



Item: Bid Deposit Agreement for Sale of City-Owned Property: Med-Tech Lot 3E, Parcel 1079544, 2100 21st Avenue South

From: Gregory T. Doyon, City Manager

Initiated By: Sara R. Sexe, City Attorney's Office

Presented By: Gregory T. Doyon, City Manager

Action Requested: City Commission approve a Bid Deposit Agreement regarding previously approved Sale of City-Owned Property and authorize the City Manager to enter into a Purchase and Sale Agreement, upon negotiation of acceptable terms.

Suggested Motion:

1. Commissioner moves:

“I move the City Commission (approve/disapprove) the Bid Deposit Agreement regarding the sale of property at 2100 21st Avenue South (Parcel 1079544) to Bresnan Communications, LLC and authorize the City Manager to execute an acceptable Purchase and Sale Agreement and other necessary documents.”

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

Staff Recommendation: Staff recommends the City Commission approve a Bid Deposit Agreement regarding the sale of the ±1.31 acre city-owned Med-Tech Park Lot 3E at 2100 21st Avenue South and authorize the City Manager to enter into necessary documents to effect the sale, including but not limited to an appropriate Purchase and Sale Agreement.

Background: In 2004, the City of Great Falls purchased 10 acres of land for the purpose of creating a subdivision that would provide office development sites compatible with existing development in that part of the city known as the “Medical District.”

A legal advertisement ran in the *Great Falls Tribune* on Wednesday, June 27, 2012, for a bid opening for the subject property on Friday, July 6, 2012. When the City put the property out for bid, the minimum bid price was set at \$256,786 or \$4.50 per square foot, with a requirement that every bid be accompanied by a cashier's check made payable to the City of Great Falls or a bid

bond executed by an authorized surety corporation for an amount not less than 10 percent of the bid price.

One bid was received in the City Clerk's Office. The sealed bid was submitted by Mark Macek on behalf of Bresnan Communications, LLC. The offer was to purchase the subject property for \$265,000 and was duly accompanied by a cashier's check for 10 percent of the offered purchase price (\$26,500), which was conditioned on the bid deposit's return in its entirety if Bresnan was not the successful bidder or did not acquire the subject property.

Bresnan Communications, LLC, (managed now by Charter Communications, Inc.) expressed interest in acquiring the subject property to build a new facility there and relocate from their current building at 2910 10th Avenue South. The proposed new Bresnan project would consist of a retail center, private office space, head-end (cable signal distribution center) and a warehouse. The retail center and private office space would be approximately 3,500 SF. The warehouse and head-end would be approximately 5,800 SF. All of this would be housed in one structure. Outside the building would be four (4) satellite dishes that will cover an area of approximately 3,900 SF, a forty five (45) foot high tower that would rest on a 15 x 15 foot concrete pad (225 SF) and a standby generator. The satellite dishes would be 4.5 meters in diameter and at a height of 17 feet. Each dish would rest on a 10 x 10 foot concrete pad with 5 feet in between each pad. An outside storage area of approximately 4,000 SF would be used for material such a conduit, cable, pedestals, etc. The area containing the satellite dishes, generator and outside storage would be fenced along with a fenced area for company vehicles. The telecommunications component of the facility required conditional use approval in the M-1 zoning district, so the offer to purchase was contingent on the buyer applying for and receiving a Conditional Use Permit.

The City Commission set a public hearing at its meeting held on July 17, 2012. The notice of public hearing was published in the *Great Falls Tribune* on July 22, 2012. After the public hearing was held, the City Commission approved the sale of the property to Bresnan Communications, LLC.

Following the City Commission's approval of the sale, and after public hearing on December 18, 2012, the City Commission adopted Resolution 10002, granting a Conditional Use Permit to allow an Unconcealed Telecommunications Facility, requiring the owner to comply with the conditions stated in Resolution 10002.

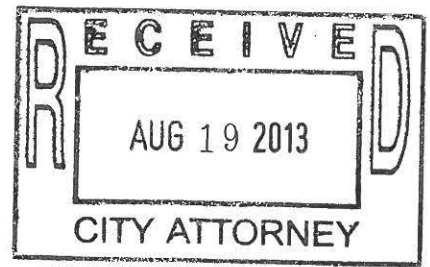
After the issuance of the Conditional Use Permit, Bresnan and the City have not yet entered into a Purchase and Sale Agreement and there was no time deadline set by the City Commission to enter into such an agreement. Bresnan's representatives have indicated interest in negotiating a Purchase and Sale Agreement. Since December 2012, no other persons or entities have expressed interest in the property. The proposed Bid Deposit Agreement with Bresnan sets a December 31, 2013 deadline for the negotiation and execution of a Purchase and Sale Agreement, and sets forth the terms if such Agreement is not reached, including but not limited to the City's retaining \$5,000.00 of the Bid Deposit.

Concurrences: The City Attorney concurs with entering into the Bid Deposit Agreement and providing the City Manager with the authority to enter into an acceptable Purchase and Sale Agreement for the subject Property.

Fiscal Impact: Entering into the Bid Deposit Agreement will ensure that if the parties cannot enter into an acceptable Purchase and Sale Agreement by December 31, 2013, the City will retain \$5,000 of the Bid Deposit, which would have been forfeited in its entirety if Bresnan does not acquire the subject property.

Alternatives: The City Commission can approve or deny entering into the Bid Deposit agreement regarding the previously approved sale of the land.

