



**City Commission Agenda**  
**Civic Center 2 Park Drive South, Great Falls, MT**  
**Commission Chambers Room 206**  
**April 4, 2017**

**CALL TO ORDER: 7:00 PM**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**AGENDA APPROVAL**

**PROCLAMATIONS**

National Service Recognition Day

Arbor Day

**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.
4. Reappointments, Design Review Board.
5. Reappointments, Historic Preservation Advisory Commission.

**CITY MANAGER**

6. Miscellaneous reports and announcements from the City Manager.

## CONSENT AGENDA

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

7. Contracts List.
8. March 20, 2017, Special Commission Meeting Minutes.
9. March 21, 2017, Commission Meeting Minutes.
10. Total Expenditures of \$1,073,627 for the period of March 1, 2017 through March 22, 2017, to include claims over \$5,000, in the amount of \$813,935.
11. Approve the five year Agreement with the Secretary of the Air Force acting by and through the Commander of the 120th Air Lift Wing of the Montana Air National Guard (MANG) for Mutual Aid in Fire Protection and Hazardous Materials Incident Response and authorize the City Manager to execute the Agreement.

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

## PUBLIC HEARINGS

12. Ord. 3158, an Ordinance amending Title 9, of the Official code of the City of Great Falls (OCCGF) pertaining to Public Peace, Morals and Welfare.  
Action: Conduct public hearing and adopt or deny Ord. 3158. ***(Presented by Joseph Cik)***
13. Res. 10180 to Annex, Ord. 3159 assigning PLI-Public Lands and Institutional zoning, and Res. 10181 for a Conditional Use Permit to construct a water tower upon the property 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, PMM, Cascade County, Montana, in the vicinity of the Airport Interchange.  
Action: Conduct public hearing and adopt or deny Res. 10180, adopt or deny Ord. 3159 and adopt or deny Res. 10181. ***(Presented by Craig Raymond)***

## OLD BUSINESS

## NEW BUSINESS

## ORDINANCES/RESOLUTIONS

14. Ord. 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. Action: Remove or not remove Ordinance 3152 from the table for discussion purposes and set or not set a public hearing for May 2, 2017. ***(Presented by: Craig Raymond)***

## **CITY COMMISSION**

15. Miscellaneous reports and announcements from the City Commission.
16. Legislative Initiatives.
17. Commission Initiatives.

## **ADJOURNMENT**

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



**Item:** Reappointments, Design Review Board  
**From:** City Manager's Office  
**Initiated By:** City Commission  
**Presented By:** City Commission  
**Action Requested:** Reappoint two members to the Design Review Board to a three-year term through March 31, 2020.

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission reappoint Dani Grebe and Kevin Vining to the Design Review Board to a three-year term through March 31, 2020.”

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

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**Staff Recommendation:**

It is recommended that the City Commission reappoint Dani Grebe and Kevin Vining to the Design Review Board to a three-year term through March 31, 2020.

**Summary:**

Dani Grebe was appointed to the Board on June 16, 2015 to fill the remainder of a three year term. Kevin Vining was appointed to the Board July 21, 2015 for the remainder of a three year term. Both terms were set to expire on March 31, 2017. They are both eligible and interested in serving another term.

**Background:**

Purpose

Ordinance 2722 was approved at the March 18, 1997, Commission meeting which amended Titles 2 and 15 of the Official Codes of the City of Great Falls and established the Design Review Board. The adoption of Ord. 2923 in September of 2005, the Land Development Code, re-established the Design Review Board. The purpose of the Board is to further

promote the health, safety and general welfare of the City.

The Board has the authority and responsibility to review specified types of development proposals to ensure that the design and aesthetics conform to the review criteria contained in Title 17. The Board's composition should achieve a diversity of expertise, background, and interest.

The Land Development Code states it is preferred that the board include two architects and three individuals chosen for their demonstrated interest in and expertise in design or community aesthetics. Members must reside in the City of Great Falls. No member of the City Commission or employee of the City shall be eligible for membership on the board.

Evaluation and Selection Process

During the Design Review Board meeting on March 13, 2017 both Ms. Grebe and Mr. Vining voiced interest in being reappointed to the Board. The Board recommended that both be reappointed but would review any applications that were received for the open positions.

An advertisement for the openings was done through the local media and posted on the City website on March 9, 2017. No additional applications were received as of the March 24, 2017 deadline. City Staff is recommending reappointment of both Ms. Grebe and Mr. Vining

Members requesting reappointment:

Dani Grebe	6/16/15 – 3/31/17
Kevin Vining	7/21/15 – 3/31/17

Continuing members of this board are:

Tyson Kraft	4/ 1/15 – 3/31/18
Ann Schneider	9/1/15 – 3/31/19
David Grosse	3/5/13 – 3/31/19



**Item:** Reappointments, Historic Preservation Advisory Commission  
**From:** City Manager's Office  
**Initiated**  
**By:** City Commission  
**Presented**  
**By:** City Commission  
**Action Requested:** Reappoint two members to the Historic Preservation Advisory Commission to a three-year term through April 30, 2020.

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission reappoint Ruthann Knudson and Peter Jennings to the Historic Preservation Advisory Commission for a three-year term through April 30, 2020.”

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

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**Staff Recommendation:**

It is recommended that the City Commission reappoint Ruthann Knudson and Peter Jennings to the Historic Preservation Advisory Commission for a three-year term through April 30, 2020.

**Summary:**

Ruthann Knudson was appointed to the Board on June 16, 2015 to fill the remainder of a three year term. Peter Jennings was appointed to the Board March 7, 2017 for the remainder of a three year term. Both terms were set to expire on April 30, 2017. They are both eligible and interested in serving another term.

**Background:**

Purpose

The Historic Preservation Advisory Commission was created to promote the preservation of historic and prehistoric sites, structures, buildings and districts through the identification, evaluation and protection of historic resources within the County and City.

1. This program is intended to promote the public interest and welfare by: Enhancing the visual character of the City and County by encouraging preservation ideals;
2. Promoting the tourist industry of the City and County by encouraging the preservation of historically significant buildings and structures;
3. Fostering public appreciation of and civic pride in the beauty of the community and the accomplishments of the past;
4. Integrating historic preservation into local, State and federal planning and decision-making processes;
5. Safeguarding the heritage of the community by providing a system for identification and evaluation of historic buildings and structures representing significant elements of its history.

Members shall have expertise/qualifications in one (1) or more of the following areas: history, planning, archaeology, architecture, architectural history, historic archaeology, or other history preservation-related disciplines such as cultural geography or cultural anthropology. Ownership of property nominated to the National Register of Historic Places may also qualify a person to serve on this commission.

The HPAC consists of nine members -- four appointed by the City Commission, four appointed by the County Commission and the ninth member with professional architectural expertise chosen by a majority of the eight other members.

Continuing members of this board are:

Carole Ann Clark (City)  
Sandra French (City)  
Kristi Scott (County)  
Del Darko (County)  
Kenneth Robison (County)  
Carol Bronson (County)  
Ken Sievert (Permanent)

#### Evaluation and Selection Process

During the March 8, 2017 HPAC meeting Ms. Knudson and Mr. Jennings voiced interest in being reappointed to the Board. The Board recommended that both be reappointed but would review any applications that were received for the board positions. An advertisement for the openings was done through the local media and posted on the City's website on March 9, 2017. No applications were received as of the March 24, 2017 deadline. Staff is recommending reappointment of Ms. Knudson and Mr. Jennings.



**Item:** Contracts List  
**From:** Darcy Dea, Deputy City Clerk  
**Initiated By:** Various City Staff  
**Presented By:** Darcy Dea, Deputy City Clerk  
**Action Requested:**

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**Summary:**

Contracts List was Amended on 4/3/17 to remove Items N and O.

ATTACHMENTS:

- ▣ Amended Contracts List



COMMUNICATION TO THE CITY COMMISSION

DATE: April 4, 2017

**ITEM:** AMENDED 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:** Darcy Dea, Deputy 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
<b>A</b>	Park & Recreation Community Recreation Center	Fitness On Demand	48 months	\$199.95/month	Fitness on Demand agreement, addendum to Fitness on Demand agreement – equipment lease agreement, Extended Service Plan & addendum to Fitness on Demand items and Conditions. Kiosk that provides over 600 different fitness classes. Members choose which program and how long they want to work out. Costs are comparable to what the Recreation Center pays weekly for a fitness instructor.
<b>B</b>	Planning and Community Development	L’Heureux Page Werner P.C. (LPW)	04/04/2017 – 04/04/2018	Not to exceed \$10,000	Professional Services Agreement for preliminary architectural and cost estimating services for improvements to the North and South Parking Garages. <b>OF 1642.1</b>

<b>C</b>	Public Works – Engineering	David W. Kuglin Construction	04/04/2017 – 06/30/2017	\$70,000 (CDBG) \$5,000 (Storm) <u>\$4,000 (Street)</u> \$79,224.50(Total)	Public Works Construction agreement to install ADA handicap ramps at the intersections of 6 <sup>th</sup> Avenue South and 19 <sup>th</sup> Street South, 20 <sup>th</sup> Street South, and the west half of 21 <sup>st</sup> Street South and replace 4 existing horseshoe style inlets with City standard inlets. <b>OF 1700.1</b>
<b>D</b>	Public Works-Engineering	Concrete Stabilization Technologies, Inc.	04/04/2017 – 06/30/2017	\$29,600 (CDBG)	Construction Contract to stabilize the sub-base soils under a portion of the women’s locker room at the Natatorium and lifting and leveling the section of the floor in the women’s locker room that has settled. <b>OF 1393.6</b>
<b>E</b>	Planning & Community Development	Montana Institution of Family Living (Park Manor)	03/01/2017 – 06/30/2017	\$17,529	2016/2017 Community Development Block Grant Agreement for the removal/replacement of the back service dock and stairs and installation of a cover/awning over the existing handicap ramp in an LMI housing complex Park Manor Retirement Center located at 100 Central Avenue. (City Commission approved Amended Annual Action Plan on January 17, 2017, Item 10)
<b>F</b>	Planning & Community Development	Great Falls Housing Authority	03/27/2017 - 04/21/2017	\$80,000	2016/2017 Community Development Block Grant Agreement for the purchase and installation of a fire alarm system at Austin Hall. (City Commission approved Amended Annual Action Plan and Timeliness Project on March 21, 2017, Item 11)
<b>G</b>	Planning & Community Development	Great Falls Development Authority	03/27/2017- 04/21/2017	\$120,000	2016/2017 Community Development Block Grant Agreement to provide funding towards Montana Egg expansion and job creation and an Employment Study. (City Commission approved Amended Annual Action Plan and

					Timeliness Project on March 21, 2017, Item 11)
<b>H</b>	Planning & Community Development	Society of St. Vincent de Paul of North Central Montana	03/27/2017-04/21/2017	\$40,000	2016/2017 Community Development Block Grant Agreement for the acquisition of a contiguous lot located next to Grace Home for the purpose of building housing for female homeless veterans and their children. (City Commission approved Amended Annual Action Plan and Timeliness Project on March 21, 2017, Item 11)
<b>I</b>	Planning & Community Development	Neighborhood Housing Services	03/27/2017-04/21/2017	\$116,000	2016/2017 Community Development Block Grant Agreement to provide funding towards 4 Castle Pines lot purchases to expand affordable housing. (City Commission approved Amended Annual Action Plan and Timeliness Project on March 21, 2017, Item 11)
<b>J</b>	Planning and Community Development	Great Falls Senior Center	03/27/2017-06/30/2017	\$10,000	2016/2017 Community Development Block Grant Agreement towards the purchase of food to support onsite Senior Center's Meals Program. (City approved Amended Annual Action Plan and Timeliness Project on March 21, 2017, Item 11)
<b>k</b>	City Manager	GovHR USA	03/2017 – 12/2017	\$22,500	Agreement for recruitment for Park and Recreation Director.
<b>L</b>	Public Works	Wal-Mart Real Estate Business Trust	Perpetual	County Recording fees estimated to be \$28.00	Utility Easement for public utilities for Walmart Store # 7199-00. East Great Falls Retail Center Addition. <b>OF 1451</b>
<b>M</b>	Planning & Community Development	Great Falls Park and Recreation	03/27/2017-04/21/2017	\$200,000	2016/2017 Community Development Block Grant Agreement for ADA accessible-outdoor fitness stations in Gibson Park, Pavilion for

					West Bank Park, and a play structure for Gibson Park. (City approved Amended Annual Action Plan and Timeliness Project on March 21, 2017, Item 11)
<del>N</del>	<del>Public Works</del>	<del>Kenco Security and Technology</del>	<del>05/01/2017-06/30/2017</del>	<del>\$12,161.56</del>	<del>Public Works Construction Agreement to install security cameras and additions for Public Works Complex.</del>
<del>O</del>	<del>Police Department</del>	<del>Craig Douglas</del>	<del>03/28/2017-03/28/2018</del>	<del>\$5,000</del>	<del>Professional Services Agreement for Close Quarter Concept Training Course.</del>



**Item:** March 20, 2017, Special Commission Meeting Minutes  
**From:** Lisa Kunz, City Clerk  
**Initiated By:** Lisa Kunz, City Clerk  
**Presented By:**  
**Action Requested:**

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**Summary:**

March 20, 2017 - - Draft Special Commission Meeting Minutes

ATTACHMENTS:

- March 20, 2017 - - Special Commission Meeting Minutes

Special Commission Meeting

Mayor Kelly presiding

**CALL TO ORDER:** 4:00 PM

Civic Center Gibson Room 212

**ROLL CALL:** City Commissioners present: Bob Kelly, Bill Bronson, Bob Jones, Fred Burow and Tracy Houck. Also present were the City Manager, City Attorney and the City Clerk.

