



Updated Since Original Posting
City Commission Agenda
Civic Center 2 Park Drive South, Great Falls, MT
Commission Chambers Room 206
March 21, 2017

CALL TO ORDER 7:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

AGENDA APPROVAL

PROCLAMATIONS

Child Abuse Prevention Month

SWEARING IN

Neighborhood Council 4 Representative - Gregg Matsko

Neighborhood Council 7 Representatives - Sandra Rice and Gudrun K. Linden

PRESENTATION

Government Finance Officers Association, Distinguished Budget Presentation Award

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. Miscellaneous reports and announcements from Boards and Commissions.

CITY MANAGER

4. 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.

5. March 7, 2017, Commission Meeting Minutes.
6. Contracts List.
7. Total Expenditures of \$3,894,473 for the period of February 16, 2017 through March 8, 2017, to include claims over \$5,000, in the amount of \$3,678,343.
8. Approve Final Payment in the amount of \$5,749.47 to Planned and Engineered Construction Inc. (PEC) and \$58.08 to the State Miscellaneous Tax Fund for the Sanitary Sewer Trenchless Rehabilitation, Phase 19, and authorize the City Manager to make the payments.
9. Approve Final Payment for the North Great Falls Lift Station and Force Main in the amount of \$990.00 to Falls Construction and \$10.00 to the State of Montana Miscellaneous Tax Division and authorize the City Manager to execute the necessary documents and make the payments.
10. Set a public hearing for May 2, 2017, on Resolution 10172 to establish residential and commercial water, sewer, and storm drain utility service rates effective June 1, 2017.

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

PUBLIC HEARINGS

OLD BUSINESS

11. 2016/2017 Annual Action Plan Amendment and CDBG Timeliness Projects.
Action: Adopt or deny 2016/2017 Amended Annual Action Plan, including the Timeliness addition in Project Introduction; authorize or not authorize the submittal to the U.S. Department of Housing and Urban Development (HUD); and accept or deny the proposed use of funds, due to timeliness, for the 2016/2017 Community Development Block Grant Program. ***(Presented by Craig Raymond)***

NEW BUSINESS

ORDINANCES/RESOLUTIONS

12. Ord. 3158, An Ordinance amending Title 9, of the Official Code of the City of Great Falls (OCCGF pertaining to the Public Peace, Morals and Welfare.
Action: Accept or not accept Ord. 3158 on first reading and set or not set the public hearing for April 4, 2017. ***(Presented by, Joseph Cik)***

CITY COMMISSION

13. Miscellaneous reports and announcements from the City Commission.
14. Legislative Initiatives.
15. 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.



Agenda # 5.
Commission Meeting Date: March 21, 2017
City of Great Falls
Commission Agenda Report

Item: March 7, 2017, Commission Meeting Minutes.
From: Darcy Dea, Deputy City Clerk
Initiated By: Darcy Dea, Deputy City Clerk
Presented By: Darcy
Action Requested:

ATTACHMENTS:

- ▣ DRAFT Minutes, March 7, 2017

Regular City Commission Meeting

Mayor Kelly presiding

CALL TO ORDER: 7:00 PM

Commission Chambers Room 206

PLEDGE OF ALLEGIANCE

ROLL CALL/STAFF INTRODUCTIONS: City Commission members present: Bob Kelly, Bob Jones, Tracy Houck, Bill Bronson and Fred Burow. 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; Interim Park and Recreation Director Patty Rearden; Fiscal Services Director Melissa Kinzler; Fire Chief Steve Hester; City Attorney Sara Sexe; and, Police Captain John Schaffer.

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

PROCLAMATION: Respect Day

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

PETITIONS AND COMMUNICATIONS

1. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Ron Gessaman, 1006 36th Avenue NE, expressed concern with regard to the lack of publicity for the Joint Meeting of Great Falls, Cascade County Region Leaders and Montana Legislators that was held on March 2nd.

NEIGHBORHOOD COUNCILS

2. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Kathy Gessaman, 1006 36th Avenue NE, NC 3 reported that the next NC 3 meeting will be at 7:00 pm on April 6th at Riverview School. She expressed concern with regard to the safety of citizens jaywalking across the street to/from the refinery.

Mayor Kelly commented that NC 8 provided a good report at the work session.

BOARDS & COMMISSIONS

3. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS FROM BOARDS AND COMMISSIONS.

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

CITY MANAGER**4. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

City Manager Greg Doyon reported that the preliminary process is starting for the fiscal year budget planning. Manager Doyon discussed his attendance and participation at the Association of Defense Communities (ADC) Conference in San Antonio and that he had an opportunity to visit with Air Force leadership about installation encroachment issues. He further reported that representatives from the Montana Air National Guard and Mission Support Group also attended the ADC Conference.

Manager Doyon thanked Officer Gerhart, Human Resource Training/Development Coordinator Mark Willmarth, and Human Resource Risk Manager Angela Swingley with regard to coordinating the Active Shooter Drill.

CONSENT AGENDA.

5. Minutes, February 21, 2017, Commission meeting.
6. Contracts list
7. Total Expenditures of \$1,196,772 for the period of January 31, 2017 through February 22, 2017, to include claims over \$5,000, in the amount of \$1,718,988.
8. Approve the purchase of one new 2018 Kenworth T800 tandem axle cab & chassis truck for \$125,025 from Motor Power Great Falls, Inc., through NJPA (National Joint Powers Alliance) including trade-in.
9. Award a contract for the 36th Avenue NE Improvements (Phase 2), in the amount of \$594,286.40 to United Materials of Great Falls, Inc. and authorize the City Manager to execute the construction contract documents. **OF 1622.2**
10. Award a contract for the City of Great Falls Public Works Facility Improvement – Utilities Building & Public Works Office to EJ Carpentry in the amount of \$233,999.17, and authorize the City Manager to execute the construction contract documents. **OF 1455.6**

Commissioner Burow moved, seconded by Commissioners Jones and 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 9, Mayor Kelly applauded Public Works for its decision with regard to delaying the first project and receiving a lower bid.

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

11. **ORDINANCE 3152, AN ORDINANCE TO REZONE THE PROPERTIES LEGALLY DESCRIBED AS: MARKS 2, 3, 5, 11, BLOCK 3, COUNTRY CLUB ADDITION AND LOTS 1B, 1, 1A-1, BLOCK 1, TIETJEN TRIANGLE ADDITION AND LOT 1, BLOCK 1, MONTANA ADDITION FROM C-1 NEIGHBORHOOD COMMERCIAL TO C-2 GENERAL COMMERCIAL.**

Planning and Community Development Director Craig Raymond reported that Brett and Sandra Haverlandt, Meadowlark FF&S LLC, Billings Holdings, LLC, and Galloway Investments Inc., Owners of the property in question have filed an application for a zoning map amendment (or rezone) of their respective properties from C-1 Neighborhood Commercial to C-2 General Commercial.

The subject properties are located on the south side of the Country Club Boulevard and Fox Farm Road intersection. In total, the properties consist of ±5.9 acres and the properties are generally known as: Beef 'O Brady's, Holiday Gas Station, Lucky Lil's Casino, Dairy Queen, Dahlquist Realtors and a vacant parcel which historically contained a motel until it was ultimately demolished.

The applicants are requesting the subject properties be rezoned to C-2 General commercial district in order to have the ability to allow higher intensity uses with less restrictive development standards. The Official Code of the City of Great Falls (OCCGF) 17.20.2.040 Establishment and purpose of districts, describes these two districts as:

C-1 Neighborhood Commercial. This district is found near established and developing residential areas and is intended to accommodate low intensity commercial activities that serve the nearby residential area. Development standards ensure the compatibility of this district to those residential districts that may adjoin.

C-2 General Commercial. This district is primarily intended to accommodate high-traffic businesses that focus on vehicle traffic. Where this district abuts a residential district, appropriate screening and landscaping will be provided to lessen associated impacts. Current residential uses are not considered nonconforming. As such, current residential uses existing at the time this Title was adopted are allowed to expand or to be re-established, if damaged.

City Staff has in the past contemplated a rezone of this area as the existing development and businesses in the vicinity most closely resemble the C-2 zoning designation in that they primarily depend on high volume traffic and do not predominantly cater to the nearby residential area. There have also been significant code conflicts primarily pertaining to signage due to the dependence on nearby highway traffic for some of these businesses.

The OCCGF, Chapter 20 – Land Use, outlines development standards for each zoning district in Exhibit 20-4. The primary differences between the C-1 and C-2 districts are the maximum height

permitted, maximum lot coverage, and front yard setback. In summation, the C-2 district permits:

- an additional 30 feet in building height
- 20% more total lot coverage
- a reduction in the front yard setback to 0 feet
- a 10-foot increase in the maximum height of a free standing sign

The basis for decision on zoning map amendments or zone changes, is listed in OCCGF § 17.16.40.030. The recommendation of the Zoning Commission and the decision of City Commission shall at a minimum consider the criteria which are contained in the Findings of Fact which are attached to the agenda report but briefly are as follows:

1. The amendment is consistent with and furthers the intent of the City's growth policy.

The proposed rezoning is, in general, consistent with the overall intent and purpose of the 2013 City Growth Policy Update. This project supports the Physical portions of the Growth Policy. Given the costs of development that grows outward, contrasted with the redevelopment opportunities that exist within the City's existing boundary, this Growth Policy Update encourages, emphasizes and calls for the evaluation of infill and redevelopment opportunities within the City, as well as other strategies. Additional supportive Policies that this project is consistent with include:

Environmental – Urban Form

Env2.3.1 In order to maximize existing infrastructure, identify underutilized parcels and areas with infill potential as candidates for redevelopment in the City.

Physical - Land Use

Phy4.1.1 Promote and incentivize infill development that is compatible with the scale and character of established neighborhoods.

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.

Physical - Zoning

Phy4.2.3 Support actions that bring properties into conformance with the City's Land Development Code requirements over time. (some of the parcels at issue tonight contain uses and structures which became non-conforming in 2005 when the C-1 zoning designation was applied to the area).

The Growth Policy identifies that Great Falls embodies balanced, compatible growth, while at the same time acknowledges the issues of compatibility between zoning districts and certain land uses. Physical Policy 4.2.6 states:

The City may oppose zoning changes that will result in incompatible land uses and or adverse impacts to the residential character or adjoining properties.

This Policy is important to consider when large areas consisting of multiple tracts of land are pursuing rezoning from a transitional, relatively low-impact zoning district (C-1) to a significantly higher impact zoning district (C-2). However, for the properties involved in this rezoning application, the existing businesses located on the C-1 lots are high traffic, general commercial uses in nature (fuel sales, convenience store, restaurant, casino, drive through fast food) and the adjacent properties to the east are compatible in height and intensity because they are multi-story condominiums zoned

R-6 Multi-family high density.

In the future, if additional properties on the west side of Fox Farm Road pursue rezoning from C-1 Neighborhood commercial to C-2 General commercial, this Policy should be considered because those properties do not all have an R-6 Multi-family zoning district to act as a transition between commercial and single-family residential use.

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

Great Falls is separated into nine Neighborhood Councils. There are no adopted Neighborhood Plans for any of the Councils within the City. The subject property is located in Neighborhood Council #1. The Owner of one of the parcels in question tonight presented information to Council #1 on December 18, 2016, and the Council voted in favor of the proposed zone change.

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 area of the City in which this project is located is reflected in the 2014 Great Falls Long Range Transportation Plan. The Fox Farm Road and Country Club Boulevard intersection has been identified as having issues with safety and congestion, as well as linear barriers to pedestrians and nonmotorized traffic.

The proposed rezone would allow for uses that were previously prohibited to be established, while at the same time prohibiting uses that are currently allowed. Thus, it is not possible to know the exact traffic impact that changes in use would create until such time that redevelopment in this area happens.

4. The code with the amendment is internally consistent.

If approved, this area of the City has the potential to redevelop with higher intensity uses with less restrictive development standards. Again, the existing development pattern mirrors the C-2 zoning designation thus the allowed C-2 General commercial uses that may be established in the future if the rezone is approved would be compatible with adjacent properties.

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

The subject properties are located at the entrance to an existing neighborhood. Most of the properties in the application have been developed over the past fifty years with commercial uses. The intensity of some of the uses existing is nonconforming, and in the case of the Lucky Lil's Casino, it will continue to be nonconforming regardless of the proposed zone change. As aforementioned, the east side of the Fox Farm Road and Country Club Boulevard intersection is already adjacent to three R-6 Multi-family high density district buildings, including Country Club Towers Condos, The Cottonwoods Condos, and Meadowlark Apartments. The maximum building height of a new building in the R-6 district is 65 feet, which is the same as the proposed C-2 district.

The Comparative Table exhibit shows the main differences between permitted uses in the C-1 Neighborhood commercial and C-2 General commercial districts.

The proximity of the subject lots to Interstate 15 and Exit 0 also lends itself to property owners

seeking higher intensity uses and less restrictive zoning standards in an effort to serve interstate traffic. The existing uses in this area are indicative of this. The C-2 district allows for increased building and signage heights, as well as increased lot coverage.

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

The City has the financial and staffing capability to enforce the amendment if it is approved. Additionally, if the rezoning results in new development or redevelopment this could benefit the City financially due to increased property tax assessments collected.

At the conclusion of a public hearing held on January 10, 2017, the Zoning Commission recommended the City Commission approve rezoning request from C-1 Neighborhood commercial district to C-2 General commercial district for the subject properties.

Representing the Applicants, Planning and Community Development Director Craig Raymond introduced Joe Murphy with Big Sky Civil and Environmental. Mr. Murphy provided and discussed a handout with regard to the proposed hotel development. Mr. Murphy commented that the zone change process since the beginning of the planning efforts has nothing to do with casinos and that proposed hotel will not contain a casino.

He further reported that an observation made by the zoning commission from January is that C1 zoning is intended to accommodate low intensity commercial activities that serve the nearby residential area. He further reported that C2 zoning serves high traffic areas, which 10th Avenue South is and that some existing businesses in this area are already considered C2 by definition. C2 zoning is an acceptable land use adjacent to R6 zoned areas.

Mr. Murphy discussed the economic impact and benefits that building the hotel would have on the City and that it would increase the City tax base. Mr. Murphy thanked Planning and Community Development for its cooperation, assistance, and support throughout the entire process. He further addressed comments and concerns by neighbors in the area of the proposed development. He concluded that the proposed zone change has never been about Casinos.

Mayor Kelly declared the public hearing open.

Written correspondence in opposition to Ordinance 3152 was received from Jerry Weissman, Amy and Jim Gillespie, Art Dickhoff, Janet Clairmont, Steve Gillespie, Gerry Jennings and Janet Metcalf.

Written correspondence in support of Ordinance 3152 was received from Brett Haverlandt.

Manager Greg Doyon reported that the Commission Meeting was not broadcasting live due to a problem with Charter Communications.

Speaking in opposition to Ordinance 3152 were:

Roy Volk, 301 Big Bend, expressed concern with regard to utilizing the newspaper as an

adequate source to provide information to the public. Mr. Volk further expressed concern with regard to C2 zoning allowing casinos to be added to an existing business or being built at a later time, and an increase in traffic.

Art Dickhoff, 3027 3rd Avenue North, expressed concern with regard to once a zone change occurs then it stays with the land. Mr. Dickhoff further expressed concern with regard to the negative effects of casinos.

Cherie Bowman-Lyons, 1526 C Meadowlark Drive, reported that there has been an increase in driving hazards since the area has become more developed. She commented that her first concern is the safety and welfare of the residents that live in the area. With regard to building the new motel, she further expressed concern with regard to more vehicle break ins, increase in noise levels, and light pollution.

Robert Holter, 400 Dear Drive, expressed concern with regard to spot zoning and that adding a curb cut to the intersection would create more traffic accidents.

Hillary Rose, 1113 3rd Avenue North, expressed concern with regard to the possibility of more casinos being built if the rezoning takes place.

Val Keaveny Sr. 1526 B Meadowlark Drive, expressed concern with regard to the property value dropping. He further commented that he does not want to see the area over run by business.

Gil Day, 1005 26th Avenue SW, expressed concern with regard to having more casinos in the City.

Gloria Smith, 31 Comanche Trail, expressed concern with regard to having the port of entry into Great Falls ruined by building the motel.

Russ Kendall, 2801 Bonita Drive, expressed concern with regard to other businesses building casinos if the area is changed to C2 zoning.

Dan Shull, 2208 Cherry Drive, expressed concern with regard to existing properties being in perpetuity and being able to do whatever they want if zoning is changed to C2.

Ben Forsyth, 3301 9th Street NE, expressed concern with regard to the problems created by gambling.

Steve Gillespie, 9 12th Street North, with regard to correspondence that was submitted to the Commission from Mr. Brett Haverlandt, Mr. Gillespie commented that the allegations were false.

Kendra Owen, 1004 El Paso Drive, expressed concern with regard to the amount of casinos that are in the City. She further expressed concern with regard to the view from the primary gateway into the city being ruined if the motel is built.

Patricia Waldo, 2219 Cherry Drive, expressed concern with regard to the amount of casinos and

ruining the port of entry view.

Kirk Geisen, 1701 Meadowlark Drive, expressed opposition with regard to having another motel built.

Nona Jane Kendall, 2801 Bonita Drive, expressed concern with regard to maintaining beautification efforts of the view to the entrance into the city.

Mayor Kelly called for a recess of the meeting at 8:52 pm.

Mayor Kelly called for the meeting to reconvene at 9:00 pm.

Speaking in support of Ordinance 3152 were:

Lillian Sunwall, Great Falls Development Authority (GFDA), 300 Central Avenue, expressed support with regard to economic growth, development and high wage jobs. She commented that the development would improve the land, increase the tax base, provide jobs, and add additional hotel rooms.

Dan Sampson, 600 South Main, Construction and Development Manager for Town Pump, reported that there is no intention to develop a casino, but rather to develop a motel. He commented that there has been a lot of time and effort with regard to designing the development to fit the undeveloped property and to do it in a manner that supports the neighborhood, housing developments, and other businesses. Mr. Sampson reported that it was his company that approached the Planning and Community Development with regard to changing the property from a C1 to a C2 zoning rather than going for a height variance due to the concerns with the existing businesses. Mr. Sampson concluded that the project is about addressing an existing issue and providing a well done development for the area.

Shane Etzwiler, Chamber of Commerce, 100 1st Avenue North, expressed support with regard to the zone change. Mr. Etzwiler commented that there is a need to continue to develop a strong work force.

Brett Haverlandt, 2814 5th Avenue North, owner of Dahlquist Reality expressed support with regard to the zone change. With regard to the current view and property values, Mr. Haverlandt discussed several negative effects that the current property has. Mr. Haverlandt further commented that he has no future plans to sell the Dahlquist Reality Building. Mr. Haverlandt explained that the project would provide needed water and sewer infrastructure. With regard to his correspondence that was submitted to the Commission, he reported that he stands by it that it is completely factual in its content.

Steve Galloway, 1651 Fox Farm Road, discussed the importance of having tax revenue and he commented that development needs to continue forward. Mr. Galloway further commented that the community needs to look into casino laws instead of putting pressure on businesses to not be able to develop properly.