Attachments/Exhibits: Bid Deposit Agreement
Resolution 10002



BID DEPOSIT AGREEMENT

THIS BID DEPOSIT AGREEMENT (this "Agreement") is effective as of _____, 2013 (the "Effective Date"), by and between the CITY OF GREAT FALLS, MONTANA (the "City"), and BRESNAN COMMUNICATIONS, LLC, a Delaware limited liability company ("Bresnan", and together with the City, the "parties").

RECITALS

The City is the owner of certain real property located in Cascade County, Montana as more particularly described on Exhibit A to this Agreement (the "Land").

On July 2, 2012, Bresnan submitted a written bid to purchase the Real Property (as defined below) for \$265,000.00 (the "Offer Letter") and delivered to the City a cashier's check payable to "City of Great Falls City Clerks Office" in the amount of \$26,500.00 (the "Bid Deposit").

In the Offer Letter, Bresnan conditioned its obligation to purchase the Real Property and pay the balance of the \$265,000.00 bid amount upon: (i) the City and Bresnan entering into a commercially reasonable purchase and sale agreement with customary due diligence provisions, including, without limitation, relating to title, environmental issues, and zoning issues (the "PSA") and (ii) receipt by Bresnan of any required conditional use and other permits to allow Bresnan's contemplated use of the Real Property.

Pursuant to the Offer Letter, if for any reason Bresnan does not acquire the Real Property, the Bid Deposit is to be returned to Bresnan.

At the City Commission meeting on July 17, 2012, the City set a public hearing to consider the sale of the Real Property for August 7, 2012.

At the City Commission meeting on August 7, 2012, the City approved the sale of the Real Property to Bresnan.

On December 18, 2012, the City voted to approve a conditional use permit for an unconcealed telecommunications facility on the Land, subject to the fulfillment of certain conditions (the "CUP Apprxcl").

As of the Effective Date, the City and Bresnan have not entered into the PSA.

The City and Bresnan wish to enter into this Agreement to provide a definite period of time within which the parties may negotiate and enter into the PSA and to provide for a division of the Bid Deposit in the event the parties do not enter into a PSA by the expiration of that period of time.

AGREEMENT

IN CONSIDERATION of the mutual promises contained in this Agreement, the parties agree as follows:

1.0 **SALE OF REAL PROPERTY.** The City shall not grant, sell, convey, encumber, grant options or otherwise dispose of the Land or any of the City's right, title, or interest in and to any appurtenances to the Land including any improvements or fixtures on the Land and further including, without limitation, any oil, gas, coal, minerals, gems, gravel, scoria, mineral rights, thermal rights or water rights owned by the City (collectively, the "Real Property"), on or before December 31, 2013, to any person other than Bresnan.

2.0 **PSA.**

2.1 If the City and Bresnan enter into the PSA on or before December 31, 2013, then the Bid Deposit shall be applied toward the payment of the purchase price to be delivered at closing pursuant to the PSA.

2.2 If the City and Bresnan do not enter into the PSA on or before December 31, 2013, then the City shall retain \$5,000.00 of the Bid Deposit and pay or return to Bresnan \$21,500.00 of the Bid Deposit, and neither Bresnan nor the City will have any further rights or obligations with respect to the Real Property.

3.0 **CUP APPROVAL.** The City shall ensure the CUP Approval remains in full force and effect and is not terminated and does not expire, unless Bresnan and the City do not enter into the PSA.

4. **THE CITY'S REPRESENTATIONS AND WARRANTIES.**

4.1 The City represents and warrants to Bresnan that:

4.1.1 The City is a charter form of government possessing self-government powers pursuant to Article XI, Section 5 of the Constitution of the State of Montana, and Title 7, Chapter 3, Part 7, Montana Code Annotated.

4.1.2 The execution and delivery by the City of this Agreement and the performance of its obligations under this Agreement, are within the City's powers and have been duly authorized by all requisite action.

4.1.3 This Agreement constitutes the legal, valid and binding obligation of the City.

4.1.4 Neither the execution of this Agreement nor the consummation of any transactions contemplated by this Agreement will constitute an event of

default or other breach under any contract or agreement to which the City is a party or by which the City or the Real Property is bound or affected.

5.0 BRESNAN'S REPRESENTATIONS AND WARRANTIES.

5.1 Bresnan represents and warrants to the City that:

5.1.1 Bresnan is a Delaware limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and is authorized to do business in Montana.

5.1.2 The execution and delivery by Bresnan of this Agreement and the performance of its obligations under this Agreement, are within Bresnan's powers and have been duly authorized by all requisite action.

5.1.3 This Agreement constitutes the legal, valid and binding obligation of Bresnan.

5.1.4 Neither the execution of this Agreement nor the consummation of the transactions contemplated by this Agreement will constitute a breach under any contract or agreement to which Bresnan is a party or by which Bresnan is bound or affected.

6.0 MISCELLANEOUS.

6.1 ASSIGNMENT. This Agreement shall be binding upon, and inure to the benefit of, the City and Bresnan and their respective successors and assigns. Bresnan may assign its rights under this Agreement without the City's consent.

