



Item: Ordinance 3109 amending Title 17 of the Official Code of the City of Great Falls, encompassing amendments related to the cost of notice for action requiring public notice and revising procedures for the submission of subdivision applications.

From: Galen Amy, Planner I, Planning and Community Development Department

Initiated By: Planning and Community Development Department

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

Action Requested: Accept Ordinance 3109 on first reading and set a public hearing for July 2, 2013.

Suggested Motions:

1. Commissioner moves:

“I move that the City Commission (accept/deny) Ordinance 3109 on first reading and set a public hearing for July 2, 2013.”

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

Recommendation: At the conclusion of a public hearing held May 14, 2013, the Planning Advisory Board, acting as the Zoning Commission, passed a motion unanimously recommending the City Commission approve the proposed Amendments to Title 17 - Land Development Code (LDC) of the Official Code of the City of Great Falls (OCCGF). The LDC is designed to guide and regulate land development activities. The LDC is revised and refined over time to address changing conditions and issues that arise in the course of day-to-day planning activities, and to respond to changes to the Montana Code Annotated (MCA). The Planning Advisory Board has recommended a fiscally responsible update, as well incorporating legislatively mandated amendments, to the LDC.

The proposed changes relate to 17.16.4.030 - Cost of Notice for action requiring public notice, and updating subdivision review requirements to be consistent with 2013 Legislative changes to the Montana Subdivision & Platting Act.

17.16.4.030 – Cost of Notice:

Background

The City of Great Falls, like other cities throughout Montana and the U.S., has seen the need for improvements in how certain fees associated with development are treated. While this amendment will have an impact to applicants, it will bring immediate fiscal benefits to the City and will create a more equitable application of fees.

Some applications the Planning & Community Development Department receives may require public

notice newspaper advertisements, run anywhere from two to five times. If the applicant postpones the project, this may create an additional legal ad that needs to run in order to meet the public notice requirement of the Montana Code Annotated (MCA) including, but not limited to, Section 7-1-4127 Publication of notice - content - proof, Section 76-15-103 Due notice, and Section 7-3-4448(2) relating to notice for vacation of right-of-way or changing the name of a street.

Montana cities address fees related to public notice in different ways. Currently, the City of Bozeman recovers the costs associated with public notice for projects by requiring payment at the time of application, in addition to the set project review fees. The City of Missoula requires the applicant to cover the postage costs for public notice mailings, at time of application, in response to Missoula City Council action requiring all notification mailings be registered First Class Mail.

Code Amendments

The LDC, section 17.16.4.030 - Cost of Notice states:

“The City shall pay for all notices required under this article which is recouped through the associated application fees.”

The amendment would change the language to read:

“The City shall pay for public notices required under this article for City-initiated actions. Applicants shall pay for public notices required under this article for all other actions.”

Section 76-3-602 MCA authorizes local governments to establish reasonable fees, to be paid by the subdivider, to defray the expense of reviewing subdivision applications. The City of Great Falls is authorized to collect fees for the review of annexation, zoning and growth policy proposals based on the provisions of MCA Sections 7-1-101 and 7-1-4123(7), because state statute does not prohibit the collection of fees for annexation, zoning and growth policy proposal review. Additionally, the LDC, section 17.16.2.100 - Application fees, states:

At its discretion the City Commission may set and revise application fees by resolution. The City Clerk shall maintain the official fee schedule.

Rather than establish a set fee for the cost of public notice, the Planning Advisory Board has recommended the applicant be responsible for contacting the *Great Falls Tribune* and be billed directly for their ad, which staff will draft for them. This model is not uncommon in other areas and creates more ownership of the process because the applicant will be required to be committed to moving forward and be responsible for staying on schedule by investing more into the process.

Changes to the Montana Subdivision & Platting Act:

Background

Montana Senate Bill 40 (SB 40) was signed into law on March 28, 2013. This act became effective upon passage, and applies to subdivision applications submitted on or after July 1, 2013. The law enacted straightforward changes to the Montana Subdivision and Platting Act regarding subdivision review, and revises the procedures for submission of subdivision applications.

The receipting process for subdivision applications has been handled differently in Planning and/or Community Development offices in counties and municipalities across the state. SB 40 gives direction about receipting, but encourages each office to have receipting methods that work best for them, provided they meet the basic guidelines of Montana law. Proponents of SB 40 include the Montana Building Association, Montana Association of Realtors, Montana Association of Planners, Smart Growth Development, as well as numerous cities and private individuals.

Code Amendments

In the Land Development Code, the application review procedure for both minor and major subdivisions is the same process. To comply with SB 40, only one addition to the City's LDC is necessary, to both section 17.16.26.010 major subdivisions and section 17.16.26.020 minor subdivisions, in bold below:

- C. Submittal of application. The applicant shall submit an application to the Planning and Community Development Department along with the application fee as may be established by the City Commission, within six (6) months of the pre-application meeting referenced in A above. **The date of submittal shall be the date of delivery of the application to the Planning and Community Development Department, accompanied by the correct and full fees.**

The OCCGF is already in compliance with the other changes noted in SB 40.