Scott Arensmeyer, 1411 10th Avenue South, commented that the growth from the project would

employ citizens of Great Falls.

Kevin May, Big Sky Civil and Environmental, 1324 13th Avenue SW, reported that Town Pump has shown willingness to work with local Planning Departments, delivers functional and successful projects and enhances the general neighborhood that they lie in. Mr. May further reported that Town Pump hires local contractors, suppliers, consultants, and staffs stores locally. Town Pump is a yearly contributor to local colleges and other charitable foundations. He concluded that Town Pump is a beneficial addition to the City of Great Falls and the State of Montana.

Mitch Callas, 3443 5th Avenue South, commented that the motel would be an improvement to the current lot, and would provide economic development and jobs.

Basil Jacobson, 3309 14th Avenue South, commented that rezoning would be an investment for taxes.

There being no one further to address the Commission, Mayor Kelly closed the public hearing and asked the will of the Commission.

Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission table Ordinance 3152 to remand the matter back to the Planning and Community Development Department with the following instructions:

1. Staff to review and report back to the Commission with the appropriateness of using the designation Planned Unit Development (PUD) for the proposed rezoning, as opposed to a strict C2.
2. Within the scope of a proposed PUD designation, staff to report back on how to apply general C2 zoning standards such as height, area, setback, and other standards to the properties affected, but also to look at the prospect whether in some instances shorter height limitations could be used.
3. Look at utilizing the general C2 use standards within the PUD, but to report back on the possibility that in some instances we would be able to remove or prohibit more intensive uses on C2 properties.
4. Relating specifically to the hotel site that has been proposed by Town Pump, the access issue has not been adequately addressed and resolved, and as a condition of approval, the access issue down to Alder Drive be finalized as part of this process as a PUD and not to the permitting process.
5. Any other comments, recommendations or considerations that staff would deem appropriate that are consistent with these instructions.

Commissioner Bronson explained that a PUD designation is a special zoning classification that can be used to incorporate any particular standards of other zoning districts. Commissioner Bronson further explained that a PUD designation gives the Commission and staff more control with regard to making sure that development is occurring in the best possible way in mitigating

as much as possible any potential adverse impacts that may come from the development. With regard to rezoning, Commissioner Bronson expressed concern with regard to traffic and public safety issues. If a C2 designation is granted, Commissioner Bronson expressed concern with regard to future projects that may not be in the best interest of the community.

Commissioner Jones concurred with Commissioner Bronson with regard to traffic and public safety issues. Commissioner Jones further expressed concern with regard to the existing approach coming off of Alder Drive.

Commissioner Houck received clarification with regard to whether a coffee shop could go in the area without a zone change. She requested that Planning and Community Development look into managing the traffic issue concerns. Commissioner Houck further expressed opposition with regard to gambling. She further commented that the City has lost sporting events due to a lack of hotel space.

Mayor Kelly inquired what time frame that the Planning and Community Development could address the issues and bring the matter back to the City Commission.

Planning and Community Development Director Craig Raymond indicated April 4th.

Mayor Kelly further commented that he respects everyone that attended the Commission meeting. With regard to making decisions on zoning changes, Mayor Kelly explained that the Commission represents all of Great Falls and the community. With regard to the gambling issue, Mayor Kelly commented that the Commission cannot do anything about that and it's the Commission's job is to execute the laws. Referring to the lack of public notice issue, Mayor Kelly commented that procedures were followed that were required by law. Mayor Kelly expressed appreciation with regard to the work that Commissioner Bronson did.

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

Motion carried 5-0.

OLD BUSINESS

NEW BUSINESS

12. CONCESSIONAIRE LEASE AGREEMENT FOR GIBSON PARK CONCESSIONS.

Interim Park and Recreation Director Patty Rearden reported this item is an agreement with Pegasus, LLC to offer concessions at Gibson Park to be located in the current concession area adjacent to the restroom. She further reported that the City had not offered a concession at Gibson Park since 2014. Requests for proposals were advertised in the Great Falls *Tribune* and mailed to 16 prospective bidders and Pegasus, LLC was the sole responder.

The proposal includes purchasing equipment necessary to run a concession, and to make improvements to the building to meet City Code. The selection committee, and the Park and Recreation Advisory Board recommended approval of the agreement to Pegasus, LLC.

Commissioner Jones moved, seconded by Commissioner Burow, that the City Commission approve the Concessionaire Lease Agreement with Pegasus, LLC, to provide concessions services at Gibson Park for three years (May 15 – September 15), and authorize the City Manager to execute the agreement.

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

Commissioner Houck received clarification with regard to allowing additional concessionaires for larger festivals at Gibson Park.

Mayor Kelly received clarification with regard to the concession area being limited to the building at Gibson Park.

There being no further discussion, 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

13. **ORDINANCE 3159 – AN ORDINANCE ASSIGNING A ZONING CLASSIFICATION OF PLI PUBLIC LANDS AND INSTITUTIONAL TO THE PROPERTY DESCRIBED AS TRACT 1A OF TRACT 1 OF COS 3347 LOCATED IN THE NE ¼ SECTION 21, TOWNSHIP 20 NORTH, RANGE 3 EAST, PMM, CASCADE COUNTY, MONTANA FOR THE PROPOSED CONSTRUCTION OF A CITY-OWNED WATER TOWER.**

Planning and Community Development Director Craig Raymond reported that this item is to accept Ordinance 3159 on first reading and set a public hearing for April 4, 2017. Ordinance 3159 provides for the application of "PLI-Public Lands Institutional" upon annexation into the city limits.

The City of Great Falls Public Works Department is requesting annexation of ±2.07 acres, described as "Tract 1A of Tract 1 of COS 3347 located in the NE ¼ and SE ¼ Section 21, Township 20 North, Range 3 East" into the City of Great Falls to construct what is known as the "Gore Hill Water Tower" upon the Subject Property. Additionally, Montana Code Annotated 7-2-4211 requires annexation of adjoining rights-of-way.

Therefore, the annexation would include portions of I-15 and 31st St SW. This inclusion of I-15 into the City limits will not increase city responsibilities or maintenance costs for roadways. MDT will continue to control and maintain the entire system. A Conditional Use Permit is also being requested to allow for the construction of the 140 foot high structure and proposed use.

At the conclusion of a public hearing held on February 14, 2017, the Planning Advisory Board/Zoning Commission recommended the City Commission approve the annexation, assign a PLI – Public Lands and Institutional zoning classification upon annexation, and approve a Conditional Use Permit for the construction of a water tower on the property, legally described above, subject to certain conditions as listed in the agenda report.

Commissioner Burow moved, seconded by Commissioners Houck and Bronson, that the City Commission adopt Ordinance 3159 on first reading and set a public hearing for April 4, 2017.

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.

CITY COMMISSION

14. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Mayor Kelly reported that there was a great presentation with regard to the Ground Base Strategic Deterrent.

Commissioner Houck reported that Western Art Week begins next week and encouraged citizens to participate.

Commissioner Jones commended Public Works Director Jim Rearden with regard to the conceptual rendering of the water tower.

15. LEGISLATIVE INITIATIVES.

Commissioner Bronson reported that they had a good meeting with the Legislative Delegation. Commissioner Bronson further reported that Representative Schreiner expressed appreciation to the City Commission and members of staff for being active with the Legislature.

Referring to the Joint Meeting of Great Falls, Cascade County Region Leaders and Montana Legislators, Commissioner Bronson commented that the City gave appropriate notice, and followed all of the necessary requirements.

Commissioner Houck reported that the Legislators commented that they appreciate the meetings that the Commission has had with them.

16. COMMISSION INITIATIVES.

There were no Commission initiatives.

ADJOURNMENT

There being no further business to come before the Commission, **Commissioner Jones moved, seconded by Commissioner Houck, to adjourn the regular meeting of March 7, 2017, at 9:51 p.m.**

Motion carried 5-0.

Mayor Bob Kelly

Deputy City Clerk Darcy Dea

Minutes Approved: March 21, 2017



Agenda # 6.
Commission Meeting Date: March 21, 2017
City of Great Falls
Commission Agenda Report

Item: Contracts List
From: Lisa Kunz, City Clerk
Initiated By: Various City Departments
Presented By: City Commission
Action Requested:

ATTACHMENTS:

- ▣ Contracts List

CITY OF GREAT FALLS, MONTANA**AGENDA: 6****COMMUNICATION TO THE CITY COMMISSION****DATE: March 21, 2017****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

	DEPARTMENT	OTHER PARTY (PERSON OR ENTITY)	PERIOD	AMOUNT	PURPOSE
A	Public Works – Engineering	Kadrmass, Lee & Jackson (KLJ)	03/07/2017 – 03/01/2018	\$8,392	Professional Services Agreement for easement acquisition for the Lift Station #8 removal project OF 1722.2
B	Planning & Community Development	Great Falls Park & Recreation	03/01/2017 – 06/30/2017	\$40,176	2016/2017 Community Development Block Grant Agreement to provide funding towards repairing the floor in the women's locker room at the Morony Natatorium, 111 12 th Street North (CR: 011717.10 Commission approved Amended Annual Action Plan)
C	Planning & Community Development	Center for Mental Health	03/01/2017 – 06/30/2017	\$24,640	2016/2017 Community Development Block Grant Agreement to provide funding towards building repairs to the Lewis Group Home for mentally disabled adults, 2115 Central Avenue

					West (CR: 011717.10 Commission approved Amended Annual Action Plan)
D	Public Works – Engineering	MRTE, Inc.	03/2017 – 06/2017	\$30,000	Construction Agreement to remove and replace hazardous sidewalks (through the CDBG program previously approved to provide assistance to low income homeowners) OF 1700.2
E	Planning & Community Development	Montana State Historic Preservation Office, Montana Historical Society	04/01/2017 – 03/31/2017	\$5,500 (award of grant monies)	State of Montana Agreement MT-17-017 to maintain an active Historic Preservation Commission (HPC) and participate in and carry out the responsibilities for Certified Local Government program status including approved training (CR 022117.9A)



Agenda # 7.
Commission Meeting Date: March 21, 2017
City of Great Falls
Commission Agenda Report

Item: Total Expenditures of \$3,894,473 for the period of February 16, 2017 through March 8, 2017, to include claims over \$5,000, in the amount of \$3,678,343.
From: Fiscal Services
Initiated By: City Commission
Presented By: Melissa Kinzler, Fiscal Services Director
Action Requested:

ATTACHMENTS:

- ▣ 5000 Report for March 21, 2017



Agenda # _____
Commission Meeting Date: March 21, 2017
CITY OF GREAT FALLS
COMMISSION AGENDA 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

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 FEBRUARY 23, 2017 - MARCH 8, 2017	3,827,132.92
MUNICIPAL COURT ACCOUNT CHECK RUN FOR FEBRUARY 16, 2017 - FEBRUARY 28, 2017	67,340.12

TOTAL: \$ 3,894,473.04

GENERAL FUND

FIRE

J & V RESTAURANT & FIRE SUPPLY	OF 1238.8 FIRE STATION #1 KITCHEN REMODEL - RANGE	5,829.04
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SPECIAL REVENUE FUND

PLANNING & COMMUNITY DEVELOPMENT

GREAT FALLS TRANSIT DISTRICT	REIMBURSEMENT FROM PUP FUNDS RECEIVED	22,525.46
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ENTERPRISE FUNDS

WATER

ADVANCED ENGINEERING & ENVIRONMENTAL SERVICES INC	OF 1710.0 WWTP HIGH SERVICE PUMP #2 REPLACEMENT STUDY	12,400.00
SLETTEN CONSTRUCTION CO.	OF 1519.6 WWTP IMP PH 1 CONSTRUCTION	1,285,629.84
STATE OF MONTANA	1 % WITHHOLDING FOR SLETTEN	12,986.16
BISON MOTOR COMPANY	2-F 250 SUPERCAR TRUCKS	59,224.84

ENTERPRISE FUNDS (CONTINUED)**SEWER**

HDR ENGINEERING INC	OF 1633.0 WWTP PERMIT REQUIRED UPDATES	6,254.76
PLANNED AND ENGINEERED CONSTRUCTION	OF 1674.2 SANITARY SEWER TRENCHLESS REHAB PHASE 19	569,197.98
STATE OF MONTANA	1% WITHHOLDING FOR PEC	5,749.47

STORM DRAIN

DOWL HKM	OF 1554 SOUTH GREAT FALLS STORM DRAINAGE IMPROVEMENTS	11,320.00
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911 DISPATCH CENTER

CENTURYLINK	DISPATCH MONTHLY LINE CHARGE	5,839.27
WILLIAMSON FENCING	SECURITY FENCING AT 911 CENTER	30,000.00

MULTI-SPORTS

WILLIAMSON FENCING	REPLACE DUGOUT/BACKSTOP FIELD ONE	20,000.00
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INTERNAL SERVICES FUND**HEALTH & BENEFITS**

MONTANA MUNICIPAL INTERLOCAL AUTHORITY	HEALTH INSURANCE PREMIUM FOR MARCH 2017	696,660.85
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CENTRAL GARAGE

ED'S AUTO BODY AND RESTORATION	HAIL DAMAGE 2013 CHEVY IMPALA	8,124.91
MOUNTAIN VIEW CO-OP	FUEL	15,484.00
BISON MOTOR CO	2017 F-550 CHASSIS XL 4X4 SUPERCAB	40,698.00
BISON MOTOR CO	2017 F-350 CHASSIS XL 4X2 REGULAR CAB	27,292.00
BISON MOTOR CO	2017 F-250 PICK UP SUPER CAB	29,612.42

TRUST AND AGENCY**COURT TRUST MUNICIPAL COURT**

CITY OF GREAT FALLS	FINES & FORFEITURES COLLECTIONS	49,820.36
CASCADE COUNTY TREASURER	FINES & FORFEITURES COLLECTIONS	7,384.56

PAYROLL CLEARING

STATE TREASURER	MONTANA TAXES	39,492.00
FIREFIGHTER RETIREMENT	FIREFIGHTER RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	49,968.27
STATEWIDE POLICE RESERVE FUND	POLICE RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	62,579.71
PUBLIC EMPLOYEE RETIREMENT	PUBLIC EMPLOYEE RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	127,390.89
US BANK	FEDERAL TAXES, FICA & MEDICARE	181,843.44
AFLAC	EMPLOYEE CONTRIBUTIONS	11,408.57
LABORERS INTERNATIONAL UNION	EMPLOYEE CONTRIBUTIONS	19,531.89
WESTERN CONF OF TEAMSTERS	EMPLOYEE CONTRIBUTIONS	12,935.45
MONTANA OE - CI TRUST FUND	EMPLOYEE CONTRIBUTIONS	20,302.47
NATIONWIDE RETIREMENT SOLUTIONS	EMPLOYEE CONTRIBUTIONS	11,470.68

UTILITY BILLS

NORTHWESTERN ENERGY	DECEMBER 2016 TRANSMISSION CHARGE	24,592.53
TALEN TREASURE STATE	FEBRUARY 2017 ELECTRICITY CHARGES	64,601.60
ENERGY WEST	FEBRUARY 2017 MONTHLY CHARGES	43,730.84
NORTHWESTERN ENERGY	JANUARY 2017 WATERPLANT CHARGES	6,302.51
NORTHWESTERN ENERGY	FEBRUARY 2017 SLD CHARGES	80,158.06

CLAIMS OVER \$5000 TOTAL:	\$	<u>3,678,342.83</u>
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Item: Final Payment: Sanitary Sewer Trenchless Rehabilitation, Phase 19, O.F. 1674.2
From: Engineering Division
Initiated By: Public Works Department
Presented By: Jim Rearden, Public Works Director
Action Requested: Approve Final Pay Request

Suggested Motion:

1. Commissioner moves:

"I move the City Commission (approve / not approve) Final Payment in the amount of \$5,749.47 to Planned and Engineered Construction Inc. (PEC) and \$58.08 to the State Miscellaneous Tax Fund for the Sanitary Sewer Trenchless Rehabilitation, Phase 19, and authorize the City Manager to make the payments."

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

Staff Recommendation:

Approve Final Payment Request.

Background:

Significant Impacts

This project was a continuation of an ongoing sanitary sewer main rehabilitation program that utilizes trenchless technologies. The use of this technology greatly extends the life of the sewer main and reduces maintenance costs associated with sewer main replacement. The original scope of the project lined 15,512 linear feet of sewer mains, ranging between 8-inch and 12-inch in diameter. These mains were located at various locations in the City.

Change Order 1 added 187 feet of 24-inch interceptor main to the project that was in critical need of repair after a partial line collapse this past summer.

Workload Impacts

City Engineering staff designed the project and performed construction inspection and contract administration duties.

Evaluation and Selection Process

One bid was received from PEC and opened on March 2, 2016. The bid provided by PEC was in the amount of \$525,436.00. The bid provided by PEC was comparable to previous trenchless lining projects.

Commission Award Date

The City Commission awarded the contract to PEC on March 15, 2016. Change Order No. 1 in the amount of \$62,500.00 was approved on January 3, 2017. The total contract value with Change Order No. 1 was \$587,936.00.

Project Work Scope

This project lined 15,512 linear feet of 8, 9, 10, and 12-inch diameter sewer mains at forty-one (41) locations spread around the City. Change Order 1 added 187 linear feet of 24-inch sewer main near River Drive North and 19th Street North to the lining scope.

Final Payment

The final project cost is \$580,755.00, which is \$7,181.00 less than the total of the value of the contract after the addition of Change Order 1. The final value was less than the total contract value because the actual quantities cleaned and lined were different than the original plan quantities.

Conclusion

City staff recommends making the Final Payment for the Sanitary Sewer Trenchless Rehabilitation, Phase 19 to Planned and Engineered Construction Inc. and to the State Miscellaneous Tax Fund.

City staff has verified that PEC has completed all work and punch list items in accordance with the plans and contract. The two year warranty period started at the time of substantial completion which was February 15, 2017.

Alternatives:

The City Commission could vote to deny Final Payment.



Item:	Final Payment: North Great Falls Lift Station and Force Main - O. F. 1476.5
From:	Engineering Division
Initiated By:	Public Works Department
Presented By:	Jim Rearden, Public Works Director
Action Requested:	Approve Final Pay Request

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (approve/not approve) Final Payment for the North Great Falls Lift Station and Force Main in the amount of \$990.00 to Falls Construction and \$10.00 to the State of Montana Miscellaneous Tax Division and authorize the City Manager to execute the necessary documents and make the payments.”

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

Staff Recommendation:

Approve Final Pay Request.

Summary:

City staff has verified that Falls Construction has completed all work in accordance with the plans and contract documents. The project was completed within the 100-calendar day contract time.

Background:

Significant Impacts:

The project consisted of extending the City’s public sewer system to serve a residential growth area of the City generally located north of 36th Avenue NE and extending westward to 6th Street NW. This area includes the recently approved

Thaniel and West Ridge Additions. Work scope in this project included a new waste water lift station and associated force and gravity mains.

Project Work Scope:

The completed work scope generally consisted of the following: 1) New wastewater lift station equipped with duplex 15hp submersible pumps with an initial pumping capacity of 265 gallons per minute, 2) 5,050 lineal feet of 6 inch diameter force main, 3) 2,445 lineal feet of 8 and 10-inch diameter gravity sewer main including appurtenant manholes 4) gravel access road to the lift station, 5) grading, seeding and fencing of the lift station site and 6) restoration of disturbed utilities, roadways and agricultural land.