6.2 CHOICE OF LAW. This Agreement shall be governed by Montana law.

6.3 ATTORNEYS' FEES. In the event of any arbitration, lawsuit or other proceeding for the interpretation or enforcement of this Agreement, the prevailing party in such arbitration, lawsuit or other legal proceeding shall be entitled to recover its costs and expenses incurred, including, without limitation, reasonable out-of-pocket attorneys' fees.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below each signature but effective as of the Effective Date.

BRESNAN:

CITY:

BRESNAN COMMUNICATIONS, LLC

CITY OF GREAT FALLS, MONTANA

Bresnan Communications, LLC
By: Charter Communications, Inc.,
its Manager

By: _____

Name: _____

Its: _____

By:  _____

DATE: _____

Kathy Carrington,
SVP, Corporate Services

Date: 8-14-13

EXHIBIT A

LAND

LEGAL DESCRIPTION

Lot 3E of the Amended Plat of Lot 3 of the MEDICAL TECH PARK SUBDIVISION, located in the SE1/4 of Section 18, Township 20 North, Range 4 East, PMM, Cascade County, Montana, according to Plat No. P-2006-0000050, records of Cascade County, Montana.

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RESOLUTION 10002

A RESOLUTION APPROVING A CONDITIONAL USE PERMIT AT THE PROPERTY ADDRESSED AS 2100 21ST AVENUE SOUTH AND LEGALLY DESCRIBED AS LOT 3E, MEDICAL TECH PARK, SECTION 18, TOWNSHIP 20 NORTH, RANGE 4 EAST, CASCADE COUNTY, MONTANA, TO ALLOW AN UNCONCEALED TELECOMMUNICATIONS FACILITY ON THE PROPERTY.

* * * * *

WHEREAS, Bresnan Communications, LLC has an option to purchase Lot 3E, Medical Tech Park, Section 18, Township 20 North, Range 4 East, Cascade County, Montana, from the City of Great Falls, upon approval of a Conditional Use Permit for an Unconcealed Telecommunications Facility; and,

WHEREAS, said Lot 3E, Medical Tech Park is presently zoned M-1 Mixed-use district wherein an Unconcealed Telecommunications Facility is permitted upon processing and approval of a Conditional Use Permit; and,

WHEREAS, the Bresnan Communications, LLC has applied for a Conditional Use Permit to allow an Unconcealed Telecommunications Facility to be established on a portion of said property; and,

WHEREAS, the proposed Conditional Use Permit for an Unconcealed Telecommunications Facility on said property meets the Basis of Decision requirements in the Official Code of the City of Great Falls Section 17.16.36.040; and,

WHEREAS, the Great Falls Zoning Commission conducted a public hearing on October 23, 2012, to consider said Conditional Use Permit application, and at the conclusion of said hearing passed a motion recommending a Conditional Use Permit be

granted for the property addressed as 2100 21st Avenue South and legally described as Lot 3E, Medical Tech Park, Section 18, Township 20 North, Range 4 East, Cascade County, Montana, to allow an Unconcealed Telecommunications Facility on a portion of the site, subject to the following conditions:

1. **Stormwater Management.** A Stormwater Management Plan shall be developed to City standards and shall be submitted to the City Public Works Department for review and approval prior to issuance of building permits for the Site.
2. **Substantial Compliance.** Final build-out of the project shall be in substantial compliance with the final approved site plan documents, drawings and renderings dated 09/28/2012.
3. **Land Use and Zoning.** Except as provided herein, development of the property shall be consistent with the allowed uses and development standards of the M-1 Mixed-use district designation.
4. **General Code Compliance.** The proposed project shall be developed 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.
5. **Subsequent modifications and additions.** If after establishment of a conditional use, the owner proposes to expand or modify the use, buildings, and/or structures, the Director of the Planning Department shall determine in writing if such proposed change would alter the finding for one or more review criteria. If such proposed changes would alter a finding, the proposal shall be submitted for review as a new conditional use application. If such proposed change would not alter a finding, the owner shall obtain all other permits as may be required.
6. **Landscape Screening.** Applicant shall provide a 15-foot continuous evergreen landscape buffer including trees and shrubs along the southern portion of the property.

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

That a Conditional Use Permit be granted at the property addressed as 2100 21st Avenue South to allow an Unconcealed Telecommunications Facility, conditioned upon the owner complying with the said conditions; and,

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION that this Resolution shall become effective immediately upon its passage and approval.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana,
on December 18, 2012.

Michael J. Winters, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

David L. Nielsen, Interim City Attorney

RESOLUTION 10002

A RESOLUTION APPROVING A CONDITIONAL USE PERMIT AT THE PROPERTY ADDRESSED AS 2100 21ST AVENUE SOUTH AND LEGALLY DESCRIBED AS LOT 3E, MEDICAL TECH PARK, SECTION 18, TOWNSHIP 20 NORTH, RANGE 4 EAST, CASCADE COUNTY, MONTANA, TO ALLOW AN UNCONCEALED TELECOMMUNICATIONS FACILITY ON THE PROPERTY.

