2734, 1998).~~

- ~~N.~~ The ~~parade procession~~ organizer must submit with the permit request information as to how property owners, tenants, and/or business owners along the ~~parade procession~~ route ~~were will~~ **be notified of parade, the procession, and provide verification of such notice to the City,** ~~band practice or fun run.~~
- ~~O.~~ **If the application for a procession permit is denied or revised in a way which is unacceptable to the applicant, the applicant may appeal the decision in writing to the City Manager within fifteen (15) calendar days of the denial or reversal. The City Manager or designee shall review the application and uphold, reverse, or revise the decision on the application within ten (10) calendar days. If applicant makes no such appeal, the Park and Recreation Department's determination will stand.**

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

- P. If the City Manager affirms or revises the determination of the application for a procession permit, the applicant may appeal the decision in writing within fifteen (15) calendar days of the date of affirmation or revision to the City Commission, which shall review the application in a public meeting and uphold, reverse, or revise the decision on the application within ten (10) calendar days of the hearing. If applicant makes no such appeal, the City Manager's determination will stand.
- Q. Unless otherwise specified in this chapter, appeals to the City Commission of the denial, revocation, or suspension of licenses or permits under this chapter shall comply with the provisions of OCCGF 1.2.040.

12.145.060 Street closure permits for public events and block parties.

Persons or entities who organize events which require the temporary closure of a public street must comply with the provisions of OCCGF Title 9.

- A. ~~Events encouraging community and neighborhood involvement are encouraged and may require the temporary closure of city streets.~~
- B. ~~Organizers of an event that require the temporary closure of a public street must obtain a street closure permit. The application for the permit shall contain the name and contact information of the person or entity requesting the permit, the location of the proposed event, the day(s), time(s) and duration of the event. Applications must be turned in for review a minimum of fourteen (14) days prior to the event.~~
- C. ~~During the review, city staff will develop a street closure plan the applicant must follow. Staff will also make available the necessary street closure equipment and charge a fee set by Commission resolution.~~
- D. ~~If the event involves the sale, possession and/or consumption of alcohol, the event organizer must also obtain a special event permit as stipulated in 9.20.040.~~
- E. ~~The City Manager, or designee, shall review, approve or deny the permit application and has the authority to require additional information from the applicant.~~
- F. ~~The event organizer must submit with the permit application information as to how property owners, business owners and tenants adjacent to the temporary street closure were notified of special event or activity that required a temporary street closure.~~
- G. ~~A fee for the street closure permit shall be set by Commission resolution to cover administrative time and any additional costs incurred by the City to ensure the event is safe and the area returned back into the same condition it was prior to the event.~~
- H. ~~If the event involves more than seventy five (75) people, the person or organization must provide liability insurance, including liquor liability if applicable, providing coverage for their organization and naming the City as an additional insured. To the extent reasonably possible, liability insurance coverage shall be in the minimum amounts of seven hundred fifty thousand dollars (\$750,000.00) per claimant and one million five hundred thousand dollars (\$1,500,000.00) per occurrence. The City Manager has the authority to waive this requirement or due to the type of event, require insurance for events with fewer than seventy five (75) people should he determine it necessary due to the type of event.~~
- I. ~~Applicants for a temporary street closure permit shall agree in writing to defend, hold the City and its employees harmless and indemnify the City for any and all claims, lawsuits or liability including attorneys' fees and costs allegedly arising out of loss, damage or injury to person or person's property~~



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~~occurring during the course of or pertaining to the special event caused by the conduct of employees or agents of applicants.~~

~~J. Permit Denial Appeal. If an applicant is denied a temporary street closure permit, the applicant may appeal to the City Commission.~~

## Chapter 16.6 STREET MAINTENANCE

### Sections:

[12.46.010 District designation authority.](#)

[12.46.020 Cost—assessment.](#)

[12.46.030 Cost—assessment—levy—resolution.](#)

**12.6.040 Assessment alternatives.**

### 12.46.010 District designation authority.

Whenever any portion of the City has been designated as a street maintenance district, the streets, avenues and alleys **in the district** may be maintained for such time and in such manner as the City Commission may direct under the supervision of the Public Works Director.

~~(Ord. 2584 (part), 1991).~~

### 12.46.020 Cost—assessment.

The cost assessed for maintaining streets, avenues, and alleys **in the district** shall be charged to ~~the property bordering on all the streets and avenues so maintained~~ **properties within the Street Maintenance District** by one (1) or a combination of the following methods **to be determined by the City**:

1. ~~e~~Each lot or parcel of land bearing its share of the cost according to the part of the whole cost which its area bears to the area of the entire district; or, by that part of the whole cost which each lot or parcel's street frontage bears to the street frontage of the entire district;  
or,
2. if the City Commission determines that the benefits derived from the maintenance by each lot or parcel are substantially equivalent, the cost may be assessed equally to each lot or parcel located within the district without regard to the assessable area of the lot or parcel;  
or,
3. ~~e~~Each lot or parcel of land, including the improvements thereon, may be assessed for that part of the cost of the district which its taxable valuation bears to the total taxable valuation of the property of the district. The assessment for the same shall be certified by the City Clerk to the ~~Fiscal Services~~ **Finance** Director, to be extended on the tax roll in the same manner as other special assessments.

~~(Ord. 2584 (part), 1991).~~

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**12.46.030 Cost—assessment—levy—resolution.**

~~Not~~**No** later than the second Monday in August of each year the Public Works Director shall estimate the annual maintenance cost and the City Commission shall pass and ~~finally~~ adopt a resolution levying and assessing all the property within the ~~s~~**Street m**~~Maintenance d~~**District** with an amount equal to ~~not less than~~ seventy-five (75) percent of the entire cost of the work.

~~(Ord. 2584 (part) 1991).~~

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FOOTNOTE(S):

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~~—(2)—~~

Prior history: ~~Prior code Sections 9-14-1 through 9-14-4, Ord. 2301.~~ [\(Back\)](#)

**12.6.040 Assessment Alternatives.**

**A property owner may, after providing good cause acceptable to the City Manager or designee, enter into an alternative agreement, in the best interest of the City, to satisfy an assessment pursuant to this chapter.**

## **Chapter 18 7 VEHICLE REMOVAL**

**Sections:**

[12.487.010 Notification of designated areas.](#)

[12.487.020 Vehicle parking restrictions.](#)

[12.487.030 Vehicle removal.](#)

**12.487.010 Notification of designated areas.**

- A. The Public Works Director or designated representatives ~~are~~ **is** authorized to prohibit parking in areas where street cleaning operations are scheduled.
- B. Notice of such street cleaning shall be given to local radio, television, ~~and to the news press,~~ **and published on the City Website.** In addition, **signs notifying which** streets to be swept will be posted twenty-four (24) hours in advance of street cleaning operations.

~~(Ord. 2393 (part), 1985).~~

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

**12.487.020 Vehicle parking restrictions.**

- A. Upon notification of street cleaning operations, ~~a designated area~~ pursuant to Section 12.487.010(B), it shall be unlawful for any person to stop, stand, park or leave unattended any motor vehicle or trailer, **in a designated area**, between the hours of 8:00 a.m. and 4:00 p.m. or until such time as designated street cleaning is completed.
- B. This provision shall not prohibit the stopping of commercial passenger vehicles, **school busses, or Great Falls Transit District vehicles** for periods sufficient to load or discharge passengers from vehicles.

~~(Ord. 2393 (part), 1985).~~

**12.487.030 Vehicle removal.**

Whenever a motor vehicle or trailer has been stopped, parked or left unattended after notification of street cleaning operation pursuant to ~~subsection 12.48.010(B)~~**this chapter**, such vehicle shall be declared a ~~public nuisance~~ **as defined in OCCGF Title 8, Chapter 49**, and the Director of Public Works or designee shall order it to be removed at the owner's expense.

~~(Ord. 2393 (part), 1985).~~

**Chapter 20 8 RIGHT-OF-WAY VACATION FEES**

**Section:**

[12.208.010 Schedule of costs.](#)

~~12.208.010~~ Schedule of costs.

Any person petitioning for a right-of-way vacation shall, prior to the passage of the resolution of intention to vacate, pay to the City ~~fees according to the following schedule:~~**appropriate fees set by City Commission resolution.**

- ~~A. Administrative costs including the preparation of the resolution of intention to vacate, legal publication in a newspaper, the preparation of the vacation ordinance(s) material review by the City Attorney, placement of material on the commissions agenda, and filing and recording legal documents shall be two hundred dollars (\$200.00).~~
- ~~B. Preparation and service of notice to property owners abutting the right of way to be vacated shall be twenty five dollars (\$25.00) per notice served by the Great Falls Police Department; and thirty five dollars (\$35.00) per notice served by authority other than the Great Falls Police Department.~~
- ~~C. Compensation to the Public Works Department and other departments for review and examination of existing or proposed utility and transportation or other facilities affected by the proposed right of way vacation including the preparation of any necessary easements shall be based upon the existing prevailing man-hour costs plus fifty (50) percent.~~

~~In the event the right of way requested to be vacated was originally established by an official subdivision plat and the City determines it is appropriate and necessary to formulate an amended plat or replat in accordance with the State Subdivision and Platting Act, then the petitioner shall incur all costs associated with the preparation and review of the amended plat or replat.~~

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(Prior code ~~§9-15-1~~).

**Chapter 24 9 STREET NAMES**

**Section:**

[12.249.010 Renaming.](#)

**12.249.010 Renaming.**

In order to eliminate the duplication of street names and addresses within the City, ~~and to provide~~ for uniformity, **and** to alleviate the presently existing situation in these areas, the street names as designated on the plats of the following named additions shall be changed as follows:

A.	North Riverview Terrace Addition.	
	From 18th Avenue N.E.	to 21st Avenue N.E.
	From 19th Avenue N.E.	to 22nd Avenue N.E.
	From 20th Avenue N.E.	to 23rd Avenue N.E.
	From 6 "A" Street Northeast	to 6th Street Northeast
	From 7 "A" Street Northeast	to 7th Street Northeast
	From 34 "A" Street Northeast	to 34th Avenue Northeast
	From Riverview 1 West	to Riverview "A"
B.	Twilite Terrace Addition.	
	From 21st Avenue N.E.	to 24th Avenue N.E.
	From 22nd Avenue N.E.	to 25th Avenue N.E.
	From 23rd Avenue N.E.	to 26th Avenue N.E.
C.	Montana Addition.	
	From Gosman Drive	to Treasure State Drive (north to Aronson Drive)

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	From Gosman Drive	to 10th Street S.W. (south of Aronson Drive)
	From Aronson Drive	to Treasure State Drive
	From Hinman Avenue	to 17th Avenue Southwest
	From Montana Avenue	to 18th Avenue Southwest
	From 13 A Street S.W.	connecting Treasure State Drive and 24th Avenue S.W. to Sundance Drive
D.	Lincoln Height Addition.	
	From Wilson Avenue	to 11th Avenue South
	From Washington Avenue	to 12th Avenue South
	From Madison Avenue	to 13th Avenue South
E.	Sunrise Terrace Addition.	
	From 4th Avenue South	to Carol Drive
F.	Tynes Addition	
	From 3rd Street South	to 2 "A" Street South
	From 3 "A" Street South	to 2 "B" Street South
G.	Horizon Addition.	
	From Grandview Road	to 3rd Street Northwest
H.	Yeoman-Tynes Addition.	
	From Cactus Court	to Palm Court
I.	BN Car Shop Addition.	

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	From Burlington Northern Bay Drive	to Bay Drive
J.	Bel-View Palisade Addition.	
	From Ivy Drive (portion located in Centennial Ridge PUD) to Centennial Court	
K.	Valeria Way	
	From ½ Avenue South	
L.	Chowen Springs Loop	
	From Parkdale	
M.	Stone Meadows Addition	
	Phase II.	
	From Choteau Avenue	To Choteau Avenue Northeast

(Ord. 3143, 2016; Ord. 2798, 2001; Ord. 2564 §1, 1990; Ord. 2489 §1, 1988; Ord. 2435 §1, 1986; Ord. 2022, §1, 1977; prior code §9-11-1).

**Chapter 28 10 SIDEWALKS AND CURBS**

**Sections:**

- [12.2810.010 Improvements—permit required—appeal.](#)
- [12.2810.020 Construction—compliance with City specifications.](#)
- [12.2810.030 Construction—grade conformance required.](#)
- [12.2810.040 Construction—width and slope designations.](#)
- [12.2810.050 Construction—materials.](#)
- [12.28.060 Construction—order—notice to owner.](#)
- [12.28.070 Construction—failure to perform—notice—cost assessment.](#)
- [12.28.080 Construction—notice—form.](#)

Exhibit "A"

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

~~12.28.090 Construction—annual contract—bid.~~

~~12.28.100 Construction—cost—assessment—payment.~~

~~12.28.110 Construction—payment—delinquency.~~

~~12.2810.120060~~ **Condemnation.**

~~12.2810.130070~~ **Repair—owner's duty.**

~~12.28.140 Repairs required when—enforcement—injunction.~~

~~12.28.150 Special fund created.~~

**12.10.080 Enforcement.**

**12.10.090 Inspection.**

**12.10.100 Violation - penalty.**

~~12.2810.010~~ **Improvements—permit required—appeal.**

- A. ~~No improvement mentioned in~~ **Any person or entity who will perform construction pursuant to this chapter, shall be made without first obtain a permit first having been obtained from the Planning and Community Development (PLCD) Director by the person actually before performing the construction. All such applications therefore shall be made in duplicate on the form prepared by the Planning and Community Development PLCD Director who shall fix assess a reasonable schedule of fees as set by City Commission resolution for services provided by the City.**
- B. ~~Any applicant deeming himself aggrieved may appeal the decision denial of a permit pursuant to this section by the Department of Planning and Community Development PLCD Director may be appealed, in writing, to the City Manager's office within fifteen (15) calendar days of the denial. The City Manager shall render a written decision on the appeal within ten (10) calendar days. Such decision may then be appealed, in writing, to the City Commission. However, within fifteen (15) calendar days of said decision or become final. The City Commission shall conduct a hearing on the matter and issue a final written decision within ten (10) calendar days of the hearing.~~
- C. ~~‡The applicant shall do no such applied-for improvement work pending the any appeal, except in strict accordance with the directions of the Planning and Community Development Director until a final decision is made.~~

~~(Ord. 2549 §1 (part), 1989: code §9-1-2).~~

~~(Ord. No. 3057, § 1, 8-17-2010)~~

~~12.2810.020~~ **Construction—compliance with City specifications.**

- A. **It is unlawful for any person to build or construct any sidewalk, private work, or curb in any street, avenue, alley or boulevard or to build or construct any parking or any improvement of any nature whatsoever in any street, avenue, alley or boulevard, unless the same is constructed strictly in accordance with the current standard specifications and plans for such work and under the supervision of the Director of Public Works Director or designee.**

~~(Ord. 2549 § 1(part), 1989: code § 9-1-1).~~

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~~(Ord. No. 3057, § 1, 8-17-2010; Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)~~

**12.2810.030 Construction—grade conformance required.**

- A. Sidewalk construction on improved or graded streets must conform with the established grade and sidewalk line;
- B. ~~On all other streets, sidewalks must be laid to the proper sidewalk line, and otherwise to the satisfaction of the Director of Public Works. Driveway crossings into private grounds shall be of form and construction as specified by the Director of Public Works~~ **Director or designee.**

~~(Ord. 2549 §1(part), 1989; code §9-1-3).~~

- C. **Driveway crossings into private properties shall be of form and construction as specified by the Public Works Director or designee.**

**12.2810.040 Construction—width and slope designations.**

- A. All sidewalks hereafter ~~to be~~ built or constructed in the City shall be of the following width, except where otherwise ordered by the ~~governing body~~ **City Commission**: ~~on~~
  - 1. First Avenue North from Park Drive East to Ninth Street, fifteen (15) feet; on Central Avenue, from Park Drive East to Ninth Street, fifteen (15) feet; ~~on~~
  - 2. First Avenue South from Park Drive East to Sixth Street, fifteen (15) feet; ~~on~~
  - 3. Second Avenue South from Second Street East to Fifth Street, fifteen (15) feet; ~~on~~
  - 4. ~~†~~The east side of Park Drive from First Avenue North to First Avenue South, fifteen (15) feet; ~~on~~
  - 5. Second Street from Second Avenue North to First Avenue South and on the east side from First Avenue South to Second Avenue South, fifteen (15) feet; ~~on~~
  - 6. Third Street from Second Avenue North to Second Avenue South, fifteen (15) feet; ~~on~~
  - 7. Fourth Street from Second Avenue North to Second Avenue South, fifteen (15) feet; ~~on~~
  - 8. Fifth Street from Second Alley North to First Avenue South, fifteen (15) feet; ~~on~~
  - 9. Sixth Street from First Avenue North to First Avenue South, fifteen (15) feet; **and**
  - 10. Sidewalks on all other streets and avenues, **not classified as arterials**, shall be five (5) feet wide, and in alleys a two-foot walk may be constructed and laid in such manner that it will not interfere with traffic of any kind or be ~~injured thereby~~ **damaged by traffic.**
- B. All sidewalks shall rise three sixteenth ( 3/16 ) inch to the foot or one and one-half (1.5) percent from the curb grade to the property line ~~and shall slope toward the street. Boulevards shall generally slope at two (2) percent from the top back-of-curb elevation to the property line to ensure positive drainage towards the street.~~

~~(Prior code § 9-1-4).~~

~~(Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)~~



Exhibit "A"

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

**12.2810.050 Construction—materials.**

- A. Hereafter all sidewalks shall be constructed only of solid **Portland asphaltic** cement concrete, or upon permission from the Director of Public Works may be constructed of a dense clay brick with a non-slip surface and having an average saturation coefficient of 0.78 or less and meeting ASTM specifications C216 and C62 grade SW placed on a concrete base and grouted with a Portland cement grout all **other material** conforming to current specifications established by the ~~Director of Public Works~~ **Director or designee**; provided, that the governing body **City Commission** may order temporary sidewalks of other material to be constructed.
- B. Hereafter all curbing shall be constructed only of solid **Portland asphaltic** cement concrete provided that the governing body **City Commission** may order temporary curbing of other material.