1. **PUBLIC COMMENT.**

Ron Gessaman, 1006 36<sup>th</sup> Avenue NE, noted the losses of Electric City Power and spoke in opposition to the previous and current City Managers, as well as any proposed raise for current City Manager Greg Doyon. He compared Manager Doyon's position to the Governor of the State of Montana.

Commissioner Jones commented that he does not believe that is the views of the public or businesses. The first few years of Manager Doyon's employment were difficult to navigate due to Electric City Power. The Commission changed that direction.

Commissioners Bronson, Burow and Houck concurred, adding that Manager Doyon is honest and well intentioned, continues professional development, and that the manager is under the Commission's direction.

Mayor Kelly noted that the Governor governs the operations of the State of Montana. Manager Doyon's position is an executive position to carry out the policies of the City Commission.

2. **CITY MANAGER'S ANNUAL PERFORMANCE EVALUATION AND CONSIDERATION OF HIS CONTRACT.**

Mayor Kelly stated that this meeting is to discuss the City Manager's annual review. The Commission will conduct an annual performance evaluation and discuss consideration of his contract as a result of his review.

Manager Doyon asserted his right to privacy pursuant to § 2-3-203, MCA. A discussion of a job performance evaluation is a matter of individual privacy. Manager Doyon has not waived that right. Therefore, it was determined that the City Manager's individual privacy exceeds the merits of public disclosure.

**Mayor Kelly closed the meeting to discuss the City Manager's performance and Employment Agreement in executive session.**

At 4:08 p.m., the City Commission, Manager Doyon and the City Clerk met in executive session in the City Manager's Office for the purpose of conducting the City Manager's annual performance evaluation and consideration of his employment agreement.

-- EXECUTIVE SESSION --

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
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- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

The Commission reconvened into an open meeting in the Gibson Room. Mayor Kelly called the meeting back to order at 5:10 p.m.

Commissioner Bronson noted a formal motion wasn't made to go into executive session. He then moved, seconded by Commissioner Jones, that the City Manager's performance evaluation be conducted in closed session. Motion carried 5-0.

The Commission reported that Manager Doyon had a favorable review and is appreciative of his work the past nine years. The City Manager is the Commission's only employee and executes the policy decisions of the Commission.

**Commissioner Bronson moved, seconded by Commissioner Jones, that the City Commission renew the Employment Agreement for three years with the following amendments:**

- (Section B) 3% salary increase at the commencement of the contract term which equates to \$136,674.90
- (Section F) 30 days of vacation leave
- (Section J) Delete last paragraph
- (Section K) Delete "and home fax machine"
- (Section M) The second paragraph shall be amended to read:  
 "In the event that the Commission terminates Manager's employment, while Manager is willing or able to perform the duties of the position, City shall compensate the Manager in an amount equal to six (6) months' salary (not



including benefits).

Manager Doyon commented it is a privilege to serve and that he is looking forward to the next three years.

Motion carried 5-0.

**ADJOURNMENT**

There being no further business to come before the Commission, **Commissioner Bronson moved, seconded by Commissioner Jones, to adjourn the special meeting of March 20, 2017, at 5:15 p.m.**

Motion carried 5-0.

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Mayor Bob Kelly

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City Clerk Lisa Kunz

Minutes Approved: April 4, 2017



**Item:** March 21, 2017, Commission Meeting Minutes  
**From:** Darcy Dea, Deputy City Clerk  
**Initiated By:** Darcy Dea, Deputy City Clerk  
**Presented By:** Darcy Dea, Deputy City Clerk  
**Action Requested:**

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**Summary:**

March 21, 2017 - - Draft Commission Meeting Minutes

ATTACHMENTS:

- ▣ March 21, 2017 - - Commission Meeting Minutes

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; City Clerk Lisa Kunz; Public Works Director Jim Rearden; Planning and Community Development Director Craig Raymond; Fiscal Services Director Melissa Kinzler; Assistant City Attorney Joe Cik and City Attorney Sara Sexe; and, Police Chief Dave Bowen.

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

**PROCLAMATIONS:** Mayor Kelly read a proclamation for Child Abuse Prevention Month.

**SWEARING IN:** Mayor Kelly performed the swearing in ceremony for Neighborhood Council 4 Representative - Gregg Matsko, and Neighborhood Council 7 Representatives - Sandra Rice and Gudrun K. Linden.

**PRESENTATION:** Mayor Kelly presented Fiscal Services Director Melissa Kinzler with the Government Finance Officers Association, Distinguished Budget Presentation Award.

**PETITIONS AND COMMUNICATIONS****1. Miscellaneous reports and announcements.**

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, provided a handout and discussed parliamentary procedure regarding tabling versus postponing, referring to the motion made on Ordinance 3152 at the last Commission meeting.

Commissioner Bronson responded that there are no procedural problems. Citing General Roberts, Commissioner Bronson commented that the rules are made to serve this Commission. The Commission does not serve the rules. The Commission does not elevate form over substance.

**David VanSon**, 2404 1st Avenue North, Great Falls firefighter and Local 8 president, discussed presumptive legislation for firefighters. He thanked the Commission for authoring a letter in support of SB 72 to the House, Business and Labor Committee. Ten members of the Committee voted against SB 72, leaving Montana firefighters, professional and volunteer, without any protection when

they contract deadly lung diseases and cancers from protecting their communities. Firefighters are at a 63% higher risk of getting these diseases than the average person. More disappointing were the no votes of two Great Falls' representatives, Jeremy Trebas and Fred Anderson. Both representatives feel that the burden should be shifted onto the cities. Mr. VanSon took great offense to Representative Trebas' statement that the letter in support was the Commission washing its hands with having to deal with the issue. He discussed social media interactions between himself and Representative Trebas. Forty-six states and Canadian provinces have presumptive legislation and it could work in Montana as well. He urged Great Falls residents to reach out to Representatives Trebas and Anderson to ask them to reconsider their vote in Committee.

**Brett Doney**, Great Falls Development Authority (GFDA), 300 Central Avenue, discussed GFDA events Launch Point for entrepreneurs, Manufacturers Roundtable, Fire It Up, Fire Within awards ceremony, and a Transload task force to look at creating a transload facility to support manufacturers and other companies.

### **NEIGHBORHOOD COUNCILS**

#### **2. Miscellaneous reports and announcements from Neighborhood Councils.**

**Kathy Gessaman**, NC 3, commented that the council appreciates the street cleaning crews making the streets look great.

### **BOARDS AND COMMISSIONS**

#### **3. Miscellaneous reports and announcements from Boards and Commissions.**

Mayor Kelly announced that the members of the Commission each attend certain boards and commission meetings as a representative of the Commission. The Commission members don't participate or vote, but are there to get information to bring back to the public and Commission.

Commissioner Houck reported on her attendance at the Mansfield Center for the Performing Arts Advisory Board and Mansfield Foundation meetings; Commissioner Jones reported on his attendance at the Regional Airport Authority Board meeting; Commissioner Bronson reported on his attendance at the Design Review Board, Planning Advisory Board/Zoning Commission, and Historic Preservation Advisory Commission meetings; Commissioner Burow reported on his attendance at the Transportation Committee meeting; and, Mayor Kelly reported on his attendance at the Library Board meeting.

### **CITY MANAGER**

#### 4. Miscellaneous reports and announcements from the City Manager.

City Manager Greg Doyon announced that last week he spoke at the Pachyderm Club. Today, as a representative of the Montana League of Cities and Towns, he attended a State Emergency Response Commission meeting. One of the items covered, because it is a legislative session year, was proposed funding for Hazmat teams. Great Falls has a regional response Hazmat team. These teams have not been receiving the level of funding that they have been receiving in the past. Other communities that are hosting these teams are indicating the service level is going to change dramatically. The teams may not be as available or as deeper resources when there is an incident that involves a hazardous material. That department will wait and see as the legislature continues to tackle financial issues with the budget. The meeting also included talk about the upcoming vigilant guard exercise that will take place in the spring of 2018 in Great Falls featuring an earthquake and flooding events. It's a large, complex exercise with multi-agency participation. It's a good training opportunity.

The Montana Liquid and Gas Pipeline Association made a presentation at that meeting. Manager Doyon was provided additional information that is helpful to staff in terms of dealing with pipeline issues. That meeting was also attended by Governor Bullock.

Manager Doyon expressed kudos to the Montana League of Cities and Towns for advocating for cities and towns at the Montana Legislature. There are a lot of things going on at the legislature that have direct impact on how the city provides its services. He encouraged the community to contact local legislatures on bills that will locally impact the City of Great Falls.

Manager Doyon further announced that he attended a farewell party last week for Col. Denise Cooper who will be moving to San Antonio to take on a new role and responsibility to help with leadership training. The City has been participating in community partnership with the Air Force for several years. During Col. Cooper's tenure, they were able to enhance communication between Malmstrom and the City and improve how they coordinate things that are mutually beneficial. He reported that he has asked Planning and Community Development Deputy Director Tom Micuda to coordinate and bring together planners from Malmstrom, MANG, County and the City to enhance our ability to communicate and organize, to have some recognition of all the various tools available to all of the entities that deal with planning issues, and to be proactive on how everyone is addressing impacts.

He reported that he will be in Helena on Thursday and Friday attending an MMIA board and health committee meetings. Deputy City Manager Chuck Anderson will be in charge in his absence.

He further reported that a letter was sent out to employees regarding Allegiance engaging in a referenced based pricing discussion with Benefis Hospital. He explained referenced based pricing, and that the City will continue to monitor those discussions. The letter had a dual purpose: to make the employees aware that if there is no agreement by July 1<sup>st</sup> there is a potential to be back billed for services received at Benefis. The other part was a reminder about the amount of contribution that the City does provide to employees under its Health Insurance Plan.

Human Resources Director Gaye McInerney started work this week. He encouraged the Commission members to stop by for introductions.

Lastly, he thanked City Clerk Lisa Kunz for preparing a training PowerPoint that was presented at an HPAC meeting.

At the request of Mayor Kelly, Manager Doyon summarized Col. Smith's Montana Air National Guard Update presentation at this evening's work session. Mayor Kelly applauded Col. Smith and Col. Allen for creating what could become a national training center for C-130's.

Commissioner Bronson stepped out at 7:50 p.m. and returned at 7:53 p.m.

Mayor Kelly noted that the Commission offered, and Manager Doyon accepted, another three year term with the City of Great Falls based on a great record the past nine years.

#### **CONSENT AGENDA**

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. **OF 1674.2**
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. **OF 1476.5**

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.

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

Mayor Kelly asked if there was any discussion amongst the Commissioners. Hearing none, Mayor Kelly asked if there were any comments from the public.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, referred to page 2017.51 of Item 5 and noted Commissioner Bronson's motion on Ordinance 3152. He then referred to Item 7 and noted that he hoped the payment for Fire Station No. 1 kitchen was mostly for remodeling and not an upscale kitchen range. Mr. Gessaman referred to Item 10 and noted that, at the work session this evening, sewer system slides were shown depicting a clay brick sewer with corrosion created by H<sub>2</sub>S. He suggested that those industrial companies responsible for the corrosion created by H<sub>2</sub>S should be paying more, and that the sewage rates should also reflect the cost of maintenance.

**John Hubbard**, 615 7<sup>th</sup> Avenue South, commented that he will be opposing Agenda Item 10, Resolution 10072, at the public hearing.

There being no one further to address the Commission, Mayor Kelly called for the vote.

Motion carried 5-0.