The lift station included structural, plumbing and equipment provisions for future expansion of the station to a peak pumping capacity of 530 gallons per minute.

Evaluation and Selection Process:

Eleven bids were received on March 9, 2016, with the bids ranging between \$689,481.25 and \$1,160,551.00. Central Excavating submitted the low bid, but was not awarded a contract due to performance issues at the time on two City projects. On March 15, 2016, a contract in the amount of \$728,695.00 was awarded to Falls Construction who was the second low bidder.

Conclusion: The final project cost is \$701,510.87, which is \$27,184.13 less than the contract amount. The two-year project warranty started at the time of substantial completion, which was August 31, 2016. The delay in processing of final payment is a result of right-of-way procurement issues for extension of a telephone line to the site to serve telemetry equipment.

Fiscal Impact:

This project is funded by the City's Sewer Utility.

The Improvement Agreements for West Ridge Addition Phases VII through XI and Thaniel Addition Major Subdivision Phase 1 include a provision for the Developer to reimburse the City for costs incurred to construct the lift station and force main. The reimbursement amount was initially estimated to be \$1,009 per residential lot. Also, each of those Improvement Agreements include a provision for the Developer to reimburse the City for costs incurred with the construction of gravity sanitary sewer mains that were required to be installed concurrently with the force main. Those costs were initially estimated to be \$49,855 for West Ridge Phase VII and \$149,565 for Thaniel Phase 1. City staff is currently tabulating all actual construction and engineering costs in order to reconcile those reimbursements with the respective Developer. Other costs that were incurred by the City included, consultant engineering, project management, construction inspection, and extension of electrical power and telephone lines to serve the lift station.

Future development served by the lift station and force main will also be required to pay their proportionate share of the costs for these improvements.

Alternatives:

The City Commission could vote to deny the Final Payment.



Item: Resolution 10172 Set Public Hearing to Establish Residential and Commercial Water, Sewer and Storm Drain Utility Service Rates effective June 1, 2017
From: Melissa Kinzler, Fiscal Services Director
Initiated By: Public Works and Fiscal Services
Presented By: Jim Rearden, Public Works Director & Melissa Kinzler, Fiscal Services Director
Action Requested: Set Public Hearing for Resolution 10172 Establishing Residential and Commercial Water, Sewer and Storm Drain Utility Service Rates effective June 1, 2017

Public Hearing:

Suggested Motion:

1. Commissioner moves:

“I move the City Commission (set / not set) a public hearing for May 2, 2017, on Resolution 10172 to establish residential and commercial water, sewer, and storm drain utility service rates effective June 1, 2017.”

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

Summary:

Each year, staff reviews and analyzes the financing needs of the water, sewer, and storm drain funds. The review ensures the City has adequate funding necessary for day to day operations, and provide for any capital improvements, emergency main breaks, or replacements. These funds also provide the financing to run the Water and Wastewater Treatment Plants effectively.

Background:

Adjustments in utility rates are necessary to provide adequate revenue to finance the capital improvements program, meet debt service coverage requirements and to maintain appropriate reserves. Staff is recommending a 10% increase in water rates, a 3% increase in sewer rates and a 10% increase in storm drain rates.

Staff has found moderate annual increases to service rates are more effective in meeting revenue needs as opposed to sporadic large increases. For Residential customers, an average water bill would increase \$3.54 per month or 10%, an average sewer bill would increase \$.73 per month or 3%, and an average storm drain bill would increase \$.52 per month or 10% with the proposed rate increases. The average total increase for a Residential customer would be \$4.79 per month. For Commercial customers, an average water bill would increase \$3.09 per month or 10%, an average sewer bill would increase \$1.22 per month or 3%, and an average storm drain bill would increase \$.61 per month or 10% with the proposed rate increases. The average total increase for a Commercial customer would be \$4.92 per month.

The average annual service rate and fee increase for the 10 year period 2008-2017 is 6.2% for water, 5.4% for sewer and 3% for storm drain.

The rate increase for water is due to the approximately \$83 million in capital improvements needed over the next 5 years in which \$24.5 million or 30% is attributed to direct and indirect regulatory compliance issues. In order to ensure future operations and compliance, \$56.7 million is required for Water Treatment Plant upgrades. The remaining \$26.3 million needed over the next 5 years is required for annual capital, tank and pump station upgrades, water main replacements and a cost of service study.

The water rate change also applies to Fire Hydrant charges. Fire hydrants are integral to the water system as a whole, and are included as a monthly charge within the rate structure rather than a once a year special assessment.

The rate increase for sewer is due to the approximately \$15 million in capital improvements needed over the next 5 years. Montana DEQ is currently establishing nutrient water quality standards for the Missouri River, which will effect the City of Great Falls. When these standards are finalized and adopted into the City's subsequent discharge permit, the City would be required to upgrade its wastewater treatment process to Biological Nutrient Removal (BNR) with Membrane BioReactor (MBR) filtration in order to meet the nutrient water quality standards. The City of Great Falls would likely qualify for a temporary nutrient variance, as adopted by the Montana Legislature in 2011. The upgrades would then be delayed 20 to 30 years. The estimated present day cost to upgrade to BNR MBR process is \$55 million. Concurrently, at the behest of recent EPA rule making, the DEQ is currently in the process reformulating the nutrient water quality standards variance. Depending on the outcome of the nutrient variance adjustments prescribed by the DEQ, the BNR MBR upgrades could be required as soon as within the next 5 years.

The rate increase for storm drain is due to the approximately \$16.9 million in capital improvements needed over the next 5 years.

In FY 2018, cost of service studies will be performed for water and sewer.

Fiscal Impact:

Comparisons of current versus proposed charges, rate and fee structures are attached. With the proposed rates beginning June 1, 2017, the average monthly Residential utility bill would increase 7.4% or \$4.79 per month. The average monthly Commercial utility bill would increase 6.4% or \$4.92 per month.

Alternatives:

The City Commission could choose to not set the public hearing and thereby deny Resolution 10172.

Concurrences:

Representatives from Public Works and Fiscal Services worked together throughout the process.

ATTACHMENTS:

- ▣ Resolution 10172
- ▣ PUBLIC NOTICE
- ▣ APPENDIX A, CURRENT VS PROPOSED RATES
- ▣ 2017 UTILITY RATE REVIEW CALENDAR

RESOLUTION NO. 10172

**A RESOLUTION ESTABLISHING RESIDENTIAL AND COMMERCIAL
WATER, SEWER, AND STORM DRAIN UTILITY SERVICE RATES
EFFECTIVE JUNE 1, 2017**

WHEREAS, an annual review is performed of the water and wastewater cost of service for the municipal water and wastewater utilities, and rate and fee schedules prepared to generate sufficient revenue to pay all costs for the operation and maintenance, administration, and routine functions of the existing and such future facilities as may be established within the service area; and

WHEREAS, the cost of service review indicates a need for extension, repair, improvement, and continued operation and maintenance of existing and proposed water and wastewater system facilities for the providing of water and wastewater services to the inhabitants of the City of Great Falls; and

WHEREAS, pursuant to Title 13 of the Official Code of the City of Great Falls, the City of Great Falls is authorized to regulate the City's municipal water and wastewater utility and to establish all rates, fees and charges for use of the utility systems or for permits, licenses, connections or inspections; and

WHEREAS, it is essential to the public health, welfare and safety of the inhabitants of the City of Great Falls to provide an adequate public water and wastewater system and to provide adequate funding to meet the cost of constructing, maintaining, and operating the same; and

WHEREAS, notice having been provided as required by law, the City Commission of the City of Great Falls conducted a public hearing on Tuesday, May 2, 2017, at the Civic Center, 2 Park Drive South, Commission Chambers Room 206, Great Falls, Montana, at 7:00 p.m., and did consider the cost of operation, equipment, facilities, debt service, and capital improvements for the Water, Sewer, and Storm Drain Utility systems.

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

Water, Sewer, and Storm Drain Utility Service Rates are hereby established as set forth in Appendix A, attached hereto and made a part hereof.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, this 2nd day of May, 2017.

Bob Kelly, Mayor

ATTEST:

Darcy Dea, Deputy City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

Sara Sexe, City Attorney

**PUBLIC NOTICE
PUBLIC HEARING ON RESOLUTION 10172
TO ESTABLISH WATER, SEWER, AND STORM DRAIN
RESIDENTIAL AND COMMERCIAL UTILITY SERVICE RATES**

The City of Great Falls is proposing to raise residential and commercial water, sewer and storm drain utility service rates, effective June 1, 2017. The increases are necessary to provide adequate revenue to finance the capital improvements program, to meet debt service coverage requirements and to maintain appropriate reserves.

Residential and Commercial customers would see rate increases of 10% for all water services, 3% for all sewer services, and 10% for storm drain services.

Typical Residential Customers

Residential customers with a lot size of 7,500 square feet and a 1" meter who use 1,250 cubic feet of water per month and have a winter quarter average of 650 cubic feet per month to calculate their sewer rate would see rate increases as follows:

- A water bill would increase \$3.54 or 10%, from \$35.37 to \$38.91 per month;
- A sewer bill would increase \$.73 or 3%, from \$24.30 to \$25.03 per month; and
- A storm drain bill would increase \$.52 or 10%, from \$5.17 to \$5.69 per month.

The average monthly Residential utility bill would increase \$4.79 or 7.4%.

Typical Commercial Customers

Commercial customers with a lot size of 7,500 square feet with a 1" meter and consumption of 1,250 cubic feet of water and sewer per month would see rate increases as follows:

- A water bill would increase \$3.09 or 10%, from \$30.89 to \$33.98 per month;
- A sewer bill would increase \$1.22 or 3%, from \$40.51 to \$41.73 per month; and
- A storm drain bill would increase \$.61 or 10%, from \$6.08 to \$6.69 per month.

The average monthly Commercial utility bill would increase \$4.92 or 6.4%.

Public Hearing

The public hearing will be held on Tuesday, May 2, 2017, at 7:00 p.m. in the Civic Center Commission Chambers, 2 Park Drive S. Please mail any comments to City Clerk, City of Great Falls, PO Box 5021, Great Falls, MT 59403.

For further information, contact a Utilities Customer Service Representative at (406) 727-7660 or Room 104 of the Civic Center, 8:00 am to 5:00 pm.

CITY OF GREAT FALLS, MONTANA

Resolution 10172, Appendix A

Current Rates vs. Proposed Rates

pg 1 of 3

Combined Water & Sewer			Quantity Charges CCF / Mo.		Monthly Service Charges												
			Not Meter Based	Meter Based - Service Line Size (inches)										see 6" if "na"			
				(3/4") 0.75	1	1.25	1.50	2	3	4	6	8	10	12			
RESIDENTIAL WATER																	
2016 10.00%																	
2017 10.00%																	
2016	Regular Residential		1.34	2.23		6.88	7.33	13.28	13.28	16.83	44.88	64.94	130.89	197.03	278.61	411.14	
2017	Regular Residential		1.47	2.46		7.56	8.06	14.61	14.61	18.52	49.37	71.44	143.98	216.74	306.47	452.25	
2016	Low Income Residential		1.21	2.01		6.19	6.59	11.95	11.95	15.14	40.38	58.46	117.81	177.33	250.76	370.03	
2017	Low Income Residential		1.33	2.21		6.81	7.25	13.14	13.14	16.65	44.42	64.31	129.59	195.06	275.84	407.03	
(90 % of Regular Residential)																	
Fire Hydrant																	
2016	Monthly																
2017	Monthly																
2016	Annual																
2017	Annual																
SEWER																	
2016 3.00%																	
2017 3.00%																	
2016	Regular Residential		1.80	2.99	8.41												
2017	Regular Residential		1.86	3.08	8.67												
2016	Low Income Residential		1.63	2.69	7.56												
2017	Low Income Residential		1.68	2.78	7.79												
(90 % of Regular Residential)																	
COMMERCIAL WATER																	
2016 10.00%																	
2017 10.00%																	
2016	Regular Commercial		1.66	1.66		6.88	7.33	13.28	13.28	16.83	44.88	64.94	130.89	197.03	278.61	411.14	
2017	Regular Commercial		1.82	1.82		7.56	8.06	14.61	14.61	18.52	49.37	71.44	143.98	216.74	306.47	452.25	
2016	Black Eagle		1.72	1.72												2 - 8" meters @ 197.03	
2017	Black Eagle		1.89	1.89												2 - 8" meters @ 216.74	
2016	Malmstrom AFB		1.91	1.91												1 - 8" plus 1 - 10" meter 197.03 plus 278.61	
2017	Malmstrom AFB		2.10	2.10												1 - 8" plus 1 - 10" meter 216.74 plus 306.47	
2016	Raw Water		0.28	0.28													
2017	Raw Water		0.31	0.31													
Fire Hydrant																	
2016	Monthly																
2017	Monthly																
2016	Annual																
2017	Annual																
Fire Lines																	
2016	Monthly																
2017	Monthly																
2016	Annual																
2017	Annual																
SEWER																	
2016 3.00%																	
2017 3.00%																	
2016	Regular Commercial		2.57	2.57	8.41												
2017	Regular Commercial		2.64	2.64	8.67												
2016	Black Eagle		2.57	2.57	8.41												
2017	Black Eagle		2.64	2.64	8.67												
2016	Malmstrom AFB		2.23	2.23	8.41												
2017	Malmstrom AFB		2.30	2.30	8.67												
2016	MaltEurop		1.79	1.79	7.64												
2017	MaltEurop		1.84	1.84	7.87												

City Commission Meeting - March 21, 2017

Attachment # 3

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CITY OF GREAT FALLS, MONTANA
Resolution 10172, Appendix A
Current Fees vs. Proposed Fees
pg 2 of 3

		WATER		SEWER	
		2016	10.00%	2016	3.00%
		2017	10.00%	2017	3.00%
PRE-TREATMENT SEWER CHARGES				Quantity Charges	Not
				CCF / Mo.	Meter Based
				0.70	0.70
					0.00
	2016	3.00%			
	2017	3.00%			
	2016 Regular Charges			1.25	1.25
	2017 Regular Charges			1.29	1.29
	2016 BOD > 0 mg/L			per pound	0.529
	2017 BOD > 0 mg/L			per pound	0.545
	2016 TSS > 0 mg/L			per pound	0.362
	2017 TSS > 0 mg/L			per pound	0.373
SEWER EXTRA STRENGTH CHARGES					
	2016	3.00%			
	2017	3.00%			
	BOD > 200 mg/L				
	2016 Regular Commercial			per pound	0.529
	2017 Regular Commercial			per pound	0.545
	inc Malmstrom AFB & Black Eagle				
	2016 MaltEurop			per pound	0.322
	2017 MaltEurop			per pound	0.332
	TSS > 250 mg/L				
	2016 Regular Commercial			per pound	0.362
	2017 Regular Commercial			per pound	0.373
	inc Malmstrom AFB & Black Eagle				
	2016 MaltEurop			per pound	0.303
	2017 MaltEurop			per pound	0.313

Water Service Line Size (inches)									
(3/4")	1.00	1.50	2.00	4.00	6.00	8.00	12.00		
0.75									
2016	\$458	\$508	\$618	\$669	\$1,291	\$2,001	\$3,346	\$6,705	
2017	\$504	\$559	\$680	\$736	\$1,420	\$2,201	\$3,680	\$7,376	

Fee shall be ADDED TO: General Plumbing Permit for extension to new buildings; or, Inspection Permits for larger diameter pipe.

SEWER

Single Family Residential

2016	\$ 254
2017	\$ 262

Commercial & Multi Family Units

2016	\$ 254	\$ 475	\$ 932	\$ 1,956	\$ 6,717	\$ 9,707	\$ 14,891	\$ 28,649
2017	\$ 262	\$ 489	\$ 960	\$ 2,015	\$ 6,919	\$ 9,998	\$ 15,338	\$ 29,508

Connection Fees are for connection of service line to WATER AND SEWER mains, and do not include installation or general plumbing permits.

There is no fee to connect to the STORM SEWER SYSTEM.

Call City of Great Falls Community Development for more information @ 406-453-8430

Inspections and the associated fees are for the inspection and approval of all water and sewer service work and connections under OCCGF, Title 13

Call City of Great Falls Engineering for more information @ 406-771-1258

Where one meter serves one multi-purpose development, either mobile home, multiple family housing units, local business, commercial, industrial, residential use zones or variance, the connection charge will be based upon the size of the water tap. If there is no water tap, the charge will be based upon the sewage being discharged on the same ratio as for other sewer connections.

TAPPING FEES (Water)									
(3/4")	1.00	1.50	2.00	4.00	6.00	8.00	12.00		
0.75									
Fee for any new or replacement tap being made on a water main.									
1 to 5 taps	Fee per Tap:								
2016	\$ 491	\$ 516	\$ 777	\$ 980	\$ 483	\$ 503	\$ 541		
2017	\$ 540	\$ 567	\$ 855	\$ 1,078	\$ 509	\$ 531	\$ 595		
6 or more taps	Fee per Tap:								
2016	\$ 439	\$ 481	\$ 777	\$ 980	N/A	N/A	N/A	N/A	
2017	\$ 483	\$ 529	\$ 855	\$ 1,078	N/A	N/A	N/A	N/A	

INCLUDED in this fee is installation of a corporation stop on the main, and furnishing of corporation stop, curb stop and box.

NOT INCLUDED, and to be BILLED EXTRA, is the cost of saddles, clamps and other extraneous fitting required for the tap.

TURN ON/OFF

Flat fee of:

After Hours				After Hours											
2016	\$	75		2016	\$	100	REOCCURRENCE FOR NON-PAY	2016	\$	150		2016	\$	200	
2017	\$	75		2017	\$	100	REOCCURRENCE FOR NON-PAY	2017	\$	150		2017	\$	200	

WATER TREATMENT PLANT (WTP)

Laboratory Fees

	Akalinity	Hardness	pH	Specific Conductance	Total Coliform & E. coli. P/A	Total Coliform & E. coli. MPN	Turbidity	HPC	Ammonia, Total as N	Ammonia, Free	Chlorine, Residual	Free Chlorine, Total Residual
2016	\$ 20.50	\$ 28.50	\$ 10.25	\$ 10.75	\$ 22.00	\$ 26.00	\$ 12.00	\$ 40.00	\$ 20.25	\$ 20.25	\$ 12.50	\$ 14.00
2017	\$ 20.50	\$ 28.50	\$ 10.25	\$ 10.75	\$ 22.00	N/A	\$ 12.00	\$ 40.00	\$ 20.25	\$ 20.25	\$ 12.50	\$ 14.00

WASTEWATER TREATMENT PLANT (WWTP)

Industrial Discharge Permit Application Fees

(Based upon Wastewater Discharge Quantity)

Gallons per Day (GPD)

	0 to 10,000	10,001 to 25,000	25,001 to 100,000	Over 100,000	+PLUS
2016	\$ 124.00	\$ 201.00	\$ 257.00	\$ 257.00	\$ 76.00
2017	\$ 128.00	\$ 207.00	\$ 265.00	\$ 265.00	\$ 78.00

Hauled Waste Disposal Fees

0 to 100 Gallons

2016	No Charge	Disposal of wastes from holding tanks of privately owned recreational vehicles must be discharged directly from the recreational vehicle and must not exceed 100 gallons
2017	No Charge	Disposal of wastes from holding tanks of privately owned recreational vehicles must be discharged directly from the recreational vehicle and must not exceed 100 gallons
2016	20.00	per 1,000 gallons, or portion thereof, for hauled waste. A minimum charge for 1000 gallons will be levied for each load delivered.
2017	\$ 28.25	per 1,000 gallons, or portion thereof, for hauled waste. A minimum charge for 1000 gallons will be levied for each load delivered.