(Prior code § 9-1-5).

(Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)

**12.28.060 Construction—order—notice to owner.**

- A. ~~Whenever the governing body orders any sidewalk or curb to be constructed, it shall be the duty of the City Clerk to enter such order upon the minutes of the governing body and shall name the street along which the sidewalk or curb is to be constructed.~~
- B. ~~Whenever the governing body orders any sidewalk or curb to be constructed and after the making of such order, it shall be the duty of the City Clerk to give written notice thereof to the owner or agent of such property in front of which lot or parcel of land the governing body orders the sidewalk or curb to be constructed, which written notice must be published for five (5) days in a daily newspaper published in the City and by mailing a copy of such notice to every person or the agent of such person having property in front of which such sidewalk or curb is to be constructed at their last known address upon the same day such notice is first published; the service of such notice to construct such sidewalk or curb to be constructed shall be deemed complete on the date of first publication and mailing.~~

(Prior code §9-1-9).

**12.28.070 Construction—failure to perform—notice—cost assessment.**

~~If the owner or agent of such lot or parcel of land fails or neglects for a period of thirty (30) days after the date of the service of such notice to construct or cause such sidewalk or curb to be constructed, the City shall construct or cause such sidewalk or curb to be constructed and shall assess the cost thereof against the property in front of which the same are constructed.~~

(Prior code §9-1-9).

**12.28.080 Construction—notice—form.**

The written notice to be so published and mailed shall be in substantially the following form:

NOTICE FOR CONCRETE SIDEWALK AND CURB CONSTRUCTION

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<del>—Department of Public Works—Great Falls, Montana</del>
<del>—"Notice is hereby given that the Governing Body of the City of Great Falls, Montana, at its regular meeting on _____ / _____ / _____, ordered concrete sidewalk and curb to be constructed as follows:</del>
<del>—"The names of the streets along which said sidewalk and curb is ordered constructed appears upon the minutes of the Governing Body of the above date to which reference is hereby made.</del>
<del>—"All walk and curb remaining un-built at the expiration of thirty (30) days will be built by the City and all costs assessed as a special tax to the abutting property in accordance with the provisions of City law.</del>
<del>———Director of Public Works</del>
<del>First publication _____ / _____ / _____"</del>
<del>(Prior code §9-1-11).</del>

~~12.28.090 Construction annual contract bid.~~

- ~~A. The governing body shall annually let to the lowest responsible bidder a contract for the construction of all cement or concrete sidewalks in accordance with the specifications prepared therefore by the Director of Public Works and approved by the governing body, which specifications shall provide for the method of construction and the material contemplated during the period of such contract.~~
- ~~B. The governing body shall, at the same time when it lets its contract as provided for in subsection A for the construction of concrete cement sidewalks, also let its contract for the construction of concrete cement curbs, and the contract for the concrete sidewalks and concrete cement curbs shall be let at the same time and for the same period to the same contractor.~~

~~(Prior code §9-1-12).~~

~~12.28.100 Construction cost assessment payment.~~

- ~~A. The total cost of all cement or concrete sidewalks constructed by the City cement or concrete sidewalk contractor in accordance with the orders of the governing body which total costs shall include that of the sidewalk proper as well as that of any notice, grading, hand railing, private crossing and all other necessary expenses, shall be assessed as a special assessment against the property in front of which such cement or concrete sidewalk is built or constructed. The property occupying street corners shall be assessed for that part of such sidewalk thereon which is within the street intersection.~~

Exhibit "A"

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~~B. Such special assessments shall be payable in installments extending over a period of eight (8) years, and the governing body for such sidewalk improvements may issue special improvement warrants and levy and collect assessments to pay the same. When any such installment payment becomes delinquent, that installment payment, plus the interest due thereon, shall become a lien against the property subject to such assessment, and the property shall be subject to sale for delinquent payment of such special assessment the same as other property is sold for delinquent special assessments.~~

~~(Prior code §9-1-13).~~

~~12.28.110 Construction payment delinquency.~~

~~Upon the payments after the first, the Controller shall collect simple interest per annum at the maximum rate allowed on judgments under state law (§25-9-205, MCA) from the date when the first payment becomes delinquent, and shall receive payment in full and give receipts therefore for the entire special assessment of any property with interest to the date of payment, at any time the same may be tendered by the owner or agent.~~

~~(Prior code §9-1-13).~~

**12.2810.120060 Condemnation.**

- ~~A. Any sidewalks, which are now, or which may, by reason of natural deterioration or decay, or by reason of unevenness, steps, rapid slopes or from any cause whatsoever, become dangerous to the public safety, may be condemned by the Director of Public Works~~ **Director or designee.**
- ~~B. Condemned sidewalks shall and may be immediately removed and replaced, repaired, remodeled, or rebuilt, repaired or newly built, as may be most expedient, and the cost thereof shall be a lien upon the lot abutting upon such sidewalk at the discretion of the Public Works Director or designee. Construction shall be arranged and paid for by the adjoining property owner and shall be performed by a contractor properly licensed and insured to perform this type of work within the City.~~
- ~~C. Any costs incurred by the City pursuant to this section shall be paid by the adjoining property owner within thirty (30) calendar days of invoice, and if not, be recorded as a lien upon the adjoining lot and may be enforced or the amount may be recovered against the owner by a suit before any court of competent jurisdiction or may be assessed and collected as a special tax against such lot.~~

~~(Prior code § 9-1-7).~~

~~(Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)~~

- D. The condemnation by the director may be appealed, in writing, to the City Manager's office, within fifteen (15) calendar days of the director's notice of condemnation. If the City Manager or designee affirms the decision, the applicant may appeal, in writing, the decision to the City Commission within fifteen (15) calendar days of the City Manager's affirmation. The City Commission shall conduct a meeting and hear testimony on the Condemnation within ten (10) calendar days of receipt of the appeal. The City Commission shall by written finding affirm or reverse the decision within ten (10) calendar days of the hearing.**

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

**12.2810.130070 Repair—owner's duty.**

- A. It shall be the duty of the ~~owners and tenants~~ **owner(s)** of any premises within the limits of the City to keep the sidewalk in front of and adjoining their premises in ~~good,~~ safe and **substantial functional** condition., ~~and the~~
- B. ~~owners~~**Owner(s)** shall see that all breaks or unsoundness of any character resulting from natural deterioration, or from any cause whatsoever, is repaired with all possible ~~dispatch and~~ **diligence**.
- C. ~~w~~**When** by reason of the construction or repairs of sidewalks from any cause whatsoever, any sidewalk or section thereof is removed or rendered dangerous or impassable to the public, such spaces or openings shall be securely fenced, and from ~~dark~~ **sunset** until sunrise ~~red~~ lights shall be maintained thereon, while such dangerous condition exists, and a plank walk not less than two (2) inches in thickness and not less than three (3) feet in width shall be constructed around such construction or dangerous walk, the same to extend from sidewalk to sidewalk on each side of the opening or obstruction.

(Prior code §9-1-6).

**12.28.140 — Repairs required when — enforcement — injunction.**

~~It shall be the duty of the Chief of Police and members of the Police Department to enforce the provisions of this chapter, and Police Officers shall immediately report any broken, defective or unsafe sidewalk to the owner of the premises in front of which such defect exists and shall notify the owner to repair the same forthwith. Police Officers shall also report all such defective walks and crossings as well as the particulars of any accidents that may occur, the names of witnesses, and persons injured thereby, to the Chief of Police, specifying the hour at which the owner as aforesaid was notified to repair the walk, and the Chief of Police shall in turn notify the street commissioner or Director of Public Works thereof. Upon the refusal or neglect of the owner of any premises to remove obstructions from or to make necessary repairs to the walks in front of the same, and when in the opinion of the street commissioner or Director immediate repairs or removal of the obstructions is necessary to prevent accidents, the street commissioner or Director may forthwith proceed with same, and the full costs of the repairs or the removal of such obstructions shall be collected or assessed as provided in Section 12.28.120. Absence of notice to owners to repair or remedy a dangerous walk or to remove obstructions therefrom shall not constitute a valid excuse against the payment of any fine or damages by such owners or occupants, and nothing contained in any of the preceding sections shall be so construed as to release the owners or occupants of real estate from the duty of keeping the sidewalks in front or adjoining their respective premises at all times in a safe and passable condition, and in good and thorough state of repair, but such duty is hereby expressly enjoined and imposed upon all such owners and occupants.~~

(Prior code §9-1-8).

**12.28.150 — Special fund created.**

- A. ~~There is created a fund to be known as the "special sidewalk and curb fund." All monies hereafter collected from assessments made for the construction of sidewalks and curbs ordered by the governing body shall be placed to the credit of the special sidewalk and curb fund.~~
- B. ~~Warrant Form. When any sidewalk or curb is constructed by or under the direction of the governing body, payment for the construction thereof shall be made by special warrants, which shall be in substantially the following form (regular City warrant form to be used):~~

Exhibit "A"

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

"THE TREASURER OF THE CITY OF GREAT FALLS, MONTANA No.																			
DATE	WILL PAY TO	FUND	WARRANT NO.	AMOUNT															
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; text-align: center;">\$</td> <td colspan="4"></td> </tr> <tr> <td></td> <td style="width: 20%;">Mayor</td> <td colspan="3"></td> </tr> <tr> <td></td> <td>Clerk</td> <td colspan="3"></td> </tr> </table>					\$						Mayor					Clerk			
\$																			
	Mayor																		
	Clerk																		

~~C. Denomination. The special sidewalk and curb warrants shall be issued in a denomination of no more than one thousand dollars (\$1,000.00) each.~~

~~(Prior code §9-1-15).~~

**12.10.080 Enforcement.**

It shall be the duty of the Public Works Director or designee, upon receipt of a written complaint, to enforce the provisions of this chapter.

**12.10.090 Inspection.**

Any improvements made pursuant to this chapter are subject to inspection or approval, at any reasonable time, by the Public Works Director or designee, before, during, and after construction is performed.

**12.10.100 Violation - penalty.**

- A. Any violation of the provisions of this chapter shall be considered a public offense punishable under the general penalty OCCGF 1.4.070.
- B. A violation of the provisions of this chapter in hereby declared a nuisance as defined in OCCGF Title 8, Chapter 49.

**Chapter ~~32~~ 11 SIDEWALK MAINTENANCE**

Sections:

[12.~~32~~11.010 Obstruction—defined—prohibited.](#)

[12.~~32~~11.020 Sidewalk—restricted use.](#)

Exhibit "A"

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

~~12.3211.030 Snow and ice removal—owner's duty.~~

~~12.3211.040 Snow and ice removal—hours designated for completion.~~

~~12.3211.050 Snow and ice removal—depository prohibited where.~~

~~12.3211.060 Sanding required when—owner's duty.~~

~~12.3211.070 Wet cement—trespassing prohibited.~~

~~12.32.080 Failure to comply—City performs work—cost—assessment.~~

~~12.3211.090~~**080** ~~Violation—penalty.~~

**12.3211.010 Obstruction—defined—prohibited.**

- A. "Obstruction," as used in this chapter, ~~is intended to mean~~ clothing, fruit, ~~or~~ any kind of merchandise, boxes, crates, trunks, racks and stands of every nature and description, **or any other object that may hinder and/or impede pedestrian or other traffic.**
- B. It is unlawful for any person or persons, firm, ~~or~~ corporation, **or other entity** to place, cause to be placed, or to permit any obstruction to be placed or remain upon any of the sidewalks of the City, except in cases where artwork has been approved by the City and placed within the Business Improvement District as part of the Discovery Gallery.

~~(Ord. 2766, 2000; Prior code §9-3-1).~~

**12.3211.020 Sidewalk—restricted use.**

- A. Except as otherwise specified in the OCCGF,** it is unlawful ~~hereafter~~ for any person or persons to ride, ~~or~~ drive, **or park** any horse, mule, ~~or~~ other animal **driven**, buggy, wagon, bicycle or other vehicle along, over or on any of the sidewalks within the City, ~~or to push any pushcart or wheelbarrow thereon or do damage in any way to the sidewalks.~~

~~(Prior code §9-3-2).~~

- B. Unless otherwise allowed by designated City approved signage, bicycles may only be ridden on those portions of the sidewalk that are connected to, and a portion of, the River's Edge Trail System.**
- C. Law enforcement and other emergency services personnel are exempted from the provisions of this Section.**

**12.3211.030 Snow and ice removal—owner's duty.**

It shall be the duty of the owner(s) ~~and tenant~~ of any premises within the limits of the City to keep the sidewalk in front of and adjoining the premises free from obstructions **or accumulation** subject to the special conditions set out in ~~Sections 12.32.040 through 12.32.060~~**this chapter.**

~~(Prior code §9-3-3(part)).~~

Exhibit "A"

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

**12.3211.040 Snow and ice removal—hours designated for completion.**

Snow, ice, and similar material that has accumulated during the preceding hours shall be removed from sidewalks in commercial areas before 11:00 a.m. each day and shall be removed from residential areas within twenty-four (24) hours after the snowfall. Once cleared, all sidewalks shall be kept clear of snow, ice, and similar material.

~~(Prior code §9-3-3(A)).~~

**12.3211.050 Snow and ice removal—depository prohibited where.**

Snow, ice, and similar material removed from sidewalks ~~in commercial areas~~ **and driveways** shall not be deposited on the adjoining streets, avenues, **separately owned properties**, or alleys ~~within two (2) feet of the curbline.~~

~~(Prior code §9-3-3(B)).~~

**12.3211.060 Sanding required when—owner's duty.**

Polish or smoothness resulting from any cause which renders a sidewalk dangerous and unsafe shall be sanded and where there is permanent polish or smoothness on a sidewalk, the surface of the sidewalk shall be repaired in accordance with the directions of the **Public Works** Director ~~of Public Works.~~

~~(Prior code §9-3-3(C)).~~

**12.3211.070 Wet cement—trespassing prohibited.**

It is unlawful for any person to **deface**, tramp, step or trespass ~~unnecessarily~~ upon any cement or concrete sidewalk in course of construction before such sidewalk becomes set and firm.

~~(Prior code §9-3-4).~~

**12.32.080 — Failure to comply—City performs work—cost—assessment.**

~~If the owners or tenants of property adjoining a sidewalk fail to comply with the provisions of this chapter, the City shall cause any and all obstructions to be removed and shall bill the cost thereof, together with a reasonable charge for the administration and supervision, to the parties. If the charges are not paid within sixty (60) days, the commission shall pass a resolution assessing the charges as a special tax against the premises.~~

~~(Prior code §9-3-3(D)).~~

**12.3211.090080 Violation—penalty.**

- ~~A. Violation of this chapter shall be deemed a misdemeanor and any person violating the provisions of this chapter may be fined in an amount not exceeding five hundred dollars (\$500.00) or imprisonment not to exceed six (6) months for any one (1) offense. **Any violation of the**~~

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

provisions of this chapter shall be considered a public offense punishable under the general penalty OCCGF 1.4.070.

(Prior code ~~§9-3-3(E)~~).

**B. A violation of the provisions of this chapter is hereby declared a nuisance as defined in OCCGF Title 8, Chapter 49.**

**Chapter 33 12 EMERGENCY SNOW ROUTE**

**Sections:**

[12.3312.010 Declaration of snow emergency.](#)

[12.3312.020 Emergency snow routes—designation.](#)

[12.3312.030 Emergency snow routes—signing.](#)

[12.3312.040 Removal—vehicles.](#)

[12.3312.050 Snow emergency—notice.](#)

**12.3312.010 Declaration of snow emergency.**

The City Manager, or designated representative, ~~are~~ **is** authorized to declare a snow emergency ~~when in their opinion~~ an emergency exists in the City or in a section or sections thereof because of snow, freezing rain, sleet, snow drifts or other natural phenomenon which creates ~~or are~~ **is** likely to create hazardous road conditions or impede the free movement of fire, health, police, emergency or other vehicular traffic or otherwise endangers the safety and welfare of the community and shall remain in effect until the snow has been plowed to the curb lines or removed from the street.

(Ord. 2526 ~~§1(part), 1989~~).