### **PUBLIC HEARINGS**

### **OLD BUSINESS**

#### **11. 2016/2017 Annual Action Plan Amendment and CDBG Timeliness Projects.**

Planning and Community Development Director Craig Raymond reported that this item is to consider approval of the amended 2016/2017 Annual Action Plan and funding recommendations as proposed by staff.

The annual action plan is normally the plan for the coming year's funding cycle and the process by which the City provides opportunity to the public to participate in the process and provide input to the City Commission and staff. This particular amendment for the 2016/17 funding cycle however is necessary in order to expend funds as directed by HUD prior to May 2, 2017.

Once staff became aware of and fully understood what the directive was from HUD, time was of the essence in order to keep these monies in the community. Staff reached out to different sectors of the community requesting a prioritized list of how they would propose spending the unallocated funds.

Upon receiving the lists from community partners, staff reviewed the 5-year Consolidated Plan as a guide for funding decisions in the current 5-year cycle and formulated recommendations based largely on the results of that research as well as any unfunded projects from the current CDC process.

The funding recommendations are as follows:

Habitat for Humanity: \$75,000 partial funding for construction of a new home

Neighborworks and Habitat: \$116,000 for purchase of 4 residential lots for future construction

Society of St. Vincent de Paul: \$40,000 for purchase of a vacant lot adjacent to the existing Grace Home- a veteran men's transitional housing facility

Great Falls Housing Authority: \$80,000 for the replacement of a fire alarm system at Austin Hall

Great Falls Development Authority: \$30,000 for a household labor survey and analysis, \$100,000 providing gap financing for creation of new jobs at the new Montana Egg facility

City of Great Falls Park and Recreation Dept: \$100,000 for outdoor fitness stations in Gibson Park, \$20,100 for purchase of a 20'x24' open pavilion at West Bank Park, and \$80,000 for purchase of an ADA compliant play structure at Gibson Park

Director Raymond further explained that, in the normal course of business, monies have been spent on previously approved projects since the agenda report had been completed. It is quite probable that staff will continue to spend funds between now and May 2<sup>nd</sup>. Staff recommends that the Commission allow staff to dismiss partial or complete funding for the Outdoor Fitness Stations at Gibson Park as that is the project that the Park and Recreation Department identified as having the most flexibility and lower on the priority list than the other projects under consideration.

Additionally, at the special work session yesterday, the City Commission questioned the possibility of taking \$10,000 out of the Economic Development project for Montana Egg and grant it to the Senior Center. This is permissible and



is an eligible project per HUD guidelines. The Commission could reflect its wishes in the motion to approve funding.

Commissioner Bronson noted that, based on the discussion at yesterday's work session, there may be some sentiment to change some of the allocations that were recommended, and there is a possibility that one or more members of the Commission may request to recuse themselves from specific matters. The motion as set forth in the agenda report is general, and he thinks the motions will need to be separated to reflect those two concerns.

Commissioner Bronson requested clarification regarding the proposed \$100,000 allocation for outdoor fitness stations at Gibson Park. Director Raymond requested that the Commission grant staff the ability to remove that item should the amount of total funds exceed \$520,000. Staff is looking for flexibility and direction from the Commission to remove some projects as needed to meet that number on May 1<sup>st</sup>.

Commissioner Bronson summarized that, as adopted tonight, if the Commission ends up allocating more than there are funds on May 1<sup>st</sup>, the default will be to remove the allocation for the fitness stations.

Mayor Kelly and Commissioner Bronson reported that they both sit on the Great Falls Development Authority board and will be recusing themselves from any vote with regard to the proposals for the Great Falls Development Authority.

Director Raymond suggested breaking up the recommendations into three categories: economic development, affordable housing, and public facilities, and to vote on each separately.

**Commissioner Jones moved, seconded by Commissioner Burow, that the City Commission adopt the 2016/2017 Amended Annual Action Plan, including the timeliness addition to the project introductions; authorize the submittal to the U.S. Department of Housing and Urban Development (HUD); and accept the proposed use of funds, due to timeliness, for the 2016/2017 Community Development Block Grant Program (CDBG).**

Commissioner Bronson noted that the motion essentially combines all three categories.

City Attorney Sara Sexe requested a recess to allow time for staff to separate the motions.

Mayor Kelly called for a recess at 8:13 p.m., and called the meeting back to order at 8:28 p.m.

**Commissioner Jones moved, seconded by Commissioner Burow, that the City Commission amend the motion on the floor as follows:**

**That the City Commission approve the 2016/2017 Amended Annual Action Plan, and to approve the Public Facilities and Affordable Housing Applications as submitted with the addition of \$10,000 being allocated to the Great Falls Senior Center.**

Those projects include: (GFHA) Fire alarm system at Austin Hall, (NW/Habitat) Castle Pines lot purchase, (Grace Home) lot purchase, (P&R) outdoor fitness stations in Gibson Park, pavilion at West Bank Park and Gibson Park play structure.

Mayor Kelly asked if there was any further discussion amongst the Commissioners with regard to the amendment.

Commissioner Bronson commented that staff learned this afternoon that the play structure for Kranz Park was \$40,000. He would like to revisit that project in the future. The Commission concurred.

Mayor Kelly asked if there were any comments from the public with regard to the proposed amendment.

**Ron Gessaman**, 1006 36<sup>th</sup> Avenue NE, commented that he is in favor of the \$10,000 allocation for the Great Falls Senior Center, as well as funding a play structure in Kranz Park. He expressed opposition to public funds being allocated to any private businesses.

There being no one further to address the Commission, Mayor Kelly called for the vote on the Motion to Amend.

Motion carried 5-0.

**Commissioner Jones moved, seconded by Commissioner Burow, that the City Commission amend the motion on the floor as follows:**

**That the City Commission approve the economic development applications in the amount of \$90,000 to Great Falls Development Authority for the Montana Egg project, and \$30,000 towards the employment study.**

Mayor Kelly asked if there was any further discussion amongst the Commissioners with regard to the amendment.

Commissioner Houck commented that this was a very difficult decision to package all of the projects together due to the timeliness of the proposal and the recommendations from HUD as well as certain criteria that had to be met. She explained that park equipment proposals were vetted. She hoped the Commission was providing proper guidance to departments to make the best decisions for the City that is flexible enough that good purchases are made by the deadline and monies don't need to be returned to HUD.

Mayor Kelly asked if there were any comments from the public with regard to the proposed amendment.

**Ron Gessaman**, 1006 36th Avenue NE, disagreed with Commissioner Houck. He opined there would be contractors to donate enough services to install park equipment by April 15th if the equipment was ordered and received.

**Brett Doney**, Great Falls Development Authority, 300 Central Avenue, commented that what GFDA does through a gap financing standpoint is loan money, not grant money. It's not a subsidy, it is filling a gap between what the regulated lenders can do and the equity that's available. The leverage GFDA is looking at with Montana Egg is over a \$9 million dollar private investment, and there will be somewhere in the range of a \$350,000 gap. When payments are received it goes back into a restricted loan fund to be loaned back out in the community to fill a gap to help another business in the community.

**John Hubbard**, 615 7<sup>th</sup> Avenue South, commented that the playground equipment that was in place when he was a kid should not be replaced.

There being no one further to address the Commission, Mayor Kelly called for the vote on the Motion to Amend.

Motion carried 3-0-2 (Mayor Kelly and Commissioner Bronson abstained).

**Mayor Kelly moved, seconded by Commissioner Jones, that the City Commission adopt the main motion as amended.**

Mayor Kelly asked if there was any further discussion amongst the Commissioners. Hearing none, Mayor Kelly asked if there were any comments from the public.

**Ron Gessaman**, 1006 36th Avenue NE, commented that he is in favor of the fire alarm system for Austin Hall and money for the parks.

There being no one further to address the Commission, Mayor Kelly called for the vote on the Motion to Amend.

Main Motion, as Amended, carried 5-0.

## **NEW BUSINESS**

### **ORDINANCES/RESOLUTIONS**

#### **12. ORDINANCE 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.**

Assistant City Attorney Joe Cik reported that 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.

He explained that the substantive changes were to fireworks possession and discharge is increasing the minimum age of unsupervised possession and discharge from age seven (7) to age ten (10); removing the authority of law enforcement to arrest minors for curfew violations because it is in conflict with the Montana Youth Court Act; and, adding an exception to allow fireworks to be discharged at the baseball stadium following certain criteria and approval from the Fire Marshal; and, consolidating the requirements of street closures for a special event permit that were in Title 12.

Attorney Cik further reported that there have been some additional suggestions from Commissioner Bronson that will be incorporated into the final Exhibit "A" and "B" that will be presented at the public hearing, that includes an exception in the fireworks code to allow for the City Manager, in consultation with the Fire Chief and Fire Marshal, in the instance of an emergency cancel the fireworks seasons designated in the Code.

**Commissioner Bronson moved, seconded by Commissioner Houck, that the City Commission accept Ordinance 3158 on first reading and set a public hearing for April 4, 2017.**

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

Commissioner Bronson noted that some communities that continue to allow the discharge of fireworks under limited circumstances now have an emergency provision wherein either the governing body or city manager, after consultation with the Fire Chief, can shut it all down in the interest of public safety.

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

Motion carried 5-0.

### **CITY COMMISSION**

#### **13. Miscellaneous reports and announcements from the City Commission.**

Commissioner Houck reported on the very successful 2017 Western Art Week in Great Falls.

#### **14. Legislative Initiatives.**

Mayor Kelly noted that this Commission tried to strengthen the deterrence by increasing the penalties for using cell phones while driving and not using a hands free device. This has been challenged in the legislature in that they are trying to make the determination that the fine is excessive and that \$100 would be the maximum and thereby limiting local government's ability to create its own rules. He encouraged community members to contact their legislators.

Additionally, the gas tax bill is coming out of committee and will be voted on. The bill is the way local governments can acquire state funds to leverage 7 to 1 for federal funding. There is a possibility that bill may fail because it has the word "tax" on it.

Commissioner Bronson noted that there has been quite a bit of activity regarding tax increment financing in this legislative session. There will most likely be an interim study of tax increment financing to pay close attention to.

Commissioner Burow discussed HB 133 that sets forth jail time for people in rental contracts not paying their rent. He discussed his opposition to the proposal to take away jail time for misdemeanor theft charges, and he encouraged anyone that agreed to contact legislators. Commissioner Bronson added that HB 133 was initially sold to everybody as a way to save money by eliminating jail expense. Local magistrates realized the impact it would have had and they are worse than that discussed by Commissioner Burow.

Mayor Kelly reported that the City is working with Cascade County and the Cascade Conservation District to sponsor a statewide gathering April 12-13, 2017,

to hear from experts from around the country who have dealt with the issue of invasive mussels and to get more information out to the public.

Mayor Kelly announced that the Mayor and two Commissioner terms expire this year. For anyone interested in running the filing dates are April 20<sup>th</sup> to June 19<sup>th</sup>. The fees and requirements are on the City's website at: <https://greatfallsmt.net/citycommission/city-commissioners-about-us>.

**15. Commission Initiatives.**

There were no Commission initiatives.

**ADJOURNMENT**

There being no further business to come before the Commission, Commissioner Jones moved, seconded by Commissioner Burow, to adjourn the regular **meeting of March 21, 2017, at 9:06 p.m.**

Motion carried 5-0.

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Mayor Bob Kelly

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City Clerk Lisa Kunz

Minutes Approved: April 4, 2017



*Agenda # 10.*  
*Commission Meeting Date: April 4, 2017*  
**City of Great Falls**  
**Commission Agenda Report**

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**Item:** Total Expenditures of \$1,073,627 for the period of March 1, 2017 through March 22, 2017, to include claims over \$5,000, in the amount of \$813,935.