Additional Fees

Additional fees may be charged for necessary testing prior to acceptance of wastes classified as non-domestic or industrial in nature.

NSF Fee \$30.

Delinquent Penalty 1.5% after 60 days.

CITY OF GREAT FALLS, MONTANA
Resolution 10172, Appendix A
Current Rates vs. Proposed Rates
pg 3 of 3

STORM DRAIN

2016 10.00%
2017 10.00%

A	Single Family Res.	Sq Ft Cap	15,000		
2016	Base	1.5970402800	1.5970402800 Per Sq Ft	0.0004791121	0.0004791121
2017	Base	1.7567443080	1.7567443080 Per Sq Ft	0.0005270233	0.0005270233
B	Multiple Residential	Sq Ft Cap	0		
2016	Base	1.5970402800	1.5970402800 Per Sq Ft	0.0005988901	0.0005988901
2017	Base	1.7567443080	1.7567443080 Per Sq Ft	0.0006587791	0.0006587791
C	Commercial	Sq Ft Cap	0		
2016	Base	1.5970402800	1.5970402800 Per Sq Ft	0.0007785572	0.0007785572
2017	Base	1.7567443080	1.7567443080 Per Sq Ft	0.0008564129	0.0008564129
D	Heavy Commercial	Sq Ft Cap	0		
2016	Base	1.5970402800	1.5970402800 Per Sq Ft	0.0010780022	0.0010780022
2017	Base	1.7567443080	1.7567443080 Per Sq Ft	0.0011858024	0.0011858024
E	Unimproved Areas	Sq Ft Cap	10,000		
2016	Base	1.5970402800	1.5970402800 Per Sq Ft	0.0001197780	0.0001197780
2017	Base	1.7567443080	1.7567443080 Per Sq Ft	0.0001317558	0.0001317558



2017 UTILITY RATE REVIEW CALENDAR

January						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

February						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

March						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

April						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

May						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31	1-Jun		

DATE	TASK	RESPONSIBILITY
1/17/2017 @ 10 am	STAFF DISCUSSION RE:	Engineering
2/1/2017 @ 2 pm	UTILITY RATE REVIEW	Fiscal
2/15/2017 @ 2 pm	Public Works/Fiscal Services	Public Works
2/17/2017 @ 9 am	STAFF PRESENTATION TO CITY MANAGER	City Manager
	City Manager's Office	Engineering
		Fiscal
		Public Works
3/21/2017	PRESENTATION OF RATE ANALYSIS	Fiscal
	City Commission Work Session	Public Works
		Commission
3/21/2017	SET PUBLIC HEARING	Commission
	City Commission Meeting	Fiscal
4/5/2017	WEEK 2 PUBLIC NOTICE INSERTED IN UTILITY BILLS AND EMAIL SENT TO EBILL CUSTOMERS	Fiscal
4/9/2017	1st PUBLICATION OF NOTICE IN GF TRIBUNE	Great Falls Tribune
4/12/2017	WEEK 3 PUBLIC NOTICE INSERTED IN UTILITY BILLS AND EMAIL SENT TO EBILL CUSTOMERS	Fiscal
4/16/2017	2nd PUBLICATION OF NOTICE IN GF TRIBUNE	Great Falls Tribune
4/19/2017	WEEK 4 PUBLIC NOTICE INSERTED IN UTILITY BILLS AND EMAIL SENT TO EBILL CUSTOMERS	Fiscal
	WEEK 1 PUBLIC NOTICE MAILED	
	(4/26/17 Week 1 billing less than 7 days--notice must be mailed)	
4/23/2017	3rd PUBLICATION OF NOTICE IN GF TRIBUNE	Great Falls Tribune
5/2/2017	PUBLIC HEARING/FINAL ACTION	Commission
	City Commission Meeting	Fiscal
6/1/2017	EFFECTIVE DATE FOR RATE INCREASES	Fiscal



Item: 2016/2017 Annual Action Plan Amendment and CDBG Timeliness Projects
From: Planning and Community Development Department
Initiated By: Maria Porter, CDBG/HOME Administrator
Presented By: Craig Raymond, Director, Planning and Community Development
Action Requested: Adoption of the 2016/2017 Amended Annual Action Plan and Accept the proposed use of CDBG funds (Unallocated & Revolving Loan Funds).

Suggested Motion:

1. Commissioner moves:

"I move that the City Commission (adopt/not adopt) the 2016/2017 Amended Annual Action Plan, including the Timeliness addition in Project Introduction; (authorize/not authorize) the submittal to the U.S. Department of Housing and Urban Development (HUD); and (accept/deny) the proposed use of funds, due to Timeliness, for the 2016/2017 Community Development Block Grant Program (CDBG)."

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

Staff Recommendation:

The Planning and Community Development staff recommends that the City Commission adopt the proposed Amended Annual Action Plan, authorize submittal to the U.S. Department of Housing and Urban Development (HUD), and accept the proposed use of CDBG funds.

Summary:

The amended 2016/2017 Amended Annual Action Plan includes the addition of the Timeliness Regulation, and the necessity to expend funds to meet Housing and Urban Development (HUD) requirements. In addition, the Planning and Community Development Department proposes a list of CDBG Eligible projects to expend funds by May 2nd, 2017, to

ensure the Timeliness Requirement is met.

Background:

The Annual Action Plan portion of the Consolidated Plan includes the proposed use of CDBG and HOME funds for the 2016-2017 fiscal year. The Consolidated Plan is a five year comprehensive planning strategy required by HUD. The 2016/2017 Annual Action Plan will be the second year of this five year plan.

Significant Impacts

The City is at risk of becoming non-compliant with the regulatory timeliness requirements for its Community Development Block Grant (CDBG) funds. The expenditure of these funds results in a significant impact in the CDBG Program. First, it would keep the City in compliance which would protect future funding. Second, as HUD requested, it will decrease the line of credit in the Revolving Loan Fund and CDBG unallocated funds. Lastly, it will immediately provide funding for more projects to benefit Low to Moderate Income Persons, increasing the CDBG impact in the community.

Citizen Participation

A 30-day comment period beginning February 21, 2017, through March 17, 2017, was established to receive citizen input on the proposed 2016/2017 Amended Annual Action Plan. Notice of the Annual Action Plan Amendment was published in the *Great Falls Tribune* on February 19, 2017, February 21, 2017, and in the *Consumers Press* on February 23, 2017. A copy of the proposed Amended Annual Action Plan has been available for review in the City's Planning and Community Development Department Office, the Great Falls Public Library, and on the City of Great Falls web page. Following the 30 day public comment period, the final Amended Annual Action Plan will be submitted to HUD. The final Annual Action Plan will be on file in the City Clerk's office.

Workload Impacts

In accordance with federal regulations, increased administrative responsibilities will result from the additional Timeliness projects. The CDBG/HOME Administrator will be responsible for the expedited environmental reviews, contract development, project monitoring, invoice processing, federal reporting, and other HUD requirements.

Purpose

The purpose of the 2016/2017 Annual Action Plan Amendment and proposed Timeliness Projects is to remain in compliance with federal regulation. The City's CDBG line-of-credit must not exceed 1.5 times its annual grant amount by May 2nd, of each year and, due to the new fiscal regulations, is at risk. The new fiscal regulation include Program Income and the Revolving Loan Fund in the line-of-credit calculation. In addition to the new regulation, the 2016/2017 program year was delayed due to HUD approval, which resulted in 2016/2017 CDBG projects being delayed in expending funds. Great Falls is at 2.4 times annual grant amount, as of March 6th, 2017, the City must expend \$660,000 by the May 2nd deadline. This amount will decrease naturally through CDBG activities but not to the quantity that is

needed to remain in compliance, therefore, the proposed Timeliness Projects were identified and the 2016/2017 Annual Action Plan amended.

Project Work Scope

2016/2017 Annual Action Plan Amendment includes the below statement on page 24:

"Un-programmed funds and Revolving Loan Funds will be expended, because of the City's risk of becoming non-compliant with the regulatory timeliness requirements for its Community Development Block Grant (CDBG) funds. Up to \$700,000 for the 2016/2017 Grant Year will be expended on projects that align with the 2015-2019 Consolidated Plan Goals identified in section SP-45 Goals Summary. Projects may include assistance with Public Improvements, Public Services, Economic Development, and Affordable Housing. The City will partner with Affordable Housing nonprofits to provide LMI Housing opportunities, which may involve annexation of property to assist with the creation of affordable rental units. The City Commission and Housing and Urban Development Regional Office, will review proposed projects prior to any CDBG funds being approved."

Evaluation and Selection Process

The CDBG Timeliness projects were chosen by Planning and Community Development Management through the below process:

- Reviewed the 2015-2019 Consolidated Plan Goals and the City's progress;
 - Identified need in Housing Assistance, Economic Development, and Public Improvements;
- Met with local agencies, who have CDBG experience, to discuss need and possible projects;
 - Housing- Habitat for Humanity, NeighborWorks Great Falls, Grace Home, Oxford Apartments, Great Falls Housing Authority;
 - Economic Development- Great Falls Development Authority;
 - Public Facilities- Great Falls Park & Recreation;
- Reviewed CDC comments during 2017/2018 CDBG Allocation Discussion and identified gaps in funding;
- Met with Housing and Urban Development (HUD) Regional Office to discuss possible projects and eligibility;
- Staff determined projects CDBG eligibility to ensure Low to Moderate Income individuals are benefited through an Area Benefit, Individual, Housing Benefit, or Job Creation; and
- Staff evaluated timeliness of projects to ensure the prompt turnaround of expenditure of funds to reach the May 2nd requirement.

Fiscal Impact:

The Timeliness Projects and Amended Annual Action Plan will not influence the City Budget

or the awarded CDBG or HOME projects. The funding that will be expended is CDBG unallocated funds from prior years and unallocated funds in the Revolving Loan Fund. No previous recipient of a CDBG funding award or any of the proposed agency awards for the 2017-2018 fiscal year will be affected by this amendment to expend Timeliness funds.

Alternatives:

The City Commission may choose to approve the 2016/2017 Amended Annual Action Plan and proposed list of Timeliness Projects as presented, amend the proposal, or reject the amendment and/or project list. Delaying action on this the proposal would put the City at risk of not meeting the rapidly approaching May 2nd deadline. Rejecting the proposal will result in the City to becoming noncompliant and failing to meet HUD's May 2nd Timeliness Test, which would lead to a warning from HUD and the return of all excess funds to the federal government.

ATTACHMENTS:

- ▣ Timeliness Project List Reviewed (Highlighted-Proposed Chosen Projects)
- ▣ 2016/2017 Amended Annual Action Plan (Page 24)

Agency	Amount Requested	Project Description	Goal
Park & Rec	\$80,000	Gibson Park Play Structure	Public Improvements
Park & Rec	\$20,000	Pavilion at West Bank Park	Public Improvements
Park & Rec	\$100,000	Outdoor Fitness Stations at Gibson Park	Public Improvements
Park & Rec	?	Kranz Park Play Structure	Public Improvements
GFDA	\$30,000	Employment Study	Economic Development
GFDA	\$100,000	Montana Egg Expansion- Job Creation	Economic Development
Grace Home	\$40,000	Lot Purchase & Garage Rehab	Transitional Housing/Homeless
NW	\$117,000	In-fill- 3 Proposed Homes	Home Ownership
NW/Habitat	\$116,000	Castle Pines Lot Purchase (4)	Home Ownership
NW/Habitat	\$261,000	Castle Pines Lot Purchase (9)	Home Ownership
Habitat*	\$94,000	Construction- 1 home	Home Ownership
NW	\$52,000	Missouri Meadows Planning	Fair Housing
NW	\$178,000	Rockcross Commons Planning	Fair Housing
GFHA	\$80,000	Fire Alarm System at Austin Hall	Housing Rehab
Oxford Apartments	\$100,000	Downtown Apartment (\$50k/per13 Units)	Housing Rehab
Ingenium	\$22,000	Workshop Scholarships	Public Service/ED
	\$660,000		

Amt to Meet Test \$660,211

*Habitat funding amount awarded is contingent upon the Timeliness Report as the May 2nd date approaches.
Therefore this number will fluctuate based on the amount needed to make the Timeliness requirement.

AP-35 Projects

Introduction

The Community Development Council (CDC) has recommended 19 projects for funding from the CDBG program including funding for administration and planning at the 20% HUD limit.

All 19 projects are exclusively funded through the CDBG program. The CDBG program funds four housing projects, one economic development project, eight public facilities projects, and five public service projects. Four projects; 2016 DPL Program, 2016 RIF Program, 2016 W&S Program will use program income. NHS Revolving Loan Fund will be funded using program income and expanded with additional funds awarded from 2016/2017 funds. Public service project will not exceed the 15% HUD limitation and will total \$88,819.

Due to lack of eligible HOME applications to day, the City has decided not to award HOME funds at this time and will reserve those funds until a eligible activity becomes available.

The City received 26 applications from 19 agencies for a total of \$1,313,459 in CDBG funds. All applications were reviewed and 18 projects are recommended for funding. Of the 18 projects selected for funding, nine projects did not receive full funding. Eight requests did not receive funds due to lack of funding.

The City added an additional \$19,806 in un-programmed funds from previous years to assist in funding some of the application requests.

Un-programmed funds and Revolving Loan Funds will be expended, because of the City's risk of becoming non-compliant with the regulatory timeliness requirements for its Community Development Block Grant (CDBG) funds. Up to \$700,000 for the 2016/2017 Grant Year will be expended on projects that align with the 2015-2019 Consolidated Plan Goals identified in section SP-45 Goals Summary. Projects may include assistance with Public Improvements, Public Services, Economic Development, and Affordable Housing. The City will partner with Affordable Housing nonprofits to provide LMI Housing opportunities, which may involve annexation of property to assist with the creation of affordable rental units. The City Commission and Housing and Urban Development Regional Office, will review proposed projects prior to any CDBG funds being approved.

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

Applications for CDBG funds were submitted to the Planning and Community Development Department (PCD) and were reviewed by members of the department for eligibility and forwarded to the Community Development Council (CDC) to determine application benefits and funding recommendations. The CDC was giving funding priority by the City Commission as a guideline of making the funding recommendations. The priorities were determined based on



Item: Ordinance 3158, “AN ORDINANCE AMENDING TITLE 9, OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF) PERTAINING TO PUBLIC PEACE, MORALS AND WELFARE.”

From: Joseph Cik, Assistant City Attorney

Initiated By: Sara Sexe, City Attorney

Presented By: Joseph Cik, Assistant City Attorney

Action Requested: Accept Ordinance 3158 on first reading and set public hearing for April 4, 2017.

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (accept/not accept) Ordinance 3158 on first reading and set the public hearing for April 4, 2017.”

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

Staff Recommendation:

Staff recommends that the City Commission accept Ordinance 3158 on first reading and set the public hearing for April 4, 2017.

Background:

Members of the City Commission and Staff have examined numerous sections of the OCCGF and have noticed various types of deficiencies throughout numerous sections of the code. The deficiencies vary from typographical errors, to conflicts with State and Federal law. Additionally, the OCCGF conflicts in various places with itself. In an effort to cure these issues, City staff has assembled input from the different departments to begin a comprehensive revision of the deficiencies mentioned.

Title 9 of the Code will be revised by the Ordinance under consideration. With this Title revision, there are very few substantive policy changes. The vast majority of the revisions are correcting format inconsistencies, typographical errors, and grammatical issues. Additionally, in many Chapters of Title 9, there are unnecessary Article designations.

Other changes include, but are not limited to, changing definitions particularly those associated with intoxicating beverages to be consistent with the Montana Code Annotated (MCA). Internal Code references will be updated to correct deficiencies. The substantive policy changes are associated with fireworks, special event permitting, park rules, and law enforcement custody of minors after curfew.

The substantive change to fireworks possession and discharge is increasing the minimum age of unsupervised possession and discharge. Currently, OCCGF 9.90.020 states:

9.90.020 Possession illegal.

A. Possession of fireworks not allowed to be sold or discharged by the State of Montana shall be illegal.

(Ord. 2965, 2007; Ord. 2664, 1994).

B. It shall be unlawful for any parent, guardian, or custodian of any child, the child being age seven (7) or younger, to permit or consent to the possession or discharge by the child of any fireworks as defined herein, unless that parent, guardian or custodian be in direct supervision of the child at the time of discharge. For purposes of 9.20.020(B) "direct supervision" means the overall direction and control of an individual and requires the individual furnishing direct supervision to be present and immediately available to furnish assistance while he or she is in possession of or is discharging any and all fireworks. Direct supervision also requires the individual directly supervising to control the application of flame or other means of discharge of the firework and must be no greater than ten (10) feet away from the individual being directly supervised at time of the firework's discharge.

(Ord. 2965, 2007)

Staff considers this a safety hazard. The dangers associated with fireworks are those associated with firearms, damage to property and injuries to persons. As such, minors are not allowed to start hunting until they reach ten (10) years of age. They also are not allowed to hunt unsupervised until sixteen (16) years of age. With these safety concerns in mind, Staff recommends raising the age that a minor may possess and discharge fireworks unsupervised to ten (10) years of age.

OCCGF 9.90.020 would then be redesignated to 9.9.020 and would read as follows:

9.9.020 Possession illegal.

A. Possession of fireworks not allowed to be sold or discharged by the State of Montana shall be illegal.

(Ord. 3158, 2017; Ord. 2965, 2007; Ord. 2664, 1994).

B. It shall be unlawful for any parent, guardian, or custodian of any child,

who is less than ten (10) years of age, to allow said child, to possess or discharge any fireworks as defined herein, unless that parent, guardian or custodian be in direct supervision of the child at the time of discharge. For purposes of 9.9.020(B) "direct supervision" means the overall direction and control of an individual and requires the individual furnishing direct supervision to be present and immediately available to furnish assistance while he or she is in possession of, or is discharging, any and all fireworks. Direct supervision also requires the individual directly supervising to control the application of flame or other means of discharge of the firework and must be no greater than ten (10) feet away from the individual being directly supervised at time of the firework's discharge.

(Ord., 3158, 2017; Ord. 2965, 2007)

Please refer to Exhibits "A" and "B" for exact format.

OCCGF 9.4.040, pertaining to special event permitting, will now incorporate the requirements set forth in Title 12 for street closures. Both the permitting for events, and street closures for parades and processions, go through the same approval process.

Therefore, it only makes logical sense to consolidate both into a single section of the Code.