**12.3312.020 Emergency snow routes—designation.**

**A.** To facilitate the removal of snow and to assure the regular flow of traffic during a snow emergency, the following streets and public thoroughfares are designated as emergency snow routes:

Central Avenue	<del>9th Street</del> <b>Park Dr.</b> to 46 <sup>th</sup> Street
Central Avenue West	20 <sup>th</sup> Street <del>S.W. South West</del> to 29 <sup>th</sup> <b>30<sup>th</sup> Street S.W. South West</b>
Division Road	Skyline Dr. to Smelter Avenue
Fox Farm Road	10 <sup>th</sup> Avenue South to East Fiesta
Park Garden Road	Riverview Court to <del>Wy Drive</del> <b>Big Ranch Road</b>



Exhibit "A"

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

Smelter Avenue	3 <sup>rd</sup> Street <del>N.W. North West</del> to 9 <sup>th</sup> Street <del>N.W. North West</del>
1 <sup>st</sup> Westhill Drive	3 <sup>rd</sup> Westhill Drive to Sun River Road
3 <sup>rd</sup> Avenue South	38 <sup>th</sup> Street South to 57 <sup>th</sup> Street South
4 <sup>th</sup> Street South	10 <sup>th</sup> Avenue South to 17 <sup>th</sup> Avenue South
6 <sup>th</sup> Street <del>N.W. North West</del>	Smelter Avenue to Central Avenue West
8 <sup>th</sup> Avenue North	Park Drive to 38 <sup>th</sup> Street North
8 <sup>th</sup> Street <del>N.E. North East</del>	Smelter Avenue to Skyline Drive
9 <sup>th</sup> Street	River Drive to 17 <sup>th</sup> Avenue South
9 <sup>th</sup> Street <del>N.W. North West</del>	Smelter Avenue to Central Avenue West
9 <sup>th</sup> Street <del>N.E. North East</del>	Skyline Drive to 36 <sup>th</sup> Avenue <del>N.E. North East</del>
17 <sup>th</sup> Avenue South	4 <sup>th</sup> Street South to 9 <sup>th</sup> Street South
20 <sup>th</sup> Street <del>S.W. South West</del>	Central Avenue West to 5 <sup>th</sup> Avenue <del>S.W. South West</del>
25 <sup>th</sup> Street	River Drive North to <del>13<sup>th</sup></del> 10 <sup>th</sup> Avenue South
26 <sup>th</sup> Street	8 <sup>th</sup> Avenue North to <del>18<sup>th</sup></del> 22 <sup>nd</sup> Avenue South
33 <sup>rd</sup> Street South	10 <sup>th</sup> Avenue South to 17 <sup>th</sup> Avenue South
38 <sup>th</sup> Street	River Drive North to 10 <sup>th</sup> Avenue South
46 <sup>th</sup> Avenue <del>N.E. North East</del>	Bootlegger Trail to 9 <sup>th</sup> Street <del>N.E. North East</del>
Park Drive	1 <sup>st</sup> Avenue North to 2 <sup>nd</sup> Avenue South
2 <sup>nd</sup> Street South	2 <sup>nd</sup> Avenue South to 10 <sup>th</sup> Avenue South

Exhibit "A"

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

13 <sup>th</sup> Street South	10 <sup>th</sup> Avenue South to 30 <sup>th</sup> Avenue South
24 <sup>th</sup> Avenue	13 <sup>th</sup> Street South to 15 <sup>th</sup> Street South
2 <sup>nd</sup> Street North East	Division Road to 36 <sup>th</sup> Avenue North East
Skyline Drive	8 <sup>th</sup> Street North East to 9 <sup>th</sup> Street North East
Watson Coulee Road	North West Bypass to 9 <sup>th</sup> Street North East
3 <sup>rd</sup> Street South West	Central Avenue West to 6 <sup>th</sup> Street South West
18 <sup>th</sup> Avenue South West	Fox Farm Road to Treasure State Drive
Big Ranch Road	Park Garden Road to Huckleberry Drive
Huckleberry Drive	Big Ranch Road to Acacia Way
Acacia Way	Huckleberry Drive to Park Garden
Sun River Road	14 <sup>th</sup> Street South West to 4 <sup>th</sup> West Hill Road
14 <sup>th</sup> Street South West	Exit 0 Ramp to 13 <sup>th</sup> Avenue South, and Exit 0 Ramp to Park Garden Road
3 <sup>rd</sup> West Hill Drive	1 <sup>st</sup> West Hill Drive to 4 <sup>th</sup> West Hill Drive
4 <sup>th</sup> West Hill Drive	3 <sup>rd</sup> West Hill Drive to Sun River Road

~~(Ord. 2526 § 1(part), 1989).~~

~~(Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)~~

**B. Any routes included in the most current agreement between the City of Great Falls and Cascade County for snow and ice control may also, with proper notice, be included as emergency snow routes.**

~~12.33~~**12.030 Emergency snow routes—signing.**

**A. When signs have been erected giving notice thereof, it shall be unlawful for any person to stop, stand, park or leave unattended any motor vehicle upon a designated snow route within the City, during a snow emergency.**

Exhibit "A"

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

- B.** Parking may be resumed on individual streets as soon as the snow has been plowed or removed. This provision shall not prohibit the stopping or commercial passenger vehicles for periods sufficient to load or discharge passengers from such vehicles.

~~(Ord. 2526 §1 (part), 1989).~~

**12.3312.040 Removal—vehicles.**

Whenever a motor vehicle has been stopped, parked or left unattended after the inception of a snow emergency, upon a designated emergency snow route within the City, said vehicle is declared to be a traffic hazard and the ~~Chief of Police~~ **City Manager, or designee**, shall order said motor vehicle removed at the owner's expense.

~~(Ord. 2526 §1(part), 1989).~~

**12.3312.050 Snow emergency—notice.**

Notice of such emergency shall be given by press, radio, ~~and~~ television, and **the City website**. ~~the news media shall be requested to cooperate with City officials and, w~~When given, such notice shall constitute due and proper notice.

~~(Ord. 2526 §1(part), 1989; Ord. 2187, 1980).~~

**Chapter 36 13 PRIVATE DRIVEWAYS AND CROSSWALKS**

**Sections:**

~~12.3613.010~~ [Construction—supervision.](#)

~~12.3613.020~~ [Construction—permit—application—fee.](#)

~~12.3613.030~~ [Construction—barricades required.](#)

~~12.3613.040~~ [Construction—sidewalk—materials.](#)

~~12.3613.050~~ [Construction—driveway—location.](#)

~~12.3613.060~~ [Construction—driveway—drainage structures.](#)

~~12.3613.070~~ [Construction—driveway—transition design.](#)

~~12.36.080~~ [Construction—driveway—adjoining.](#)

~~12.3613.090~~**080** [Construction—right-of-way distances.](#)

~~12.3613.100~~**090** [Construction—intersection clearances.](#)

~~12.3613.110~~**100** [Construction—conformance with national regulations.](#)

~~12.3613.120~~**110** [Use discontinuance—sidewalk restoration.](#)

[12.13.120 Violation - penalty.](#)

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

**12.3613.010 Construction—supervision.**

**A.** The construction of concrete driveways and concrete crosswalks used for private purposes, within the street lines of the City, shall be under the supervision and direction of the **Public Works Director or designee**. ~~Director of Planning and Community Development, authorized assistant or duly appointed inspector. The design and concrete mixture shall conform to standard specifications on file in the Department of Public Works office of the City for concrete sidewalks and concrete crossings.~~

~~(Ord. 2568 §1(part), 1990; prior code §9-2-1).~~

~~(Ord. No. 3057, § 1, 8-17-2010)~~

**B. The design and concrete mixture shall conform to standard specifications on file in the City Public Works Department for concrete sidewalks and concrete crossings.**

**12.3613.020 Construction—permit—application—fee.**

**A.** All applications for permits for concrete driveways or concrete crosswalks must give a description of the property to be served and such other information as may be required by the **Public Works Director**, for the proper direction of the work, and must be signed by the **property owner(s)** or authorized agent.

**B.** Before commencing the construction, modification or repair of any concrete driveway or concrete crosswalk, the contractor shall first obtain a written permit from the Department of Planning and Community Development, and such permit shall be **available** upon the **ground work site** at all times during the progress of the work and must be shown to any **designated City representative** ~~office in authority~~, on demand.

**C.** For each and every permit a fee will be charged and collected by the **Public Works Director**. **The amount of said fee shall be established by City Commission resolution.**

~~(Ord. 2568 §1(part), 1990; prior code §9-2-2).~~

~~(Ord. No. 3057, § 1, 8-17-2010)~~

**12.3613.030 Construction—barricades required.**

**A.** Excavations in streets and avenues shall be made in such manner as to impede travel as little as possible, and the time that such excavation is open may be limited by the **Public Works Director**, ~~or designee. his assistant or inspector.~~

**B.** Efficient barricades shall be erected by the ~~contractor~~ **permittee** around all trenches or embankments made within the limits of any street or avenue, and ~~red~~ lights shall be maintained thereon from dark to daylight until the street or avenue has been restored to a safe and passable condition. ~~At no time during the progress of the work shall sidewalks be unnecessarily blocked to travel.~~

~~(Prior code §9-2-3).~~

**C. At no time during the progress of the work shall sidewalks be unnecessarily blocked to travel.**

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

**12.3613.040 Construction—sidewalk—materials.**

- A. After the governing body orders any cement concrete sidewalk to be built in any boulevard district no private walk shall be built therein from the curb-line to the property line or from the sidewalk to either line, unless the same is made of cement concrete, **or other Public Works approved material.**
- B. Cement concrete private walks shall be of uniform width and shall be built upon the established grade from the curb-line to the property line, and shall be not less than thirty-six (36) inches in width or more than sixty (60) inches in width; provided, that in front of churches, schoolhouses, nursing homes, long term care facilities, medical facilities, ~~the~~ court houses, and other public buildings, the cement concrete private walks may be of greater width than above mentioned.

~~(Prior code § 9-2-4(A)).~~

~~(Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)~~

**12.3613.050 Construction—driveway—location.**

Driveways shall be so located at the discretion of, and by the approval of, the **Public Works Director or designee, of Public Works** as to result in no undue interference with, or hazard to, the free movement of normal traffic or interfere with the placement and proper functioning of highway signs, signals, lighting, or other devices that affect traffic operation.

~~(Prior code § 9-2-4(B)).~~

**12.3613.060 Construction—driveway—drainage structures.**

All driveways shall be so constructed so as not to impair drainage within the street or highway right-of-way nor alter the stability of the roadway sub-grade and ~~at the same time~~ not impair or materially alter drainage of the adjacent areas. All drainage structures required within the public right-of-way and under the driveways, as a result of the property being developed, shall be installed in accordance with the standards ~~of approved by~~ the **Public Works Director or designee of Public Works.**

~~(Prior code § 9-2-4(D)).~~

~~(Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)~~

**Editor's note**—Formerly § 12.36.070.

**12.3613.070 Construction—driveway—transition design.**

- A. All driveways shall have the back of curb dropped a minimum of four (4) inches for the width of the driveway. The minimum driveway transition distance shall be from the back of the curb to the property line and shall occur in a uniform manner.
- B. Curb fillets constructed by filling in the curb and gutter are prohibited as a means of transition from the street to the driveway. This prohibition of curb fillets is retroactive to all existing curb fillets within the City and all future annexations to the City. Exceptions for cause must be approved by the **Public Works Director or designee of Public Works.**

Exhibit "A"

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

~~(Ord. 2490, 1988).~~

~~(Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)~~

**Editor's note** — Formerly § 12.36.071.

**~~12.36.080~~ — Construction — driveway — adjoining.**

~~The distance between two (2) adjacent driveways to the same frontage shall be not less than thirty (30) feet.~~

~~(Prior code § 9-2-4(F)).~~

~~(Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)~~

**Editor's note** — Formerly § 12.36.090.

**~~12.3613.090080~~ Construction — right-of-way distances.**

~~Gasoline pump islands or other installations with parking parallel to the right-of-way line shall be at least ten (10) feet outside of the right-of-way line. Buildings or other installations with an angle of ninety (90) degrees parking between **the building or other installation** and the right-of-way line shall be at least thirty (30) feet outside the right-of-way line.~~

~~(Prior code § 9-2-4(G)).~~

~~(Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)~~

**Editor's note** — Formerly § 12.36.100.

**~~12.3613.400090~~ Construction — intersection clearances.**

~~At an intersecting street or highway, the dimension measured along the edge of the traveled way to provide adequate corner clearance shall be measured a minimum distance of ten (10) feet from the intersecting property line, except at intersections where there are traffic signals, the nearside clearance shall be two (2) or more times this distance.~~

~~(Prior code § 9-2-4(H)).~~

~~(Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)~~

**Editor's note** — Formerly § 12.36.110.

Exhibit "A"

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

**12.3613.440100 Construction—conformance with national regulations.**

Specific controls, not defined in this chapter, shall be in accordance with the standards for private driveway regulations established by the American Association of State Highway Officials and as applied by at the discretion of the **Public Works** Director or **designee** of **Public Works**.

~~(Prior code § 9-2-4(I)).~~

~~(Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)~~

~~**Editor's note**—Formerly § 12.36.120.~~

**12.3613.420110 Use discontinuance—sidewalk restoration.**

**A.** Whenever the use of any existing or future driveway is discontinued by reason of change in the use, or design of the private property served thereby, the owner of the private property shall remove that portion of the driveway located within the City right-of-way, and shall restore the sidewalk and curbing affected by the driveway to their normal levels, all under the direction, supervision and standards required by the **Public Works** Director or **designee** of **Public Works**.

**B.** This section shall be applicable to any existing driveway, the use of which is presently discontinued. ~~Upon the failure or refusal of the owner to restore the sidewalk and curbing as provided in this section, the City Commission may order the restoration of the sidewalk and curbing under the provision of Sections 12.28.060 through 12.28.110 and 12.28.150.~~

~~(Prior code § 9-2-4(J)).~~

~~(Ord. No. 3086, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)~~

~~**Editor's note**—Formerly § 12.36.130.~~

**12.13.120 Violation - penalty.**

**A.** Any violation of the provisions of this chapter shall be considered a public offense punishable under the general penalty OCCGF 1.4.070.

**B.** A violation of the provisions of this chapter in hereby declared a nuisance as defined in OCCGF Title 8, Chapter 49.

**Chapter 4014 TREES AND SHRUBBERY**

**Sections:**

[12.4014.010 Trimming required.](#)

[12.4014.020 Hedge and shrubbery maintenance.](#)

[12.4014.030 Injuring trees and shrubbery unlawful.](#)

[12.14.040 Violation - penalty.](#)

Title 12 STREETS, ~~AND~~ SIDEWALKS, TREES, AND SHRUBBERY

**12.4014.010 Trimming required.**

Any owner or occupant of any real property shall ~~trim~~ **be responsible for trimming** all trees on property ~~owned or occupied by him/her,~~ overhanging any public thoroughfare **or boulevard district**, so that the branches thereon will not interfere with pedestrians or public travel.

~~(Prior code §9-4-1).~~

**12.4014.020 Hedge and shrubbery maintenance.**

Any owner or occupant of any real property shall maintain all hedges and shrubbery adjacent to public sidewalks so that no part of the hedges and/or shrubbery shall extend over any part of a public sidewalk in the municipality.

~~(Prior code §9-4-2).~~

**12.4014.030 Injuring trees and shrubbery unlawful.**

It is unlawful for any person, not the owner thereof, or without lawful authority to do so, to injure willfully, deface, disfigure or destroy any tree or shrub, or to injure, destroy, cut or pick any flower or plant located ~~either on private ground or on any public place or thoroughfare~~ **or boulevard district**.

~~(Prior code §9-4-3).~~

**12.14.040 Violation - penalty.**

- A. Any violation of the provisions of this chapter shall be considered a public offense punishable under the general penalty OCCGF 1.4.070.
- B. A violation of the provisions of this chapter in hereby declared a nuisance as defined in OCCGF Title 8, Chapter 49.

**Chapter 44- 15 TREE REMOVAL**

**Sections:**

[12.4415.010 Application.](#)

[12.4415.020 New location.](#)

[~~12.44.030 Construction—obstruction to growth—prohibited.~~](#)

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Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

**12.4415.010 Application.**

- A.** Any person, firm, or corporation, **or other entity** desiring to cut down any of the trees located the boulevards of the City, shall submit an application to the City ~~p~~Park and ~~r~~Recreation ~~d~~Department for its review.
- B.** The application shall state the **following**:
1. **The** lot, block, and street number adjacent to the affected boulevard area;
  2. ~~t~~The reason for the request;
  3. ~~a~~**A** plan showing the location of the tree or trees; **and**
  4. ~~t~~The distance the tree or trees will be moved; or
  5. ~~t~~The tree or trees to be cut down.
- C.** The ~~p~~Park and ~~r~~Recreation ~~d~~Department shall review the application and within ten (10) days of the receipt thereof, submit its recommendation to the City Manager. Whereupon the City Manager shall approve or reject the application and immediately notify the applicant of the decision.
- D.** The applicant may appeal the decision of the City Manager by filing a written notice of appeal with the office of the City Clerk within ~~ten (10)~~ **fifteen (15) calendar** days of the ~~receipt date~~ **date** of the decision. The appeal shall be heard at the next regularly scheduled meeting of the City Commission, **unless another date is mutually agreed upon by the applicant and the City. The Commission shall, by written finding, affirm or reverse the decision within fifteen (15) calendar days after the hearing.**

~~(Ord. 2065 (Part 1), 1979; prior code §6-1-3(E)).~~

- E. Any tree removed pursuant to an approved application, shall be replaced with a two-inch balled and burlapped tree. The Park and Recreation Director or designee shall designate permissible replacement tree species. Care and maintenance of replacement trees shall be the responsibility of the applicant for two consecutive calendar years from the date of replacement.**

**12.4415.020 New location.**

No tree or trees shall be moved to a place where the conditions will hinder their growth or the growth of others, and the new location must conform as nearly as possible to the regular spacing and alignment of the trees in the locality to which it is moved.

~~(Prior code §6-1-3 (E-1)).~~

~~**12.15.030 Construction—obstruction to growth—prohibited.**~~

~~It is unlawful for any person, firm or corporation to build or construct anything around the base or about any part of a tree that may hinder its growth or disfigure its appearance.~~

~~(Prior code §6-1-3 (E-2)).~~

Exhibit "A"

Title 12 STREETS, AND SIDEWALKS, TREES, AND SHRUBBERY

**12.4415.040030 City Forester to remove or supervise.**

Upon the permission of the City Manager, the City Forester may cut down or remove any tree or trees which have been petitioned to be cut down or removed from the public boulevards of the City, provided, however, that all expenses of cutting or removal and transplant shall be paid by the petitioning party and such cutting, removal and transplanting shall be supervised by the City Forester.

~~(Ord. 2065 (Part 2), 1979; prior code §6-1-3 (E-3)).~~

**12.15.040 Trees interfering with right-of-way.**

The City Manager or designee may order the City Forester to remove any tree, subject to the provisions of this chapter, that in judgment of the Public Works Director is either interfering with, or damaging, a City street or public right-of-way.

**12.15.050 Violation - penalty.**

- A. Any violation of the provisions of this chapter shall be considered a public offense punishable under the general penalty OCCGF 1.4.070.
- B. A violation of the provisions of this chapter in hereby declared a nuisance as defined in OCCGF Title 8, Chapter 49.