**From:** Fiscal Services

**Initiated**  
**By:** City Commission

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

**Action**  
**Requested:**

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ATTACHMENTS:

- ▣ 5000 Report April 4, 2017



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

**PRESENTED BY:** Fiscal Services Director

**ACTION REQUESTED:** Approval with Consent Agenda

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

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

ACCOUNTS PAYABLE CHECK RUNS FROM MARCH 9, 2017 - MARCH 22, 2017	997,930.76
MUNICIPAL COURT ACCOUNT CHECK RUN FOR MARCH 1, 2017 - MARCH 15, 2017	75,696.32
<b>TOTAL: \$</b>	<b>1,073,627.08</b>

**GENERAL FUND**

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**MUNICIPAL COURT**

DIS TECHNOLOGIES	NEW SURVEILLANCE CAMERAS COURT	6,734.10
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**FIRE**

A T KLEMENS INC	OF 1238.7 FIRE STATION 3 PAD AND GENERATOR	18,226.39
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**SPECIAL REVENUE FUND**

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**FEDERAL BLOCK GRANTS**

B R CONSTRUCTION	DUNN-BROWN 316 CENTRAL AVE 5 APARTMENT REMODELS	9,955.00
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**PERMITS**

COLORADO CODE CONSULTING	BUILDING DEPARTMENT CODE TRAINING	6,590.00
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**ENTERPRISE FUNDS**

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**WATER**

ADVANCED ENGINEERING & ENVIRONMENTAL SERVICES INC	OF 1710 WTP HIGH SERVICE PUMP #2 REPLACEMENT STUDY	27,900.00
TD&H ENGINEERING	OF 1494.4 WATER MAIN RIVER CROSSING STUDY	8,695.25

**SANITATION**

CASCADE ENGINEERING INC	512 - 90 GALLON CONTAINERS	25,359.36
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**ENTERPRISE FUNDS (CONTINUED)**

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**PARKING**

STANDARD PARKING CORPORATION	FEBRUARY 2017 COMPENSATION	32,410.13
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**ICE BREAKER RUN**

CORPORATE IMAGES INC	2017 ICE BREAKER T-SHIRTS	17,058.48
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**CIVIC CENTER EVENTS**

GREAT FALLS COMMUNITY CONCERT ASSOCIATION	17-26 FOUR CELTIC VOICES PAY-OUT	8,224.82
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**INTERNAL SERVICES FUND**

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**INSURANCE & SAFETY**

NELSON ARCHITECTS LLC	ADDITIONAL SERVICES RELATED TO CIVIC CENTER OFFICE SPACE NEEDS	5,050.00
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**INFORMATION TECHNOLOGY**

SHI INTERNATIONAL CORP	VMARE ANNUAL MAINTENANCE	5,758.22
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**CENTRAL GARAGE**

MOUNTAIN VIEW CO-OP	FUEL-DIESEL	26,572.68
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**CC FACILITY SERVICES**

MR GREEN LANDSCAPE SOLUTIONS	CIVIC CENTER SNOW REMOVAL	5,370.00
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**TRUST AND AGENCY**

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**COURT TRUST MUNICIPAL COURT**

CITY OF GREAT FALLS	FINES & FORFEITURES COLLECTIONS	57,783.00
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**PAYROLL CLEARING**

STATE TREASURER	MONTANA TAXES	41,112.00
FIREFIGHTER RETIREMENT	FIREFIGHTER RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	49,981.01
STATEWIDE POLICE RESERVE FUND	POLICE RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	62,640.36
PUBLIC EMPLOYEE RETIREMENT	PUBLIC EMPLOYEE RETIREMENT EMPLOYEE & EMPLOYER CONTRIBUTIONS	116,431.74
POLICE SAVINGS & LOAN	EMPLOYEE CONTRIBUTIONS	13,310.00
US BANK	FEDERAL TAXES, FICA & MEDICARE	191,324.49
AFLAC	EMPLOYEE CONTRIBUTIONS	11,408.57
NATIONWIDE RETIREMENT SOLUTIONS	EMPLOYEE CONTRIBUTIONS	11,656.33

**UTILITY BILLS**

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MONTANA WASTE SYSTEMS INC	FEBRUARY 2017 MONTHLY CHARGES	54,382.84
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<b>CLAIMS OVER \$5000 TOTAL:</b>		\$ <u><u>813,934.77</u></u>
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**Item:** Agreement for Mutual Aid in Fire Protection and Hazardous Materials Incident Response with MANG

**From:** Stephen Hester, Fire Chief

**Initiated By:** Stephen Hester, Fire Chief

**Presented By:** Stephen Hester, Fire Chief

**Action Requested:** Approve the Agreement for Mutual Aid in Fire Protection and Hazardous Materials Incident Response and authorize the City Manager to execute the Agreement.

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**Suggested Motion:**

1. Commissioner moves:

"I move that the City Commission (approve/not approve) the Agreement for Mutual Aid in Fire Protection and HazMat Incident Response and (authorize/not authorize) the City Manager to execute the Agreement."

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

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**Staff Recommendation:**

Staff recommends that City Commission approve the Agreement for Mutual Aid with the Secretary of the Air Force acting by and through the Commander of the 120th Air Lift Wing MTANG.

**Summary:**

The MTANG/Airport Fire Department and Great Falls Fire Rescue have had a long standing mutual aid agreement that benefits each department and the community they serve. The relationship has proven its worth during several large incidents or disasters that have occurred in our community. Either service can rapidly render assistance to the other during these events resulting in a greater margin of safety to firefighters by adding another crew to

critical emergency operations.

**Background:**

This mutual aid agreement has been exercised regularly by both parties. For example in the event of an aircraft in-flight emergency, GFFR's fire station 4 immediately sends an engine to assist. In the event of an actual aircraft incident additional City resources can respond to assist.

The City exercises the agreement at most working fires that have extended beyond the room origin. MTANG firefighters respond directly to the incident and go to work right along side of City firefighters. As additional City resources start to arrive MTANG firefighters are cleared to return to the Airport.

Last year MTANG assisted by responding to a fire in downtown at Gerber's of Montana. The fire destroyed downtown commercial buildings. At an August, 2016 wildland fire, which blew up and threatened homes on the City's north boundary, MTANG firefighters were there working with GFFR to save threatened structures.

The Great Falls HazMat team is made up of MTANG, GFFR and MAFB firefighters. As a result the work and deployment of the team has less of an impact to the City resources. This also provides a very robust local response the chemical emergencies.

**Fiscal Impact:**

There is no cost to enter into a mutual aid agreement. One important component to any fire service mutual aid agreement is not to seek reimbursement from the party requesting assistance.

Also, each Party waives all claims against the other Party for compensation for any loss, damage, personal injury, or death occurring as a consequence of the performance of this agreement.

From time to time it may be necessary to hire back GFFR to cover for firefighters rendering mutual aid assistance. Our partners have to do the same when they respond to our request.

**Alternatives:**

The Commission could choose to disapprove this mutual aid agreement

**Concurrences:**

The City Attorney has reviewed and edited the agreement.

ATTACHMENTS:

- Agreement for Mutual Aid in Fire Protection and Hazardous Materials Incident Response

**AGREEMENT FOR MUTUAL AID IN FIRE PROTECTION AND HAZARDOUS  
MATERAILS INCIDENT RESPONSE**

This Mutual Aid Agreement (the “Agreement”), is made and entered into this 1st day of June 2017, between the Secretary of the Air Force (the “Air Force”) acting by and through the Commander 120<sup>th</sup> Airlift Wing MTANG pursuant to the authority of 42 U.S.C. § 1856a and the Fire Department of City of Great Falls (GFFR). Together the Air Force and the Great Falls Fire Rescue are hereinafter referred to as the “Parties”.

**WITNESSETH:**

WHEREAS, each of the Parties hereto maintains equipment and personnel for the suppression of fires and the management of other emergency incidents occurring within areas under their respective jurisdictions; and

WHEREAS, as set forth in 42 U.S.C. § 1856 the term ‘fire protection’ includes personnel services and equipment required for fire prevention, the protection of life and property from fire, firefighting, and emergency services, including Emergency Medical Services, hazardous materials emergencies and special rescue incidents involving vehicular and water mishaps, and trench, building, and confined space extractions; and

WHEREAS, the Parties hereto desire to augment the Fire/Rescue/EMS/HazMat capabilities available in their respective jurisdictions by entering into this Agreement.

**NOW, THEREFORE, in consideration of the mutual covenants, obligations and agreements herein established, the Parties hereby agree as follows:**

- a. The authority to enter into this Agreement is set forth in 42 U.S.C. § 1856a, and Title 15 United States Code Section 2210, the regulations implementing same at Title 44 Code of Federal Regulations Part 151 *Emergency Management and Assistance* and Air Force Instruction 32-2001, *Fire Emergency Services Program* and Montana’s Interlocal Cooperation Act (Montana Code Annotated § 7-11-101 *et seq.*).
- b. This Agreement will serve as the agreement between the Parties for securing to each mutual aid in fire protection services as defined above.
- c. On request to a representative of the **Great Falls Fire Rescue** fire department by a representative of the **Montana Air National Guard Fire & Emergency Services**, fire protection equipment and personnel of the **Great Falls Fire Rescue** fire department will be dispatched to any point within the area for which the **Montana Air National Guard Fire & Emergency Services** normally provides fire protection services as designated by the representatives of the **Montana Air National Guard Fire & Emergency Services**.
- d. On request to a representative of the **Montana Air National Guard Fire & Emergency Services** by a representative of the **Great Falls Fire Rescue** fire department, fire protection equipment and personnel of the **Montana Air National Guard Fire & Emergency Services**

will be dispatched to any point within the jurisdiction of the **Great Falls Fire Rescue** as designated by the representative of the **Great Falls Fire Rescue** fire department.

e. Any dispatch of equipment and personnel by the Parties pursuant to this Agreement is subject to the following conditions:

(1) Any request for aid hereunder will include a statement of the amount and type of equipment and personnel requested and will specify the location to which the equipment and personnel are to be dispatched, but the amount and type of equipment and the number of personnel to be furnished will be determined by the responding organization. The requesting organization will ensure access to site for the responding organization.

(2) The responding organization will report to the officer in charge of the requesting organization at the location to which the equipment is dispatched, and will be subject to the orders of that official.

(3) The responding organization will be released by the requesting organization when the services of the responding organization are no longer required or when the responding organization is needed within the area for which it normally provides fire protection.

(4) Hazardous Materials incident response will include the response to, and control and containment of any release or suspected release of any material suspected to be or known to be hazardous. Where the properties of a released material are not known, it will be considered hazardous until proven otherwise by the requesting organization using all technical resources available. Cleanup and removal of contained hazardous materials will be the responsibility of the requesting organization.

(5) In the event of a crash of an aircraft owned or operated by the United States or military aircraft of any foreign nation within the area for which the **Great Falls Fire Rescue Fire Department** normally provides fire protection services, the chief of the **Montana Air National Guard Fire & Emergency Services** fire department or his or her representative may assume full command on arrival at the scene of the crash.

(6) Where local agencies do not assign an incident safety officer, a qualified Air Force representative will be assigned to act as the incident safety officer for the incident to observe Air Force operations.

f. Each Party hereby agrees that its intent with respect to the rendering of assistance to the other Party under this Agreement is not to seek reimbursement from the Party requesting such assistance. Notwithstanding the above, the Parties hereby recognize that pursuant to the Section 11 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. § 2210) and Federal regulations issued there under (44 CFR Part 151), **Montana Air National Guard Fire & Emergency Services** is permitted to seek reimbursement for all or any part of its direct expenses and losses (defined as additional firefighting costs over normal operational costs) incurred in fighting fires on property under the jurisdiction of the United States. Furthermore, under the authority of 42 U.S.C. § 1856a, and pursuant to any applicable state or local law each Party

hereby reserves the right to seek reimbursement from the other for all or any part of the costs (defined as additional firefighting costs over normal operational costs) incurred by it in providing fire protection services to the other Party in response to a request for assistance.

g. Both Parties agree to implement the National Incident Management System during all emergency responses on and off installations in accordance with National Fire Protection Association (NFPA) Standard 1561.

h. Each Party waives all claims against the other Party for compensation for any loss, damage, personal injury, or death occurring as a consequence of the performance of this Agreement. This provision does not waive any right of reimbursement pursuant to paragraph f.

i. Subject to the limitations set forth in Mont. Code Ann. §2-9-108, the Parties shall indemnify, defend and hold each other harmless, from and against any and all manner and form of liability, damages, claims, claims for damages, demands, causes of action, or expenses, including interest or attorneys fees, of any nature or description resulting from their own, or their agents' actions or omissions in the performance of the services under this Agreement.

j. All equipment used by Great Falls Fire Rescue Fire Department in carrying out this Agreement will, at the time of action hereunder, be owned or validly leased by it; and all personnel acting for Great Falls Fire Rescue Fire Department under this Agreement will, at the time of such action, be an employee of Great Falls Fire Rescue.

k. The rendering of assistance under the terms of this Agreement will not be mandatory; however, the Party receiving a request for assistance will endeavor to immediately inform the requesting Party if the requested assistance cannot be provided and, if assistance can be provided, the quantity of such resources as may be dispatched in response to such request.

l. Neither Party will hold the other Party liable or at fault for failing to respond to any request for assistance or for failing to respond to such a request in a timely manner or with less than optimum equipment and/or personnel, it being the understanding of the Parties that each is primarily and ultimately responsible for the provision of fire protection services needed within their own jurisdictions.