Finally, the Code currently grants Law Enforcement the authority to arrest minors that are in public, without the supervision of a parent, guardian, or responsible adult, after the curfew established by 9.7.64.030. This is in violation of the MCA. Specifically, MCA §41-5-206, and 341 allow for a minor to be imprisoned if, 1) they are alleged to have committed an offense that would be a crime, if they were an adult; 2) the crime is one of the certain designated offenses outlined in MCA §41-5-206; 3) the minor must be alleged to be delinquent; and 4) the minor must be twelve at least (12) years of age.

Therefore, a substantive change must be made to the OCCGF. If the Commission accepts the proposed changes, the code will read as follows:

9.7.020 Hours designated—generally.

A minor remaining away from the home during the hours designated in 9.7.030 without supervision of a parent, legal guardian, or responsible adult shall be presumed in violation of curfew, and law enforcement may detain the minor until the earliest possible opportunity to release the minor to a parent or legal guardian.

Staff highly recommends the Commission accept Ordinance 3158 on first reading, and set the public hearing for April 4, 2017. With spring and summer approaching, these revisions to the Code must be made in a timely manner. Exhibit "A" is attached to this report. Exhibit "B" is a clean copy of how the New OCCGF Title 9 will read.

Fiscal Impact:

None.

Alternatives:

- 1 . The Commission could maintain the current version of OCCGF. However, staff does not recommend this alternative; or
- 2 . The Commission could suggest revisions of the proposed code revision,

which would be considered for input.

ATTACHMENTS:

- ▣ Ord. 3158
- ▣ Ord. 3158 Exhibit A
- ▣ Ord. 3158 Exhibit B

ORDINANCE 3158

AN ORDINANCE AMENDING TITLE 9 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF) PERTAINING TO PUBLIC PEACE, MORALS AND WELFARE

WHEREAS, the City Commission established Title 9 of the OCCGF regulating the Public Peace Morals and Welfare within the incorporated boundaries of the City of Great Falls; and

WHEREAS, the City Commission has recognized deficiencies throughout the entirety of OCCGF Title 9, 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 9, and

WHEREAS, the City Commission also wishes to substantively change policies related to fireworks, park rules and regulations, special event permitting, and issues related to curfew for minors.

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

Section 1. The entirety of OCCGF Title 9 pertaining to Public Peace, Morals and Welfare, shall be amended as depicted in Exhibit "A" attached hereto, which removes any language indicated by a ~~strike-through~~; 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 March 21, 2017.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading April 4, 2017.

Bob Kelly, Mayor

ATTEST:

Darcy Dea, Deputy 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, 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 3158 in three conspicuous 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

(CITY SEAL)

Darcy Dea, Deputy City Clerk

Title 9 PUBLIC PEACE, MORALS AND WELFARE

Title 9 PUBLIC PEACE, MORALS AND WELFARE

Chapter

Chapter 1 - OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

Chapter 2 - OFFENSES AGAINST THE PERSON(REERVED)

Chapter 3 - OFFENSES AGAINST PUBLIC DECENCY

Chapter 4 - OFFENSES AGAINST PUBLIC PEACE

Chapter 5 - OFFENSES AGAINST PROPERTY

Chapter 6 - CONSUMER PROTECTION(REERVED)

Chapter 7 - OFFENSES BY OR AGAINST MINORS

Chapter 8 - WEAPONS

Chapter 9 - FIREWORKS

Chapter 10 - SOCIAL HOST

Chapter 11 - PENALTY

Chapter 1 OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

Articles:

Article 1 - DIALING DEVICES

Article ~~6-2~~ - ARREST JURISDICTION

Article 1 DIALING DEVICES

Sections:

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

9.1.1.010 Defined.

Dialing devices, for the purpose of this chapter, are those devices of any description of nature, either electronic or mechanical, that may be attached to or programmed into telephones which by an abbreviated process dial telephone numbers or provide a prerecorded messages or both.

(Ord. 3158, 2017; Ord. 2454 (part), 1987).

9.1.1.020 Improper use.

It is unlawful for any person to program or in any way cause any dialing device, automatic or otherwise, to automatically dial any number, emergency or otherwise, in the City ~~Communication~~ **Emergency Communications** Center or to program or cause any prerecorded taped message to be played to any number, emergency or otherwise, in the City **Emergency** Communication Center.

(Ord. 3158, 2017; Ord. 2454 (part), 1987).

9.1.1.030 Violation.

Should the City officials, employees or agents discover that any dialing device has been programmed into the City **Emergency** Communication Center in violation of this chapter, the person shall be notified in writing of that fact and shall be allowed three (3) days within which to disconnect or deprogram the dialing device. After notice, violations of this chapter shall be punishable as misdemeanors in accordance with Chapter ~~Section~~ **Section** 1.4.070 of this code.

(Ord. 3158, 2017; Ord. 2454 (part), 1987).

Article 6-2 ARREST JURISDICTION

Sections:

9.1.62.010 Arrest jurisdiction.

Pursuant to 7-32-4301 MCA, the arrest jurisdiction of the Great Falls City Police is extended within a five-mile perimeter of the boundaries of the City.

(Ord. 3158, 2017; Ord. 2560, 1990).

Chapter 2 OFFENSES AGAINST THE PERSON (RESERVED)

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

Chapter 3 OFFENSES AGAINST PUBLIC DECENCY

Articles:

Article ~~101~~ - CITY PARK RULES

Article ~~132~~ - DISPLAY OR DISSEMINATION OF OBSCENE MATERIAL TO MINORS

Article 10 CITY PARK RULES AND REGULATIONS

Sections:

9.3.10.010 Park rules and regulations.

~~It is unlawful for any person to violate any of the~~ The following rules and regulations **must be adhered to** while within any City park:

- A. Parks are closed to vehicles and people from dusk to daylight, **except during a Park and Recreation approved special event.**
- B. Motorized vehicles may not be operated in excess of ten (10) mph and only upon designated road.
- C. Parking in front of or within a designated entry or driveway which hinders the use of the park property is prohibited.
- D. Destruction, defacement, or dismantling of any park equipment; park furnishings; trees, flowers, or other planting and facilities on park property is prohibited.
- E. Active games around designated flower/shrub beds or young trees ~~is~~**are** prohibited.
- ~~4F.~~ Practicing or **playing** golf is prohibited except at designated golf courses.
- ~~2G.~~ Snowmobiling on or within park land is prohibited (See also 10.66.020).
- ~~FH.~~ Organized athletic activities, or group functions, are allowed upon written permission from the Park and Recreation Director.
- ~~GI.~~ Littering or dumping debris on or within park land is prohibited.

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

- JH.** No erection, construction, or maintenance shall be made above or below ground, across or beneath park land, without written permission from the Park and Recreation Director.
- KI.** Selling, advertising, or solicitation of products/services within park land is prohibited unless written permission is received from the Park and Recreation Director.
- LJ.** Metal detectors are authorized only through permits issued by the Park and Recreation Director.
- MK.** All pets must be on a leash and shall be restricted to areas such as sidewalks, roads, trails, or such designated pet walking areas. (See also 6.08.909 and 6.8.120).
- NL.** Large animals such as horses, cows, and mules, which may damage the turf, are prohibited except in designated riding areas.
- OM.** **Subject to the exceptions provided in 9.9.010(C),** ~~D~~discharging, possession of or selling of fireworks is prohibited in all dedicated park areas, including golf courses.
- PN.** Use of park land other than its intended use must be approved in writing by the Park and Recreation Director.
- QO.** Except as provided in ~~9.4.20-030~~, public drinking and public display and exhibition of beer, wine or liquor are prohibited. (See also ~~9.4.20-020~~ and ~~9.4.20-030~~).
- R.** **No person shall make use of any slingshot, cross bow or similar device, or discharge or propel any dart, pellet, BB, rock, bolt, arrow or any other projectile from any air rifle, air pistol, BB gun, pellet gun, slingshot, robber sling, crossbow or other instrument or device by means of which missiles of any kind or description are hurled, shot or projected.**
- 1.** The prohibition set forth in 9.3.1.030(R) shall not apply to the following:
 - i.** The use of bows or crossbows at archery and crossbow ranges within the City. Bows and crossbows shall be used, with permission from the Park and Recreation Director, at ranges in a manner that will not endanger the public health, safety and general welfare.
 - ii.** Ranges in compliance with 9.8.010(C).

(Ord. 3158, 2017; Ord. 2647 (part), 1994).

9.3.10.020 Reserved.

Editor's note— Ord. No. 3079, § 1, adopted July 19, 2011, repealed § 9.3.10.020 which pertained to skate park rules and regulations. See also the Code Comparative Table.

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Article 132 DISPLAY OR DISSEMINATION OF OBSCENE MATERIAL TO MINORS Sections:

9.3.132.010 Definitions.

The following definitions apply in this chapter:

- A. "Harmful to minors" means that quality of any description, exhibition, presentation or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when the material or performance, taken as a whole, has the following characteristics:
 - A1. The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors; and
 - B2. The average adult person applying contemporary community standards would find that the material or performance depicts or describes nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and
 - C3. The material or performance lacks serious literary, scientific, artistic, or political value for minors.
- B. "Knowingly" means having general knowledge of:
 - A1. The character and content of any material or performance which is reasonably susceptible of examination by the defendant; and
 - B2. The age of the minor; however, an honest mistake shall constitute an ~~excuse~~ **defense** from liability hereunder, if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor. **The defendant shall be required to prove this defense by clear and convincing evidence.**
- C. "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape, or video tape.
- D. "Minor" means any unmarried person under the age of eighteen (18) years.
- E. "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering; the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernible turgid state.

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- F. "Performance" means any motion picture film, video tape, played record, phonograph or tape, preview, trailer, play, show, skit, dance, or other exhibition performed or presented to or before an audience of one (1) or more, with or without consideration.
- G. "Person" means any individual, partnership, association, corporation, or other legal entity of any kind.
- H. "Prurient" means a lustful, lascivious, erotic, shameful, or morbid interest in sexual conduct, sexually explicit nudity, sadomasochistic sexual abuse, or lewd exhibition of the genitals. Materials or performances may be deemed to appeal to the prurient interest when they are pandered, designed, marketed, prompted, or disseminated to cater or appeal to such an interest. Where the material or performance is designed for and primarily disseminated or promoted to a clearly defined, deviant sexual group, rather than the public at large, the prurient - appeal requirement is satisfied if the dominant theme of the material or performance, taken as a whole, appeals to the prurient interest in sex of the members to that intended and probable recipient group.
- I. "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
- J. "Sexual conduct" means acts of masturbation, ~~homosexuality~~, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast.
- K. "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- L. "A reasonable bona fide attempt" means an attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate or other governmental or educational identification card or paper and not relying solely on the oral allegations or apparent age of the minor.

(Ord. 3158, 2017; Ord. 2558 (part), 1990).

9.3.432.020 Offenses.

No person having custody, control, or supervision of any commercial establishment shall knowingly:

- A. Display material which is harmful to minors in such a way that minors, as a part of the invited general public, will be exposed to view such material provided; however, a person shall be deemed not to have "displayed" material harmful to minors if the material is kept

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behind the counter or is otherwise located so that it is not accessible nor more than the title portion of the material is visible to minors;

- B. Sell, furnish, present, distribute, allow to view, or otherwise disseminate to a minor, with or without consideration, any material which is harmful to minors; or
- C. Present to a minor or participate in presenting to a minor, with or without consideration, any performance which is harmful to a minor.

(Ord. 3158, 2017; Ord. 2558 (part), 1990).

9.3.432.030 Defenses.

It shall be an affirmative defense to any prosecution under this chapter that the material or performance involved was displayed, presented, or disseminated to a minor at a recognized and established school, church, museum, licensed medical clinic, hospital, public library, governmental agency, quasi-governmental agency, and person acting in their capacity as employees or agents of such persons or organizations, and which institution displays, presents or disseminates such material or performance for a bona fide governmental, educational, or scientific purpose.

(Ord. 3158, 2017; Ord. 2558 (part), 1990).

9.3.432.040 Penalties.

Any person who shall be convicted of violating any provision of this chapter is guilty of a misdemeanor and shall be punishable by a fine not less than five hundred dollars (\$500.00) or more than one thousand dollars (1,000.00) or imprisoned in the county jail for a term not to exceed six (6) months or both. Each day that any violation of this section occurs or continues shall constitute a separate offense and shall be punishable as a separate violation. Every act, thing, or transaction prohibited by this section shall constitute a separate offense as to each item, issue, or title involved and shall be punishable as such. For the purpose of this section, multiple copies of the same identical title, monthly issue, volume, and number issue or other such identical material shall constitute a single offense.

(Ord. 3158, 2017; Ord. 2558 (part), 1990).

9.3.432.050 Severability.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions thereof. The City Commission declares that it would have passed this chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

(Ord. 3158, 2017; Ord. 2558 (part), 1990).

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Chapter 4 OFFENSES AGAINST PUBLIC PEACE

Articles:

~~Article 20—INTOXICATING BEVERAGES~~

~~Article 20—INTOXICATING BEVERAGES~~

Sections:

9.4.. 20.010 Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- A. "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.
- B. "Alcoholic Beverage" means a compound produced and sold for human consumption as a drink that contains more than one-half of one (0.5) percent of alcohol by volume;
- C. "Malt Beverage" means an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of un-malted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or without other wholesome products suitable for human food consumption.
- D. "Beer" means:
 - ~~any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops or any similar products, containing not more than four (4) percent of alcohol by weight.~~
 - 1. An alcoholic malt beverage containing not more than 8.75% of alcohol by volume; or
 - 2. an alcoholic beverage containing not more than 14% alcohol by volume:
 - i. that is made by the alcoholic fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted cereal grain; and
 - ii. in which the sugars used for fermentation of the alcoholic beverage are at least 75% derived from malted cereal grain measured as a percentage of the total dry weight of the fermentable ingredients.
 - ~~(ii) an alcoholic beverage containing not more than 14% alcohol by volume;~~

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- E. "Hard cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% of alcohol by volume and not more than 6.9% of alcohol by volume, including but not limited to flavored, sparkling, or carbonated cider. ~~"Hard Cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than one-half of one (0.5) percent alcohol by volume and not more than six and nine tenths (6.9) percent alcohol by volume, including but not limited to flavored, sparkling, or carbonated cider.~~

- F. "Liquor" means an alcoholic beverage except beer and wine. The term includes a caffeinated or stimulant-enhanced malt beverage.

~~means any alcoholic, spirituous, vinous, fermented, malt or other liquor which contains more than one (1) percent of alcohol by weight.~~

- G. "Public display or exhibition of beer, wine, or liquor" means the carrying and exhibiting of open cans or bottles of beer, or the carrying and exhibition of glasses or other types of containers for beer, wine, or liquor, even though empty, on or within any public place as defined herein or on or within any vehicle that is upon a public place as defined herein. This definition does not include carrying or transporting beer, wine, or liquor from retail or wholesale liquor or beer establishments in sacks, cases, boxes, cartons, or other similar containers if the seal for the alcoholic beverage container is unbroken; nor does this definition include those situations wherein the alcoholic beverage container is being transported or carried to a recycling center or garbage disposal site; nor does this definition include transportation of alcoholic containers in a compartment of the vehicle that is outside the passenger area of the vehicle and which area is not accessible to the driver and passenger of the vehicle from the passenger area while the vehicle is in operation.

- H. "Public drinking" means the drinking or consuming of beer, wine, or liquor within or upon any vehicle that is upon a public place as defined herein or upon any public place in the City.

- I. "Public places" means all streets, **sidewalks**, avenues, alleys, ~~eligible publicly owned parking lots and privately owned parking lots open to the public for parking in the City, approved City-owned facilities, and~~ **including but not limited to**, the following City parks: Odd Fellows, Sight and Sound, Elks-Riverside, West Bank, Margaret, Whittier, Gibson, Lions, and West Kiwanis, **and Park Island**. This definition does not include the premises licensed for the **retail** sale of liquor or beer ~~at retail by the Liquor Division of the Montana Department of Revenue. For purposes of this definition the term "premises" shall have the same meaning attributed to that term by the Department of Revenue pursuant to its administrative regulations., which term is defined as follows: the building or any specific portion of any building in which the liquor and/or beer business is conducted and those areas in which the licensee operates a sidewalk cafe, open-air~~

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~~restaurant or tavern outside and adjacent to the license building and to which patrons are permitted free access from said building.~~

(Ord. 3158, 2017; Ord. 2949, 2006; Ord. 2854, 2003)

- J. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway.

- K. ~~"Wine" means wine that contains not more than 16% of alcohol by volume and includes cider. means an alcoholic beverage made from the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains not less than seven (7) percent or more than twenty-four (24) percent of alcohol by volume. Other alcoholic beverages made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine.~~

(Ord. 3158, 2017; Ord. 2342 §2(part), 1983).

9.4.. 20.020 Unlawful within City limits.

Except as provided in 9.4.20.030, public drinking and public display and exhibition of **malt beverage**, beer, wine, **hard cider**, or liquor as defined in this chapter are prohibited. ~~Except as provided for herein, it is unlawful for any person to engage in public drinking, public display or exhibition of beer or liquor within the City limits.~~

(Ord. 3158, 2017; Ord. 2949, 2006; Ord. 2525 §1, 1988; Ord. 2453 §1(part), 1987; Ord. 2342 §2(part), 1983).

9.4.. 20.030 Exception—public places.

- A. Individuals, members of groups or organizations who wish to consume, sell or give away alcoholic beverages in public places as defined in 9.4.20.010 may do so provided they obtain a special event permit as specified in 9.4.20.040 or are otherwise excluded from that requirement.
- B. A fee to cover administrative costs for such permit shall be charged and set by Commission resolution **and must be paid by the permittee no less than 48 hours prior to the event.**
- C. Organizers for special events held **on any public places** ~~in city parks~~ must clean up the **park property** to a state at least as clean as when they arrived. ~~and p~~Permit holder shall be solely responsible for the immediate and timely picking up and removal or proper disposal of garbage at the location where the permit is issued ~~within the park.~~

(Ord. 3158, 2017; Ord. 2647 (part), 1994).

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- D. A special event may require closure of a ~~public~~ parking lot **open to the public** or temporary closure of a street. For such an event, **the event organizers must follow the provisions of 9.4.040.** ~~a sign designating the street closure and removal of vehicles will be prominently posted no less than four (4) hours in advance of the event. Parking in an area that has been designated and blocked off for a special event is a misdemeanor and such vehicle may be impounded and towed. The owner will be responsible for all towing and impounding fees.~~
- E. **The Civic Center, Centene Stadium, Eagle Falls Golf Club, Anaconda Hills Golf Course, and designated areas of the Montana Expo Park and the Multi-Sports Complex grounds shall be exempt from the prohibition of Section 9.4.020.** ~~The Civic Center and designated areas of the "State Fair" grounds shall be exempt from the prohibition of Section 9.4.20.020.~~

(Ord. 3158, 2017; Ord. 2949, 2006; Ord. 2854, 2003; Ord. 2525 §2, 1988; Ord. 2453 §1(part), 1987; Ord. 2399 §1, 1985; Ord. 2342 §2(part), 1983).

9.4.20-040 Requirements of a special event permit.