(Ord. 3170, 2018; Ord. 3143, 2016; Ord. 3086, 2012; Ord. 3057, 2010; Ord. 2801, 2001; Ord. 2798, 2001; Ord. 2785, 2000; Ord. 2766, 2000; Ord. 2734, 1998; Ord. 2584, 1991; Ord. 2568, 1990; Ord. 2564, 1990; Ord. 2549, 1989; Ord. 2526, 1989; Ord. 2490, 1988; Ord. 2489, 1988; Ord. 2485, 1987; Ord. 2476, 1987; Ord. 2462, 1987; Ord. 2460, 1987; Ord. 2435, 1986; Ord. 2409, 1985; Ord. 2393, 1985; Ord. 2338, 1983; Ord. 2314, 1983; Ord. 2312, 1982; Ord. 2301, 1982; Ord. 2187, 1980; Ord. 2065, 1979; Ord. 2022, 1977)  
(Prior Codes: §§ 9-15-1, 9-14-4, 9-14-3, 9-14-2, 9-14-1, 9-11-1, 9-10-7, 9-10-6, 9-10-5, 9-10-4, 9-10-3, 9-10-1, 9-4-3, 9-4-2, 9-4-1, 9-3-4, 9-3-3, 9-3-2, 9-3-1, 9-2-4, 9-2-3, 9-2-2, 9-2-1, 9-1-15, 9-1-14, 9-1-13, 9-1-12, 9-1-11, 9-1-10, 9-1-9, 9-1-8, 9-1-7, 9-1-6, 9-1-5, 9-1-4, 9-1-3, 9-1-2, 9-1-1, 6-1-3)

Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

**Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY**

**Chapter**

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Chapter 1- BOULEVARDS

Chapter 2- DISCOVERY GALLERY

Chapter 3- OBSTRUCTIONS IN STREETS AND PUBLIC PLACES

Chapter 4- EXCAVATIONS

Chapter 5- PARADES, PROCESSIONS, FUN RUNS AND STREET CLOSURES

Chapter 6- STREET MAINTENANCE

Chapter 7- VEHICLE REMOVAL

Chapter 8- RIGHT-OF-WAY VACATION FEES

Chapter 9- STREET NAMES

Chapter 10- SIDEWALKS AND CURBS

Chapter 11- SIDEWALK MAINTENANCE

Chapter 12- EMERGENCY SNOW ROUTE

Chapter 13- PRIVATE DRIVEWAYS AND CROSSWALKS

Chapter 14- TREES AND SHRUBBERY

Chapter 15- TREE REMOVAL

Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

**Chapter 1 BOULEVARDS**

**Sections:**

- 12.1.010 Definitions.
- 12.1.020 Adjoining owners' responsibility.
- 12.1.030 Clear vision triangle – defined – responsibility.
- 12.1.040 Vehicle parking – prohibited where – exception.
- 12.1.050 Boulevard encroachment permit – issuance conditions.
- 12.1.060 Exceptions.
- 12.1.070 Violation – penalty.

**12.1.010 Definitions.**

Unless otherwise specified in this chapter the following definitions shall apply:

- A. "Boulevard" is that area within any City street, avenue, or highway right-of-way, not occupied by street paving, curb and gutter, and sidewalks.
- B. "Inside Boulevard" is the boulevard area on the property line side of the sidewalk.
- C. "Outside Boulevard" is the boulevard area on the street side of the sidewalk. Except as permitted under Section 12.1.050, no boulevard area may be encumbered by any obstacle whatsoever.
- D. "Obstacle" means any strung wire or netting, any fence or railing, or any barrier or structure of any kind whatsoever. Obstacle does not include trees, or the following:
  - 1. Ornamental lamp-posts;
  - 2. Telephone or electric light poles;
  - 3. United States government mailboxes;
  - 4. Signage for structures on the National Historical Register provided by the Montana Historical Society;
  - 5. Other structures erected by permit to aid owners in caring for the boulevards adjoining their property.

**12.1.020 Adjoining Owners' Responsibility.**

- A. It shall be the duty of the owners of any premises within the City limits to maintain the boulevard section in front of, and adjoining, their premises in a safe condition and in compliance with Official Code of the City of Great Falls (OCCGF) Title 12.
- B. Any portion of the right-of-way which is not occupied by roadway section, curb and gutter, driveway, sidewalk, or crosswalk shall be maintained as required by the OCCGF.

Exhibit "B"

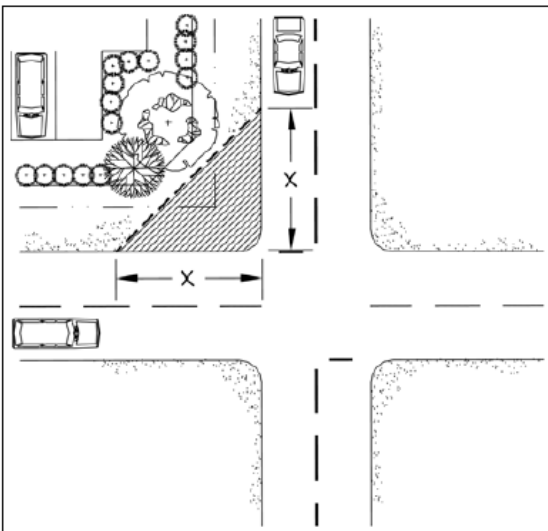
Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

- C. It is also the responsibility of corner lot owners to maintain the clear vision triangle as described in OCCGF 12.1.030.
- D. The Public Works Director or designee may grant a special permit for a temporary barrier to protect newly sown grass on boulevard areas, if such barrier will not create a safety hazard.

**12.1.030 Clear vision triangle—defined—responsibility.**

The clear vision triangle is the isosceles triangle having sides of forty-five (45) feet as measured along the back of the curb section of each intersecting roadway. The triangle begins at the point where the intersecting back of each curb line would meet, then forty-five (45) feet along the back of each curb and diagonally across connecting the curb lines, and is depicted as set forth in Exhibit 12.1.030.

**Exhibit 12.1.030 Clear vision triangle**



- A. Any signs, fences, plant material, or other items placed in this area shall provide an unobstructed cross-visibility at a level between three (3) feet and eight (8) feet above street surface elevation. Trees having over eight (8) feet of clear trunk, as measured from the surface elevation with limbs and foliage trimmed in such a manner as not to extend into the cross-visibility, are permitted in the clear vision triangle.
- B. It is the responsibility of the owner of a corner lot to maintain the clear vision triangle by trimming or removing the cause of any sight obstruction within the area described above.
- C. No obstruction to cross-visibility shall be exempted or excluded from the application of this section because of the obstruction's existence.

Exhibit "B"

Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

**12.1.040 Vehicle parking—prohibited where—exception.**

No vehicle shall be parked upon any boulevard area in the City except:

- A. Upon any lawfully constructed driveway, although no vehicle may be parked upon any sidewalk or sidewalk area;
- B. By permit issued under OCCGF 12.1.050, boulevard encroachment permit.

**12.1.050 Boulevard encroachment permit—issuance conditions.**

A temporary and revocable permit to allow encroachments upon any inside boulevard area or other public grounds within any area of the City, may be granted to the owner or lessee of the adjoining property, or a permitted owner or operator of bench signs or transit shelters, by the City Manager or designee. Any such Boulevard Encroachment permit must comply with all of the following conditions:

- A. The encroachment, as proposed, must not be detrimental to the health, safety, or welfare of the public as a whole;
- B. Payment to the City of a one-time application fee set by City Commission resolution to defray administrative costs must be paid prior to construction;
- C. Payment to the City of an annual encroachment rental fee set by City Commission resolution based upon the square footage of encroachment. Non-advertising transit shelters and non-advertising bicycle racks may be exempted from this annual fee, at the discretion of the City Manager or designee.
- D. No encroachment permit may be granted to allow parking necessary to fulfill the off-street parking requirements of the off-street parking code as set forth in OCCGF Title 17;
- E. Parking blocks shall be placed in the boulevard area for any permit issued for vehicle parking under this section, and blocks must be placed sufficiently back from the sidewalk area to keep parked vehicles at least two (2) feet from the sidewalk;
- F. The Boulevard Encroachment permit may be issued by the City Manager or designee, at the permit holder's risk upon receipt of a completed application and the processing fee. Subject to the provisions of subsection (K) of this part, should the City deem it necessary, the Boulevard Encroachment permit may be revoked upon giving thirty (30) days' notice in writing to the permit holder;
- G. The City Manager or designee shall have authority to deny or immediately revoke any such permit wherever the public safety may be jeopardized or other traffic, utility or other public concerns are paramount;
- H. Any permits issued for fencing part of the boulevard area shall ensure that no fence is installed within two (2) feet of any sidewalk, and if a sidewalk does not exist, the Public Works Director or designee shall determine the location of the fence;
- I. The requirements of OCCGF 12.1.030, clear vision triangle, must be met for any permit involving a corner lot;
- J. Any violation of the terms of the boulevard encroachment permit shall be cause for immediate revocation at the time of the violation. If the permit holder chooses to reapply for a new permit, the entire permit process including any charges, must be repeated;

Exhibit "B"

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- K. Upon written request by the property owner, and good cause shown, a boulevard encroachment permit may be discontinued and removed from the property file maintained by the County Clerk and Recorder;
- L. Upon notice of revocation of a Boulevard Encroachment permit the permit holder, at the permit holder's expense, shall remove or correct any encroachments affected by the revocation within thirty (30) calendar days. The City shall not be liable for any costs as a result of the revocation, removal, or corrections;
- M. Once a permit has been revoked, should the permit holder fail to remove or correct the condition causing the violation, the City shall have the structure removed and the cost of the removal shall be assessed to the permit holder; and
- N. In any case where a party objects to the decision of the City Manager or designee regarding an application, the party objecting thereto must appeal in writing within fifteen (15) calendar days of the date of the decision to the Board of Adjustment.

**12.1.060 Exceptions.**

The provisions of this chapter do not apply to the following:

- A. Transit shelters servicing designated routes as approved by the Public Works Director or designee, that do not unduly interfere with vehicle or pedestrian traffic and access to utilities and abutting properties in the immediate vicinity. A transit shelter shall be defined as a structure occupying no more than one hundred twenty (120) square feet in floor area and designed for the temporary shelter of transit passengers.
- B. Pushcarts or any other non-motorized wheeled device may be moved or used on the City sidewalks under the following conditions:
  - 1. No pushcart or other device shall exceed thirty-six (36) inches in width, five (5) feet in length and seven (7) feet in height; and
  - 2. No vendor selling from a pushcart, or such device, shall conduct business in such a way as would restrict or interfere with the ingress or egress of abutting property owners or tenants or create or become a public nuisance, increase traffic or pedestrian congestion, or delay or constitute a traffic hazard, pedestrians or property, or obstruct adequate access for emergency services.
- C. Statues may be permitted as approved by the Public Works Director, or designee, upon review of a traffic study and located in accordance therewith so as not to unduly interfere with vehicular or pedestrian traffic and access to utilities and abutting property in the immediate vicinity.
- D. As permitted under this chapter, boulevard encroachment permits are allowed.
- E. Handicap ramps, railing, and related improvements which comply with Americans With Disabilities Act requirements. Such improvements shall be approved by the Public Works Director or designee prior to construction. Prior to approval, the owner of the property shall make reasonable efforts to locate handicap ramps outside of the boulevard.

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- F. Where setbacks do not allow adequate space for steps to access doorways, steps may be placed in the boulevard if no other reasonable option exists.

**12.1.070 Violation—penalty.**

- A. Any violation of the provisions of this chapter shall be considered a public offense punishable under the general penalty of OCCGF 1.4.070.
- B. A violation of the provisions of this chapter is hereby declared a nuisance as defined in OCCGF Title 8, Chapter 49.

**Chapter 2 DISCOVERY GALLERY**

**Sections:**

12.2.010 Intent.

12.2.020 Responsibilities.

12.2.030 Allowable boundaries—placement-approval process.

12.2.040 Clear Vision Triangle compliance.

**12.2.010 Intent.**

The designation of a sidewalk gallery to display art works in downtown Great Falls is a continuation of the City's recognition and support of the Arts as a major economic and social base in the community. In addition, the involvement of the Business Improvement District in developing the proposal and project guidelines reflects its own efforts to enhance the downtown as a vital community and commercial center.

**12.2.020 Responsibilities.**

- A. The artwork accepted by the City for placement in the Discovery Gallery becomes the property of the City and will be positioned, relocated, or removed at the City's discretion, unless the City allows, in writing, the artist to retain ownership of the artwork. Regardless of ownership, the City shall approve all plans to affix and place each piece of art. Nothing in this chapter shall diminish or be considered an exception to the principles of public safety and access as defined in this Title.
- B. The City shall be responsible for the repair and maintenance of the artwork unless ownership of the artwork is retained by the artist. In that event, the artist shall be responsible for the repair and maintenance of his or her art.
- C. The artwork will be durable to minimize the threat of vandalism and the amount of maintenance.
- D. The Business Improvement District shall develop guidelines for the Discovery Gallery. At a minimum the guidelines shall address:
  - 1. Size of the art objects;
  - 2. Materials;
  - 3. Construction;
  - 4. Spacing;
  - 5. Textures and sounds;



## Exhibit "B"

### Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

6. Mechanical and other powered devices;
  7. General accessibility to the art;
  8. Themes;
  9. Sight lines to commercial property;
  10. Rights-of-way;
  11. Costs, fees insurance; and
  12. Application process and review.
- E. The Business Improvement District shall also establish a review panel consisting of at least one member of the Business Improvement District Board, one downtown retailer, one artist, one City staff member, and one architect or engineer.

#### **12.62.030 Allowable boundaries—placement-approval process.**

- A. The Discovery Gallery shall be within the boundaries of the Business Improvement District.
- B. The Discovery Gallery's width will be from the back of the curb to a maximum of seven (7) feet inward. The Discovery Gallery shall extend to the second parking space at each end of the block or one space away at alleys.
- C. The Business Improvement District shall appoint a committee as described in 12.2.020 to review all proposals submitted for the artwork which shall include a process for public comment. Said Committee shall forward a recommendation for the City Commission to accept or not-accept the proposed artwork. The Commission may hold a public hearing on the artwork proposals submitted for consideration.

#### **12.2.040 Clear Vision Triangle— compliance.**

All artwork in the Discovery Gallery shall be displayed in a manner meeting the requirements of OCCGF 12.1.030, the clear vision triangle.

## **Chapter 3 OBSTRUCTIONS IN STREETS AND PUBLIC PLACES**

### **Section:**

12.3.010 Prohibited—applicability.

12.3.020 Penalty.

#### **12.3.010 Prohibited—applicability.**

- A. Except as provided in this Title, it is unlawful for any person, persons, corporations, or other entities to erect, place, locate, or cause to be erected, placed, or located, any building, fence or obstruction of any kind, in whole or in part, upon any street, right-of-way (developed or undeveloped), avenue, alley, or other public grounds within the City.
- B. In the interest of the public health, welfare and safety, the City may remove any such obstruction violating this chapter and assess the costs of removal to the property owner; or where circumstances permit, and the public interest is not greatly jeopardized, notice may be given to the violator for removal of the obstruction, subject to the following conditions:

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1. Such notice shall provide the time allowed for removal, include the Public Works Director's address and telephone number for information or hearing thereon, briefly describe the nature of the violation and the possible sanctions; and
2. If removal is not completed in compliance with the notice, the City's costs of removal shall be assessed against the property.

**12.3.020 Penalty.**

- A. Any violation of the provisions of this chapter shall be considered a public offense punishable under OCCGF 1.4.070.
- B. A violation of the provisions of this chapter is hereby declared a nuisance as defined in OCCGF Title 8, Chapter 49.

**Chapter 4 EXCAVATIONS**

**Sections:**

- 12.4.010 Application—required.
- 12.4.020 Application—fee.
- 12.4.030 Application—refusal—issuance.
- 12.4.040 Bond.
- 12.4.050 Insurance required.
- 12.4.060 Permittee responsibility.
- 12.4.070 License—suspension—revocation—limitation.

**12.4.010 Application—required.**

- A. Except when such person is operating under a contract with the City involving the opening of a public way, any person properly licensed pursuant to OCCGF Title 5 desiring to excavate in, cut through, access, or tear open the surface of any street, avenue, alley, sidewalk, or other public way within the City shall first file written application with the Planning and Community Development Department (PLCD).
- B. The application shall state the following:
  1. The object sought;
  2. The purpose for which the public way is to be excavated in, accessed, cut through, or broken open;
  3. The proposed area of such opening; and

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Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

4. The exact location of the proposed opening.

**12.4.020 Application—fee.**

The application shall be accompanied by the applicable fee, set by City Commission resolution, payable to the City.

**12.4.030 Application—refusal—issuance.**

- A. The Planning and Community Development (PLCD) Director or designee may, in his or her discretion, grant or refuse to grant such application. Justification for refusal includes, but is not limited to, the applicant's outstanding debt or obligation to the City.
- B. The refusal of the director may be appealed, in writing, to the City Manager's office within fifteen (15) calendar days of the director's refusal. If the City Manager or designee affirms the refusal, the applicant may appeal, in writing, the decision to the City Commission within fifteen (15) calendar days of the City Manager's affirmation.
- C. If the application is granted, whether by the PLCD Director, the City Manager, or the City Commission, the applicant shall accomplish the proposed work within the time allowed by the Public Works Director and under the director's supervision.
- D. All excavation shall be conducted in accordance with rules, regulations and specifications on file in the Department of Public Works.
- E. All excavation shall be thoroughly backfilled, and any such excavation or opening shall be restored to the condition it was prior to such excavation or opening, or better. Except, that the City will replace all asphaltic surfacing in paved streets, with costs to be paid by the applicant, unless the Public Works Director or designee authorizes the applicant to replace the asphaltic surfacing.
- F. Flowable fill shall be used to backfill trench excavation on arterial and collector streets when deemed necessary by the Street Division Supervisor or designee on local streets and alleys.
- G. Flowable fill shall be used to cap street openings during the winter and whenever hot mix asphaltic surfacing is not available. The surface shall be maintained, by the permittee, until hot mix asphaltic surfacing becomes available.

**12.4.040 Bond.**

Any applicant desiring to excavate in, access, cut through, or tear open any City street, avenue, alley, sidewalk, boulevard, or any other public way must file with the PLCD Department a bond in the penal sum that shall be established by City Commission resolution. The bond shall:

- A. Be payable to the City and/or State as their interests appear with respect to the expenditure of funds toward the construction of the street, avenue, alley, sidewalk, boulevard, or public way within the City;
- B. Be conditioned for the protection of the City and/or State from and against any liability of any kind or character whatsoever which may arise as a result of the applicant's excavating in, cutting

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through, or opening up any such street, avenue, alley, sidewalk, boulevard, or other public way or which may in anyway or manner be connected with or related thereto, payable by the applicant;

- C. Be further conditioned that the permittee shall properly backfill and restore the surface of any and all excavations, openings, or cuttings made or dug in the public ways of the City, and shall do and complete all work in connection therewith in a good, competent, and workmanlike manner and in compliance with the specifications required therefore by the City and/or State; and
- D. Remain on file with the PLCD Department; or
- E. Enforce a water service line layer's license bond under the provisions of OCCGF Title 13, or a drain layer's license bond under the provisions of OCCGF Title 13, and the conditions of either of such bonds shall be amended to include the conditions as required by this section.