m. Should a dispute arise between the Parties under or related to this Agreement, the Parties agree that within 30 days after notice of the dispute from one Party to the other, the Parties will attempt to resolve the dispute through negotiations. If such negotiations reach an impasse, the Parties agree that within 60 days after Notice of an impasse, they will attempt to resolve the matter through any method or combination of non-binding alternative dispute resolution (ADR) methods available under the Administrative Dispute Resolution Act of 1996, Pub. L. No. 104-320 (codified at 5 U.S.C. §§ 571-583). The cost of any third party neutral will be divided equally between the Parties, and the selection of any third party neutral will be by agreement of the Parties. If such ADR proceeding does not result in resolution of the dispute, the Parties may separately pursue any remedy available to a Party under the law. However, both Parties agree that the initiation of formal litigation does not preclude further attempts at resolving the dispute through alternative dispute resolution methods. Both Parties agree that the terms of this clause

will be considered the “Administrative Remedies” that must be exhausted, prior to institution of any formal litigation.

n. All notices, requests, demands, and other communications which may or are required to be delivered hereunder will be in writing and will be delivered by messenger, by a nationally-recognized overnight mail delivery service or by certified mail, return receipt requested, at the following addresses:

For the Air Force:

*120<sup>th</sup> Airlift Wing, Montana Air National Guard  
c/o Commander  
2800 Airport Ave A  
Great Falls, Montana 59404)*

And:

Department of the Air Force  
AFCEC/CXF  
139 Barnes Dr, Suite 1  
Tyndall AFB FL 32403-5319

And:

*120<sup>th</sup> Airlift Wing, Montana Air National Guard  
c/o Fire Chief  
2820 Airport Ave B  
Great Falls, Montana 59404*

*For City of Great falls  
Great Falls Fire Rescue  
c/o Fire Chief Stephen A. Hester  
105 9<sup>th</sup> Street South  
Great Falls, Montana 59401*

## **TERMS OF THE AGREEMENT**

o. This Agreement will become effective on the date of the last signature to the Agreement and will remain in effect for 5 years from that date (the “Term”) and automatically renews annually for a term of 20 years. Either Party may unilaterally terminate this Agreement during the Term by sending notification of its intent to terminate to the other Party at least one hundred and eighty

(180) days in advance of the proposed date of termination. Such notification will be in the form of a written submission to the other Party.

p. Upon becoming effective, this Agreement will supersede and cancel all previous agreements between the Parties concerning the rendering of assistance from one to the other for the purposes stated in this Agreement.

q. The modification or amendment of this Agreement, or any of the provisions of this Agreement, will not become effective unless executed in writing by both Parties.

r. This Agreement may be executed in one or more counterparts, each of which will be deemed an original.

IN WITNESS WHEREOF, The Parties have caused this Agreement to be executed by their duly authorized representatives on the dates shown below:

USP&FO FOR MONTANA

\_\_\_\_\_  
GREG T. DOYON, CITY MANAGER  
CITY OF GREAT FALLS

Great Falls Fire Rescue

\_\_\_\_\_  
Dean P. McLain, Col, NGB  
USP&FO FOR MONTANA

\_\_\_\_\_  
Fire Chief, Stephen A. Hester

Date \_\_\_\_\_

Date \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
CLERK OF COMMISSION

APPROVED AS TO FORM\*:



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CITY ATTORNEY

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

TAG-MT  
Bureau

The Civil Engineer for Chief National Guard

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The Adjutant General

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Director of Installations and Missions Support  
The Civil Engineer

Date \_\_\_\_\_

Date \_\_\_\_\_



**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:** The Commission conduct a public hearing and adopt Ordinance 3158.

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**Public Hearing:**

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

**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Ordinance 3158.”

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

**Staff Recommendation:**

Staff recommends that the City Commission conduct a public hearing and adopt Ordinance 3158.

**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 and street closure permitting (other than for parades and processions), 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 closure permitting (other than for parades and processions), go through the same approval process with application being made to the city Manager's office. 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.

There was no public comment during the first reading of Ordinance 3158. Commissioner Bronson suggested an additional provision to the proposed OCCGF 9.9.010 during Commission discussion. OCCGF 9.9.010 now has a proposed subsection (E). Proposed 9.9.010(E) states:

E. The City Manager may, after consultation with the Fire Chief, issue an emergency declaration banning the discharge of any fireworks during any portion of the period specified in Section 9.9.010(A) if, in the judgment of the Fire Chief, the discharge of fireworks poses a significant danger to public safety due to adverse weather conditions such as drought, winds, and/or extreme heat, and that the conditions warrant issuance of an emergency proclamation.

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

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
- ▣ Exhibit "A"
- ▣ 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:

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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

EXHIBIT "A"

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** 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 t~~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.
- ~~4~~F. Practicing or **playing** golf is prohibited except at designated golf courses.
- ~~2~~G. 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).
- NE.** 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),** 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.
- QQ.** 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, rubber 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.

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

Article 132 DISPLAY OR DISSEMINATION OF OBSCENE MATERIAL TO MINORS

Sections:

9.3.432.010 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.

**EXHIBIT "A"**

**Title 9 PUBLIC PEACE, MORALS AND WELFARE**

- 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

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

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).

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

**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 chapterTitle, 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;~~

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

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~~



EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

~~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).

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

- 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,**

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

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)~~

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

~~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).

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

**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

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

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 PROTECTION  
(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

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

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**

## EXHIBIT "A"

### Title 9 PUBLIC PEACE, MORALS AND WELFARE

- 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 **isbenefits the** community **wide**—and **is** of national, state and local significance.



**EXHIBIT "A"**

Title 9 PUBLIC PEACE, MORALS AND WELFARE

- 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)

**EXHIBIT "A"**

Title 9 PUBLIC PEACE, MORALS AND WELFARE

**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 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)

**9.90.060 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.

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

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.

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

- ~~• 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).

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

- (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) or 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.~~

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

- (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.

EXHIBIT "A"

Title 9 PUBLIC PEACE, MORALS AND WELFARE

(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 ~~fined~~**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)

**EXHIBIT "A"**

**Title 9 PUBLIC PEACE, MORALS AND WELFARE**

**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)**



**EXHIBIT "B"**

Title 9 PUBLIC PEACE, MORALS AND WELFARE

**Title 9 PUBLIC PEACE, MORALS AND WELFARE**

**Chapter**

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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)**

**EXHIBIT "B"**

Title 9 PUBLIC PEACE, MORALS AND WELFARE

**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.

## EXHIBIT "B"

### Title 9 PUBLIC PEACE, MORALS AND WELFARE

- 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.
- 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, rubber 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:**

## EXHIBIT "B"

### 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.

## EXHIBIT "B"

### Title 9 PUBLIC PEACE, MORALS AND WELFARE

- 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

## EXHIBIT "B"

### Title 9 PUBLIC PEACE, MORALS AND WELFARE

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.



## EXHIBIT "B"

### Title 9 PUBLIC PEACE, MORALS AND WELFARE

- 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).

## EXHIBIT "B"

### Title 9 PUBLIC PEACE, MORALS AND WELFARE

#### 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;

## EXHIBIT "B"

### Title 9 PUBLIC PEACE, MORALS AND WELFARE

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.

## EXHIBIT "B"

### Title 9 PUBLIC PEACE, MORALS AND WELFARE

- 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)).

## EXHIBIT "B"

### Title 9 PUBLIC PEACE, MORALS AND WELFARE

#### 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).

## EXHIBIT "B"

### Title 9 PUBLIC PEACE, MORALS AND WELFARE

#### 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:

## EXHIBIT "B"

### Title 9 PUBLIC PEACE, MORALS AND WELFARE

#### 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).

## EXHIBIT "B"

### Title 9 PUBLIC PEACE, MORALS AND WELFARE

- 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.
- E. The City Manager may, after consultation with the Fire Chief, issue an emergency declaration banning the discharge of any fireworks during any portion of the period specified in Section 9.9.010(A) if, in the judgment of the Fire Chief, the discharge of fireworks poses a significant danger to public safety due to adverse weather conditions such as drought, winds, and/or extreme heat, and that the conditions warrant issuance of an emergency proclamation.

(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)



**EXHIBIT "B"**

Title 9 PUBLIC PEACE, MORALS AND WELFARE

**9.9.030 Permissible fireworks.**

Only those fireworks authorized by state law are permissible.

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

**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 permit 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.

**EXHIBIT "B"**

Title 9 PUBLIC PEACE, MORALS AND WELFARE

(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 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:**

## EXHIBIT "B"

### Title 9 PUBLIC PEACE, MORALS AND WELFARE

#### 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:

- 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).**

## EXHIBIT "B"

### Title 9 PUBLIC PEACE, MORALS AND WELFARE

- 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).
- 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.

## EXHIBIT "B"

### Title 9 PUBLIC PEACE, MORALS AND WELFARE

- 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.
- 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

## EXHIBIT "B"

### Title 9 PUBLIC PEACE, MORALS AND WELFARE

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.

(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)



**Item:** Public Hearing - Resolution 10180 to Annex, Ordinance 3159 assigning PLI-Public Lands and Institutional zoning, and Resolution 10181 for a Conditional Use Permit to construct a water tower upon the property 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, PMM, Cascade County, Montana, in the vicinity of the Airport Interchange.

**From:** Planning & Community Development Department

**Initiated By:** Public Works Department

**Presented By:** Craig Raymond, Director

**Action Requested:** City Commission adopt Resolution 10180, adopt Ordinance 3159, and adopt Resolution 10181

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**Public Hearing:**

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

**Suggested Motion:**

(Each motion to be separately considered)

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 10180 to Annex Tract 1A of Tract 1 of Certificate of Survey 3347;”

and,

“I move that the City Commission (adopt/deny) Ordinance 3159 to assign a City zoning classification of PLI-Public Lands and Institutional to Tract 1A of Tract 1 of Certificate of Survey 3347;”

and,

“I move that the City Commission (adopt/deny) Resolution 10181 for a Conditional Use Permit to construct a water tower on Tract 1A of Tract 1 of Certificate of Survey 3347.”

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

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### **Staff Recommendation:**

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 upon the property, legally described above, subject to the following conditions:

#### Conditions of Approval for Annexation

1. General Code Compliance. The proposed project shall be developed consistent with the conditions in this report, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.
2. Survey. Provide a Certificate of Survey of the subject property which shall incorporate corrections of any errors or omissions noted by City Staff then be filed with the Cascade County Clerk & Recorder's office.
3. Reimbursements. The City shall pay all reimbursements owed to past developers and annexations that may be due as a result of annexation and development of the Subject Property.
4. Land Use and Zoning. Except as provided herein, development of the property shall be consistent with allowed uses and specific development standards for a PLI zoning classification.
5. Reimbursement for Public Improvements. The cost of construction of the water line serving the Utility Installation will be paid by the City of Great Falls. Should adjoining property to the east of the Subject Property annex into the City, the City shall pay for ½ of the cost to extend the water line to the Subject Property's north boundary. Should adjoining property to the north annex into the City, the City shall pay the entire cost to extend the water line to the Subject Property's north boundary and then be reimbursed ½ of the cost when the property to the east annexes. If the property to the east of the Flying J Travel Plaza Addition annexes, that owner will pay for ½ the cost of the water line adjoining the property, prorated to reflect the cost associated with an 8" water main.
6. Dedication, Construction and Reimbursement of Future 29th St SW. At such time as adjoining properties develop and need to utilize the future 29th St SW (shown as a 60 foot easement on the referenced Certificate of Survey), the City shall dedicate and pay for its proportional share of the roadway and sidewalk. If the property to the east annexes and develops, the City will pay for ½ of the cost of the roadway and sidewalk. If the property to



the north annexes and develops before the property to the east, the City will pay for ½ the cost of the roadway and sidewalk and the owner of the property to the north will pay for ½ the cost of the roadway and sidewalk and be reimbursed for at such time as the property to the east annexes and develops.

#### Conditions of Approval for Conditional Use Permit

1. Changes in Use. Conditional Uses are regulated as such because a use may, without conditions, have offsite impacts. Therefore, a significant change in the character or intensity of use may void the Conditional Use Permit. Proposed changes should be reviewed with the Administrator, who may require that the Permit be amended following the same public process used for its adoption.
2. Expiration. The Conditional Use Permit shall expire one (1) year after the date of issuance, if a Certificate of Occupancy has not been issued. The Administrator may extend the expiration date by up to one year if substantial work is ongoing. The Administrator may issue a Temporary Certificate of Occupancy that is valid for no more than one year if the only condition(s) remaining to be fulfilled involve landscaping that cannot be successfully established until the weather permits.
3. Abandonment. If the Conditional Use ceases to operate for more than six (6) months, the Conditional Use Permit is automatically voided.
4. Height. A structure up to 160 feet in height may be constructed upon the Subject Property, if approved by all other Federal, State and local agencies having jurisdiction.
5. Landscaping. Given the rural context of the Subject Property, it may be maintained in natural landscaping, with the exception of trees and shrubs, as approved by the Administrator at time of development. Onsite stormwater management facilities will be integrated into the site landscaping to the greatest degree possible.
6. Exterior Lighting. Lighting shall be designed to minimize light pollution and glare.
7. Ingress/Egress. Access and use of the Subject Property shall be via 38th Avenue SW and the utility easement on the east end of the Flying J Travel Plaza Addition. The access drive may be maintained in gravel until such time as adjoining properties annex and develop.
8. Design Review Board Recommendations. The proposed development shall be reviewed by and subject to recommendations by the Design Review Board.