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WHEREAS, said Lot 3E, Medical Tech Park is presently zoned M-1 Mixed-use district wherein an Unconcealed Telecommunications Facility is permitted upon processing and approval of a Conditional Use Permit; and,

WHEREAS, the Bresnan Communications, LLC has applied for a Conditional Use Permit to allow an Unconcealed Telecommunications Facility to be established on a portion of said property; and,

WHEREAS, the proposed Conditional Use Permit for an Unconcealed Telecommunications Facility on said property meets the Basis of Decision requirements in the Official Code of the City of Great Falls Section 17.16.36.040; and,

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granted for the property addressed as 2100 21st Avenue South and legally described as Lot 3E, Medical Tech Park, Section 18, Township 20 North, Range 4 East, Cascade County, Montana, to allow an Unconcealed Telecommunications Facility on a portion of the site, subject to the following conditions:

1. **Stormwater Management.** A Stormwater Management Plan shall be developed to City standards and shall be submitted to the City Public Works Department for review and approval prior to issuance of building permits for the Site.
2. **Substantial Compliance.** Final build-out of the project shall be in substantial compliance with the final approved site plan documents, drawings and renderings dated 09/28/2012.
3. **Land Use and Zoning.** Except as provided herein, development of the property shall be consistent with the allowed uses and development standards of the M-1 Mixed-use district designation.
4. **General Code Compliance.** The proposed project shall be developed 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.
5. **Subsequent modifications and additions.** If after establishment of a conditional use, the owner proposes to expand or modify the use, buildings, and/or structures, the Director of the Planning Department shall determine in writing if such proposed change would alter the finding for one or more review criteria. If such proposed changes would alter a finding, the proposal shall be submitted for review as a new conditional use application. If such proposed change would not alter a finding, the owner shall obtain all other permits as may be required.
6. **Landscape Screening.** Applicant shall provide a 15-foot continuous evergreen landscape buffer including trees and shrubs along the southern portion of the property.

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

That a Conditional Use Permit be granted at the property addressed as 2100 21st Avenue South to allow an Unconcealed Telecommunications Facility, conditioned upon the owner complying with the said conditions; and,

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION that this Resolution shall become effective immediately upon its passage and approval.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana,
on December 18, 2012.

Michael J. Winters, Mayor

ATTEST:

Lisa Kunz, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

David L. Nielsen, Interim City Attorney

ORDINANCE 3112

AN ORDINANCE AMENDING THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF), TITLE 15 CHAPTER 50, PERTAINING TO THE ADOPTED FIRE CODE

WHEREAS, the governing body of an incorporated city may adopt technical fire codes, in whole or in part, by reference;

WHEREAS, to maintain a parallel effort of code enforcement, adoption of the updated International Fire Code (IFC) will create a seamless working relationship between the City's Building Department and Fire Department.

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

Section 1. That Title 15, Chapter 50 of the Official Code of the City of Great Falls (OCCGF) pertaining to the Uniform Fire Code be amended as depicted in Exhibit "A" attached hereto, which removes any language indicated by a strike-out 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.

APPROVED by the City Commission on first reading September 3, 2013.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on second reading September 17, 2013.

Michael J. Winters, Mayor

ATTEST:

Lisa Kunz, City Clerk

(Seal of the City)

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 hereby certify that I did post, as required by law and as prescribed and directed by the City Commission, Ordinance 3112 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 Courthouse;
- On the Bulletin Board, Great Falls Public Library

(Seal of the City)

Lisa Kunz, City Clerk

EXHIBIT "A"

Title 15 - BUILDINGS AND CONSTRUCTION

Chapter 50 - FIRE CODE

Chapter 50 - FIRE CODE

Sections:

[15.50.010 - International Fire Code \(IFC\)—adoption.](#)

[15.50.040 - Definitions.](#)

[15.50.060 - Bureau of Fire Prevention—established—duties.](#)

[15.50.080 - International Fire Code—amendments.](#)

[15.50.100 - Pipes thawed with torch prohibited.](#)

[15.50.140 - Violation—penalty.](#)

15.50.010 - International Fire Code (IFC)—adoption.

- A. There is for the purpose of prescribing regulations governing conditions hazardous to life and property from fire, hazardous materials or explosion, that certain Code and Standards known as the International Fire Code (IFC).
- B. A copy of such Code is now filed in the office of the City Clerk.
- C. Copies of the ~~2009~~ **2012** IFC may be obtained from the International Code Council.
(Ord. 2905, 2005; Ord. 2874, 2004; Ord. 2794, 2001; Ord. 2651 (Exh. B), 1993; Ord. 2455 (part), 1987; Ord. 2429 §2 (part), 1986).
(Ord. No. 2998, § 1, 3-4-2008; Ord. No. 3048, § 1, 4-6-2010)

15.50.040 - Definitions.

Whenever the following words are used in the ~~2009~~ **2012** FC, the following definitions shall apply:

"Chief of the Bureau of Fire Prevention" means the Fire Marshal of the City.

"Corporation Counsel" means the City Attorney.

"Jurisdiction" means the City.

"Removal" in relation to storage tanks includes vents and fill pipes and all other incidental hardware.

(Ord. 2874, 2004; Ord. 2455 (part), 1987; Ord. 2429 §2(part), 1986).
(Ord. No. 2998, § 1, 3-4-2008; Ord. No. 3048, § 1, 4-6-2010)

15.50.060 - Bureau of Fire Prevention—established—duties.

The ~~2009~~ **2012** IFC shall be enforced by the Bureau of Fire Prevention in the Fire Department of the City, which is established and which shall be operated under the supervision of the Fire Chief.

EXHIBIT "A"

Title 15 - BUILDINGS AND CONSTRUCTION

Chapter 50 - FIRE CODE

(Ord. 2874, 2004).

(Ord. No. 2998, § 1, 3-4-2008; Ord. No. 3048, § 1, 4-6-2010)

15.50.080 - International Fire Code—amendments.