- A. **Events encouraging community and neighborhood involvement are encouraged and may require the temporary closure of city streets, parks or other public property.**
- B. **Applications for a procession must comply with the provisions of Title 12, Chapter 14. Organizers of an event, other than a procession, that require the temporary closure of a public property must obtain a special event 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), times(s), and duration of the event. Applications for closures of public property other than parks, must be turned in a minimum of fourteen (14) days prior to the event to the City Manager's office for review; applications for temporary closure of park land, must be turned in a minimum of fourteen (14) days prior to the event to the Park and Recreation Director.**
- C. **The City 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 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; and**
 - 8. Impact on public safety, including but not limited to, emergency response time.**
- D. **For events which require a temporary closure of a street closure or parking lot open to the public, the event organizer must submit with the permit application,**

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information as to how property owners, business owners and tenants adjacent to the temporary street closure will be notified of special event or activity. For such an event, the applicant or permit holder must prominently post a sign designating the street or parking lot closure and removal of vehicles, no less than four (4) hours in advance of the event. Parking in an area that has been designated and blocked off for a special event is a misdemeanor and such vehicle may be impounded and towed. The owner or person in control of the vehicle will be responsible for all towing and impounding fees.

- E. During the review of the application, city staff will develop a permit conditions that the applicant must follow. Staff will attempt to make available the necessary street closure equipment and charge a fee set by Commission resolution. If the equipment is not available through the City, the applicant will be required to supply the equipment at the applicant's expense.
- F. A fee for the special event permit shall be set by Commission resolution to cover administrative time and any additional costs incurred by the City to ensure promote the event is safety and to ensure the area is returned back into the same condition it was prior to the event. The fee must be paid no less than 48 hours prior to the event.
- G. 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 named insured under the policy. The liability insurance coverage shall be in the minimum amounts one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate. The City Manager has the authority to waive this requirement or, require insurance for events with fewer than seventy-five (75) people should he determine it necessary due to the type of event. The insurance documentation must be provided to the City no less than 72 hours prior to the event.
- H. Applicants for a special event permit shall agree in writing to indemnify, defend, hold harmless the City and its employees and agents for any and all claims, damage or injury to person or property, lawsuits or liability including attorneys' fees and costs arising out of loss, occurring during the course of or pertaining to the special event which are caused by the conduct of the Applicant and/or its employees or agents.
- I. The City Manager, or designee, shall review, revise, approve with or without conditions, or deny the permit application and has the authority to require additional information from the applicant.
- A. ~~The application for a special event permit shall be obtained from the City Manager's office and shall contain the name and contact information of the person or entity requesting the permit, the location of the proposed event, the anticipated number attending the event, and the day(s), times(s) and duration of the event. Applications must be turned in for review a minimum of fourteen (14) days prior to the event.~~

~~(Ord. 2949, 2006; Ord. 2854, 2003)~~

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B. ~~The applicant must demonstrate that all state and local liquor control regulations pertaining to the sale and consumption of alcohol have been complied with and provide copies of all applicable state and local liquor permits.~~

~~(Ord. 2949, 2006)~~

C. ~~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, or designee, 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.~~

~~(Ord. 2949, 2006)~~

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

~~(Ord. 2949, 2006)~~

EJ. The Police Department may revoke the special event permit should those in attendance become unruly~~disorderly~~, property is damaged, or for other reasons that adversely affect the public health, safety, and welfare of those attending the event and the citizens of Great Falls.

(Ord. 3158, 2017; Ord. 2949, 2006)

9.4.20.050 Permit denial— appeal.

If an applicant is denied a special event permit under 9.4.20.040, the applicant may appeal the decision to the City Commission ~~whewhich~~ shall review the application in a public meeting and **uphold, reverse, or revise the decision on the application.** ~~may direct the City Manager's office to issue said permit based upon their review.~~

(Ord. 3158, 2017; Ord. 2949, 2006)

9.4.20.080 Violation—penalty.

~~Any person violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be as specified in 1.4.070.~~

(Ord. 3158, 2017; Ord. 2949, 2006; Ord. 2854, 2003; Ord. 2342 §2(part), 1983).

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Chapter 5 OFFENSES AGAINST PROPERTY

Articles:

Article ~~281~~ - SMOKING

Article ~~362~~ - POSTING OF ADVERTISING MATTER

Article 281 SMOKING

Sections:

9.5.. 281.010 Negligent smoking so as to endanger property prohibited.

Any person who by smoking or attempting to light or to smoke cigarettes, cigars, pipes, or tobacco in any manner in which lighters or matches are employed who ~~in any careless, negligently or recklessly manner whatsoever, whether willfully or wantonly or not,~~ sets fire to any building, furniture, curtain, drapes, house or any household fittings, or furnishings whatsoever so as to endanger life or property in any way or to any extent is guilty of violating this chapter **or fixtures contained therein, or appurtenant to, is guilty of a misdemeanor.**

(Ord. 3158, 2017; Prior code §6-1-2(C)(part)).

9.5.. 281.020 Notice—posting.

A plainly printed notice shall be posted in a conspicuous place in each sleeping room of all hotels, rooming houses, lodging houses, and other places of public abode, advising tenants of the provisions of this chapter and the penalty therefore.

(Ord. 3158, 2017; Prior code §6-1-2(C) (part)).

Article 362 POSTING OF ADVERTISING MATTER

Sections:

9.5.. 362.010 Unlawful where.

It is unlawful for any person, firm, or corporation, **or other agent or entity representative** to tack, nail, or otherwise attach any placard, poster, picture, printed matter, or any type of literature or advertising to any

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public utility poles, or to any City property, including but not limited to trees, shrubs, fixtures, or structures of the City, within the City limits of the City.

(Ord. 3158, 2017; Prior code §6-1-3(G)).

Chapter 6 CONSUMER PROTECTIONPROTECTION (RESERVED)

Chapter 7 OFFENSES BY OR AGAINST MINORS

Article:

Article 64—CURFEW

Article 64—CURFEW

Sections:

9.7.64.010 Established.

It is unlawful for any minor under the age of eighteen (18) years, to remain away from home at late and unusual hours of the night during the hours designated in 9.7.030, unless in the company of the parent, guardian, or other responsible adult companion.

(Ord. 3158, 2017; Ord. 2370 §2(part), 1984).

9.7.64.020 Hours designated—generally.

Subject to the provisions of Section 9.647.010 and to serve as a guide for parents and minors in observing this chapter, the hours set out in Section 9.647.030 shall be presumed late and unreasonable and any arrest based thereon shall be lawful. A minor remaining away from the home during the hours designated in 9.7.030 without supervision of a parent, legal guardian, or responsible adult shall be presumed in violation of curfew, and law enforcement may detain the minor until such the earliest possible opportunity to release the minor to a parent or legal guardian.

(Ord. 3158, 2017; Ord. 2370 §2(part), 1984).

9.7.64.030 Hours designated.

- A. It is unlawful for a person less than eighteen (18) years of age to be present at or upon any public assembly, building, place, street, or highway at the following times unless accompanied and supervised by a parent, legal guardian, or other responsible adult

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companion at least eighteen (18) years of age approved by a parent, or legal guardian, or unless engaged in a business or occupation which the laws of this state authorize a person less than eighteen (18) years of age to perform:

1. Between 12:01 a.m. and 6:00 a.m. Saturday;
2. Between 12:01 a.m. and 6:00 a.m. Sunday; and
3. Between 11:00 p.m. on Sunday ~~to~~**through** Thursday, inclusive, and 6:00 a.m. on the following day.

- B. It is unlawful for a parent, legal guardian, or other adult person to knowingly permit a minor under the age of eighteen (18) in their custody, or control, to violate subsection A of this ~~section~~**section** and such violation shall constitute a misdemeanor.
- C. Any minor under the age of eighteen (18) years who is ~~apprehended~~**detained** for a violation of this chapter ~~shall may be dealt with~~**subject to intervention** in accordance with the provisions of Title 41, Chapter 5, Montana Codes Annotated, concerning juvenile courts and proceedings against juvenile delinquents.

(Ord. 3158, 2017; Ord. 2370 §2(part), 1984).

Chapter 8 WEAPONS

Article:

~~Article 65~~ WEAPONS

~~Article 65~~ WEAPONS

Sections:

9.8.65.010 Weapons - use of prohibited.

It is unlawful for any person to discharge or cause to be discharged, any weapon, be it a pellet or b-b projectile, either compressed air or gas operated, cross bow or bow, slingshot or wrist rocket **within the City subject to the following exceptions:**

- A. ~~unless it is discharged in a reasonable and~~**Weapons may be discharged in a responsible manner on property owned or legally possessed by that the person discharging the weapon, and only if the projectile from such weapon remains on that property;**
- B. ~~or~~**In defense of persons; or**

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- C. ~~a~~At an indoor or outdoor range approved by the City Manager, within the corporate limits of the City of Great Falls.

(Ord. 3158, 2017; Ord. 2647 (part), 1994).

9.8.65-020 Prohibiting and suppressing the possession of weapons.

- A. The carrying of concealed or unconcealed weapons (MCA 45-2-101 (76)-(1997), and as such statute may hereafter be amended) to, on, or at a public assembly, publicly owned building, park under City jurisdiction, or school is hereby prohibited.
- B. Exceptions are as otherwise provided by MCA 45-8-351(2)(b)(1997) which allows for display of firearms at shows or other public occasions by collectors and others, and MCA 45-8-317(1997)- which states what persons are allowed to carry weapons, and as such statutes may hereafter be amended.

(Ord. 3158, 2017; Ord. 2732, 1997).

Chapter 9 FIREWORKS

Article:

Article 90—FIREWORKS

Article 90—FIREWORKS

Sections:

9.90.010 Selling and discharging dates and times.

- A. The selling and discharging of fireworks within the incorporated limits of Great Falls shall be July 2, through July 4, from 8:00 a.m. to ~~midnight~~12:00 a.m..

(Ord. 3158, 2017; Ord. 2965, 2007; Ord. 2664, 1994).

- B. Fireworks may be discharged on December 31, from 10:00 p.m. to 12:30 a.m. January 1. Fireworks may not be sold within the incorporated city limits except as provided in 9.90.010-(A).
- C. The Fire Chief, or designee, shall determine if there are special circumstances that warrant the discharge of fireworks **which are** not provided for in 9.90.010-(A) and (B), and authorize such use if the circumstance ~~is~~**benefits the community wide** and ~~is~~ of national, state and local significance.

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- D. Professional Fireworks Displays using display fireworks. Public displays of fireworks by a licensed, bonded pyrotechnic operator are exempt from 9.90.010(A)-(C). Permits for any public display by a licensed bonded pyrotechnic operator from the Fire Department are required to conduct a public fireworks display. "Display Fireworks" means an aerial shell, salute, flash shell, comet, sky battle, mine, and any similar 1.3g (display fireworks) and 1.4g (consumer fireworks) explosive as defined by the U.S. Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

(Ord. 3158, 2017; Ord. 2965, 2007; Ord. 2664, 1994).

9.90.020 Possession illegal.

- A. Possession of fireworks not allowed to be sold or discharged by the State of Montana shall be illegal.

(Ord. 3158, 2017; Ord. 2965, 2007; Ord. 2664, 1994).

- B. It shall be unlawful for any parent, guardian, or custodian of any child, **who is less than ten (10) years of age, to allow said** ~~the child being age seven (7) or younger, to permit or consent to the possession or discharge by the child of any fireworks as defined herein,~~ unless that parent, guardian or custodian be in direct supervision of the child at the time of discharge. For purposes of 9.209.020(B) "direct supervision" means the overall direction and control of an individual and requires the individual furnishing direct supervision to be present and immediately available to furnish assistance while he or she is ~~in~~ possession of, or is discharging, any and all fireworks. Direct supervision also requires the individual directly supervising to control the application of flame or other means of discharge of the firework and must be no greater than ten (10) feet away ~~from~~ from the individual being directly supervised at time of the firework's discharge.

(Ord., 3158, 2017; Ord. 2965, 2007)

9.90.030 Permissible fireworks.

Shall be the same as those authorized by the State of Montana.

(Ord. 3158, 2017; Ord. 2965, 2007)

9.90.03540 Littering illegal.

It shall be illegal for anyone to leave debris from discharged fireworks on any public place including but not limited to parks, sidewalks, streets, and alleys, or on private property not owned by the individual discharging the fireworks.

(Ord. 3158, 2017; Ord. 2965, 2007)

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9.90.0450 Enforcement.

- A. City Police Officers and Firefighters shall enforce these rules and regulations.
- B. Any official charged with enforcing these rules and regulations may;
 - 1. Issue a Notice to Appear to Great Falls Municipal Court for violations of this Chapter-;
 - 2. Seize illegal fireworks that are offered for sale, sold, or in the possession of any individual in violations of this eChapter-; **and**
 - 3. Recommend to the Planning and Community Development Department that any wholesaler/retailer found in violation of this chapter have his/her license revoked.
- C. Any person who violates these rules and regulations shall be guilty of a misdemeanor and subject to the following fines-:

(Ord. 3158, 2017; Ord. 2664, 1994).

- 1. 1st Offense—One hundred dollars (\$100.00).
- 2. 2nd Offense—Two hundred dollars (\$200.00).
- 3. 3rd Offense—Three hundred dollars (\$300.00).
- 4. 4th and higher—One thousand dollars (\$1,000.00).

(Ord. 3158, 2017; Ord. No. 3057, § 1, 8-17-2010)

9.90.060 Fireworks prohibited on all public property.

Subject to the exceptions provided in 9.9.010(C), Fireworks may not be discharged in any city park or on any public sidewalk, street, public right-of-way, public easement or alley.

(Ord. 3158, 2017; Ord. 2965, 2007; Ord. 2664, 1994).

9.90.070 Fireworks stands and permit fees.

- A. ~~Anyone~~**Persons**, groups, or organizations wishing to sell fireworks within the incorporated boundaries of the City of Great Falls shall obtain a special permit. The fees collected from the permit shall cover the costs to issue said permit; to inspect the fireworks stands; and costs of enforcement.
- B. Operators of fireworks stands shall educate all patrons on the:
 - 1. Legal, safe use of fireworks;
 - 2. The dates and times allowed for fireworks to be discharged; **and**
 - 3. The requirement to clean up all debris left from discharged fireworks.

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C. Fireworks stand permit fees are based upon square footage as follows:

(Ord. 3158, 2017; Ord. 2965, 2007; Ord. 2664, 1994).

SIZE	FEES
0—300 sq. ft.	\$125.00
301—1,000 sq. ft.	\$375.00
1,001—2,000 sq. ft.	\$625.00
2,001—3,000 sq. ft.	\$875.00
3,001 sq. ft. or larger	\$1,125.00

Chapter 10 SOCIAL HOST

Sections:

9.10.010 Purpose, findings.

The Commission finds Consumption of alcoholic beverages by minors at parties, or gatherings where minors consume alcoholic beverages, presents numerous problems for the City of Great Falls, Montana, minors, and law enforcement. Specifically:

- Montana teens report one (1) of the highest binge drinking (heavy episodic—defined as five (5) or more drinks in one (1) sitting) rates in the nation, thirty-four and four tenths (34.4) percent of Montana Youth admit to binge drinking episodes. This is the highest in the United States.
- Great Falls' teens report a higher binge drinking rate than the Montana average. In Cascade County, thirty-eight and nine tenths (38.9) percent of youth admit to binge drinking. This is one (1) of the highest rates in the state.
- In Great Falls, the Municipal Court, the Youth Court, the Great Falls Police Department, and the Cascade County Sheriff's Office have dealt with or issued 2,066 Minor in Possession of Alcohol violations in the City of Great Falls since January 1, 2006. Due to alcohol abuse problems, in 2005 alone, six thousand six hundred eighty-nine (6,689) persons were admitted to alcohol treatment programs in Montana.

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- ~~• The Great Falls Police Department has expended countless man-hours and countless resources on enforcement of underage drinking laws which has detracted from their ability to tend to violent crime and other necessary law enforcement activities. Recent reports state that Montana spends an average of forty-nine point one (49.1) million dollars annually on alcohol related criminal offenses.~~
- ~~• Due to the severity of the problem in Cascade County, and especially the City of Great Falls, the Great Falls Police Department has written a grant for and received over one million dollars (\$1,000,000.00) in federal grant funds to be used solely for combating underage drinking and alcohol related crimes in the community. Despite this funding and the efforts of law enforcement and community groups, the problem of underage drinking in Great Falls continues to grow.~~
- A. Alcohol abuse is also linked to numerous other health and life issues for our youth, including, but certainly not limited to, sexual assault, unprotected sexual activity, teenage pregnancy, sexually transmitted diseases, physical assault, and academic difficulties.
- B. The Commissioners of the City of Great Falls, Montana, **further finds and declares** that the purpose of the ordinance is:
 - 1). to protect public health, safety, and general welfare;
 - 2). to enforce laws prohibiting the consumption of alcohol by minors;
 - 3). to reduce the cost of providing police services to parties, gatherings, or events that call for a response by requiring that social hosts ensure minors are not consuming alcoholic beverages; and, under Montana Code Annotated §§ 7-1-4123 and 7-1-4124, the City of Great Falls **City Commission** has the legislative power, subject to the provisions of state law, to adopt, amend, and repeal ordinances and resolutions required to:
 - ai). preserve the peace and order and secure freedom from dangerous and noxious activities; and,
 - bii). secure and promote the general public health and welfare.
- C. Further, Montana Code Annotated § 7-32-4302 provides, in pertinent part, that the City of Great Falls has the power to prevent and punish intoxication, loud noises, disorderly conduct, and acts or conduct calculated to disturb the public peace or which are offensive to public morals within its limits.

(Ord. 3158, 2017; Ord. No. 3044, § 1, 9-15-2009)

9.10.020 Definitions.

For the purposes of this Chapter the following definitions shall apply:

- (1A.) "Alcohol" means ~~ethyl alcohol, also called ethanol, or the hydrated oxide of ethylis~~ defined by 9.4.010(A).