#### **Summary:**

The City of Great Falls Public Works Department Engineering Division, on behalf of the Water Division, 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” (the Subject Property) into the City of Great Falls to construct a water tower upon the Subject Property. Additionally, the Montana Code Annotated (MCA) requires annexation of adjoining rights-of-way (MCA 7-2-4211). Therefore, the annexation would include portions of Interstate 15 and 31st St SW, shown on the attached Exhibit A to this Resolution 10180, and generally described in the “Description of Rights-of-Way”, attached to this Report.

#### **Background:**

The Subject Property currently has a Cascade County zoning designation of “Suburban

Residential.” Upon annexation, the applicant is requesting establishment of a zoning classification of PLI (Public Lands and Institutional). In order to construct a new water tower, the applicant is also asking for a Conditional Use Permit (CUP) for a Utility Installation land use and a tower height in excess of 100 feet.

The CUP process allows certain Uses and structure heights to be established that may not be permitted outright. A CUP will usually impose conditions that are deemed appropriate and necessary. The specific conditions the Planning Advisory Board/Zoning Commission has recommended placing upon the CUP, are listed above and in the attached Resolution 10181.

### Project Description

The City’s existing water tower at the Airport has exceeded its useful life. In order to provide continued water service to the properties serviced by the tower, the City intends to construct a new tower. Because the existing water tower site is not on property owned by the City and could affect Airport operations, it is prudent for the City to move to a property that it owns.

The proposed site plan is attached to this Report. The proposed tower would have a capacity of 500,000 gallons and be 140 feet tall with a bowl diameter of 65 feet. A retention basin is being proposed to accommodate any potential emergency release of the water in the tower.

### Traffic Impact

The proposed water tower would have little to no traffic generated on a typical day. At most, a few vehicles may access the site to perform maintenance or inspection upon the tower. There would be no discernible impact upon the area road network.

### Improvements

Ingress/egress would be from the south, on the eastern edge of the Flying J Travel Plaza Addition, through an existing utility easement. The access would be improved to a gravel access drive, with a gravel turn-around on site. At the time of development of the adjoining properties or when the City deems necessary, the onsite gravel surfaces will be paved.

A 60-foot access easement is proposed on the eastern edge of the Subject Property, to provide access to the property to the north. At such time of development of the property to the north or east, if needed for access to same, the easement will be dedicated as public right-of-way and constructed as a public street. The utility easement to the south, on the Flying J Travel Plaza Addition, will also be dedicated as a public right-of-way at such time as the City deems necessary, which will likely be when adjoining properties need it for access.

The water line to the tower would be constructed along the same existing utility easement.

### Proximity to Other Uses

Due to its location immediately adjacent to Interstate 15, there will be no impact on the north. The properties to the east are undeveloped, and therefore will not be negatively

impacted. The property to the south is zoned C-3, Highway Commercial, and the closest uses are a hotel and truck stop. The tower placement will be at least 300 feet from the hotel. Lighting on the Subject Property will be designed to prevent off-site glare that may affect the hotel or the driving public. The operation of the tower will include no noise, except for times of maintenance. Finally, the color will be neutral and the site will be landscaped with trees and shrubs to attractively fit into the neighborhood. No residential uses are in the immediate area.

The Great Falls Airport Authority and Airport tower operations have reviewed the proposed tower and have no objections. The Federal Aviation Administration has also reviewed the proposed tower location and height, and has provided its concurrence in a letter dated February 19, 2017.

#### Neighborhood Council Input/Public Comment

Upon annexation, the Subject Property would be in Neighborhood Council #1. The Council heard a presentation on January 10, 2017, and voted unanimously to support the project.

The public hearing before the Planning Advisory Board/Zoning Commission for the annexation, establishment of City zoning and CUP consideration was advertised in the Great Falls Tribune on January 29, 2017. Additionally, Notice of Public Hearing before the City Commission was published in the Great Falls Tribune on March 19, 2017.

No public comment upon the proposed actions has been received, nor was any testimony received at the Planning Advisory Board/Zoning Commission's public hearing.

#### Zoning Action

The Subject Property is currently zoned Suburban Residential in Cascade County. Upon annexation, the Planning Advisory Board/Zoning Commission has recommended assignment of a "PLI" (Public Lands and Institutional) zoning classification upon the Subject Property. To construct the tower, a Conditional Use Permit for a Utility Installation is also necessary.

The Official Code of the City of Great Falls (OCCGF) Title 17 - Land Development Code defines the PLI zoning district as including "...areas of significant public lands including public schools and significant public and quasi-public institutional uses or facilities." Because the site is proposed for a City-owned and operated water tower, PLI is the appropriate zoning district. The basis for decision on zoning map amendments is listed in OCCGF §17.16.40.030. The recommendation of the Planning Advisory Board/Zoning Commission and the decision of City Commission shall at a minimum consider the criteria which are attached as "Establishment of Zoning (Zoning Map Amendment) - Basis of Decision and Findings of Fact."

Ordinance 3159 to assign City zoning to the subject property was accepted by the City Commission on first reading on March 7, 2017.

### Conditional Use Permit

Because a “Utility Installation” in the PLI zoning district requires a Conditional Use Permit, and because structure heights exceeding 100 feet also require a Conditional Use Permit, a CUP must be obtained for the proposed 140’ water tower facility. Therefore, conditions for the water tower are recommended, and are listed at the beginning of this Report and contained within the attached Resolution 10181.

### **Fiscal Impact:**

The City Public Works Department will maintain the Subject Property, and will be responsible for constructing that portion of the future 29th St. SW through the Subject Property, as well as the extension of the water line. However, reimbursements will be obtained from future developers fronting the street and adjoining the water line, thus reducing the overall cost to the City.

### **Alternatives:**

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

### **Concurrences:**

Representatives from the City’s Public Works, Police, and Fire/Rescue Departments have reviewed the proposal and have no objections to any of the proposed actions.

### ATTACHMENTS:

- ▣ Resolution 10180
- ▣ Ordinance 3159
- ▣ Resolution 10181
- ▣ Annexation by Petition - Basis of Decision and Findings of Fact
- ▣ Establishment of Zoning (Zoning Map Amendment) - Basis of Decision and Findings of Fact
- ▣ Conditional Use Permit - Basis of Decision
- ▣ Zoning Map
- ▣ Site Photos and Conceptual Renderings
- ▣ Certificate of Survey
- ▣ Proposed Development Site Plan
- ▣ Descriptions of Rights-of-Way

RESOLUTION 10180

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO EXTEND THE BOUNDARIES OF THE CITY OF GREAT FALLS TO INCLUDE TRACT 1A OF TRACT 1 OF COS 3347, LOCATED IN THE NE¼ AND SE¼ SECTION 21, TOWNSHIP 20 NORTH, RANGE 3 EAST, PMM, CASCADE COUNTY, MONTANA, AND ADJOINING RIGHTS-OF-WAY, IN ACCORDANCE WITH THE PROVISION OF SECTION 7-2-4601, MONTANA CODE ANNOTATED; ALL AS SHOWN ON THE MAP ATTACHED HERETO MARKED ATTACHMENT “A” AND BY THIS REFERENCE MADE A PART HEREOF.

\* \* \* \* \*

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

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

Tract 1A of Tract 1 of COS 3347 located in the NE ¼ and SE ¼ Section 21, Township 20 North, Range 3 East, PMM, Cascade County, Montana; and,

Adjoining portions of the right-of-way of Interstate 15 and 31<sup>st</sup> Street Southwest

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

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

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

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

WHEREAS, Section 7-2-4211 Montana Code Annotated, provides that whenever a property owner petitions to annex to a municipality, the municipality shall include the full width of any public streets or roads, including the rights-of-way, that are adjacent to the property being annexed;

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

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

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

That the boundaries of the City of Great Falls, Montana, be, and the same are hereby extended so as to embrace and include within the corporate limits of said city, all of the land hereinabove described, included as: "Tract 1A of Tract 1 of COS 3347 located in the NE ¼ and SE ¼ Section 21, Township 20 North, Range 3 East, PMM, Cascade County, Montana," and adjacent rights-of-way, as shown on attached Exhibit "A."

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

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

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

PASSED AND ADOPTED by the City Commission of the City of Great Falls,  
Montana, on this 4th day of April, 2017.

---

Bob Kelly, Mayor

ATTEST:

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Lisa Kunz, City Clerk

(SEAL OF CITY)

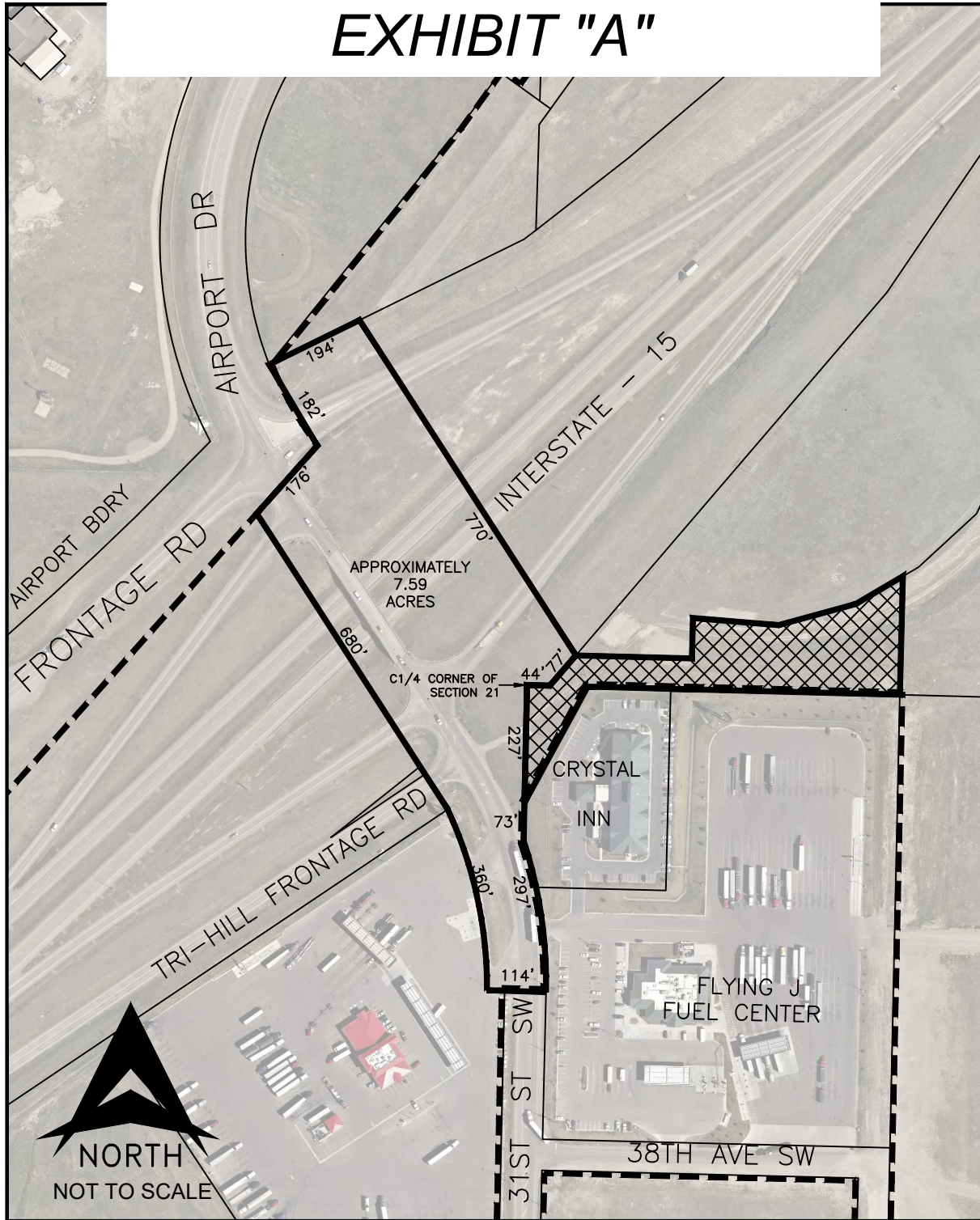
APPROVED FOR LEGAL CONTENT:

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Sara R. Sexe, City Attorney

# RESOLUTION 10180

## EXHIBIT "A"



TRACT 1A OF TRACT 1 OF CERTIFICATE OF SURVEY 3347 LOCATED IN THE NE $\frac{1}{4}$  AND SE $\frac{1}{4}$  SECTION 21, TOWNSHIP 20 NORTH, RANGE 3 EAST, PMM, CASCADE COUNTY, MONTANA

ABUTTING PORTIONS OF INTERSTATE 15 AND 31ST STREET SOUTHWEST

CITY LIMITS

TRACTS OF LAND



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 NE¼ AND SE¼ SECTION 21, TOWNSHIP 20 NORTH, RANGE 3 EAST, PMM, CASCADE COUNTY, MONTANA.