**12.4.050 Insurance required.**

Before any application to excavate, cut, access or tear open any public way is granted, such applicant shall furnish satisfactory evidence the applicant's activities are properly covered by applicable insurance coverage in amounts that shall be set by City Commission resolution.

**12.4.060 Permittee responsibility.**

- A. The permittee, in accepting and acting under a street opening permit granted under the provisions of this chapter, agrees to assume full responsibility for injury to persons or losses or damage to property incurred by reason of or arising out of any act or omission of said permittee in making said excavation, cut, or opening or in failing to properly barricade, guard and warn the public of such excavation or trench, and further agrees to assume full responsibility for injury to persons and losses or damage to property incurred by reason of or arising out of any settlement of a restored area occurring within two (2) years of the date of completion of the permanent resurfacing.
- B. Any settlement in a restored area which occurs within two (2) years of the date of completion of the permanent surfacing, shall be considered as conclusive evidence of defective backfill. Upon failure or refusal of such permittee to correct such settlement within five (5) days after notice by the Public Works Director or designee to do so, the City may correct such settlement and any expense incurred by the City in correcting such settlement shall be paid by the permittee.
- C. To the fullest extent permitted by law, the permittee shall fully indemnify, defend, and save City, its agents, representatives, employees, and officers harmless from and against any and all claims, actions, costs, fees, losses, liabilities or damages of whatever kind or nature arising from or related to the permittee's performance of the permitted excavation and the permittee's work, or work of any subcontractor or supplier to applicant.

**12.4.070 License—suspension—revocation—limitation.**

The provisions of this chapter are in no way intended, nor shall they be construed to limit or in any way repeal any of the provisions of OCCGF Title 13 with respect to the right of the City Commission to suspend or revoke the licenses, provided for in OCCGF Title 13, upon failure or refusal of any such licensee to refill properly any trench or excavation and to restore the surface thereof.

Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

## Chapter 5 PARADES, PROCESSIONS, FUN RUNS AND STREET CLOSURES

### Sections:

12.5.010 Definitions.

12.5.020 Established and designated procession routes.

12.5.030 Public conduct during processions.

12.5.040 Participants' conduct during processions.

12.5.050 Application - contents.

12.5.060 Street closure permits for public events and block parties.

### 12.5.010 Definitions.

The following words and phrases, when used in this chapter, shall have the following meanings:

- A. "Procession" means any march, parade, motorcade, fun run, or other event, consisting of people, animals, vehicles, or combination thereof, except funeral processions, upon any public street, sidewalk or alley, which does not comply with normal and usual traffic regulations and controls and is expressly designed for the enjoyment of the public as well as the participants, which is approved by the City under the provisions of this chapter.
- B. "Motorcade" means an organized procession containing twenty-five (25) or more vehicles, except funeral processions, upon any public street, sidewalk or alley.
- C. "Procession Route" means the route of travel of any parade, march, motorcade, fun run, or other procession, to include the assembly, staging and disbanding areas.
- D. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of the State.

### 12.5.020 Established and designated ~~parade~~ procession routes.

Processions are to proceed as follows:

1. Procession to stage on Park Drive South, in designated areas, and proceed north past the east side of the Police Department onto 1st Avenue South, then east to Park Drive, then North to Central, then east to 8th Street, disbanding on the north and/or south side of Central Avenue-;
2. Procession to stage on the north and/or south side of Central Avenue at 8th Street and proceed west on Central Avenue to Park Drive, then south to 1st Avenue South, then west until disbanding;  
or
3. Any alternate route approved and designated at the discretion of the City Manager or designee.

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**12.5.030 Public conduct during processions.**

- A. No person shall knowingly or purposely:
  - 1. Participate in any procession conducted in violation of any of the terms of the permit;
  - 2. Join or participate in any permitted procession without the consent of the permittee; and/or
  - 3. Interfere in any manner with the procession's progress or orderly conduct.
- B. No person shall hamper, obstruct, impede, or interfere with any procession or with any person, vehicle or animal participation ~~or~~ used in a procession.
- C. No driver of a vehicle shall drive between the vehicles or persons comprising a procession when such vehicles or persons are in motion and are traveling along a procession route. Nothing in this section shall prohibit an emergency vehicle from interrupting a procession for the purpose of responding to an emergency.
- D. No person shall view, watch or observe the procession from the street or beyond the sidewalk curb or beyond the imaginary curb line that, if it existed, would extend through the intersection from corner to corner of any street perpendicular to the procession route.
- E. No vehicle larger than an automobile or pickup truck shall park along the procession route during the procession.
- F. The City Manager, or designee, shall have the authority, when reasonably necessary, to prohibit parking of vehicles along a procession route. Signs shall be posted to such effect and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. The applicant shall be responsible for posting and removing of signs.

**12.5.040 Participants' conduct during processions.**

- A. It is unlawful for any persons in a procession to deviate from the established or approved procession route.
- B. No participant in a procession shall throw, cast, or drop candy, trinkets, or any other articles. A violation of this provision shall be a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00). This does not prohibit a walking procession participant from handing the candy or other articles directly to the spectators.
- C. No participant in a procession shall entice, lure, or attempt to entice or lure, any spectator to leave the designated viewing area.
- D. No participant in a procession shall operate any vehicle in a careless manner as to endanger the safety and welfare of other procession participants or spectators.
- E. As a condition to the permit, each permittee shall provide persons, horses with rider, or persons in small motorized vehicles, such as a golf cart, to travel on both sides of any procession vehicle which is larger than an automobile or pickup.
- F. Any person operating a motor vehicle in a procession shall possess a driver's license. All participants in the procession shall follow all applicable motor vehicle laws and/or regulations.

Exhibit "B"

Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

**12.5.050 Application - contents.**

- A. Any person, firm, corporation, or other entity desiring to conduct a procession, as defined in OCCGF 12.5.010, shall apply to the Park and Recreation Department for a permit at least thirty (3) calendar days in advance of the event date and comply with the provisions set forth in such permit. The application shall designate the intended route, date and time of the event.
- B. Park and Recreation Department may approve, revise, or deny the application in consideration of the following factors:
  - 1. Promotion of the community as a whole;
  - 2. Provision of positive civic and economic benefit;
  - 3. Impact on neighboring business and properties;
  - 4. Impact on public uses, safety, and services;
  - 5. Consideration of frequency of closures;
  - 6. Consideration of the event's financial impact; and
  - 7. The applicant's performance under prior issued permits.
- C. Following approval from the City, the applicant will be responsible for notification of news media, and the associated costs of said notice, in order to inform the public of the date, time and procession route.
- D. The applicant will designate a person who can be contacted by the City to coordinate plans for the procession.
- E. The procession shall not deviate from the designated route, time, or date approved in the permit. If, for any reason, the event is postponed or canceled, the applicant shall immediately notify the City.
- F. Processions shall be scheduled between the hours of 9:00 a.m. and 12:00 p.m. Special requests will be considered for processions at other times, provided arrangements can be made which, in the City's determination, will not impede normal traffic conditions or inhibit business in the downtown area.
- G. The applicant will be responsible for placing and removing barricades on the designated procession route side of the nearest designated alleys and streets no earlier than thirty (30) minutes prior to the start of the procession and, in no case, longer than fifteen (15) minutes following the end of the procession. Barricades may be available at the Park and Recreation Department and may be rented subject to a fee set by City Commission resolution. It will be the responsibility of the applicant to pick up from and return to the Park and Recreation Department all barricades used, and to contact the Park and Recreation Director or designee, at least Fourteen (14) calendar days in advance to discuss a barricading plan acceptable to the City.
- H. No sales or solicitations will be permitted by procession participants without proper licensing in advance.
- I. Applicants or organizations sponsoring processions will be required to remove all trash, paper and litter from the streets and sidewalks. Street cleaning arrangements must be made with the Public Works Street Division within fourteen (14) calendar days of the event date.
- J. The Police Department will provide one (1) vehicle to escort the procession. All other traffic and crowd control must be provided by the sponsoring organizations and, in no case, be less than two (2) people for each block of procession length.
- K. The applicant shall indemnify, defend and hold harmless the City from any and all claims, damages, losses and expenses arising from the procession or created by any of the participants.

## Exhibit "B"

### Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

The applicant shall be required to carry insurance for comprehensive general liability, automobile liability and designated premises in the amount of one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate, and list the City as an additional named insured under the policy. Documentation of such insurance must be provided to the City at least 72 hours prior to the event.

- L. If determined necessary by the City, considering the factors listed in B. above, or due to the type, length, time or date of the procession, additional provisions and safeguards may be required as a condition of the permit.
- M. Failure to comply with the provisions of this chapter and other permit requirements will be cause for rejection of future procession permits requested by the applicant.
- N. The procession organizer must submit with the permit request information as to how property owners, tenants, and/or business owners along the procession route will be notified of the procession, and provide verification of such notice to the City.
- O. If the application for a procession permit is denied or revised in a way which is unacceptable to the applicant, the applicant may appeal the decision in writing to the City Manager within fifteen (15) calendar days of the denial or reversal. The City Manager or designee shall review the application and uphold, reverse, or revise the decision on the application within ten (10) calendar days. If applicant makes no such appeal, the Park and Recreation Department's determination will stand.
- P. If the City Manager affirms or revises the determination of the application for a procession permit, the applicant may appeal the decision in writing within fifteen (15) calendar days of the date of affirmation or revision to the City Commission, which shall review the application in a public meeting and uphold, reverse, or revise the decision on the application within ten (10) calendar days of the hearing. If applicant makes no such appeal, the City Manager's determination will stand.
- Q. Unless otherwise specified in this chapter, appeals to the City Commission of the denial, revocation, or suspension of licenses or permits under this chapter shall comply with the provisions of OCCGF 1.2.040.

#### **12.5.060 Street closure permits for public events and block parties.**

Persons or entities who organize events which require the temporary closure of a public street must comply with the provisions of OCCGF Title 9.

## **Chapter 6 STREET MAINTENANCE**

### **Sections:**

12.6.010 District designation authority.

12.6.020 Cost—assessment.

12.6.030 Cost—assessment—levy—resolution.

12.6.040 Assessment alternatives.



## Exhibit "B"

### Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

#### **12.6.010 District designation authority.**

Whenever any portion of the City has been designated as a street maintenance district, the streets, avenues and alleys in the district may be maintained for such time and in such manner as the City Commission may direct under the supervision of the Public Works Director.

#### **12.6.020 Cost—assessment.**

The cost assessed for maintaining streets, avenues, and alleys in the district shall be charged to all the properties within the Street Maintenance District by one or a combination of the following methods to be determined by the City:

1. Each lot or parcel of land bearing its share of the cost according to the part of the whole cost which its area bears to the area of the entire district; or, by that part of the whole cost which each lot or parcel's street frontage bears to the street frontage of the entire district;
2. If the City Commission determines that the benefits derived from the maintenance by each lot or parcel are substantially equivalent, the cost may be assessed equally to each lot or parcel located within the district without regard to the assessable area of the lot or parcel; or
3. Each lot or parcel of land, including the improvements thereon, may be assessed for that part of the cost of the district which its taxable valuation bears to the total taxable valuation of the property of the district. The assessment for the same shall be certified by the City Clerk to the Finance Director, to be extended on the tax roll in the same manner as other special assessments.

#### **12.6.030 Cost—assessment—levy—resolution.**

No later than the second Monday in August of each year the Public Works Director shall estimate the annual maintenance cost and the City Commission shall pass and adopt a resolution levying and assessing all the property within the Street Maintenance District with an amount equal to seventy-five (75) percent of the entire cost of the work.

#### **12.6.040 Assessment Alternatives.**

A property owner may, after providing good cause acceptable to the City Manager or designee, enter into an alternative agreement, in the best interest of the City, to satisfy an assessment pursuant to this chapter.

Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

**Chapter 7 VEHICLE REMOVAL**

**Sections:**

12.7.010 Notification of designated areas.

12.7.020 Vehicle parking restrictions.

12.7.030 Vehicle removal.

**12.7.010 Notification of designated areas.**

- A. The Public Works Director or designated representative is authorized to prohibit parking in areas where street cleaning operations are scheduled.
- B. Notice of such street cleaning shall be given to local radio, television, the news press, and published on the City Website. In addition, signs notifying which streets to be swept will be posted twenty-four (24) hours in advance of street cleaning operations.

**12.7.020 Vehicle parking restrictions.**

- A. Upon notification of street cleaning operations, pursuant to Section 12.7.010(B), it shall be unlawful for any person to stop, stand, park or leave unattended any motor vehicle or trailer, in a designated area, between the hours of 8:00 a.m. and 4:00 p.m. or until such time as designated street cleaning is completed.
- B. This provision shall not prohibit the stopping of commercial passenger vehicles, school busses, or Great Falls Transit District vehicles for periods sufficient to load or discharge passengers from vehicles.

**12.7.030 Vehicle removal.**

Whenever a motor vehicle or trailer has been stopped, parked or left unattended after notification of street cleaning operation pursuant to this chapter, such vehicle shall be declared a nuisance as defined in OCCGF Title 8, Chapter 49, and the Director of Public Works or designee shall order it to be removed at the owner's expense.

**Chapter 8 RIGHT-OF-WAY VACATION FEES**

**Section:**

12.8.010 Schedule of costs.

**12.8.010 Schedule of costs.**

Any person petitioning for a right-of-way vacation shall, prior to the passage of the resolution of intention to vacate, pay to the City appropriate fees set by City Commission resolution.

Exhibit "B"

Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

**Chapter 9 STREET NAMES**

**Section:**

12.9.010 Renaming.

**12.9.010 Renaming.**

In order to eliminate the duplication of street names and addresses within the City, provide for uniformity, and to alleviate the presently existing situation in these areas, the street names as designated on the plats of the following named additions shall be changed as follows:

A.	North Riverview Terrace Addition.	
	From 18th Avenue N.E.	to 21st Avenue N.E.
	From 19th Avenue N.E.	to 22nd Avenue N.E.
	From 20th Avenue N.E.	to 23rd Avenue N.E.
	From 6 "A" Street Northeast	to 6th Street Northeast
	From 7 "A" Street Northeast	to 7th Street Northeast
	From 34 "A" Street Northeast	to 34th Avenue Northeast
	From Riverview 1 West	to Riverview "A"
B.	Twilite Terrace Addition.	
	From 21st Avenue N.E.	to 24th Avenue N.E.
	From 22nd Avenue N.E.	to 25th Avenue N.E.
	From 23rd Avenue N.E.	to 26th Avenue N.E.
C.	Montana Addition.	
	From Gosman Drive	to Treasure State Drive (north to Aronson Drive)

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Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

	From Gosman Drive	to 10th Street S.W. (south of Aronson Drive)
	From Aronson Drive	to Treasure State Drive
	From Hinman Avenue	to 17th Avenue Southwest
	From Montana Avenue	to 18th Avenue Southwest
	From 13 A Street S.W.	connecting Treasure State Drive and 24th Avenue S.W. to Sundance Drive
D.	Lincoln Height Addition.	
	From Wilson Avenue	to 11th Avenue South
	From Washington Avenue	to 12th Avenue South
	From Madison Avenue	to 13th Avenue South
E.	Sunrise Terrace Addition.	
	From 4th Avenue South	to Carol Drive
F.	Tynes Addition	
	From 3rd Street South	to 2 "A" Street South
	From 3 "A" Street South	to 2 "B" Street South
G.	Horizon Addition.	
	From Grandview Road	to 3rd Street Northwest
H.	Yeoman-Tynes Addition.	
	From Cactus Court	to Palm Court
I.	BN Car Shop Addition.	

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Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

	From Burlington Northern Bay Drive	to Bay Drive
J.	Bel-View Palisade Addition.	
	From Ivy Drive (portion located in Centennial Ridge PUD) to Centennial Court	
K.	Valeria Way	
	From ½ Avenue South	
L.	Chowen Springs Loop	
	From Parkdale	
M.	Stone Meadows Addition	
	Phase II.	
	From Choteau Avenue	To Choteau Avenue Northeast

**Chapter 10 SIDEWALKS AND CURBS**

**Sections:**

- 12.10.010 Improvements—permit required—appeal.
- 12.10.020 Construction—compliance with City specifications.
- 12.10.030 Construction—grade conformance required.
- 12.10.040 Construction—width and slope designations.
- 12.10.050 Construction—materials.
- 12.10.060 Condemnation.
- 12.10.070 Repair—owner's duty.
- 12.10.080 Enforcement.
- 12.10.090 Inspection.
- 12.10.100 Violation - penalty.

Exhibit "B"

Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

**12.10.010 Improvements—permit required—appeal.**

- A. Any person or entity who will perform construction pursuant to this chapter, shall first obtain a permit from the Planning and Community Development (PLCD) Director before performing the construction. All such applications shall be made in duplicate on the form prepared by the PLCD Director who shall assess fees as set by City Commission resolution for services provided by the City.
- B. Any denial of a permit pursuant to this section by the PLCD Director may be appealed, in writing, to the City Manager's office within fifteen (15) calendar days of the denial. The City Manager shall render a written decision on the appeal within ten (10) calendar days. Such decision may then be appealed, in writing, to the City Commission within fifteen (15) calendar days of said decision or become final. The City Commission shall conduct a hearing on the matter and issue a final written decision within ten (10) calendar days of the hearing.
- C. The applicant shall do no applied-for improvement work pending any appeal until a final decision is made.

**12.10.020 Construction—compliance with City specifications.**

- A. It is unlawful for any person to build or construct any sidewalk, private work, or curb in any street, avenue, alley or boulevard or to build or construct any parking or any improvement of any nature whatsoever in any street, avenue, alley or boulevard, unless the same is constructed strictly in accordance with the current standard specifications and plans for such work and under the supervision of the Public Works Director or designee.

**12. 10.030 Construction—grade conformance required.**

- A. Sidewalk construction on improved or graded streets must conform with the established grade and sidewalk line;
- B. On all other streets, sidewalks must be laid to the proper sidewalk line, and otherwise to the satisfaction of the Public Works Director or designee.
- C. Driveway crossings into private properties shall be of form and construction as specified by the Public Works Director or designee.