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- (2)B. ~~"Alcoholic Beverage" means a compound produced and sold for human consumption as a drink that contains more than one-half of one (0.5) percent of alcohol by volume~~**defined by 9.4.010(B).**~~; the term also includes, but is not limited to, Beer, Hard Cider, Liquor, Malt Beverage, Table Wine, and Wine.~~
- C. **"Beer" means a malt alcoholic beverage meeting the definition provided in 9.4.010(AD).**
~~means a malt beverage containing not more than seven (7) percent of alcohol by weight.~~
- (4)D. **"Gathering" means a party or event where a group of three (3) of more persons has assembled or is assembling for a social occasion or social activity.**
- (5)E. **"Hard Cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than one-half of one (0.5) percent alcohol by volume and not more than six and nine tenths (6.9) percent alcohol by volume, including but not limited to flavored, sparkling, or carbonated cider****meeting the definition provided in 9.4.010(E).**
- (6)F. **"Liquor" means an alcoholic beverage except beer and table wine****an alcoholic beverage meeting the definition provided in 9.4.010(F).**
- (7)G. **"Malt Beverage" means an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or without other wholesome products suitable for human food consumption****meeting the definition provided in 9.4.010(C).**
- (8) ~~"Table Wine" means wine that contains not more than sixteen (16) percent alcohol by volume and includes cider.~~
- (9)H. **"Wine" means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than one-half of one (0.5) percent but not more than twenty-four (24) percent of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine****meeting the definition provided in 9.4.010(K).**
- (10)I. **"City" means:**
(a) ~~the area within the incorporated city boundaries of the City of Great Falls.~~

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- (11) — "Immediate family" means a spouse, dependent child or children, or dependent parents.
- (12)J. "Person" means any individual, business association, partnership, corporation, or other legal entity and an individual acting or purporting to act for or on behalf of a joint-stock company, unincorporated association or society, ~~or other corporation,~~ **or other entity** of any character whatsoever as defined in Montana Code Annotated §§ 45-2-101 and 27-8-104.
- (13) — "Parent" means any person having legal custody of a juvenile, including a natural parent, adoptive parent, step parent, legal guardian, person to whom a court order has given temporary or permanent legal custody.
- (14)K. "Premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, hall or meeting room, park, pavilion, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party, gathering, or other social function, and whether owned, leased, rented, or used with or without permission or compensation.
- (15)L. "Social Host" means any person who conducts, allows, organizes, supervises, controls, permits or aids another in conducting, allowing, organizing, supervising, controlling, or permitting a party, event, or gathering of any number of individuals. The term shall include, but is not limited to the following:
- (a)1. Any person or persons who own, rent, lease, or otherwise control the premises where an event, a gathering, activity, or party takes place;
 - (b)2. The person or persons in charge of or responsible for the premises; **or**
 - (c)3. The person or persons who organized the activity, event, gathering, or party.
- (i) The term shall not include a property owner, or parent, who does not have knowledge that the activity, event, gathering, or party, whether or not the activity, event, gathering, or party was permitted or allowed, would result in an underage person being in possession of or consuming an alcoholic beverage.
- (16)M. "Underage Person" means any person ~~younger than twenty-one~~ **less than** (21) years of age.
- (17)N. "Emergency Responders" means law enforcement officers, firefighters, emergency medical service personnel, and any other person having emergency response duties.
- (18)O. "Enforcement Services or Response Costs" means the monetary cost of salaries and benefits of emergency responders for the amount of time spent responding to, or remaining at, an event, gathering, or party ~~and other~~ administrative costs attributable to the incident; **gathering**; the costs for medical treatment for any injured emergency responder; and the costs of repairing any damage to emergency responder equipment or vehicles; and ~~or~~ the cost of use of such equipment or vehicle.

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(Ord. 3158, 2017; Ord. No. 3044, § 1, 9-15-2009)

9.10.030 Prohibited acts.

- (1)A. A person violates this chapter when, as a social host, a person knows or reasonably should have known, that an underage person is in possession of, is consuming, or has consumed, an alcoholic beverage on a premises within the City, and fails to take reasonable steps, including, but not limited to, notifying law enforcement to prevent the ~~underage alcohol~~ consumption or possession by the underage person. The social host does not have to be present or on the premises at the time the prohibited act occurs.
- (2)B. Nothing in this chapter shall be construed to supersede the prohibitions or exceptions set forth in §-16-6-305, MCA.

(Ord. 3158, 2017; Ord. No. 3044, § 1, 9-15-2009)

9.10.040 Penalties.

- (1)A. A person convicted of violating this eChapter shall be guilty of a criminal misdemeanor ~~and shall be punished as follows~~**punishable by:**
 - (a1). ~~for the first offense, shall be~~**A** fined not less than two hundred fifty dollars (\$250.00) or more than five hundred dollars (\$500.00), plus court costs;
 - (b2). ~~for the~~**A** second or subsequent offense **lifetime**, shall be ~~fin~~**ed** ~~punishable by a~~**fine not less than** five hundred dollars (\$500.00), plus court costs, and ~~imprisonment for a period of~~ not more than six (6) months;
- 3. ~~except that if at the time of the offense one (1) or more underage persons found to have been in possession of or consumed an alcoholic beverage was sixteen (16) years of age or under~~**younger**, the ~~person convicted of violating this chapter~~**conviction** shall be ~~punished~~**able** by imprisonment of not less than five (5) days **and not more than (6) months**, which may not be served on home arrest.
- (2) ~~The imposition or execution of the first two (2) days of any sentence of jail may not be suspended and the court may not defer imposition of sentence.~~
- (3)B. Notwithstanding the penalties listed above, a person convicted of violating this eChapter shall be responsible for reimbursing the cost of enforcement services, or **the** response costs to the agencies furnishing emergency responders. Any claims for restitution, including, but not limited to, those for enforcement services or response costs, must be filed with the Court within ninety (90) days of a conviction under this chapter.

- (4)C. A ~~p~~**Prosecution and any sentence** for a violation of this eChapter may not be deferred.

(Ord. 3158, 2017; ~~No.~~ 3044, § 1, 9-15-2009)

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Chapter 11 PENALTY.

Sections:

9.11.010 Penalty.

Unless otherwise stated in this Title, violations of the provisions of this Title are misdemeanors subject to the penalties set forth in 1.4.070.

(Ord. 3158, 2017)

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Title 9 PUBLIC PEACE, MORALS AND WELFARE

Title 9 PUBLIC PEACE, MORALS AND WELFARE

Chapter

Chapter 1 - OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

Chapter 2 - OFFENSES AGAINST THE PERSON(REERVED)

Chapter 3 - OFFENSES AGAINST PUBLIC DECENCY

Chapter 4 - OFFENSES AGAINST PUBLIC PEACE

Chapter 5 - OFFENSES AGAINST PROPERTY

Chapter 6 - CONSUMER PROTECTION(REERVED)

Chapter 7 - OFFENSES BY OR AGAINST MINORS

Chapter 8 - WEAPONS

Chapter 9 - FIREWORKS

Chapter 10 - SOCIAL HOST

Chapter 11 - PENALTY

Chapter 1 OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

Articles:

Article 1 - DIALING DEVICES

Article 2 - ARREST JURISDICTION

Article 1 DIALING DEVICES

Sections:

EXHIBIT "B"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

9.1.1.010 Defined.

Dialing devices, for the purpose of this chapter, are those devices of any description of nature, either electronic or mechanical, that may be attached to or programmed into telephones which by an abbreviated process dial telephone numbers or provide a prerecorded message or both.

(Ord. 3158, 2017; Ord. 2454 (part), 1987).

9.1.1.020 Improper use.

It is unlawful for any person to program or in any way cause any dialing device, automatic or otherwise, to automatically dial any number, emergency or otherwise, in the City Emergency Communications Center or to program or cause any prerecorded taped message to be played to any number, emergency or otherwise, in the City Emergency Communication Center.

(Ord. 3158, 2017; Ord. 2454 (part), 1987).

9.1.1.030 Violation.

Should the City officials, employees or agents discover that any dialing device has been programmed into the City Emergency Communication Center in violation of this chapter, the person shall be notified in writing of that fact and shall be allowed three (3) days within which to disconnect or deprogram the dialing device. After notice, violations of this chapter shall be punishable as misdemeanors in accordance with Section 1.4.070 of this code.

(Ord. 3158, 2017; Ord. 2454 (part), 1987).

Article 2 ARREST JURISDICTION

Sections:

9.1.2.010 Arrest jurisdiction.

Pursuant to 7-32-4301 MCA, the arrest jurisdiction of the Great Falls City Police is extended within a five-mile perimeter of the boundaries of the City.

(Ord. 3158, 2017; Ord. 2560, 1990).

Chapter 2 OFFENSES AGAINST THE PERSON (RESERVED)

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Chapter 3 OFFENSES AGAINST PUBLIC DECENCY

Articles:

Article 1 - CITY PARK RULES

Article 2 - DISPLAY OR DISSEMINATION OF OBSCENE MATERIAL TO MINORS

Article 1 CITY PARK RULES AND REGULATIONS

Sections:

9.3.1.010 Park rules and regulations.

The following rules and regulations must be adhered to while within any City park:

- A. Parks are closed to vehicles and people from dusk to daylight, except during a Park and Recreation approved special event.
- B. Motorized vehicles may not be operated in excess of ten (10) mph and only upon designated road.
- C. Parking in front of or within a designated entry or driveway which hinders the use of the park property is prohibited.
- D. Destruction, defacement, or dismantling of any park equipment; park furnishings; trees, flowers, or other planting and facilities on park property is prohibited.
- E. Active games around designated flower/shrub beds or young trees are prohibited.
- F. Practicing or playing golf is prohibited except at designated golf courses.
- G. Snowmobiling on or within park land is prohibited (See also 10.66.020).
- H. Organized athletic activities, or group functions, are allowed upon written permission from the Park and Recreation Director.
- I. Littering or dumping debris on or within park land is prohibited.
- J. No erection, construction, or maintenance shall be made above or below ground, across or beneath park land, without written permission from the Park and Recreation Director.

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- K. Selling, advertising, or solicitation of products/services within park land is prohibited unless written permission is received from the Park and Recreation Director.
- L. Metal detectors are authorized only through permits issued by the Park and Recreation Director.
- M. All pets must be on a leash and shall be restricted to areas such as sidewalks, roads, trails, or such designated pet walking areas. (See also 6.08.909 and 6.8.120).
- N. Large animals such as horses, cows, and mules, which may damage the turf, are prohibited except in designated riding areas.
- O. Subject to the exceptions provided in 9.9.010(C), discharging, possession of or selling of fireworks is prohibited in all dedicated park areas, including golf courses.
- P. Use of park land other than its intended use must be approved in writing by the Park and Recreation Director.
- Q. Except as provided in 9.4.030, public drinking and public display and exhibition of beer, wine or liquor are prohibited. (See also 9.4.020 and 9.4.030).
- R. No person shall make use of any slingshot, cross bow or similar device, or discharge or propel any dart, pellet, BB, rock, bolt, arrow or any other projectile from any air rifle, air pistol, BB gun, pellet gun, slingshot, robber sling, crossbow or other instrument or device by means of which missiles of any kind or description are hurled, shot or projected.
 - 1. The prohibition set forth in 9.3.1.030(R) shall not apply to the following:
 - i. The use of bows or crossbows at archery and crossbow ranges within the City. Bows and crossbows shall be used, with permission from the Park and Recreation Director, at ranges in a manner that will not endanger the public health, safety and general welfare.
 - ii. Ranges in compliance with 9.8.010(C).

(Ord. 3158, 2017; Ord. 2647 (part), 1994).

9.3.1.020 Reserved.

Editor's note— Ord. No. 3079, § 1, adopted July 19, 2011, repealed § 9.3.10.020 which pertained to skate park rules and regulations. See also the Code Comparative Table.

Article 2 DISPLAY OR DISSEMINATION OF OBSCENE MATERIAL TO MINORS

Sections:

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Title 9 PUBLIC PEACE, MORALS AND WELFARE

9.3.2.010 Definitions.

The following definitions apply in this chapter:

- A. "Harmful to minors" means that quality of any description, exhibition, presentation or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when the material or performance, taken as a whole, has the following characteristics:
 - 1. The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors; and
 - 2. The average adult person applying contemporary community standards would find that the material or performance depicts or describes nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and
 - 3. The material or performance lacks serious literary, scientific, artistic, or political value for minors.
- B. "Knowingly" means having general knowledge of:
 - 1. The character and content of any material or performance which is reasonably susceptible of examination by the defendant; and
 - 2. The age of the minor; however, an honest mistake shall constitute a defense from liability hereunder, if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor. The defendant shall be required to prove this defense by clear and convincing evidence.
- C. "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape, or video tape.
- D. "Minor" means any unmarried person under the age of eighteen (18) years.
- E. "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering; the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernible turgid state.

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- F. "Performance" means any motion picture film, video tape, played record, phonograph or tape, preview, trailer, play, show, skit, dance, or other exhibition performed or presented to or before an audience of one (1) or more, with or without consideration.
- G. "Person" means any individual, partnership, association, corporation, or other legal entity of any kind.
- H. "Prurient" means a lustful, lascivious, erotic, shameful, or morbid interest in sexual conduct, sexually explicit nudity, sadomasochistic sexual abuse, or lewd exhibition of the genitals. Materials or performances may be deemed to appeal to the prurient interest when they are pandered, designed, marketed, prompted, or disseminated to cater or appeal to such an interest. Where the material or performance is designed for and primarily disseminated or promoted to a clearly defined, deviant sexual group, rather than the public at large, the prurient - appeal requirement is satisfied if the dominant theme of the material or performance, taken as a whole, appeals to the prurient interest in sex of the members to that intended and probable recipient group.
- I. "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
- J. "Sexual conduct" means acts of masturbation, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast.
- K. "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- L. "A reasonable bona fide attempt" means an attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate or other governmental or educational identification card or paper and not relying solely on the oral allegations or apparent age of the minor.

(Ord. 3158, 2017; Ord. 2558 (part), 1990).

9.3.2.020 Offenses.

No person having custody, control, or supervision of any commercial establishment shall knowingly:

- A. Display material which is harmful to minors in such a way that minors, as a part of the invited general public, will be exposed to view such material provided; however, a person shall be deemed not to have "displayed" material harmful to minors if the material is kept

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behind the counter or is otherwise located so that it is not accessible nor more than the title portion of the material is visible to minors;

- B. Sell, furnish, present, distribute, allow to view, or otherwise disseminate to a minor, with or without consideration, any material which is harmful to minors; or
- C. Present to a minor or participate in presenting to a minor, with or without consideration, any performance which is harmful to a minor.

(Ord. 3158, 2017; Ord. 2558 (part), 1990).

9.3.2.030 Defenses.

It shall be an affirmative defense to any prosecution under this chapter that the material or performance involved was displayed, presented, or disseminated to a minor at a recognized and established school, church, museum, licensed medical clinic, hospital, public library, governmental agency, quasi-governmental agency, and person acting in their capacity as employees or agents of such persons or organizations, and which institution displays, presents or disseminates such material or performance for a bona fide governmental, educational, or scientific purpose.

(Ord. 3158, 2017; Ord. 2558 (part), 1990).

9.3.2.040 Penalties.

Any person who shall be convicted of violating any provision of this chapter is guilty of a misdemeanor punishable by a fine not less than five hundred dollars (\$500.00) or more than one thousand dollars (1,000.00) or imprisoned in the county jail for a term not to exceed six (6) months or both. Each day that any violation of this section occurs or continues shall constitute a separate offense and shall be punishable as a separate violation. Every act, thing, or transaction prohibited by this section shall constitute a separate offense as to each item, issue, or title involved and shall be punishable as such. For the purpose of this section, multiple copies of the same identical title, monthly issue, volume, and number issue or other such identical material shall constitute a single offense.

(Ord. 3158, 2017; Ord. 2558 (part), 1990).

9.3.2.050 Severability.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions thereof.

(Ord. 3158, 2017; Ord. 2558 (part), 1990).

Chapter 4 OFFENSES AGAINST PUBLIC PEACE

EXHIBIT "B"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

Sections:

9.4. 010 Definitions.

For the purpose of this Title, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- A. "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.
- B. "Alcoholic Beverage" means a compound produced and sold for human consumption as a drink that contains more than one-half of one (0.5) percent of alcohol by volume;
- C. "Malt Beverage" means an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of un-malted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or without other wholesome products suitable for human food consumption.
- D. "Beer" means:
 - 1. An alcoholic malt beverage containing not more than 8.75% of alcohol by volume; or
 - 2. an alcoholic beverage containing not more than 14% alcohol by volume:
 - i. that is made by the alcoholic fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted cereal grain; and
 - ii. in which the sugars used for fermentation of the alcoholic beverage are at least 75% derived from malted cereal grain measured as a percentage of the total dry weight of the fermentable ingredients.
- E. "Hard cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% of alcohol by volume and not more than 6.9% of alcohol by volume, including but not limited to flavored, sparkling, or carbonated cider.
- F. "Liquor" means an alcoholic beverage except beer and wine. The term includes a caffeinated or stimulant-enhanced malt beverage.

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- G. "Public display or exhibition of beer, wine, or liquor" means the carrying and exhibiting of open cans or bottles of beer, or the carrying and exhibition of glasses or other types of containers for beer, wine, or liquor, even though empty, on or within any public place as defined herein or on or within any vehicle that is upon a public place as defined herein. This definition does not include carrying or transporting beer, wine, or liquor from retail or wholesale liquor or beer establishments in sacks, cases, boxes, cartons, or other similar containers if the seal for the alcoholic beverage container is unbroken; nor does this definition include those situations wherein the alcoholic beverage container is being transported or carried to a recycling center or garbage disposal site; nor does this definition include transportation of alcoholic containers in a compartment of the vehicle that is outside the passenger area of the vehicle and which area is not accessible to the driver and passenger of the vehicle from the passenger area while the vehicle is in operation.
- H. "Public drinking" means the drinking or consuming of beer, wine, or liquor within or upon any vehicle that is upon a public place as defined herein or upon any public place in the City.
- I. "Public places" means all streets, sidewalks, avenues, alleys, publicly owned parking lots and privately owned parking lots open to the public for parking in the City, City-owned facilities, including but not limited to, the following City parks: Oddfellows, Sight and Sound, Elks-Riverside, West Bank, Margaret, Whittier, Gibson, Lions, West Kiwanis, and Park Island. This definition does not include the premises licensed for the retail sale of liquor or beer by the Liquor Division of the Montana Department of Revenue. For purposes of this definition the term "premises" shall have the same meaning attributed to that term by the Department of Revenue pursuant to its administrative regulations.

(Ord. 3158, 2017; Ord. 2949, 2006; Ord. 2854, 2003)

- J. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway.
- K. "Wine" means wine that contains not more than 16% of alcohol by volume.

(Ord. 3158, 2017; Ord. 2342 §2(part), 1983).

9.4. 020 Unlawful within City limits.

Except as provided in 9.4.030, public drinking and public display and exhibition of malt beverage, beer, wine, hard cider, or liquor as defined in this chapter are prohibited.

(Ord. 3158, 2017; Ord. 2949, 2006; Ord. 2525 §1, 1988; Ord. 2453 §1(part), 1987; Ord. 2342 §2(part), 1983).

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9.4. 030 Exception—public places.

- A. Individuals, members of groups or organizations who wish to consume, sell or give away alcoholic beverages in public places as defined in 9.4.010 may do so provided they obtain a special event permit as specified in 9.4.040 or are otherwise excluded from that requirement.
- B. A fee to cover administrative costs for such permit shall be charged and set by Commission resolution and must be paid by the permittee no less than 48 hours prior to the event.
- C. Organizers for special events held on any public places must clean up the property to a state at least as clean as when they arrived. Permit holder shall be solely responsible for the immediate and timely picking up and removal or proper disposal of garbage at the location where the permit is issued.

(Ord. 3158, 2017; Ord. 2647 (part), 1994).

- D. A special event may require closure of a parking lot open to the public or temporary closure of a street. For such an event, the event organizers must follow the provisions of 9.4.040.
- E. The Civic Center, Centene Stadium, Eagle Falls Golf Club, Anaconda Hills Golf Course, and designated areas of the Montana Expo Park and the Multi-Sports Complex grounds shall be exempt from the prohibition of Section 9.4.020.