\* \* \* \* \*

WHEREAS, the City of Great Falls is the owner of record and has petitioned the City of Great Falls to annex the subject property, consisting of ±2.07 acres, as legally described above; and,

WHEREAS, the City of Great Falls has petitioned said property be assigned a City zoning classification of PLI Public Lands and Institutional, upon annexation to City; and,

WHEREAS, notice of assigning said zoning classification to the subject property was published in the *Great Falls Tribune* advising that a public hearing on this zoning designation would be held on the 4<sup>th</sup> day of April, 2017, before final passage of said Ordinance herein; and,

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

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

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

Section 2. That the zoning classification of “PLI - Public Lands and Institutional” be assigned to the subject property.

Section 3. That this Ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the City Commission or upon filing in the office of the Cascade County

Clerk and Recorder the resolution annexing said property, as legally described above, into the corporate limits of the City of Great Falls, Montana, whichever event shall occur later.

APPROVED by the City Commission on first reading March 7, 2017.

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

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

ATTEST:

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

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

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

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

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3159 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

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

(CITY SEAL)

RESOLUTION 10181

A RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE CONSTRUCTION OF A UTILITY INSTALLATION UP TO 160 FEET IN HEIGHT UPON THE PROPERTY LEGALLY 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, PMM, CASCADE COUNTY, MONTANA.

\* \* \* \* \*

WHEREAS, The Public Works Department of the City of Great Falls requested a Conditional Use Permit to allow for the construction and operation of a Utility Installation upon a parcel of land legally 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, PMM, Cascade County, Montana (Subject Property); and,

WHEREAS, concurrent with this request, the Subject property was annexed and zoned Public Lands and Institutional (PLI), wherein the establishment and operation of a Utility Installation is permitted upon the processing and approval of a Conditional Use Permit; and,

WHEREAS, the Official Code of the City of Great Falls allows structures between 101 and 160 feet in height upon a parcel within a PLI zoning district, upon the processing and approval of a Conditional Use Permit; and,

WHEREAS, the proposed Conditional Use Permit for the construction and operation of a Utility Installation between 101 and 160 feet in height upon the Subject Property meets the Basis of Decision requirements in the Official Code of the City of Great Falls Section 17.16.36.040; and,

WHEREAS, the Great Falls Zoning Commission conducted a public hearing on February 14, 2017 to consider said Conditional Use Permit application and passed a motion recommending the Conditional Use Permit for a Utility Installation up to 160 feet in height be granted for the Subject Property, subject to the following conditions:

1. **Changes in Use.** Conditional Uses are regulated as such because a use may, without conditions, have offsite impacts. Therefore, a significant change in the character or intensity of use may void the Conditional Use Permit. Proposed changes should be reviewed with the Administrator, who may require that the Permit be amended following the same public process used for its adoption.
2. **Expiration.** The Conditional Use Permit shall expire one (1) year after the date of issuance, if a Certificate of Occupancy has not been issued. The Administrator may extend the expiration date by up to one (1) year if substantial work is ongoing. The Administrator may issue a Temporary Certificate of Occupancy that is valid for no more than one year if the only condition(s) remaining to be fulfilled involve landscaping that cannot be successfully established until the weather permits.
3. **Abandonment.** If the Conditional Use ceases to operate for more than six (6) months, the Conditional Use Permit is automatically voided.
4. **Height.** A structure up to 160 feet in height may be constructed upon the Subject Property, if approved by all other Federal, State and local agencies having jurisdiction.
5. **Landscaping.** Given the rural context of the Subject Property, it may be maintained in natural landscaping, with the exception of trees and shrubs, as approved by the Administrator at time of development. Onsite stormwater management facilities will be integrated into the site landscaping to the greatest degree possible.
6. **Exterior Lighting.** Lighting shall be designed to minimize light pollution and glare.
7. **Ingress/Egress.** Access and use of the Subject Property shall be via 38<sup>th</sup> Avenue SW and the utility easement on the east end of the Flying J Travel Plaza Addition. The access drive may be maintained in gravel until such time as adjoining properties annex and develop.
8. **Design Review Board Recommendations.** The proposed development shall be reviewed by and subject to recommendations by the Design Review Board.

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

That a Conditional Use Permit be granted at the Subject Property for a Utility Installation up to 160 feet in height, conditioned upon compliance with the conditions contained herein; and,

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

PASSED AND ADOPTED by the City Commission of the City of Great Falls,  
Montana, on April 4, 2017.

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

ATTEST:

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

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

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

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

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

The property is contiguous to existing City limits. There is annexed property on the south boundary of the property.

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

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

Phy 4.1 – Encourage a balanced mix of land uses through-out the City.

Phy4.3 – Optimize the efficiency and use of the City's Public facilities and utilities.

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

No neighborhood plans have been adopted for this area.

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

The subject property does not lie within any adopted plans or sub-area plans, except for the Great Falls Area Long Range Transportation Plan, which does not have any specifications for roadways adjacent to the property.

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

The City has the capacity to provide public services to the property.

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

When deemed necessary by the City, improvements will be made.

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

The City is the owner, and will pay for all improvements or share in its proportional share of same.

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

The project has been surveyed and a Certificate of Survey of the Subject Property will be filed with the County Clerk and Recorder.

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

Public water and sewer will be available as necessary.

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

The property is not located in an unsuitable location for annexation.

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

The Subject Property is unincorporated.

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

The subject property is currently a vacant, undeveloped parcel, with no use established.

ASSIGNMENT OF ZONING (ZONING MAP AMENDMENT) – BASIS OF DECISION AND FINDINGS OF FACT

1. *The Zoning Map Amendment is consistent with and furthers the intent of the City's growth policy;*  
Phy 4.1 – Encourage a balanced mix of land uses through-out the City.  
Phy4.3 – Optimize the efficiency and use of the City's Public facilities and utilities.
2. *The amendment is consistent with and furthers adopted neighborhood plans, if any;*  
There are no neighborhood plans covering the Subject Parcel or surrounding area. The proposed amendment is supported by Neighborhood Council #1.
3. *The amendment is consistent with other planning documents adopted by the City Commission, including the river corridor plan, transportation plan, and sub-area plans.*  
The subject property does not lie within any adopted plans or sub-area plans, except for the Great Falls Area Long Range Transportation Plan, which does not have any specifications for roadways adjacent to the property.
4. *The code with the amendment is internally consistent;*  
The proposed zoning action is not in conflict with any portion of the existing City Code. The proposed use, and height of the proposed use, are permitted in the proposed zoning district through the processing of a Conditional Use Permit.
5. *The amendment is the least restrictive approach to address issues of public health, safety, and welfare;*  
The proposed zoning action is the most appropriate for the proposed use, and is the least restrictive method to provide potable water for the service area, thus ensuring public health, safety and welfare.
6. *The City has or will have the financial and staffing capability to administer and enforce the amendment.*  
Because the City has a funded, professional staff, the City has the capability and finances to administer and enforce zoning upon the subject parcel.



## CONDITIONAL USE PERMIT - BASIS OF DECISION

Concurrent to the annexation and zoning request, the applicant is requesting establishment of PLI zoning and approval of a Conditional Use Permit for a Utility Installation.

1. *The zoning and conditional use is consistent with the City's Growth Policy and applicable neighborhood plans, if any.*

Phy 4.1 – Encourage a balanced mix of land uses through-out the City.

Phy4.3 – Optimize the efficiency and use of the City's Public facilities and utilities.

2. *The establishment, maintenance or operation of the zoning and conditional use will not be detrimental to, or endanger the health, safety, morals, comfort or general welfare.*

The CUP would have no detrimental impact upon the health, safety, morals, comfort or general welfare.

3. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.*

Due to its location immediately adjacent to Interstate 15, there will be no impact on the north. The properties to the east are undeveloped, and therefore will not be negatively impacted. The property to the south is a hotel, and the tower placement will be at least 300 feet from the hotel. Lighting on the Subject Property will be designed to prevent off-site glare that may affect the hotel. The operation of the tower will include no noise, except for times of maintenance. Finally, the color will be neutral and the site will be landscaped with trees and shrubs to attractively fit into the neighborhood. No residential uses are in the immediate area.

4. *The conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.*

The proposed project will not impede the normal and ordinary development and improvement of surrounding properties. Adjacent property owners have been notified about the project and City staff has received no questions regarding project specifics.

5. *Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.*

Adequate services and infrastructure will be provided to operate the proposed project.

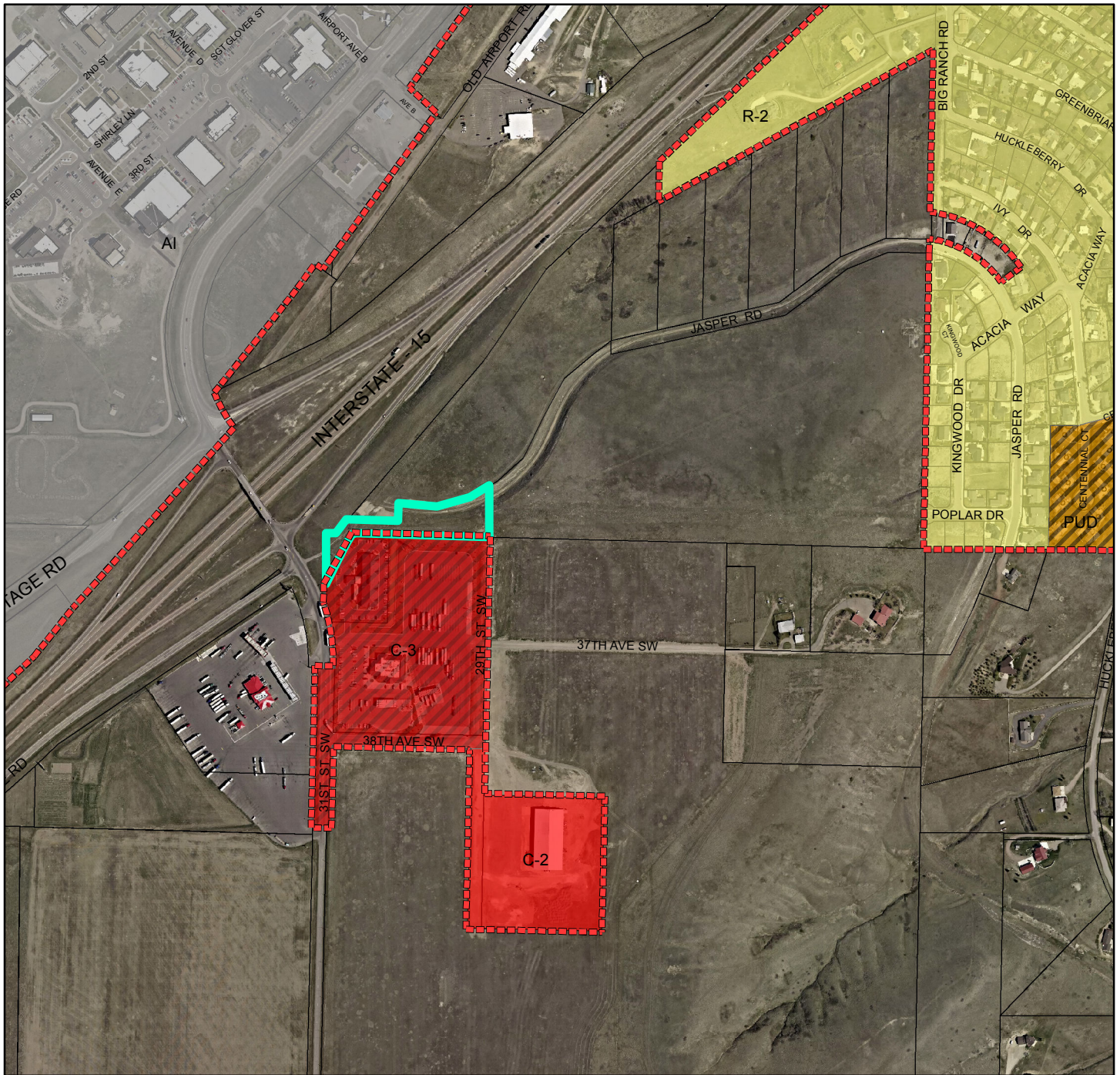
6. *Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.*

The project would generate little to no daily traffic, and will have no discernible impact upon the area road network.