The 2009 IFC is adopted in full and the exceptions are as follows:

- A. ~~Chapter 1 of the 2009 IFC is adopted with the following exceptions, additions and amendments:~~
 - a. ~~Section 108 Board of Appeals is not adopted; and~~
 - b. ~~105 Permits and Approvals and any other sections of the 2009 IFC referring to permits is not adopted. This section applies only to the 2009 IFC permitting requirements, not to permitting requirements contained in Montana law. Fees shall be set by Commission resolution.~~
- B. ~~Chapters 3, 8 and 10 of the 2009 IFC are adopted with the following exceptions, additions and amendments:~~
 - a. ~~806.1 Christmas trees shall be properly treated with an approved flame retardant. The chief may, however, waive this requirement when the tree is fresh (recently harvested) and all other provisions of section 806.1 are met. Consideration should also be given to humidity, temperature and the dryness of the tree at the time of setup.~~
 - b. ~~Section 4604.17 will be adopted and fire escapes shall comply with the following:~~
 - i. ~~When located within a recess or vestibule, adjacent enclosure walls shall not be less than one-hour fire resistive construction;~~
 - ii. ~~Egress from the building shall be by a clear opening having a minimum dimension of not less than twenty-nine (29) inches in both height and width. Such openings shall be openable from the inside without the use of a key or special knowledge or effort. The sill of the opening giving access shall not be more than thirty (30) inches above the floor of the building or balcony;~~
 - iii. ~~Fire escape stairways and balconies shall comply with the following requirements:~~
 - 1. ~~fire escape stairways and balconies shall support the dead load plus a live load of not less than one hundred (100) pounds per square foot and shall be provided with a top and intermediate handrail on each side;~~
 - 2. ~~the pitch of the stairway shall not exceed sixty (60) degrees with a minimum width of eighteen (18) inches;~~
 - 3. ~~treads shall not be less than four (4) inches in width and the rise between treads shall not exceed ten (10) inches;~~
 - 4. ~~all stair and balcony railings shall support a horizontal force of not less than fifty (50) pounds per lineal foot of railing;~~
 - 5. ~~balconies shall not be less than forty-four (44) inches in width with no floor opening other than the stairway opening greater than five eighths (5/8) inch in width;~~
 - 6. ~~stairway openings in such balconies shall not be less than twenty-two (22) inches by forty-four (44) inches; and~~

EXHIBIT "A"

Title 15 - BUILDINGS AND CONSTRUCTION

Chapter 50 - FIRE CODE

- ~~7. the balustrade of each balcony shall not be less than thirty-six (36) inches high with not more than nine (9) inches between balusters;~~
 - ~~iv. Fire escapes shall extend to the roof or provide an approved geosneck ladder between the top floor landing and the roof when serving buildings four (4) or more stories in height having roofs with less than four (4) units in vertical in twelve (12) units horizontal (thirty three and three tenths (33.3) percent slope);~~
 - ~~v. Fire escape ladders shall be designed and connected to the building to withstand a horizontal force of one hundred (100) pounds per lineal foot; each rung shall support a concentrated load of five hundred (500) pounds placed anywhere on the rung. All ladders shall be at least fifteen (15) inches wide, located within twelve (12) inches of the building and shall be placed flat wise relative to the face of the building. Ladder rungs shall be three quarters (¾) inch in diameter and shall be located twelve (12) inches on center. Openings for roof access ladders through cornices and similar projections shall have minimum dimensions of thirty (30) inches by thirty three (33) inches;~~
 - ~~vi. The lowest balcony shall not be more than eighteen (18) feet from the ground;~~
 - ~~vii. Fire escapes shall extend to the ground or be provided with counterbalanced stairs reaching the ground;~~
 - ~~viii. Fire escapes shall be kept clear and unobstructed at all times and maintained in good working order.~~
- ~~C. Chapters 27 through 46 of 2009 IFC are adopted with the following exceptions, additions and amendments:~~
- ~~a. Section 3304.1 Storage of explosives. The maximum quantities, storage conditions, and fire protection requirements for gunpowder and ammunition stored in a building shall be as follows:~~
 - ~~i. Smokeless powder in accordance with 50-61-120 and 50-61-121, MCA.~~
 - ~~ii. Commercial manufactured sporting black powder: Fifty (50) pounds in a separate, portable Type 4 magazine.~~
 - ~~iii. Small arms primers or percussion caps: In accordance with 50-61-120 and 50-61-121, MCA.~~
- ~~The following annexes are adopted as a part of this Code:~~
- ~~A. Appendix B Fire Flow requirements of Buildings~~
 - ~~B. Appendix C Fire Hydrant Location and Distribution~~
 - ~~C. Appendix I Fire Protection Systems Noncompliant Conditions~~

EXHIBIT "A"

Title 15 - BUILDINGS AND CONSTRUCTION

Chapter 50 - FIRE CODE

15.50.080 - International Fire Code—amendments.

