



Item: Public Hearing – Ordinance 3086 amending Title 12 of the Official Code of the City of Great Falls

From: Mike Haynes, AICP, Planning and Community Development Director

Initiated By: Planning and Community Development Department

Presented By: Mike Haynes, AICP, Planning and Community Development Director

Action Requested: City Commission adopt Ordinance 3086.

Public Hearing:

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

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Ordinance 3086.”

2. Mayor calls for a second, discussion, and calls for the vote.
-

Recommendation: Staff recommends the adoption of Ordinance 3086, which was accepted by the City Commission on first reading on May 15, 2012. Pursuant to public notice requirements, notice of a Public Hearing before the City Commission for the adoption of Ordinance 3086 related to the proposed changes to Title 12 of the Official Code of the City of Great Falls (OCCGF) was published in the *Great Falls Tribune* on June 3, 2012.

Background:

The following is a summary of the proposed changes. See actual code text for full details.

Proposed Amendments to Title 12: Streets and Sidewalks

Ordinance 3086 is proposed by the Public Works Department to bring the OCCGF up to date with the Americans with Disabilities Act features. Also, minor changes are proposed to the list of snow routes to account for recent growth and to make minor corrections. Other changes will

make Title 12 better align with Title 17, which was approved in 2005. A few typographical and technical corrections are also recommended. See Attachment A to Ordinance 3086 for full text details.

Concurrences: Representatives from the City's Public Works and Planning and Community Developments have been involved throughout the process for these updates.

Fiscal Impact: There is no direct financial impact from adopting Ordinance 3086 but it is expected that these homeowner- and business-friendly code amendments will have a positive effect on those involved with these sections of Code.

Alternatives: The City Commission could adopt with amendments or deny Ordinance 3086.

Attachments/Exhibits:

Ordinance 3086 with Attachment A Title 12 Amendments

Cc:

Jim Rearden, Public Works Director

Dave Dobbs, City Engineer

Patty Cadwell, Neighborhood and Youth Council Coordinator

ORDINANCE 3086

AN ORDINANCE AMENDING
TITLE 12 OF THE
OFFICIAL CODE OF THE CITY OF GREAT FALLS
GENERALLY ENCOMPASSING AMENDMENTS RELATED TO
BOULEVARD ENCROACHMENTS, SNOW ROUTES, AND
MINOR HOUSEKEEPING ITEMS

* * * * *

WHEREAS, it is the intent of the City Commission of the City of Great Falls to provide for and protect the health, safety and welfare of the citizens of Great Falls; and,

WHEREAS, the Official Code of the City of Great Falls (OCCGF) is revised and refined over time to address changing local conditions and national trends that arise and effect the citizens of Great Falls; and,

WHEREAS, the process for handling Boulevard Encroachment Permits has not been changed since it was approved in 1995 and it is desirable to make updates in order to include provisions of the Americans With Disabilities Act and correct minor errors; and,

WHEREAS, minor changes are needed to the list of snow routes to reflect recent growth and to correct minor errors; and,

WHEREAS, staff has identified provisions warranting amendment that can be primarily categorized as typographical corrections, minor housecleaning, clarification, and improvement and refinement of wording and definitions for better code application, interpretation and enforcement; and,

WHEREAS, notice of amending the OCCGF was published in the *Great Falls Tribune*, advertising that a public hearing on these proposed amendments would be held on the 19th day of June, 2012, before final passage of said Ordinance herein.

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

- Section 1. That Title 12 of the Official Code of the City of Great Falls (OCCGF) be amended as depicted in Attachment "A" attached hereto, which removes language indicated by a strike-out and adds 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.

APPROVED by the City Commission on first reading May 15, 2012.

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on second reading June 19, 2012.