**12.10.040 Construction—width and slope designations.**

- A. All sidewalks hereafter built or constructed in the City shall be of the following width, except where otherwise ordered by the City Commission:
  - 1. First Avenue North from Park Drive East to Ninth Street, fifteen (15) feet; on Central Avenue, from Park Drive East to Ninth Street, fifteen (15) feet;

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2. First Avenue South from Park Drive East to Sixth Street, fifteen (15) feet;
  3. Second Avenue South from Second Street East to Fifth Street, fifteen (15) feet;
  4. The east side of Park Drive from First Avenue North to First Avenue South, fifteen (15) feet;
  5. Second Street from Second Avenue North to First Avenue South and on the east side from First Avenue South to Second Avenue South, fifteen (15) feet;
  6. Third Street from Second Avenue North to Second Avenue South, fifteen (15) feet;
  7. Fourth Street from Second Avenue North to Second Avenue South, fifteen (15) feet;
  8. Fifth Street from Second Alley North to First Avenue South, fifteen (15) feet;
  9. Sixth Street from First Avenue North to First Avenue South, fifteen (15) feet; and
  10. Sidewalks on all other streets and avenues, not classified as arterials, shall be five (5) feet wide, and in alleys a two-foot walk may be constructed and laid in such manner that it will not interfere with traffic of any kind or be damaged by traffic.
- B. All sidewalks shall rise three sixteenth ( $3/16$ ) inch to the foot or one and one-half (1.5) percent from the curb grade to the property line and shall slope toward the street. Boulevards shall generally slope at two (2) percent from the top back-of-curb elevation to the property line to ensure positive drainage towards the street.

**12.10.050 Construction—materials.**

- A. Hereafter all sidewalks shall be constructed only of solid Portland asphaltic cement concrete, or other material conforming to current specifications established by the Public Works Director or designee; provided, that the City Commission may order temporary sidewalks of other material to be constructed.
- B. Hereafter all curbing shall be constructed only of solid Portland asphaltic cement concrete provided that the City Commission may order temporary curbing of other material.

**12.10.060 Condemnation.**

- A. Any sidewalks, which are, or may by natural deterioration or decay, or by unevenness, steps, rapid slopes or from any cause whatsoever, become dangerous to public safety, may be condemned by the Public Works Director or designee.
- B. Condemned sidewalks shall be immediately removed and replaced, repaired, remodeled, or rebuilt, as may be most expedient, at the discretion of the Public Works Director or designee. Construction shall be arranged and paid for by the adjoining property owner and shall be performed by a contractor properly licensed and insured to perform this type of work within the City.
- C. Any costs incurred by the City pursuant to this section shall be paid by the adjoining property owner within thirty (30) calendar days of invoice, and if not, be recorded as a lien upon the adjoining lot and may be enforced or recovered against the owner by a suit before any court of competent jurisdiction or may be assessed and collected as a special tax against such lot.

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- D. The condemnation by the director may be appealed, in writing, to the City Manager's office, within fifteen (15) calendar days of the director's notice of condemnation. If the City Manager or designee affirms the decision, the applicant may appeal, in writing, the decision to the City Commission within fifteen (15) calendar days of the City Manager's affirmation. The City Commission shall conduct a meeting and hear testimony on the Condemnation within ten (10) calendar days of receipt of the appeal. The City Commission shall by written finding affirm or reverse the decision within ten (10) calendar days of the hearing.

**12.10.070 Repair—owner's duty.**

- A. It shall be the duty of the owner(s) of any premises within the limits of the City to keep the sidewalk in front of and adjoining their premises in safe and functional condition.
- B. Owner(s) shall see that all breaks or unsoundness of any character resulting from natural deterioration, or from any cause whatsoever, is repaired with all possible diligence.
- C. When by reason of the construction or repairs of sidewalks from any cause whatsoever, any sidewalk or section thereof is removed or rendered dangerous or impassable to the public, such spaces or openings shall be securely fenced, and from sunset until sunrise lights shall be maintained thereon, while such dangerous condition exists, and a plank walk not less than two (2) inches in thickness and not less than three (3) feet in width shall be constructed around such construction or dangerous walk, the same to extend from sidewalk to sidewalk on each side of the opening or obstruction.

**12.10.080 Enforcement.**

It shall be the duty of the Public Works Director or designee, upon receipt of a written complaint, to enforce the provisions of this chapter.

**12.10.090 Inspection.**

Any improvements made pursuant to this chapter are subject to inspection or approval, at any reasonable time, by the Public Works Director or designee, before, during, and after construction is performed.

**12.10.100 Violation - penalty.**

- A. Any violation of the provisions of this chapter shall be considered a public offense punishable under the general penalty OCCGF 1.4.070.
- B. A violation of the provisions of this chapter is hereby declared a nuisance as defined in OCCGF Title 8, Chapter 49.

**Chapter 11 SIDEWALK MAINTENANCE**

**Sections:**



Exhibit "B"

Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

12.11.010 Obstruction—defined—prohibited.

12.11.020 Sidewalk—restricted use.

12.11.030 Snow and ice removal—owner's duty.

12.11.040 Snow and ice removal—hours designated for completion.

12.11.050 Snow and ice removal—depository prohibited where.

12.11.060 Sanding required when—owner's duty.

12.11.070 Wet cement—trespassing prohibited.

12.11.080 Violation—penalty.

**12.11.010 Obstruction—defined—prohibited.**

- A. "Obstruction," as used in this chapter, clothing, fruit, any kind of merchandise, boxes, crates, trunks, racks and stands, or any other object that may hinder and/or impede pedestrian or other traffic.
- B. It is unlawful for any person or persons, firm, corporation, or other entity to place, cause to be placed, or to permit any obstruction to be placed or remain upon any of the sidewalks of the City, except in cases where artwork has been approved by the City and placed within the Business Improvement District as part of the Discovery Gallery.

**12.11.020 Sidewalk—restricted use.**

- A. Except as otherwise specified in the OCCGF, it is unlawful for any person or persons to ride, drive, or park any horse, mule, other animal driven buggy, wagon, or other vehicle along, over or on any of the sidewalks within the City, or do damage in any way to the sidewalks.
- B. Unless otherwise allowed by designated City approved signage, bicycles may only be ridden on those portions of the sidewalk that are connected to, and a portion of, the River's Edge Trail System.
- C. Law enforcement and other emergency services personnel are exempted from the provisions of this Section.

**12.11.030 Snow and ice removal—owner's duty.**

It shall be the duty of the owner(s) of any premises within the limits of the City to keep the sidewalk in front of and adjoining the premises free from obstructions or accumulation subject to the special conditions set out in this chapter.

**12.11.040 Snow and ice removal—hours designated for completion.**

Snow, ice, and similar material that has accumulated during the preceding hours shall be removed from sidewalks in commercial areas before 11:00 a.m. each day and shall be removed from residential areas within twenty-four (24) hours after the snowfall. Once cleared, all sidewalks shall be kept clear of snow, ice, and similar material.

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**12.11.050 Snow and ice removal—depository prohibited where.**

Snow, ice, and similar material removed from sidewalks and driveways shall not be deposited on the adjoining streets, avenues, separately owned properties, or alleys.

**12.11.060 Sanding required when—owner's duty.**

Polish or smoothness resulting from any cause which renders a sidewalk dangerous and unsafe shall be sanded and where there is permanent polish or smoothness on a sidewalk, the surface of the sidewalk shall be repaired in accordance with the direction of the Public Works Director.

**12.11.070 Wet cement—trespassing prohibited.**

It is unlawful for any person to deface, tramp, step or trespass upon any cement or concrete sidewalk in course of construction before such sidewalk becomes set and firm.

**12. 11. 080 Violation—penalty.**

- A. Any violation of the provisions of this chapter shall be considered a public offense punishable under the general penalty OCCGF 1.4.070.
- B. A violation of the provisions of this chapter is hereby declared a nuisance as defined in OCCGF Title 8, Chapter 49.

**Chapter 12 EMERGENCY SNOW ROUTE**

**Sections:**

- 12.12.010 Declaration of snow emergency.
- 12.12.020 Emergency snow routes—designation.
- 12.12.030 Emergency snow routes—signing.
- 12.12.040 Removal—vehicles.
- 12.12.050 Snow emergency—notice.

**12.12.010 Declaration of snow emergency.**

The City Manager, or designated representative, is authorized to declare a snow emergency an emergency exists in the City or in a section or sections thereof because of snow, freezing rain, sleet, snow drifts or other natural phenomenon which creates or is likely to create hazardous road conditions or impede the free

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Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

movement of fire, health, police, emergency or other vehicular traffic or otherwise endangers the safety and welfare of the community and shall remain in effect until the snow has been plowed to the curb lines or removed from the street.

**12.12.020 Emergency snow routes—designation.**

A. To facilitate the removal of snow and to assure the regular flow of traffic during a snow emergency, the following streets and public thoroughfares are designated as emergency snow routes:

Central Avenue	Park Dr. to 46 <sup>th</sup> Street
Central Avenue West	20 <sup>th</sup> Street South West to 30 <sup>th</sup> Street South West
Division Road	Skyline Dr. to Smelter Avenue
Fox Farm Road	10 <sup>th</sup> Avenue South to East Fiesta
Park Garden Road	Riverview Court to Big Ranch Road
Smelter Avenue	3 <sup>rd</sup> Street North West to 9 <sup>th</sup> Street North West
1 <sup>st</sup> Westhill Drive	3 <sup>rd</sup> Westhill Drive to Sun River Road
3 <sup>rd</sup> Avenue South	38 <sup>th</sup> Street South to 57 <sup>th</sup> Street South
4 <sup>th</sup> Street South	10 <sup>th</sup> Avenue South to 17 <sup>th</sup> Avenue South
6 <sup>th</sup> Street North West	Smelter Avenue to Central Avenue West
8 <sup>th</sup> Avenue North	Park Drive to 38 <sup>th</sup> Street North
8 <sup>th</sup> Street North East	Smelter Avenue to Skyline Drive
9 <sup>th</sup> Street	River Drive to 17 <sup>th</sup> Avenue South
9 <sup>th</sup> Street North West	Smelter Avenue to Central Avenue West
9 <sup>th</sup> Street North East	Skyline Drive to 36 <sup>th</sup> Avenue North East

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17 <sup>th</sup> Avenue South	4 <sup>th</sup> Street South to 9 <sup>th</sup> Street South
20 <sup>th</sup> Street South West	Central Avenue West to 5 <sup>th</sup> Avenue South West
25 <sup>th</sup> Street	River Drive North to 10 <sup>th</sup> Avenue South
26 <sup>th</sup> Street	8 <sup>th</sup> Avenue North to 22 <sup>nd</sup> Avenue South
33 <sup>rd</sup> Street South	10 <sup>th</sup> Avenue South to 17 <sup>th</sup> Avenue South
38 <sup>th</sup> Street	River Drive North to 10 <sup>th</sup> Avenue South
46 <sup>th</sup> Avenue North East	Bootlegger Trail to 9 <sup>th</sup> Street North East
Park Drive	1 <sup>st</sup> Avenue North to 2 <sup>nd</sup> Avenue South
2 <sup>nd</sup> Street South	2 <sup>nd</sup> Avenue South to 10 <sup>th</sup> Avenue South
13 <sup>th</sup> Street South	10 <sup>th</sup> Avenue South to 30 <sup>th</sup> Avenue South
24 <sup>th</sup> Avenue	13 <sup>th</sup> Street South to 15 <sup>th</sup> Street South
2 <sup>nd</sup> Street North East	Division Road to 36 <sup>th</sup> Avenue North East
Skyline Drive	8 <sup>th</sup> Street North East to 9 <sup>th</sup> Street North East
Watson Coulee Road	North West Bypass to 9 <sup>th</sup> Street North East
3 <sup>rd</sup> Street South West	Central Avenue West to 6 <sup>th</sup> Street South West
18 <sup>th</sup> Avenue South West	Fox Farm Road to Treasure State Drive
Big Ranch Road	Park Garden Road to Huckleberry Drive
Huckleberry Drive	Big Ranch Road to Acacia Way
Acacia Way	Huckleberry Drive to Park Garden

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Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

Sun River Road	14 <sup>th</sup> Street South West to 4 <sup>th</sup> West Hill Road
14 <sup>th</sup> Street South West	Exit 0 Ramp to 13 <sup>th</sup> Avenue South, and Exit 0 Ramp to Park Garden Road
3 <sup>rd</sup> West Hill Drive	1 <sup>st</sup> West Hill Drive to 4 <sup>th</sup> West Hill Drive
4 <sup>th</sup> West Hill Drive	3 <sup>rd</sup> West Hill Drive to Sun River Road

B. Any routes included in the most current agreement between the City of Great Falls and Cascade County for snow and ice control may also, with proper notice, be included as emergency snow routes.

**12.12.030 Emergency snow routes—signing.**

- A. When signs have been erected giving notice thereof, it shall be unlawful for any person to stop, stand, park or leave unattended any motor vehicle upon a designated snow route within the City, during a snow emergency.
- B. Parking may be resumed on individual streets as soon as the snow has been plowed or removed. This provision shall not prohibit the stopping or commercial passenger vehicles for periods sufficient to load or discharge passengers from such vehicles.

**12.12.040 Removal—vehicles.**

Whenever a motor vehicle has been stopped, parked or left unattended after the inception of a snow emergency, upon a designated emergency snow route within the City, said vehicle is declared to be a traffic hazard and the City Manager, or designee, shall order said motor vehicle removed at the owner's expense.

**12.12.050 Snow emergency—notice.**

Notice of such emergency shall be given by press, radio, television, and the City website. When given, such notice shall constitute due and proper notice.

**Chapter 13 PRIVATE DRIVEWAYS AND CROSSWALKS**

**Sections:**

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Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

- 12.13.010 Construction—supervision.
- 12.13.020 Construction—permit—application—fee.
- 12.13.030 Construction—barricades required.
- 12.13.040 Construction—sidewalk—materials.
- 12.13.050 Construction—driveway—location.
- 12.13.060 Construction—driveway—drainage structures.
- 12.13.070 Construction—driveway—transition design.
- 12.13.080 Construction—right-of-way distances.
- 12.13.090 Construction—intersection clearances.
- 12.13.100 Construction—conformance with national regulations.
- 12.13.110 Use discontinuance—sidewalk restoration.
- 12.13.120 Violation - penalty.

**12.13.010 Construction—supervision.**

- A. The construction of concrete driveways and concrete crosswalks used for private purposes, within the street lines of the City, shall be under the supervision and direction of the Public Works Director or designee.
- B. The design and concrete mixture shall conform to standard specifications on file in the City Public Works Department for concrete sidewalks and concrete crossings.

**12.13.020 Construction—permit—application—fee.**

- A. All applications for permits for concrete driveways or concrete crosswalks must give a description of the property to be served and such other information as may be required by the Public Works Director, for the proper direction of the work, and must be signed by the property owner(s) or authorized agent.
- B. Before commencing the construction, modification or repair of any concrete driveway or concrete crosswalk, the contractor shall first obtain a written permit from the Department of Planning and Community Development, and such permit shall be available upon the work site at all times during the progress of the work and must be shown to any designated City representative, on demand.
- C. For each and every permit a fee will be charged and collected by the Public Works Director. The amount of said fee shall be established by City Commission resolution.

**12.13.030 Construction—barricades required.**

- A. Excavations in streets and avenues shall be made in such manner as to impede travel as little as possible, and the time that such excavation is open may be limited by the Public Works Director or designee.
- B. Efficient barricades shall be erected by the permittee around all trenches or embankments made within the limits of any street or avenue, and lights shall be maintained thereon from dark to daylight until the street or avenue has been restored to a safe and passable condition.

Exhibit "B"

Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

C. At no time during the progress of the work shall sidewalks be unnecessarily blocked to travel.

**12.13.040 Construction—sidewalk—materials.**

- A. After the governing body orders any cement concrete sidewalk to be built in any boulevard district no private walk shall be built therein from the curb-line to the property line or from the sidewalk to either line, unless the same is made of cement concrete, or other Public Works approved material.
- B. Cement concrete private walks shall be of uniform width and shall be built upon the established grade from the curb-line to the property line, and shall be not less than thirty-six (36) inches in width or more than sixty (60) inches in width; provided, that in front of churches, schoolhouses, nursing homes, long term care facilities, medical facilities, court houses, and other public buildings, the cement concrete private walks may be of greater width than above mentioned.

**12.13.050 Construction—driveway—location.**

Driveways shall be so located at the discretion of, and by the approval of, the Public Works Director or designee, as to result in no undue interference with, or hazard to, the free movement of normal traffic or interfere with the placement and proper functioning of highway signs, signals, lighting, or other devices that affect traffic operation.

**12.13.060 Construction—driveway—drainage structures.**

All driveways shall be so constructed so as not to impair drainage within the street or highway right-of-way nor alter the stability of the roadway sub-grade and not impair or materially alter drainage of the adjacent areas. All drainage structures required within the public right-of-way and under the driveways, as a result of the property being developed, shall be installed in accordance with the standards approved by the Public Works Director or designee.

**12.13.070 Construction—driveway—transition design.**

- A. All driveways shall have the back of curb dropped a minimum of four (4) inches for the width of the driveway. The minimum driveway transition distance shall be from the back of the curb to the property line and shall occur in a uniform manner.
- B. Curb fillets constructed by filling in the curb and gutter are prohibited as a means of transition from the street to the driveway. This prohibition of curb fillets is retroactive to all existing curb fillets within the City and all future annexations to the City. Exceptions for cause must be approved by the Public Works Director or designee.

Exhibit "B"

Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

**12.13.080 Construction—right-of-way distances.**

Gasoline pump islands or other installations with parking parallel to the right-of-way line shall be at least ten (10) feet outside of the right-of-way line. Buildings or other installations with an angle of ninety (90) degrees parking between the building or other installation and the right-of-way line shall be at least thirty (30) feet outside the right-of-way line.

**12.13.090 Construction—intersection clearances.**

At an intersecting street or highway, the dimension measured along the edge of the traveled way to provide adequate corner clearance shall be measured a minimum distance of ten (10) feet from the intersecting property line, except at intersections where there are traffic signals, the nearside clearance shall be two (2) or more times this distance.