The 2012 IFC is adopted in full with the exceptions as follows:

- A. If there is any conflict between the adopted code and the Montana Code Annotated, the provisions of the Montana Code Annotated control.
- B. The 2012 IFC is adopted with the following exceptions, additions and amendments:
 - a. Section 104.2 Application and Permits is not adopted.
 - b. Section 105 Permits and Approvals and any other sections of the 2012 IFC referring to permits are not adopted. This section applies only to the 2012 IFC permitting requirements, not to permitting requirements contained in Montana law. Fees shall be set by Commission resolution.
 - c. The Permit sections of the following chapters are not adopted: 3,5,6,9,20-35 and 50-67.
 - d. Section 108 Board of Appeals is not adopted.
 - e. Section 113 Fees is not adopted.
 - f. Section 308.1.6 Open-Flame Devices is adopted but deleting "except by a permit in accordance with Section 105.6 secured from the fire code official.
 - g. Section 308.2 Permits Required is not adopted.
 - h. Section 405.2 Delete section and replace with: "Frequency required emergency evacuation drills shall be held at the intervals specified in § 20-1-402 MCA. There must be at least eight emergency evacuation/disaster drills held a year in a school. At least four of the drills must be fire exit drills. Drills must be held at different hours of the day or evening to avoid distinction between drills and actual disasters." In Table 405.2 delete the word "monthly" from the frequency column, applicable to Group E and replace with "20-1-402 MCA."
 - i. Section 603.4 Portable Unvented Heaters is adopted but the "Exceptions" are not adopted.
 - j. Section 603.4.1 Prohibited Locations – is not adopted.
 - k. Section 906.1 Portable Fire Extinguishers- (1) Exception – is not adopted.
 - l. Section 1008.1.4 Door Operations is adopted adding the sentence, "Exit doors shall not be locked, chained, bolted, barred, latched or otherwise rendered unusable. All locking devices shall be of an approved type.
 - m. Sections 2306.7.9 through 2306.7.9.2.4 Vapor-Recovery and Vapor-Processing Systems – are not adopted.
 - n. Section 5601.1.3 Approval Required is adopted but deleting "a permit and."
 - o. Sections 5601.2.2 through 5601.2.4.2 are not adopted.

EXHIBIT "A"

Title 15 - BUILDINGS AND CONSTRUCTION

Chapter 50 - FIRE CODE

- p. **Section 5606.5.2.1 Smokeless Propellant – is not adopted. The maximum quantities, storage conditions, and fire-protection requirements of gunpowder and ammunition stored in a building shall be as follows: Smokeless powder and small arms primers or percussion caps shall be in accordance with Sections 50-61-120 and 50-61-121 MCA.**
- q. **Section 5606.5.2.3 Small Arms Primers – is not adopted. See Sections 50-61-120 and 50-61-121 MCA.**
- r. **Section 5608 Fireworks Display – is not adopted. See Title 50 Chapter 37 MCA**
- s. **Section 5706.1 General – In paragraph number 1 delete “farms and.”**
- t. **Section 5706.2 delete “farms and” from the heading and “on farms and rural areas and” from the paragraph.**
- u. **Section 5706.2.5.1 (2) is not adopted.**

The following annexes are adopted as a part of this Code:

- A. Appendix A - Board of Appeals is not adopted**
- B. Appendix B - Fire Flow Requirements of Buildings is adopted**
- C. Appendix C - Fire Hydrant Location and Distribution is adopted**
- D. Appendix D - Fire Access Roads is adopted**
- E. Appendix E - Hazard Categories is not adopted**
- F. Appendix F – Hazard Ranking is not adopted**
- G. Appendix G - Cryogenic Fluids is not adopted**
- H. Appendix H - Hazardous Materials is not adopted**
- I. Appendix I - Fire Protection Systems- Noncompliant Conditions is adopted**
- J. Appendix J - Building Information Sign is not adopted**

(Ord. 2905, 2005; Ord. 2874, 2004; Ord. 2794, 2001)

(Ord. No. 2998, § 1, 3-4-2008; Ord. No. 3048, § 1, 4-6-2010)

15.50.100 - Pipes thawed with torch prohibited.

It is unlawful to use any torch or other flame-producing device for the purpose of thawing out any pipe in or under any house, building or structure in the City. Any person, who in consequence of violating the provisions of this section causes a fire, shall, in addition to the penalties prescribed in this section, be liable to the City in damage to the extent of the costs to the Fire Department for answering a fire alarm and services in extinguishing such fire, such penalty to be recovered by a civil action.

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(Ord. 2874, 2004; Ord. 2455 (part), 1987; Ord. 2429 §2(part), 1986).

(Ord. No. 2998, § 1, 3-4-2008; Ord. No. 3048, § 1, 4-6-2010)

15.50.140 - Violation—penalty.

- A. Any person who violates any of the provisions of the ~~2009~~ **2012** IFC adopted in [Section 15.50.010](#) of this chapter or fails to comply therewith is guilty of a misdemeanor, punishable by a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.
- B. The application of the above penalty shall not be held to prevent the enforced removal or prohibited conditions.

(Ord. 2874, 2004; Ord. 2455 (part), 1987; Ord. 2429 §2(part), 1986).

(Ord. No. 2998, § 1, 3-4-2008; Ord. No. 3048, § 1, 4-6-2010)

Other pertinent OCCGF Codes:

9.9.90 Fireworks Policy

[9.5.28.010](#) Negligent Smoking

~~9.40~~ ~~9.90.010~~ ~~060 (A)~~ Discharging Fireworks in Parks

[8.60.010](#) Abandoned Refrigerators

[10.48.060](#)(B) Hydrant Codes

13.14.010 Unlawful Materials in Sewer

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Sections:

[15.50.010 - International Fire Code \(IFC\)—adoption.](#)

[15.50.040 - Definitions.](#)

[15.50.060 - Bureau of Fire Prevention—established—duties.](#)

[15.50.080 - International Fire Code—amendments.](#)

[15.50.100 - Pipes thawed with torch prohibited.](#)

[15.50.140 - Violation—penalty.](#)

15.50.010 - International Fire Code (IFC)—adoption.