Michael J. Winters, Mayor

ATTEST:

Lisa Kunz, City Clerk

(Seal of the City)

APPROVED FOR LEGAL CONTENT:

James W. Santoro, 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 hereby certify that I did post, as required by law and as prescribed and directed by the City Commission, Ordinance 3086 in three places within the limits of said City to-wit:

On the Bulletin Board, first floor, Civic Center Building;
On the Bulletin Board, first floor, Cascade County Court House;
On the Bulletin Board, Great Falls Public Library

(Seal of the City)

Lisa Kunz, City Clerk

ATTACHMENT A
TO ORDINANCE 3086

PROPOSED AMENDMENTS TO TITLE 12,
OFFICIAL CODE OF THE CITY OF GREAT FALLS

Generally encompassing amendments to Chapter 4, Chapter 8, Chapter 28, Chapter 33 and Chapter 36.

FIRST READING – MAY 15, 2012

PUBLIC HEARING – JUNE 19, 2012

12.4.010 - Definitions and responsibility.

A. Definitions.

"Boulevard" within the City is that area within any street, avenue or highway right-of-way not occupied by street paving, curb and gutter, and sidewalks. An "inside boulevard" is the boulevard area on the property line side of the sidewalk. An "outside boulevard" is the boulevard area on the street side of the sidewalk. Except as permitted under Section 12.04.040, no boulevard area may be encumbered by any obstacle whatsoever.

"Obstacle" means any strung wire or netting, any fence or railing, or any barrier or structure of any kind whatsoever, but does not include trees, ornamental lamp-posts, telephone or electric light poles, United States government mailboxes, signage for structures on the National Historical Register provided by the Montana Historical Society, or 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)

B. Adjoining Owners Responsibility. It shall be the duty of the owners and tenants of any premises within the limits of the City to maintain the boulevard section in front of and adjoining their premises in safe and substantial condition. 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 ~~Chapter 12.41 Landscape Design Standards~~ **Section 17.44 Landscaping**. It is also the responsibility of corner lot owners/tenants to maintain the clear vision triangle as described in Section 12.04.020.

(Ord. 2549 §1(part), 1989).

Title 12 – STREETS AND SIDEWALKS
Chapter 4 – BOULEVARDS

12.4.030 - 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;
- 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. By permit issued under Section 12.04.040, boulevard ~~use~~ **encroachment** permit.

(Ord. 2549 §1(part), 1989).

12.4.040 - 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 by the City Manager or designee. Any such Boulevard Encroachment permit must comply with 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 to defray administrative costs. The fee shall be established by City Commission resolution.
- C. Payment to the City of an annual encroachment rental fee based upon the square footage of encroachment. The annual rental fee shall be established by City Commission resolution.
- D. No encroachment permit may be granted to allow parking necessary to fulfill the requirements of the off-street parking code as set forth in ~~Chapter 17.84~~ **Title 17.36**.

12.8.010 - Prohibited—applicability.

A. Except as provided in subsection C of this section, it is unlawful for any person or persons or corporations 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, 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 such obstruction 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.

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.

2. The City's costs of removal shall be assessed against the property.

C. Exceptions.

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 12.4.050 **040**, boulevard use **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

Title 12 – STREETS AND SIDEWALKS
Chapter 8 – OBSTRUCTIONS IN STREETS AND PUBLIC PLACES

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).

12.28.020 - Construction—compliance with City specifications.

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 ~~Planning and Community Development Director~~ **Director of Public Works**.

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

(Ord. No. 3057, § 1, 8-17-2010)

12.28.040 - 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: on 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 First Avenue South from Park Drive East to Sixth Street, fifteen (15) feet; on Second Avenue South from Second Street East to Fifth Street, fifteen (15) feet; on the east side of Park Drive from First Avenue North to First Avenue South, fifteen (15) feet; on 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 Third Street from Second Avenue North to Second Avenue South, fifteen (15) feet; on Fourth Street from Second Avenue North to Second Avenue South, fifteen (15) feet; on Fifth Street from Second Alley North to First Avenue South, fifteen (15) feet; on Sixth Street from First Avenue North to First Avenue South, fifteen (15) feet. Sidewalks on all other streets and avenues 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.

B. All sidewalks shall rise ~~one-fourth (1/4)~~ **three sixteenth (3/16)** inch to the foot **or 1.5%** from the curb grade to the property line.

(Prior code §9-1-4).

12.28.050 - Construction—materials.

A. Hereafter all sidewalks shall be constructed only of solid 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 conforming to current specifications established by the Director of Public Works; provided, that the governing body may order temporary sidewalks of other material to be constructed.