As required by Section 7-1-4127 MCA and 17.16.4.040 LDC, due notice of Public Hearing for Ordinance 3109 will be provided through notices of public hearing being published in the *Great Falls Tribune* on June 16, 2013 and June 23, 2013.

Concurrences: The City Manager's Office has been involved throughout the process for these updates.

Fiscal Impact: The Planning & Community Development Department has conducted a review of its public notice legal ad fees. Public notice costs have ranged from \$95 to \$303 per ad each time the ad is run, more commonly close to \$130 to \$158. Ads generally run two times, if not three, but if there is a delay the ad could run up to six times depending on where the applicant was in the review process when the delay occurred.

The Department's expenditures for advertising has been as follows:

- FY 2011-2012: \$4,502.00
- FY 2012-2013: \$9,210.90

The Planning & Community Development Department is the one of the City departments that is partially supported by the General Fund. Elimination of the cost of public notice from this Department's budget will directly improve the General Fund bottom line. In addition, because advertisements cost different amounts based on content and resulting length, the amendments would create an equitable method of assigning actual costs to each individual application.

SB 40 poses no fiscal impact to the City of Great Falls.

Alternatives: The City Commission could deny Ordinance 3109 on first reading and not set a public hearing.

Attachments/Exhibits: Ordinance 3109 with Attachment "A"

ORDINANCE 3109

ORDINANCE 3109 AMENDING TITLE 17 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS, ENCOMPASSING AMENDMENTS RELATED TO THE COST OF NOTICE FOR ACTION REQUIRING PUBLIC NOTICE AND REVISING PROCEDURES FOR THE SUBMISSION OF SUBDIVISION APPLICATIONS.

* * * * *

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 reflect changes in City procedures and State legislative changes; and

WHEREAS, the 2013 Montana Legislature enacted Senate Bill 40 on March 28, 2013, which has an immediate effective date and applies to subdivision applications received on or after July 1, 2013; and,

WHEREAS, changes to payment procedures for advertising for public notice of various land development processes required by Title 17, Chapter 16, OCCGF, will ensure an equitable and fiscally responsible method of assigning public notice advertising costs; and,

WHEREAS, minor amendments to Title 17, Chapter 16, OCCGF regarding the date of submittal of a subdivision application, will ensure compliance with Montana Code Annotated changes imposed by Senate Bill 40; and,

WHEREAS, the City of Great Falls Planning Board/Zoning Commission has held a public hearing on the proposed amendments and recommended the City Commission adopt the provisions contained in Ordinance 3109; and,

WHEREAS, notice of amending the OCCGF was published in the *Great Falls Tribune*, advertising that a public hearing on the proposed amendments would be held on the 2nd day of July, 2013, 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 the provisions of Title 17, Chapter 16, Article 4, Section 030, and Title 17, Chapter 16, Article 26, Sections 010 and 020 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 June 4, 2013.

Michael J. Winters, Mayor

ATTEST:

Lisa Kunz, City Clerk

(Seal of the City)

APPROVED FOR LEGAL CONTENT:

David L. Nielsen, Interim 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 3109 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

ORDINANCE 3109

ATTACHMENT "A"

AN ORDINANCE AMENDING TITLE 17 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS, ENCOMPASSING AMENDMENTS RELATED TO THE COST OF NOTICE FOR ACTION REQUIRING PUBLIC NOTICE AND REVISING PROCEDURES FOR THE SUBMISSION OF SUBDIVISION APPLICATIONS.

Amendments to Chapter 16 - Administrative and Enforcement Procedures, Article 4 - Public Notice Requirements and Article 26 - Subdivision - Preliminary and Minor Plat.

FIRST READING – June 4, 2013

PUBLIC HEARING – July 2, 2013

Title 17 – LAND DEVELOPMENT CODE
Chapter 16 - ADMINISTRATIVE AND ENFORCEMENT PROCEDURES
Article 4 - PUBLIC NOTICE REQUIREMENTS

17.16.4.030 - Cost of notice.

The City shall pay for all notices required under this article ~~which is recouped through the associated application fees.~~ **for City-initiated actions. Applicants shall pay for public notices required under this article for all other actions.**

Title 17 – LAND DEVELOPMENT CODE
Chapter 16 - ADMINISTRATIVE AND ENFORCEMENT PROCEDURES
Article 26 - SUBDIVISION - PRELIMINARY AND MINOR PLATS

17.16.26.010 - Application and review procedure for a major subdivision (See: 76-3-601, MCA).

C. Submittal of application. The applicant shall submit an application to the Planning and Community Development Department along with the application fee as may be established by the City Commission, within six (6) months of the pre-application meeting referenced in A above. **The date of submittal shall be the date of delivery of the application to the Planning and Community Development Department, accompanied by the correct and full fees.**

17.16.26.020 - Application and review procedure for a minor subdivision or for a second or subsequent minor subdivision from a tract of record (See: 76-3-505 (2) and 76-3-609, MCA).

C. Submittal of application. The applicant shall submit an application to the Planning and Community Development Department along with the application fee as may be established by the City Commission, within six (6) months of the pre-application meeting referenced in A above. **The date of submittal shall be the date of delivery of the application to the Planning and Community Development Department, accompanied by the correct and full fees.**