- A. There is for the purpose of prescribing regulations governing conditions hazardous to life and property from fire, hazardous materials or explosion, that certain Code and Standards known as the International Fire Code (IFC).
- B. A copy of such Code is now filed in the office of the City Clerk.
- C. Copies of the ~~2009~~ **2012** IFC may be obtained from the International Code Council.
(Ord. 2905, 2005; Ord. 2874, 2004; Ord. 2794, 2001; Ord. 2651 (Exh. B), 1993; Ord. 2455 (part), 1987; Ord. 2429 §2 (part), 1986).
(Ord. No. 2998, § 1, 3-4-2008; Ord. No. 3048, § 1, 4-6-2010)

15.50.040 - Definitions.

Whenever the following words are used in the ~~2009~~ **2012** FC, the following definitions shall apply:

"Chief of the Bureau of Fire Prevention" means the Fire Marshal of the City.

"Corporation Counsel" means the City Attorney.

"Jurisdiction" means the City.

"Removal" in relation to storage tanks includes vents and fill pipes and all other incidental hardware.

(Ord. 2874, 2004; Ord. 2455 (part), 1987; Ord. 2429 §2(part), 1986).
(Ord. No. 2998, § 1, 3-4-2008; Ord. No. 3048, § 1, 4-6-2010)

15.50.060 - Bureau of Fire Prevention—established—duties.

The ~~2009~~ **2012** IFC shall be enforced by the Bureau of Fire Prevention in the Fire Department of the City, which is established and which shall be operated under the supervision of the Fire Chief.

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(Ord. 2874, 2004).

(Ord. No. 2998, § 1, 3-4-2008; Ord. No. 3048, § 1, 4-6-2010)

15.50.080 - International Fire Code—amendments.

The 2009 IFC is adopted in full and the exceptions are as follows:

- A. ~~Chapter 1 of the 2009 IFC is adopted with the following exceptions, additions and amendments:~~
 - a. ~~Section 108 Board of Appeals is not adopted; and~~
 - b. ~~105 Permits and Approvals and any other sections of the 2009 IFC referring to permits is not adopted. This section applies only to the 2009 IFC permitting requirements, not to permitting requirements contained in Montana law. Fees shall be set by Commission resolution.~~
- B. ~~Chapters 3, 8 and 10 of the 2009 IFC are adopted with the following exceptions, additions and amendments:~~
 - a. ~~806.1 Christmas trees shall be properly treated with an approved flame retardant. The chief may, however, waive this requirement when the tree is fresh (recently harvested) and all other provisions of section 806.1 are met. Consideration should also be given to humidity, temperature and the dryness of the tree at the time of setup.~~
 - b. ~~Section 4604.17 will be adopted and fire escapes shall comply with the following:~~
 - i. ~~When located within a recess or vestibule, adjacent enclosure walls shall not be less than one-hour fire resistive construction;~~
 - ii. ~~Egress from the building shall be by a clear opening having a minimum dimension of not less than twenty-nine (29) inches in both height and width. Such openings shall be openable from the inside without the use of a key or special knowledge or effort. The sill of the opening giving access shall not be more than thirty (30) inches above the floor of the building or balcony;~~
 - iii. ~~Fire escape stairways and balconies shall comply with the following requirements:~~
 - 1. ~~fire escape stairways and balconies shall support the dead load plus a live load of not less than one hundred (100) pounds per square foot and shall be provided with a top and intermediate handrail on each side;~~
 - 2. ~~the pitch of the stairway shall not exceed sixty (60) degrees with a minimum width of eighteen (18) inches;~~
 - 3. ~~treads shall not be less than four (4) inches in width and the rise between treads shall not exceed ten (10) inches;~~
 - 4. ~~all stair and balcony railings shall support a horizontal force of not less than fifty (50) pounds per lineal foot of railing;~~
 - 5. ~~balconies shall not be less than forty-four (44) inches in width with no floor opening other than the stairway opening greater than five eighths (5/8) inch in width;~~
 - 6. ~~stairway openings in such balconies shall not be less than twenty-two (22) inches by forty-four (44) inches; and~~