B. Hereafter all curbing shall be constructed only of solid cement **concrete** provided that the governing body may order temporary curbing of other material.

(Prior code §9-1-5).

12.28.120 - Condemnation.

Any sidewalks, which are now, or which may, by reason of natural deterioration or decay, or by

Title 12 – STREETS AND SIDEWALKS
Chapter 28 – SIDEWALKS AND CURBS

reason of unevenness, steps, rapid slopes or from any cause whatsoever, become dangerous to the public safety, may be condemned by the ~~street commissioner~~ or Director of Public Works, and may be immediately removed, remodeled, 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 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).

Title 12 – STREETS AND SIDEWALKS
Chapter 33 – EMERGENCY SNOW ROUTE

12.33.020 - Emergency snow routes—designation.

To facilitate the removal 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	9th Street to 46th Street
Central Avenue West	20th Street SW to 29th Street SW
Division Road	28th Avenue NW Skyline Dr. to Smelter Avenue
Fox Farm Road	10th Avenue South to East Fiesta
Park Garden Road	Riverview Court to Ivy Drive
Smelter Avenue	3rd Street NW to 9th Street NW
1st Westhill Drive	3rd Westhill Drive to Sun River Road
3rd Avenue South	38th Street South to 57th Street South
4th Street South	10th Avenue South to 17th Avenue South
6th Street NW	Smelter Avenue to Central Avenue West
8th Avenue North	Park Drive to 38th Street North
8th Street NE	Smelter Avenue to Skyline Drive
9th Street	River Drive to 17th Avenue South
9th Street NW	Smelter Avenue to Central Avenue West
9th Street NE	Skyline Drive to 36th Avenue N.E.
17th Avenue South	4th Street South to 9th Street South
20th Street SW	Central Avenue West to 5th Avenue SW
25th Street	River Drive North to 13th Avenue South
26th Street	8th Avenue North to 46 th 18th Avenue South
33rd Street South	10th Avenue South to 17th Avenue South
38th Street	River Drive North to 10th Avenue South
46th Avenue NE	Bootlegger Trail to 9th Street NE

(Ord. 2526 §1(part), 1989).

12.36.040 - Construction—sidewalk—materials.

After the governing body orders any cement or concrete sidewalk to be built in any boulevard district no private walk shall be built therein from the curbline to the property line or from the sidewalk to either line unless the same is made of cement or concrete. Cement or concrete private walks shall be of uniform width and shall be built upon the established grade from the curbline to the property line, and shall be not less than thirty-six (36) inches in width or more than ~~forty-eight (48)~~ **sixty (60)** inches in width; provided, that in front of churches, schoolhouses, **nursing homes, long term care facilities, medical facilities**, the court house and other public buildings, the cement or concrete private walks may be of greater width than above mentioned.

(Prior code §9-2-4(A)).

~~12.36.060 - Construction—driveway—frontages.~~

~~Frontages of fifty (50) feet or less shall be limited to one (1) driveway, with not more than two (2) driveways to be provided to any single property tract or business establishment, except where the property frontage exceeds six hundred (600) feet.~~

~~(Prior code §9-2-4(C)).~~

12.36.070 060 - 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 the Director of Public Works.

(Prior code §9-2-4(D)).

12.36.074 070 - Construction—driveway—transition design.

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. 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 Director of Public Works.

(Ord. 2490, 1988).

~~12.36.080 - Construction—driveway—width limitations.~~

~~Residential use driveway width as measured parallel with the edge of the traveled way, shall be limited to ten (10) feet per garage stall or parking pad to a maximum of three (3). For commercial uses, driveway width shall be limited to forty five (45) feet.~~

~~(Ord. 2543 §1, 1989; prior code §9-2-4(E)).~~

12.36.090 080 - 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)).

~~12.36.400~~ 090 - 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 it 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)).

~~12.36.440~~ 100 - 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)).

~~12.36.420~~ 110 - 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 the discretion of the Director of Public Works.

(Prior code §9-2-4(I)).

~~12.36.430~~ 120 - Use discontinuance—sidewalk restoration.

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 Director of Public Works. 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)).