**12.13.100 Construction—conformance with national regulations.**

Specific controls, not defined in this chapter, shall be in accordance with the standards for private driveway regulations established by the American Association of State Highway Officials and as applied at the discretion of the Public Works Director or designee.

**12.13.110 Use discontinuance—sidewalk restoration.**

- A. Whenever the use of any existing or future driveway is discontinued by reason of change in the use, or design of the private property served thereby, the owner of the private property shall remove that portion of the driveway located within the City right-of-way, and shall restore the sidewalk and curbing affected by the driveway to their normal levels, all under the direction, supervision and standards required by the Public Works Director or designee.
- B. This section shall be applicable to any existing driveway, the use of which is presently discontinued.

**12.13.120 Violation - penalty.**

- A. Any violation of the provisions of this chapter shall be considered a public offense punishable under the general penalty OCCGF 1.4.070.
- B. A violation of the provisions of this chapter is hereby declared a nuisance as defined in OCCGF Title 8, Chapter 49.



Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

**Chapter 14 TREES AND SHRUBBERY**

**Sections:**

12.14.010 Trimming required.

12.14.020 Hedge and shrubbery maintenance.

12.14.030 Injuring trees and shrubbery unlawful.

12.14.040 Violation - penalty.

**12.14.010 Trimming required.**

Any owner of any real property shall be responsible for trimming all trees on property overhanging any public thoroughfare or boulevard district, so that the branches thereon will not interfere with pedestrians or public travel.

**12.14.020 Hedge and shrubbery maintenance.**

Any owner or occupant of any real property shall maintain all hedges and shrubbery adjacent to public sidewalks so that no part of the hedges and/or shrubbery shall extend over any part of a public sidewalk in the municipality.

**12.14.030 Injuring trees and shrubbery unlawful.**

It is unlawful for any person, not the owner thereof, or without lawful authority to do so, to injure willfully, deface, disfigure or destroy any tree or shrub, or to injure, destroy, cut or pick any flower or plant located on any public thoroughfare or boulevard district.

**12.14.040 Violation - penalty.**

- A. Any violation of the provisions of this chapter shall be considered a public offense punishable under the general penalty OCCGF 1.4.070.
- B. A violation of the provisions of this chapter in hereby declared a nuisance as defined in OCCGF Title 8, Chapter 49.

Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

**Chapter 15 TREE REMOVAL**

**Sections:**

12.15.010 Application.

12.15.020 New location.

12.15.030 City Forester to remove or supervise.

12.15.040 Trees interfering with right-of-way.

12.15.050 Violation - penalty.

**12.15.010 Application.**

- A. Any person, firm, corporation, or other entity desiring to cut down any of the trees located the boulevards of the City, shall submit an application to the City Park and Recreation Department for its review.
- B. The application shall state the following:
  - 1. The lot, block, and street number adjacent to the affected boulevard area;
  - 2. The reason for the request;
  - 3. A plan showing the location of the tree or trees; and
  - 4. The distance the tree or trees will be moved; or
  - 5. The tree or trees to be cut down.
- C. The Park and Recreation Department shall review the application and within ten (10) days of the receipt thereof, submit its recommendation to the City Manager. Whereupon the City Manager shall approve or reject the application and immediately notify the applicant of the decision.
- D. The applicant may appeal the decision of the City Manager by filing a written notice of appeal with the office of the City Clerk within fifteen (15) calendar days of the date of the decision. The appeal shall be heard at the next regularly scheduled meeting of the City Commission, unless another date is mutually agreed upon by the applicant and the City. The Commission shall, by written finding, affirm or reverse the decision within fifteen (15) calendar days after the hearing.
- E. Any tree removed pursuant to an approved application, shall be replaced with a two-inch balled and burlapped tree. The Park and Recreation Director or designee shall designate permissible replacement tree species. Care and maintenance of replacement trees shall be the responsibility of the applicant for two consecutive calendar years from the date of replacement.

**12.15.020 New location.**

No tree or trees shall be moved to a place where the conditions will hinder their growth or the growth of others, and the new location must conform as nearly as possible to the regular spacing and alignment of the trees in the locality to which it is moved.

Exhibit "B"

Title 12 STREETS, SIDEWALKS, TREES, AND SHRUBBERY

**12.15.030 City Forester to remove or supervise.**

Upon the permission of the City Manager, the City Forester may cut down or remove any tree or trees which have been petitioned to be cut down or removed from the public boulevards of the City, provided, however, that all expenses of cutting or removal and transplant shall be paid by the petitioning party and such cutting, removal and transplanting shall be supervised by the City Forester.

**12.15.040 Trees interfering with right-of-way.**

The City Manager or designee may order the City Forester to remove any tree, subject to the provisions of this chapter, that in judgment of the Public Works Director is either interfering with, or damaging, a City street or public right-of-way.

**12.15.050 Violation - penalty.**

- A. Any violation of the provisions of this chapter shall be considered a public offense punishable under the general penalty OCCGF 1.4.070.
- B. A violation of the provisions of this chapter in hereby declared a nuisance as defined in OCCGF Title 8, Chapter 49.

(Ord. 3170, 2018; Ord. 3143, 2016; Ord. 3086, 2012; Ord. 3057, 2010; Ord. 2801, 2001; Ord. 2798, 2001; Ord. 2785, 2000; Ord. 2766, 2000; Ord. 2734, 1998; Ord. 2584, 1991; Ord. 2568, 1990; Ord. 2564, 1990; Ord. 2549, 1989; Ord. 2526, 1989; Ord. 2490, 1988; Ord. 2489, 1988; Ord. 2485, 1987; Ord. 2476, 1987; Ord. 2462, 1987; Ord. 2460, 1987; Ord. 2435, 1986; Ord. 2409, 1985; Ord. 2393, 1985; Ord. 2338, 1983; Ord. 2314, 1983; Ord. 2312, 1982; Ord. 2301, 1982; Ord. 2187, 1980; Ord. 2065, 1979; Ord. 2022, 1977)  
(Prior Codes: §§ 9-15-1, 9-14-4, 9-14-3, 9-14-2, 9-14-1, 9-11-1, 9-10-7, 9-10-6, 9-10-5, 9-10-4, 9-10-3, 9-10-1, 9-4-3, 9-4-2, 9-4-1, 9-3-4, 9-3-3, 9-3-2, 9-3-1, 9-2-4, 9-2-3, 9-2-2, 9-2-1, 9-1-15, 9-1-14, 9-1-13, 9-1-12, 9-1-11, 9-1-10, 9-1-9, 9-1-8, 9-1-7, 9-1-6, 9-1-5, 9-1-4, 9-1-3, 9-1-2, 9-1-1, 6-1-3)



**Item:** Resolution 10223 Submit the Question of Whether the City of Great Falls Should Establish Park District Number 1 on the May 8, 2018 Ballot.

**From:** Park and Recreation

**Initiated By:** Park and Recreation

**Presented By:** Steve Herrig, Park and Recreation Director

**Action Requested:** Set Public Hearing on Resolution 10223 for February 6, 2018.

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**Suggested Motion:**

1. Commissioner moves:

"I move that the City Commission (set/not set) a Public Hearing on Resolution 10223 for February 6, 2018."

2. Mayor requests a second to the motion, Commission discussion, public comment, and calls for the vote.

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**Staff Recommendation:**

Staff recommends that the City Commission set a Public Hearing on Resolution 10223 for February 6, 2018.

**Background:**

The City Commission conducted a public hearing and adopted Resolution No. 10191, intention to Create a special district to be known as Park District Number 1, at its regular meeting on June 6, 2017.

Following approval of the Intent to Create, Resolution No. 10192, Creation of Special Park District Number 1, was prepared and submitted for consideration and action to conduct a public hearing at the City Commission's regular meeting on August 15, 2017. The City received 21.6% in protest of the cost of the assessment for the proposed Park District, and because this amount was more than 10%, but less than 50%, the Commission denied Resolution 10191 creating the district. In accordance with Mont. Code Ann. §7-11-1008(5)(b)(ii) since the protests were more than 10% but less than 50%, the Commission could decide to proceed with proposing the district by ordering a referendum.

The Commission has decided to proceed with creating the district and has directed staff to prepare a

Resolution to refer the question of creation to the Great Falls electorate. Resolution 10223 needs to be adopted by the Commission on February 6, 2018, to be submitted to the County Election Administrator. Pursuant to Mont. Code Ann. §13-1-504, the referendum must be held on the same day as the regular school election day, which is May 8, 2018. All registered electors of the state who are a resident of, or owner of taxable real property located in, the proposed special district are eligible to vote.

The purpose of creating the district is to provide certain maintenance, purchasing, and improvement services for City-owned facilities, land, and equipment under the responsibility and care of the City of Great Falls Parks and Recreation Department; and providing for other matters properly relating thereto. Current funding does not allow for adequate maintenance of facilities and parks. There has been no funding for capital improvements or major repairs. In Fiscal Year 2018, the City's Capital Improvement Plan recommended \$654,450; however, no dollars were funded.

Creation of the Park District would help fund the deferred maintenance, and it may prevent removal or closure of amenities. Proposed improvements over a three year period include, but are not limited to:

1. Rest room improvements for Gibson, Oddfellows, and Lions Parks;
2. Picnic pavilions and tables;
3. Play equipment;
4. Resurface sports courts (basketball, tennis/pickleball);
5. ADA sidewalks to play structures;
6. Improvements to Electric City Water Park bath house and neighborhood pools;
7. Replacement of Gibson Park and Elks Riverside Trails;
8. Improvements to River's Edge Trail (matching funds);
9. Multi Sports dugouts/backstops;
10. New asphalt park trail;
11. Mature tree trimming and tree replacement; and
12. Operations/equipment/irrigation upgrades/labor/staff/professional services.

**Fiscal Impact:**

The cost of the proposed improvements for the district is \$1,500,000 annually for the first three years; the assessment method will be based on each lot or parcel of land, including the improvements on the lot or parcel, for that part of the cost of the district that its taxable valuation bears to the total taxable valuation of the property of the district; the estimated 2018 assessment for a property with a 2017 Market Value of \$100,000 would be \$22.92 per year. The assessment can be adjusted annually and must be set by resolution and adopted by the City Commission.

**Alternatives:**

1. The City Commission could choose not to set Resolution 10223 for a public hearing.
2. The City Commission could provide additional suggestions to be incorporated into Resolution 10223, for consideration at the February 6, 2018, Commission meeting.
3. Should Resolution 10223 not be adopted, the City would be faced with finding an alternative funding source for deferred maintenance and needed improvements to the park system including facilities and the urban forest, or the needed maintenance may not be done resulting in further deterioration or closing facilities.

ATTACHMENTS:

- ▣ Resolution 10223
- ▣ Exhibit "A" Boundary Map

## **RESOLUTION 10223**

### **A RESOLUTION TO SUBMIT THE QUESTION OF WHETHER THE CITY OF GREAT FALLS SHOULD ESTABLISH A SPECIAL PURPOSE PARK DISTRICT WITHIN THE INCORPORATED CITY LIMITS OF GREAT FALLS ON THE MAY 8, 2018 BALLOT.**

**WHEREAS**, the City Commission is authorized by Mont. Code Ann., Title 7, Chapter 11, Part 10, to create special districts to serve the residents of the special district and creation of a special park district is necessary to provide funding relating to maintenance, amenities, and sustainable projects; and

**WHEREAS**, in accordance with Mont. Code Ann. §7-11-1007, the City Commission conducted a public hearing and adopted Resolution 10191 on June 6, 2017, at the Civic Center, 2 Park Drive South, Commission Chambers Room 206, Great Falls, Montana, at 7:00 p.m., regarding the intent of the City to create a special park district in the form of a City-wide special district; and

**WHEREAS**, pursuant to Mont. Code Ann. §7-11-1007, the City Commission conducted a public hearing and denied Resolution No. 10192 on August 15, 2017, at the Civic Center, 2 Park Drive South, Commission Chambers Room 206, Great Falls, Montana, at 7:00 p.m., which would have allowed creation of a special district, known as the City of Great Falls Park District Number 1, for the purpose of providing services and improvements to parks, recreation, trails, pathways, sidewalks, and public easements owned and/or operated by the City; and

**WHEREAS**, in accordance with Mont. Code Ann. §7-11-1008, because the protest of the cost of the assessment from property owners was more than 10% but less than 50%, and the City Commission would like to proceed with the district, the City Commission must order a referendum pursuant to Mont. Code Ann. §7-11-1011.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA**, that:

1. The district shall be known as the City of Great Falls Park District Number 1 and established for the purpose of providing services including but not limited to: (1) maintenance, repair, replacement, upkeep, installation, improvement, operational enhancement, construction, reconstruction, acquisition of land, and/or (2) implementation of measures required to maintain public health and safety, or meet legal or regulatory requirements; and/or (3) purchasing, replacing, and/or maintaining equipment, tools or vehicles used to carry out the functions described herein, and/or (4) any other functions, labor, supplies and/or materials necessary for management and maintenance of City-owned facilities, lands and equipment under the responsibility and care of the City of Great Falls Parks and Recreation Department including but not limited to: public parks and park areas (as described in the City of Great Falls Park and Recreation Master Plan), recreation facilities, trails, open space, urban forest, medians, boulevards, pathways, sidewalks, public easements, and other facilities which are located in the city limits and/or are owned by the City (collectively, the “Services and Improvements”).

2. The boundaries of the District are declared to be the current incorporated boundary of the City of Great Falls in accordance with City Commission municipal annexation resolutions and municipal annexation ordinances filed in the City of Great Falls City Clerk's Office public records as well as all properties later annexed thereto. Parcels within the boundary are the current parcels subject to the City of Great Falls property taxes as shown in the tax rolls of the Montana Department of Revenue and inclusive of those parcels that are exempt from property taxes. However, parcels that are exempt from property taxes shall not be subject to the assessment provided by section three of this Resolution. The current boundaries of the City are depicted on a map attached hereto as Exhibit "A."
3. In fiscal year 2019, the cost of the services to be performed in the District totals \$1,500,000. The annual assessment shall be based on the taxable value of each parcel within the Special District. This method of assessment shall be made pursuant to Mont. Code Ann. §7-11-1023(3)(a)(iii) which states:

each lot or parcel of land, including the improvements on the lot or parcel, may be assessed for that part of the cost of the special district that its taxable valuation bears to the total taxable valuation of the property of the district.

The annual assessment for a \$100,000 market value property would be \$22.92.

In accordance with Mont. Code Ann. §7-11-1021 and 1025, prior to annually levying assessments necessary to carry out the services to be performed in the District, each year the City Manager shall prepare, or cause to be prepared, for Commission approval, a work plan, budget, and estimate of expenses for the services to be performed in the District and the Commission shall specify the method of assessment for the lots and parcels of land located in the District, provide for any methods of financing such services, publish notice and conduct a public hearing on such assessments before finally adopting a resolution levying assessments against the lots and parcels of land in the District. The Commission must annually adopt a resolution establishing the annual assessment for the District.

The special assessment for the costs of providing services in the District shall be payable as provided in Mont. Code Ann. §7-11-1024 -1028.

4. The District shall exist for a period of 20 years beginning on the date the Commission, by ordinance or resolution, orders the district created pursuant to Mont. Code Ann. §7-11-1013. The District may be dissolved, if it is considered to be in the best interest of the City and approved by the Commission, as prescribed in Mont. Code Ann. §7-11-1029.
5. The District shall be governed by the Great Falls City Commission pursuant to the general respective exercise of their duties, responsibilities, and powers as respectively set forth in the City Charter, the Official Code of the City of Great Falls, and the Mont. Code Ann.
6. An individual is entitled to vote if the individual is a registered elector of the state and a resident of, or owner of, taxable real property in the area subject to the proposed special district.



7. The question to be placed on the May 8, 2018, the same day as the Great Falls Public School District Election Ballot and shall read as follows:

Shall the proposition to organize Great Falls Park District Number 1 be adopted?

- Yes
- No

(By voting yes, you support creation of Great Falls Special Park District Number 1 for the purpose of providing certain maintenance, purchasing, and improvement services for City-owned facilities, land, and equipment under the responsibility and care of the City of Great Falls Parks and Recreation Department and providing for other matters properly relating thereto.)

8. The City Commission hereby requests that the election be conducted by mail pursuant to Mont. Code Ann. §13-1-504(5).

ADOPTED by the City Commission of the City of Great Falls, Montana, this 6<sup>th</sup> day of February, 2018.