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- ~~7. the balustrade of each balcony shall not be less than thirty-six (36) inches high with not more than nine (9) inches between balusters;~~
 - ~~iv. Fire escapes shall extend to the roof or provide an approved geosneck ladder between the top floor landing and the roof when serving buildings four (4) or more stories in height having roofs with less than four (4) units in vertical in twelve (12) units horizontal (thirty three and three tenths (33.3) percent slope);~~
 - ~~v. Fire escape ladders shall be designed and connected to the building to withstand a horizontal force of one hundred (100) pounds per lineal foot; each rung shall support a concentrated load of five hundred (500) pounds placed anywhere on the rung. All ladders shall be at least fifteen (15) inches wide, located within twelve (12) inches of the building and shall be placed flat wise relative to the face of the building. Ladder rungs shall be three quarters (¾) inch in diameter and shall be located twelve (12) inches on center. Openings for roof access ladders through cornices and similar projections shall have minimum dimensions of thirty (30) inches by thirty three (33) inches;~~
 - ~~vi. The lowest balcony shall not be more than eighteen (18) feet from the ground;~~
 - ~~vii. Fire escapes shall extend to the ground or be provided with counterbalanced stairs reaching the ground;~~
 - ~~viii. Fire escapes shall be kept clear and unobstructed at all times and maintained in good working order.~~
- ~~C. Chapters 27 through 46 of 2009 IFC are adopted with the following exceptions, additions and amendments:~~
- ~~a. Section 3304.1 Storage of explosives. The maximum quantities, storage conditions, and fire protection requirements for gunpowder and ammunition stored in a building shall be as follows:~~
 - ~~i. Smokeless powder in accordance with 50-61-120 and 50-61-121, MCA.~~
 - ~~ii. Commercial manufactured sporting black powder: Fifty (50) pounds in a separate, portable Type 4 magazine.~~
 - ~~iii. Small arms primers or percussion caps: In accordance with 50-61-120 and 50-61-121, MCA.~~
- ~~The following annexes are adopted as a part of this Code:~~
- ~~A. Appendix B Fire Flow requirements of Buildings~~
 - ~~B. Appendix C Fire Hydrant Location and Distribution~~
 - ~~C. Appendix I Fire Protection Systems Noncompliant Conditions~~

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15.50.080 - International Fire Code—amendments.

The 2012 IFC is adopted in full with the exceptions as follows:

- A. If there is any conflict between the adopted code and the Montana Code Annotated, the provisions of the Montana Code Annotated control.
- B. The 2012 IFC is adopted with the following exceptions, additions and amendments:
 - a. Section 104.2 Application and Permits is not adopted.
 - b. Section 105 Permits and Approvals and any other sections of the 2012 IFC referring to permits are not adopted. This section applies only to the 2012 IFC permitting requirements, not to permitting requirements contained in Montana law. Fees shall be set by Commission resolution.
 - c. The Permit sections of the following chapters are not adopted: 3,5,6,9,20-35 and 50-67.
 - d. Section 108 Board of Appeals is not adopted.
 - e. Section 113 Fees is not adopted.
 - f. Section 308.1.6 Open-Flame Devices is adopted but deleting "except by a permit in accordance with Section 105.6 secured from the fire code official.
 - g. Section 308.2 Permits Required is not adopted.
 - h. Section 405.2 Delete section and replace with: "Frequency required emergency evacuation drills shall be held at the intervals specified in § 20-1-402 MCA. There must be at least eight emergency evacuation/disaster drills held a year in a school. At least four of the drills must be fire exit drills. Drills must be held at different hours of the day or evening to avoid distinction between drills and actual disasters." In Table 405.2 delete the word "monthly" from the frequency column, applicable to Group E and replace with "20-1-402 MCA."
 - i. Section 603.4 Portable Unvented Heaters is adopted but the "Exceptions" are not adopted.
 - j. Section 603.4.1 Prohibited Locations – is not adopted.
 - k. Section 906.1 Portable Fire Extinguishers- (1) Exception – is not adopted.
 - l. Section 1008.1.4 Door Operations is adopted adding the sentence, "Exit doors shall not be locked, chained, bolted, barred, latched or otherwise rendered unusable. All locking devices shall be of an approved type.
 - m. Sections 2306.7.9 through 2306.7.9.2.4 Vapor-Recovery and Vapor-Processing Systems – are not adopted.
 - n. Section 5601.1.3 Approval Required is adopted but deleting "a permit and."
 - o. Sections 5601.2.2 through 5601.2.4.2 are not adopted.

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- p. **Section 5606.5.2.1 Smokeless Propellant – is not adopted. The maximum quantities, storage conditions, and fire-protection requirements of gunpowder and ammunition stored in a building shall be as follows: Smokeless powder and small arms primers or percussion caps shall be in accordance with Sections 50-61-120 and 50-61-121 MCA.**
- q. **Section 5606.5.2.3 Small Arms Primers – is not adopted. See Sections 50-61-120 and 50-61-121 MCA.**
- r. **Section 5608 Fireworks Display – is not adopted. See Title 50 Chapter 37 MCA**
- s. **Section 5706.1 General – In paragraph number 1 delete “farms and.”**
- t. **Section 5706.2 delete “farms and” from the heading and “on farms and rural areas and” from the paragraph.**
- u. **Section 5706.2.5.1 (2) is not adopted.**

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(Ord. 2905, 2005; Ord. 2874, 2004; Ord. 2794, 2001)

(Ord. No. 2998, § 1, 3-4-2008; Ord. No. 3048, § 1, 4-6-2010)

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(Ord. 2874, 2004; Ord. 2455 (part), 1987; Ord. 2429 §2(part), 1986).

(Ord. No. 2998, § 1, 3-4-2008; Ord. No. 3048, § 1, 4-6-2010)

15.50.140 - Violation—penalty.

- A. Any person who violates any of the provisions of the ~~2009~~ **2012** IFC adopted in [Section 15.50.010](#) of this chapter or fails to comply therewith is guilty of a misdemeanor, punishable by a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.
- B. The application of the above penalty shall not be held to prevent the enforced removal or prohibited conditions.

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Other pertinent OCCGF Codes:

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13.14.010 Unlawful Materials in Sewer