(Ord. 3158, 2017; Ord. 2949, 2006; Ord. 2854, 2003; Ord. 2525 §2, 1988; Ord. 2453 §1(part), 1987; Ord. 2399 §1, 1985; Ord. 2342 §2(part), 1983).

9.4.040 Requirements of a special event permit.

- A. Events encouraging community and neighborhood involvement are encouraged and may require the temporary closure of city streets, parks or other public property.
- B. Applications for a procession must comply with the provisions of Title 12, Chapter 14. Organizers of an event, other than a procession, that require the temporary closure of a public property must obtain a special event 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), times(s), and duration of the event. Applications for closures of public property other than parks, must be turned in a minimum of fourteen (14) days prior to the event to the City Manager's office for review; applications for temporary closure of park land, must be turned in a minimum of fourteen (14) days prior to the event to the Park and Recreation Director.
- C. The City may approve, revise, or deny the application, in consideration of the following factors:
 - 1. Promotion of the community as a whole;

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2. Provision of positive civic and economic benefit;
 3. Impact on neighboring business and properties;
 4. Impact on public uses and services;
 5. Consideration of frequency of closures;
 6. Consideration of the event's financial impact;
 7. The applicant's performance under prior issued permits; and
 8. Impact on public safety, including but not limited to, emergency response time.
- D. For events which require a temporary closure of a street closure or parking lot open to the public, 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 will be notified of special event or activity. For such an event, the applicant or permit holder must prominently post a sign designating the street or parking lot closure and removal of vehicles, no less than four (4) hours in advance of the event. Parking in an area that has been designated and blocked off for a special event is a misdemeanor and such vehicle may be impounded and towed. The owner or person in control of the vehicle will be responsible for all towing and impounding fees.
- E. During the review of the application, city staff will develop a permit conditions that the applicant must follow. Staff will attempt to make available the necessary street closure equipment and charge a fee set by Commission resolution. If the equipment is not available through the City, the applicant will be required to supply the equipment at the applicant's expense.
- F. A fee for the special event permit shall be set by Commission resolution to cover administrative time and any additional costs incurred by the City to promote event safety and to ensure the area is returned back in the same condition it was prior to the event. The fee must be paid no less than 48 hours prior to the event.
- G. 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 named insured under the policy. The liability insurance coverage shall be in the minimum amounts one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) aggregate. The City Manager has the authority to waive this requirement or, require insurance for events with fewer than seventy-five (75) people should he determine it necessary due to the type of event. The insurance documentation must be provided to the City no less than 72 hours prior to the event.
- H. Applicants for a special event permit shall agree in writing to indemnify, defend, hold harmless the City and its employees and agents for any and all claims, damage or injury to person or property, lawsuits or liability including attorneys' fees and costs arising out of loss, occurring during the course of or pertaining to the special event which are caused by the conduct of the Applicant and/or its employees or agents.
- I. The City Manager, or designee, shall review, revise, approve with or without conditions, or deny the permit application and has the authority to require additional information from the applicant.

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- J. The Police Department may revoke the special event permit should those in attendance become disorderly, property is damaged, or for other reasons that adversely affect the public health, safety, and welfare of those attending the event and the citizens of Great Falls.

(Ord. 3158, 2017; Ord. 2949, 2006)

9.4.050 Permit denial— appeal.

If an applicant is denied a special event permit under 9.4.040, the applicant may appeal the decision to the City Commission which shall review the application in a public meeting and uphold, reverse, or revise the decision on the application. (Ord. 3158, 2017; Ord. 2949, 2006)

(Ord. 3158, 2017; Ord. 2949, 2006; Ord. 2854, 2003; Ord. 2342 §2(part), 1983).

Chapter 5 OFFENSES AGAINST PROPERTY

Articles:

Article 1 - SMOKING

Article 2 - POSTING OF ADVERTISING MATTER

Article 1 SMOKING

Sections:

9.5. 1.010 Negligent smoking so as to endanger property prohibited.

Any person who by smoking or attempting to light or to smoke cigarettes, cigars, pipes, or tobacco in any manner in which lighters or matches are employed who negligently or recklessly sets fire to any building, or fixtures contained therein, or appurtenant to, is guilty of a misdemeanor.

(Ord. 3158, 2017; Prior code §6-1-2(C)(part)).

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9.5. 1.020 Notice—posting.

A plainly printed notice shall be posted in a conspicuous place in each sleeping room of all hotels, rooming houses, lodging houses, and other places of public abode, advising tenants of the provisions of this chapter and the penalty therefore.

(Ord. 3158, 2017; Prior code §6-1-2(C) (part)).

Article 2 POSTING OF ADVERTISING MATTER

Sections:

9.5. 2.010 Unlawful where.

It is unlawful for any person, firm, corporation, or entity representative to tack, nail, or otherwise attach any placard, poster, picture, printed matter, or any type of literature or advertising to any public utility poles, or to any City property, including but not limited to trees, shrubs, fixtures, or structures of the City, within the City limits of the City.

(Ord. 3158, 2017; Prior code §6-1-3(G)).

Chapter 6 CONSUMER PROTECTION (RESERVED)

Chapter 7 OFFENSES BY OR AGAINST MINORS

Sections:

9.7.010 Established.

It is unlawful for any minor under the age of eighteen (18) years, to remain away from home during the hours designated in 9.7.030, unless in the company of the parent, guardian, or other responsible adult companion.

(Ord. 3158, 2017; Ord. 2370 §2(part), 1984).

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9.7.020 Hours designated—generally.

A minor remaining away from the home during the hours designated in 9.7.030 without supervision of a parent, legal guardian, or responsible adult shall be presumed in violation of curfew, and law enforcement may detain the minor until the earliest possible opportunity to release the minor to a parent or legal guardian.

(Ord. 3158, 2017; Ord. 2370 §2(part), 1984).

9.7.030 Hours designated.

- A. It is unlawful for a person less than eighteen (18) years of age to be present at or upon any public assembly, building, place, street, or highway at the following times unless accompanied and supervised by a parent, legal guardian, or other responsible adult companion at least eighteen (18) years of age approved by a parent, or legal guardian, or unless engaged in a business or occupation which the laws of this state authorize a person less than eighteen (18) years of age to perform:
 - 1. Between 12:01 a.m. and 6:00 a.m. Saturday;
 - 2. Between 12:01 a.m. and 6:00 a.m. Sunday; and
 - 3. Between 11:00 p.m. on Sunday through Thursday, and 6:00 a.m. on the following day.
- B. It is unlawful for a parent, legal guardian, or other adult person to knowingly permit a minor under the age of eighteen (18) in their custody, or control, to violate subsection A of this section and such violation shall constitute a misdemeanor.
- C. Any minor under the age of eighteen (18) years who is detained for a violation of this chapter may be subject to intervention in accordance with the provisions of Title 41, Chapter 5, Montana Codes Annotated, concerning juvenile courts and proceedings against juvenile delinquents.

(Ord. 3158, 2017; Ord. 2370 §2(part), 1984).

Chapter 8 WEAPONS

Sections:

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9.8.010 Weapons - use of prohibited.

It is unlawful for any person to discharge or cause to be discharged, any weapon, be it a pellet or bb projectile, either compressed air or gas operated, cross bow or bow, slingshot or wrist rocket within the City subject to the following exceptions:

- A. Weapons may be discharged in a responsible manner on property owned or legally possessed by the person discharging the weapon, and only if the projectile from such weapon remains on that property;
- B. In defense of persons; or
- C. At an indoor or outdoor range approved by the City Manager, within the corporate limits of the City of Great Falls.

(Ord. 3158, 2017; Ord. 2647 (part), 1994).

9.8.020 Prohibiting and suppressing the possession of weapons.

- A. The carrying of concealed or unconcealed weapons (MCA 45-2-101 (76), and as such statute may hereafter be amended) to, on, or at a public assembly, publicly owned building, park under City jurisdiction, or school is hereby prohibited.
- B. Exceptions are as otherwise provided by MCA 45-8-351(2)(b) which allows for display of firearms at shows or other public occasions by collectors and others, and MCA 45-8-317 which states what persons are allowed to carry weapons, and as such statutes may hereafter be amended.

(Ord. 3158, 2017; Ord. 2732, 1997).

Chapter 9 FIREWORKS

Sections:

9.9.010 Selling and discharging dates and times.

- A. The selling and discharging of fireworks within the incorporated limits of Great Falls shall be July 2, through July 4, from 8:00 a.m. to 12:00 a.m.

(Ord. 3158, 2017; Ord. 2965, 2007; Ord. 2664, 1994).

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- B. Fireworks may be discharged on December 31, from 10:00 p.m. to 12:30 a.m. January 1. Fireworks may not be sold within the incorporated city limits except as provided in 9.9.010(A).
- C. The Fire Chief, or designee, shall determine if there are special circumstances that warrant the discharge of fireworks which are not provided for in 9.9.010(A) and (B), and authorize such use if the circumstance benefits the community and is of national, state and local significance.
- D. Professional Fireworks Displays using display fireworks. Public displays of fireworks by a licensed, bonded pyrotechnic operator are exempt from 9.9.010(A)-(C). Permits for any public display by a licensed bonded pyrotechnic operator from the Fire Department are required to conduct a public fireworks display. "Display Fireworks" means an aerial shell, salute, flash shell, comet, sky battle, mine, and any similar 1.3g (display fireworks) and 1.4g (consumer fireworks) explosive as defined by the U.S. Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

(Ord. 3158, 2017; Ord. 2965, 2007; Ord. 2664, 1994).

9.9.020 Possession illegal.

- A. Possession of fireworks not allowed to be sold or discharged by the State of Montana shall be illegal.

(Ord. 3158, 2017; Ord. 2965, 2007; Ord. 2664, 1994).

- B. It shall be unlawful for any parent, guardian, or custodian of any child, who is less than ten (10) years of age, to allow said child, to possess or discharge any fireworks as defined herein, unless that parent, guardian or custodian be in direct supervision of the child at the time of discharge. For purposes of 9.9.020(B) "direct supervision" means the overall direction and control of an individual and requires the individual furnishing direct supervision to be present and immediately available to furnish assistance while he or she is in possession of, or is discharging, any and all fireworks. Direct supervision also requires the individual directly supervising to control the application of flame or other means of discharge of the firework and must be no greater than ten (10) feet away from the individual being directly supervised at time of the firework's discharge.

(Ord., 3158, 2017; Ord. 2965, 2007)

9.9.030 Permissible fireworks.

Shall be the same as those authorized by the State of Montana.

(Ord. 3158, 2017; Ord. 2965, 2007)

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9.9.040 Littering illegal.

It shall be illegal for anyone to leave debris from discharged fireworks on any public place including but not limited to parks, sidewalks, streets, and alleys, or on private property not owned by the individual discharging the fireworks.

(Ord. 3158, 2017; Ord. 2965, 2007)

9.9.050 Enforcement.

- A. City Police Officers and Firefighters shall enforce these rules and regulations.
- B. Any official charged with enforcing these rules and regulations may;
 - 1. Issue a Notice to Appear to Great Falls Municipal Court for violations of this Chapter;
 - 2. Seize illegal fireworks that are offered for sale, sold, or in the possession of any individual in violations of this Chapter; and
 - 3. Recommend to the Planning and Community Development Department that any wholesaler/retailer found in violation of this chapter have his/her license revoked.
- C. Any person who violates these rules and regulations shall be guilty of a misdemeanor and subject to the following fines:

(Ord. 3158, 2017; Ord. 2664, 1994).

- 1. 1st Offense—One hundred dollars (\$100.00).
- 2. 2nd Offense—Two hundred dollars (\$200.00).
- 3. 3rd Offense—Three hundred dollars (\$300.00).
- 4. 4th and higher—One thousand dollars (\$1,000.00).

(Ord. 3158, 2017; Ord. No. 3057, § 1, 8-17-2010)

9.9.060 Fireworks prohibited on all public property.

Subject to the exceptions provided in 9.9.010(C), fireworks may not be discharged in any city park or on any public sidewalk, street, public right-of-way, public easement or alley.

(Ord. 3158, 2017; Ord. 2965, 2007; Ord. 2664, 1994).

9.9.070 Fireworks stands and permit fees.

- A. Persons, groups, or organizations wishing to sell fireworks within the incorporated boundaries of the City of Great Falls shall obtain a special permit. The fees collected from

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the permit shall cover the costs to issue said permit; to inspect the fireworks stands; and costs of enforcement.

- B. Operators of fireworks stands shall educate all patrons on the:
1. Legal, safe use of fireworks;
 2. The dates and times allowed for fireworks to be discharged; and
 3. The requirement to clean up all debris left from discharged fireworks.

- C. Fireworks stand permit fees are based upon square footage as follows:

(Ord. 3158, 2017; Ord. 2965, 2007; Ord. 2664, 1994).

SIZE	FEES
0—300 sq. ft.	\$125.00
301—1,000 sq. ft.	\$375.00
1,001—2,000 sq. ft.	\$625.00
2,001—3,000 sq. ft.	\$875.00
3,001 sq. ft. or larger	\$1,125.00

Chapter 10 SOCIAL HOST

Sections:

9.10.010 Purpose, findings.

The Commission finds consumption of alcoholic beverages by minors at parties, or gatherings where minors consume alcoholic beverages, presents numerous problems for the City of Great Falls, Montana, minors, and law enforcement. Specifically:

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- A. Alcohol abuse is linked to numerous other health and life issues for our youth, including, but certainly not limited to, sexual assault, unprotected sexual activity, teenage pregnancy, sexually transmitted diseases, physical assault, and academic difficulties.
- B. The Commission of the City of Great Falls, Montana, further finds and declares that the purpose of the ordinance is:
 - 1. to protect public health, safety, and general welfare;
 - 2. to enforce laws prohibiting the consumption of alcohol by minors;
 - 3. to reduce the cost of providing police services to parties, gatherings, or events that call for a response by requiring that social hosts ensure minors are not consuming alcoholic beverages; and, under Montana Code Annotated §§ 7-1-4123 and 7-1-4124, the Great Falls City Commission has the legislative power, subject to the provisions of state law, to adopt, amend, and repeal ordinances and resolutions required to:
 - i. preserve the peace and order and secure freedom from dangerous and noxious activities; and,
 - ii. secure and promote the general public health and welfare.
- C. Further, MCA 7-32-4302 provides, in pertinent part, that the City of Great Falls has the power to prevent and punish intoxication, loud noises, disorderly conduct, and acts or conduct calculated to disturb the public peace or which are offensive to public morals within its limits.

(Ord. 3158, 2017; Ord. No. 3044, § 1, 9-15-2009)

9.10.020 Definitions.

For the purposes of this Chapter the following definitions shall apply:

- A. "Alcohol" is defined by 9.4.010(A).
- B. "Alcoholic Beverage" is defined by 9.4.010(B).
- C. "Beer" means **a malt alcoholic beverage meeting the definition provided in 9.4.010(D).**
- D. "Gathering" means a party or event where a group of three (3) or more persons has assembled or is assembling for a social occasion or social activity.
- E. "Hard Cider" means an alcoholic beverage meeting the definition provided in 9.4.010(E).

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- F. "Liquor" means an alcoholic beverage meeting the definition provided in 9.4.010(F).
- G. "Malt Beverage" means an alcoholic beverage meeting the definition provided in 9.4.010(C).
- H. "Wine" means an alcoholic beverage meeting the definition provided in 9.4.010(K).
- I. "City" means the area within the incorporated city boundaries of the City of Great Falls.
- J. "Person" means any individual, business association, partnership, corporation, or other legal entity and an individual acting or purporting to act for or on behalf of a joint-stock company, unincorporated association or society, corporation, or other entity of any character whatsoever as defined in MCA 45-2-101 and 27-8-104.
- K. "Premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, hall or meeting room, park, pavilion, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party, gathering, or other social function, and whether owned, leased, rented, or used with or without permission or compensation.
- L. "Social Host" means any person who conducts, allows, organizes, supervises, controls, permits or aids another in conducting, allowing, organizing, supervising, controlling, or permitting a party, event, or gathering of any number of individuals. The term shall include, but is not limited to the following:
 - 1. Any person or persons who own, rent, lease, or otherwise control the premises where an event, a gathering, activity, or party takes place;
 - 2. The person or persons in charge of or responsible for the premises; or
 - 3. The person or persons who organized the activity, event, gathering, or party.
 - (i) The term shall not include a property owner, or parent, who does not have knowledge that the activity, event, gathering, or party, whether or not the activity, event, gathering, or party was permitted or allowed, would result in an underage person being in possession of or consuming an alcoholic beverage.
- M. "Underage Person" means any person less than (21) years of age.
- N. "Emergency Responders" means law enforcement officers, firefighters, emergency medical service personnel, and any other person having emergency response duties.

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- O. "Enforcement Services or Response Costs" means the monetary cost of salaries and benefits of emergency responders for the amount of time spent responding to, or remaining at, a gathering, or other administrative costs attributable to the gathering; the costs for medical treatment for any injured emergency responder; and the costs of repairing any damage to emergency responder equipment or vehicles; and/or the cost of use of such equipment or vehicle.

(Ord. 3158, 2017; Ord. No. 3044, § 1, 9-15-2009)

9.10.030 Prohibited acts.

- A. A person violates this chapter when, as a social host, a person knows or reasonably should have known, that an underage person is in possession of, is consuming, or has consumed, an alcoholic beverage on a premises within the City, and fails to take reasonable steps, including but not limited to, notifying law enforcement to prevent the alcohol consumption or possession by the underage person. The social host does not have to be present or on the premises at the time the prohibited act occurs.
- B. Nothing in this chapter shall be construed to supersede the prohibitions or exceptions set forth in 16-6-305, MCA.

(Ord. 3158, 2017; Ord. No. 3044, § 1, 9-15-2009)

9.10.040 Penalties.

- A. A person convicted of violating this Chapter shall be guilty of a criminal misdemeanor punishable by:
 - 1. A fine not less than two hundred fifty dollars (\$250.00) or more than five hundred dollars (\$500.00), plus court costs.
 - 2. A second or subsequent offense lifetime, shall be punishable by a fine not less than five hundred dollars (\$500.00), plus court costs, and imprisonment for a period of not more than six (6) months.
 - 3. If at the time of the offense one (1) or more underage persons found to have been in possession of or consumed an alcoholic beverage was sixteen (16) years of age or younger, the conviction shall be punishable by imprisonment of not less than five (5) days and not more than (6) months, which may not be served on home arrest.
- B. Notwithstanding the penalties listed above, a person convicted of violating this Chapter shall be responsible for reimbursing the cost of enforcement services, or the response costs to the agencies furnishing emergency responders. Any claims for restitution, including, but not limited to, those for enforcement services or response costs, must be filed with the Court within ninety (90) days of a conviction under this chapter.
- C. Prosecution and any sentence for a violation of this Chapter may not be deferred.

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(Ord. 3158, 2017; 3044, § 1, 9-15-2009)

Chapter 11 PENALTY.

Sections:

9.11.010 Penalty.

Unless otherwise stated in this Title, violations of the provisions of this Title are misdemeanors subject to the penalties set forth in 1.4.070.

(Ord. 3158, 2017)