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Bob Kelly, Mayor

ATTEST:

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Darcy Dea, Deputy City Clerk

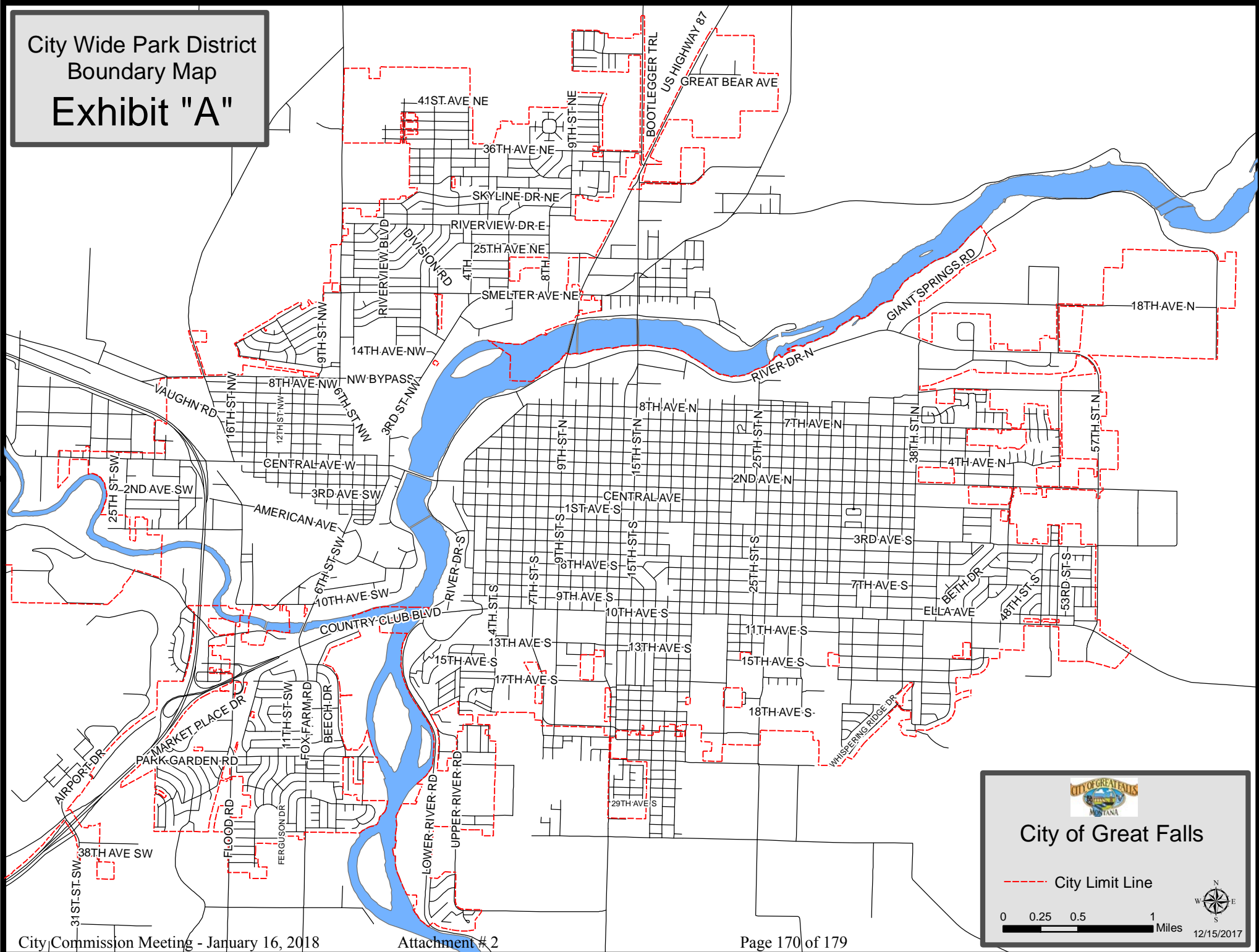
(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

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Joseph P. Cik, Assistant City Attorney

City Wide Park District  
Boundary Map  
Exhibit "A"





**Item:** Resolutions 10224 and 10225 - Annexation of existing lots within Thaniel Addition, Phase 1, and Repeal of Resolutions 10178 and 10179

**From:** Charles Sheets, Planning and Community Development

**Initiated By:** KIB Homes, Carl Birky

**Presented By:** Craig Raymond, Director, Planning and Community Development

**Action Requested:** Adopt Resolutions 10224 and 10225 and repeal of Resolutions 10178 and 10179.

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**Suggested Motion:**

1. Commissioner moves:

"I move that the City Commission (adopt/deny) Resolution 10224 and repeal Resolution 10178, annexing portions of Thaniel Addition, Phase 1, into the City of Great Falls."

2. Mayor requests a second to the motion, Commission discussion, public comment, and calls for the vote.

and;

1. Commissioner moves:

"I move that the City Commission (adopt/deny) Resolution 10225 and repeal Resolution 10179, annexing portions of Thaniel Addition, Phase 1, into the City of Great Falls."

2. Mayor requests a second to the motion, Commission discussion, public comment, and calls for the vote.

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**Staff Recommendation:**

Staff supports the request to repeal the previously approved resolutions annexing 20 lots into the City in two phases and to approve the new resolutions that annex the same 20 lots in a new configuration.

**Summary:**

The proposed resolutions modify the lots originally slated for annexation in Resolutions 10178 and 10179 approved by the Commission in 2017. These resolutions were approved to facilitate the construction of 20 mutual self-help homes by NeighborWorks Great Falls. However, NeighborWorks

has decided to sell the lots to a private homebuilder due to changing economic conditions and increased construction costs.

**Background:**

The previously approved resolutions were designed to annex different portions of Thaniel Addition, Phase 1, as each 10-home build was completed by NeighborWorks. The goal was to eventually have 60 self-help homes constructed in the Thaniel Addition subdivision. Build One and Two of the self-help home project were completed, and Resolutions 10174 and 10175 have been recorded to annex these lots into the City. Build Three is currently being constructed and will be completed later in 2018. Build Four, Five, and Six (30 lots) remain undeveloped. Neighborworks has decided to sell its interest in eight of the lots within previously approved Builds Five and Six to KIB Homes. KIB Homes intends to start construction upon the lots for new single-family homes as soon as the revised Annexation Resolutions can be approved by the City Commission, recorded and required infrastructure has been constructed.

**Fiscal Impact:**

Annexation of the lots will increase the tax base and increase revenue. Because this area has already been approved for annexation, all City infrastructure and services are either already available or will be constructed upon development.

**Alternatives:**

The City Commission may deny approval of the resolutions delaying the annexation of eight residential lots.

**Concurrences:**

Representatives from the City Legal Department and the City Clerk have been involved throughout the review for this request.

ATTACHMENTS:

- ▣ Resolution 10224
- ▣ Resolution 10225
- ▣ Attachment A

RESOLUTION 10224

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO EXTEND THE BOUNDARIES OF SAID CITY TO INCLUDE LOTS 8 - 12, BLOCK 2, AND LOTS 1-7, BLOCK 3, THANIEL ADDITION MAJOR SUBDIVISION PHASE 1 OF THE TYNDALL MINOR COUNTY SUBDIVISION TRACT #2, LOCATED IN THE SW ¼ SECTION 26, TOWNSHIP 21 NORTH, RANGE 3 EAST, CASCADE COUNTY, MONTANA, IN ACCORDANCE WITH THE PROVISION OF SECTION 7-2-4601, MONTANA CODE ANNOTATED; ALL AS SHOWN ON THE MAP ATTACHED HERETO MARKED ATTACHMENT "A" AND BY THIS REFERENCE MADE A PART HEREOF.

\* \* \* \* \*

WHEREAS, the City of Great Falls is a city incorporated under the laws of the State of Montana, and having a population of more than ten thousand (10,000) is a city of the first class; and,

WHEREAS, there is contiguous to said City, but without the boundaries thereof, certain tracts or parcels of land situated in the County of Cascade, State of Montana, and described as follows:

LOTS 8 - 12, BLOCK 2, AND LOTS 1-7, BLOCK 3, THANIEL ADDITION MAJOR SUBDIVISION PHASE 1 of the Tyndall Minor County Subdivision Tract #2, located in the SW ¼ Section 26, Township 21 North, Range 3 East, Cascade County, Montana, and consisting of ± 2.55 acres,

all as shown on the map attached hereto marked ATTACHMENT "A" and by this reference made a part hereof and according to the final plat of Thaniel Addition Major Subdivision Phase 1; and

WHEREAS, Section 7-2-4601, Montana Code Annotated, provides that whenever the owners of real property contiguous to any incorporated city of the first class petition to have said property made a part of the municipal corporation, such lands may be embraced within the corporate limits thereof and the boundaries of such city of the first class extended so as to include the same; and

WHEREAS, the owner of the hereinabove described property originally submitted a petition to have ± 2.09 acres of said property annexed to the City of Great Falls; and

WHEREAS, on June 6, 2017, the City Commission adopted Resolution 10178. However, Resolution 10178 has not been recorded with the Cascade County Clerk and Recorder's Office and, therefore, the appropriate district boundaries have not officially been changed to include said tract of land; and

WHEREAS, the current owner now desires to sell eight lots within Thaniel Addition, Major Subdivision, Phase 1, to a private developer to construct single-family homes and the remaining subject twelve lots to remain in NeighborWorks Great Falls ownership for the self-built homes program; and

WHEREAS, all adjacent rights-of-way have previously been annexed into the City of Great Falls by Resolution 10112 on July 21, 2015; and

WHEREAS, the City Commission finds that it is in the best interest of the City of Great Falls and its inhabitants to proceed with the incorporation of said territory into the City of Great Falls; and

WHEREAS, all of the proceedings herein have been conducted in strict compliance with and in conformity to the laws of the Montana Code Annotated, Title 7, Chapter 2, Part 46. Annexation by Petition, and all conditions, acts, and things required to be done precedent to and in the passage and adoption of this resolution have been properly and legally done, and performed.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

That the boundaries of the City of Great Falls, Montana, be and the same are hereby extended so as to embrace and include within the corporate limits of said city all of the land hereinabove described, included as: LOTS 8 - 12, BLOCK 2, AND LOTS 1-7, BLOCK 3, THANIEL ADDITION MAJOR SUBDIVISION PHASE 1 of the Tyndall Minor County Subdivision Tract #2, located in the SW ¼ Section 26, Township 21 North, Range 3 East, Cascade County, Montana.

BE IT FURTHER RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

That the Cascade County Clerk and Recorder is hereby authorized and directed to change the appropriate district boundaries of the City of Great Falls, Montana, to include said tract of land as set forth herein; and

That this Resolution shall become effective from and after the date of the filing of said document in the office of the Cascade County Clerk and Recorder; and

That Resolution 10178, adopted by the City Commission on June 6, 2017, but not recorded with the Cascade County Clerk and Recorder, is hereby repealed.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 16<sup>th</sup> day of January, 2018.

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Bob Kelly, Mayor

ATTEST:

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Lisa Kunz, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

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Sara R. Sexe, City Attorney

RESOLUTION 10225

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO EXTEND THE BOUNDARIES OF SAID CITY TO INCLUDE LOT 1, BLOCK 1, LOTS 1 & 7, BLOCK 2, LOT 7, BLOCK 10, LOTS 7 & 14, BLOCK 11, AND LOTS 7 & 14, BLOCK 12, THANIEL ADDITION MAJOR SUBDIVISION PHASE 1 OF THE TYNDALL MINOR COUNTY SUBDIVISION TRACT #2, LOCATED IN THE SW ¼ SECTION 26, TOWNSHIP 21 NORTH, RANGE 3 EAST, CASCADE COUNTY, MONTANA, IN ACCORDANCE WITH THE PROVISION OF SECTION 7-2-4601, MONTANA CODE ANNOTATED; ALL AS SHOWN ON THE MAP ATTACHED HERETO MARKED ATTACHMENT "A" AND BY THIS REFERENCE MADE A PART HEREOF.

\* \* \* \* \*

WHEREAS, the City of Great Falls is a city incorporated under the laws of the State of Montana, and having a population of more than ten thousand (10,000) is a city of the first class; and,

WHEREAS, there is contiguous to said City, but without the boundaries thereof, certain tracts or parcels of land situated in the County of Cascade, State of Montana, and described as follows:

LOT 1, BLOCK 1, LOTS 1 & 7, BLOCK 2, LOT 7, BLOCK 10, LOTS 7 & 14, BLOCK 11, AND LOTS 7 & 14, BLOCK 12, THANIEL ADDITION MAJOR SUBDIVISION PHASE 1 of the Tyndall Minor County Subdivision Tract #2, located in the SW ¼ Section 26, Township 21 North, Range 3 East, Cascade County, Montana, and consisting of ± 1.84 acres,

all as shown on the map attached hereto marked ATTACHMENT "A-1" and by this reference made a part hereof and according to the final plat of Thaniel Addition Major Subdivision Phase 1; and,

WHEREAS, Section 7-2-4601, Montana Code Annotated, provides that whenever the owners of real property contiguous to any incorporated city of the first class petition to have said property made a part of the municipal corporation, such lands may be embraced within the corporate limits thereof and the boundaries of such city of the first class extended so as to include the same; and



WHEREAS, the owner of the hereinabove described property originally submitted a petition to have ±2.3 acres of said property annexed to the City of Great Falls; and

WHEREAS, on June 6, 2017, the City Commission adopted Resolution 10179. However, Resolution 10179 has not been recorded with the Cascade County Clerk and Recorder's Office and, therefore, the appropriate district boundaries have not officially been changed to include said tract of land; and

WHEREAS, the current owner now desires to sell eight lots within Thaniel Addition, Major Subdivision, Phase 1, to a private developer to construct single-family homes and the remaining subject twelve lots to remain in NeighborWorks Great Falls ownership for the self-built homes program; and

WHEREAS, all adjacent rights-of-way have previously been annexed into the City of Great Falls by Resolution 10112 on July 21, 2015; and

WHEREAS, the City Commission finds that it is in the best interest of the City of Great Falls and its inhabitants to proceed with the incorporation of said territory into the City of Great Falls; and

WHEREAS, all of the proceedings herein have been conducted in strict compliance with and in conformity to the laws of the Montana Code Annotated, Title 7, Chapter 2, Part 46. Annexation by Petition, and all conditions, acts, and things required to be done precedent to and in the passage and adoption of this resolution have been properly and legally done, and performed.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

That the boundaries of the City of Great Falls, Montana, be and the same are hereby extended so as to embrace and include within the corporate limits of said city all of the land hereinabove described, included as: LOT 1, BLOCK 1, LOTS 1 & 7, BLOCK 2, LOT 7, BLOCK 10, LOTS 7 & 14, BLOCK 11, AND LOTS 7 & 14, BLOCK 12, THANIEL ADDITION MAJOR SUBDIVISION PHASE 1 of the Tyndall Minor County Subdivision Tract #2, located in the SW ¼ Section 26, Township 21 North, Range 3 East, Cascade County, Montana.

BE IT FURTHER RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

That the Cascade County Clerk and Recorder is hereby authorized and directed to change the appropriate district boundaries of the City of Great Falls, Montana, to include said tract of land as set forth herein; and

That this Resolution shall become effective from and after the date of the filing of said document in the office of the Cascade County Clerk and Recorder; and

That Resolution 10179 adopted by the City Commission on June 6, 2017, but not recorded with the Cascade County Clerk and Recorder, is hereby repealed.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 16th day of January, 2018.

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Bob Kelly, Mayor

ATTEST:

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Lisa Kunz, City Clerk

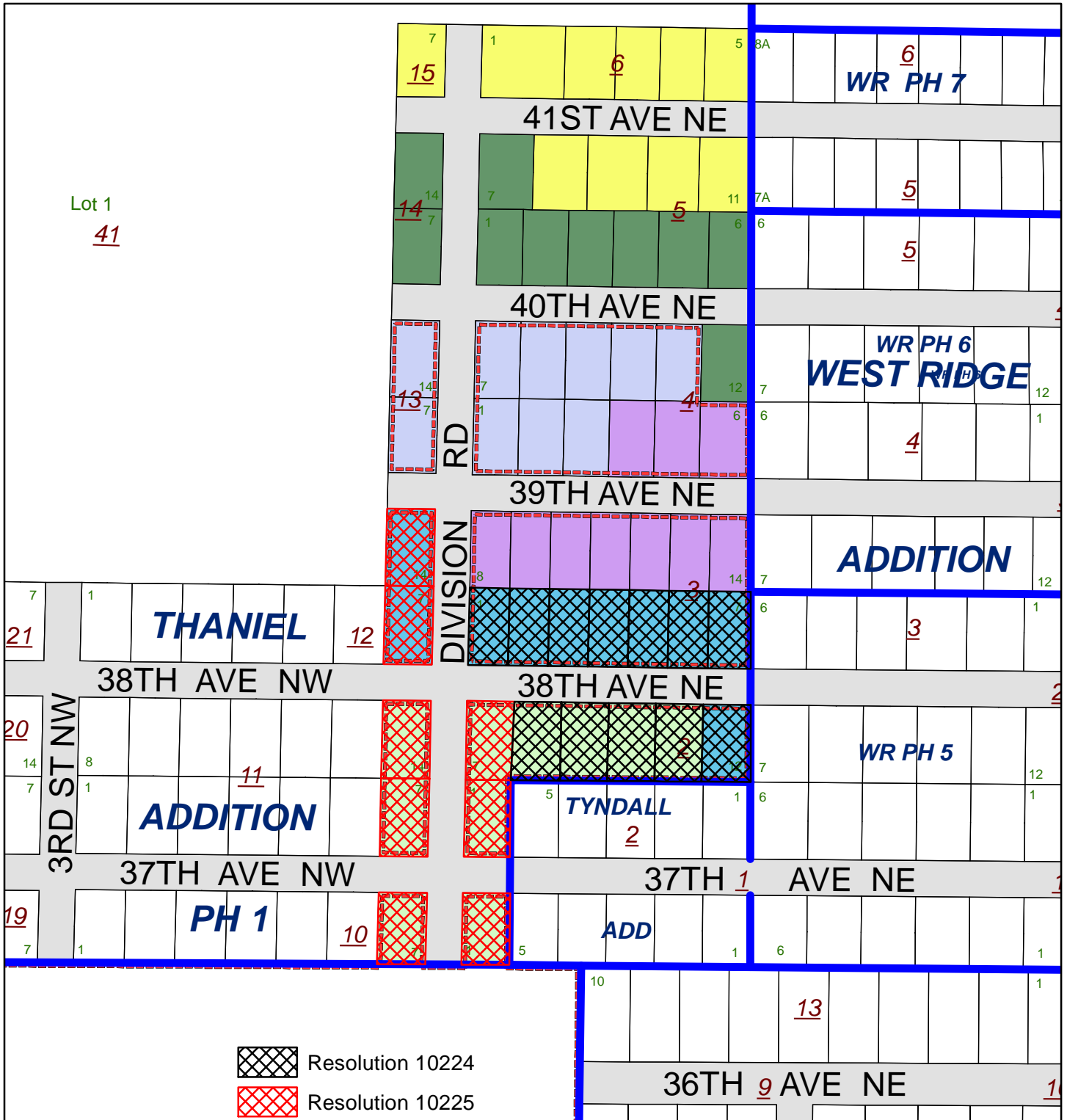
(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

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Sara R. Sexe, City Attorney

# Attachment "A"



- Subdivision Line
- City Limits
- Tracts of Land
- Right-of-Way
- Phase 1 Build-Resolution 10174
- Phase 2 Build-Resolution 10175
- Phase 3 Build-Resolution 10176
- Phase 4 Build-Resolution 10177
- ~~Phase 5 Build-Resolution 10178~~
- ~~Phase 6 Build-Resolution 10179~~

175 87.5 0 175 Feet



Thanie Addition Major Subdivision Phase 1 Phased Annexations