7. *The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the City Commission.*

The proposed project will conform to all the applicable regulations of the Land Development Code, except as where noted in the conditions of the CUP.

# ZONING MAP



- City Limits
- R-2 Single-family Medium Density
- C-3 Highway Commercial
- Subject Property
- PUD Planned Unit Development
- AI Airport Industrial
- Tracts of Land
- C-2 General Commercial



# SITE PHOTOS



## CONCEPTUAL RENDERINGS





Conceptual rendering of Water Tower looking north from Flying J Fuel Center



Conceptual rendering of Water Tower east from 31st St SW

# CERTIFICATE OF SURVEY No. \_\_\_\_\_

## TRACT 1 OF C.O.S. No. 3347 IN THE NE1/4 and SE1/4 SECTION 21, T20N, R3E, PMM, CASCADE COUNTY, MONTANA

### DESCRIPTION

Tract 1 of Certificate of Survey No. 3347 in the NE1/4 and SE1/4 Section 21, T20N, R3E, PMM, City of Great Falls, Cascade County, Montana, ~~now known as lots 1A and 1B.~~

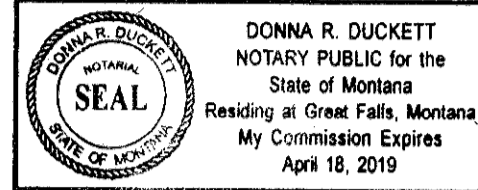
Said tract contains 42.84 acres.

### CERTIFICATE OF EXEMPTION

We, the undersigned property owners, hereby certify the purpose of this survey is to create Tract 1A for a public utility site and that this survey is exempt from review as a subdivision in accordance with 76-3-201(1)(h), MCA, which exempts a division of land that is created for rights-of-way or utility sites.

Dated this 1st day of March, 2017.

Victor Anderson  
Estate of Gary L. Anderson  
By: Victor Anderson  
Co-Personal Representative



STATE OF Montana )  
                                  ) ss.  
COUNTY OF Cascade )

On March 1st, 2017, before me personally appeared Victor Anderson, known to me to be the person described in the within instrument, and who acknowledged to me that he executed the same.

Donna R. Duckett  
Printed Name Donna R. Duckett  
Notary Public for the State of Montana  
Residing at Great Falls  
My commission expires: 04-18-2019

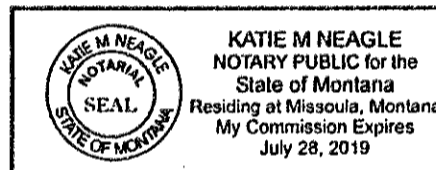
Dated this 2nd day of March, 2017.

Leanne Griffin  
Estate of Gary L. Anderson  
By: Leanne Griffin  
Co-Personal Representative

STATE OF Montana )  
                                  ) ss.  
COUNTY OF Missoula )

On March 2, 2017, before me personally appeared Leanne Griffin, known to me to be the person described in the within instrument, and who acknowledged to me that she executed the same.

Katie M. Neagle  
Printed Name Katie M. Neagle  
Notary Public for the State of Montana  
Residing at Missoula, MT  
My commission expires: 7/28/19

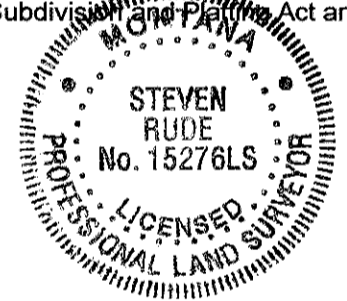


### CERTIFICATE OF SURVEYOR

I, the undersigned, Steven Rude, Professional Land Surveyor, do hereby certify that on October 20-21, 2016, I conducted the survey shown hereon in accordance with the provisions of the Montana Subdivision and Platting Act and that monuments found and set are of the nature and occupy the positions shown hereon.

DATED this 18th day of JANUARY, 2017.

Steven Rude  
Steven Rude, PLS, CFedS  
MT Reg. No. 15276LS



### CERTIFICATE OF COUNTY TREASURER

I, \_\_\_\_\_, Treasurer of Cascade County, Montana, do hereby certify that the accompanying plat has been duly examined and that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Treasurer of Cascade County, Montana

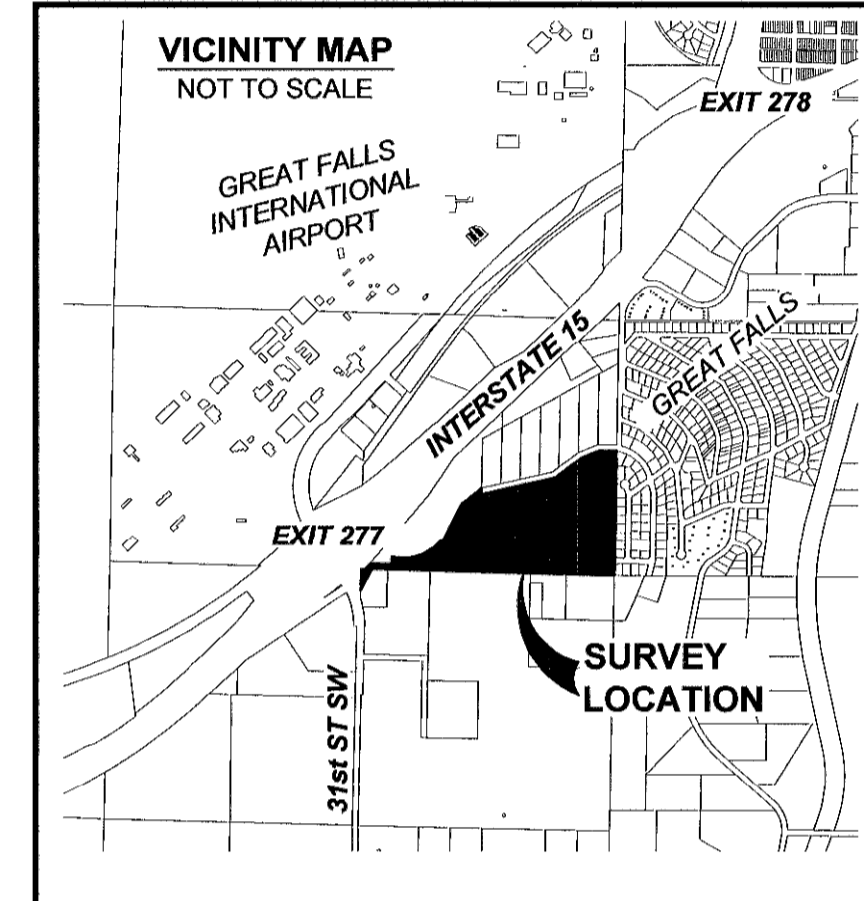
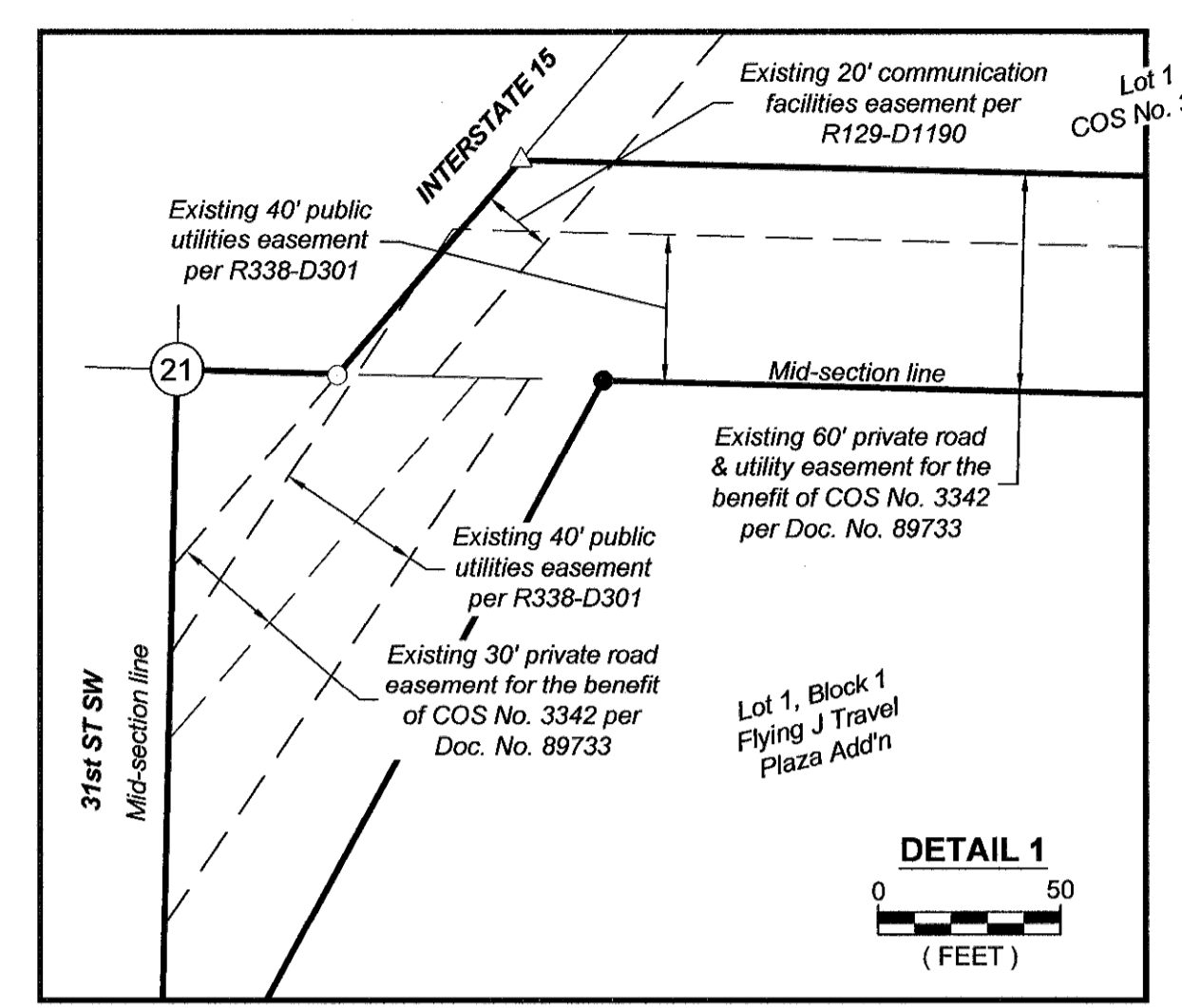
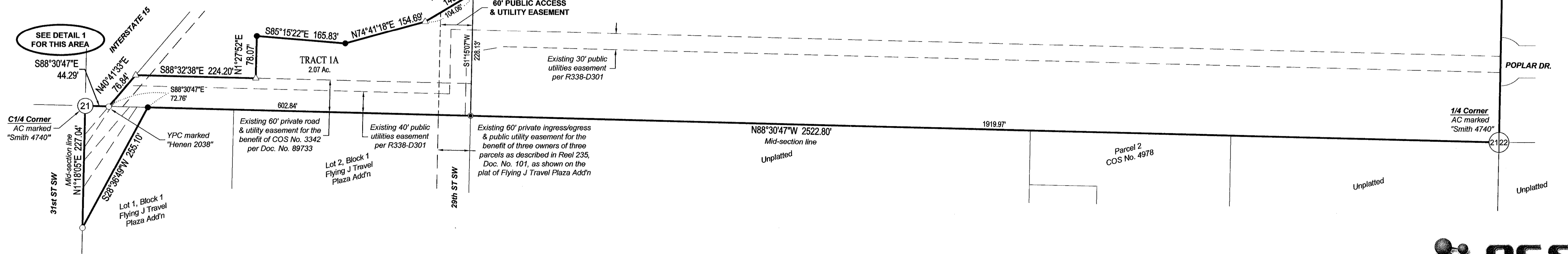
### CERTIFICATE OF CASCADE COUNTY PLANNING DIVISION

EXAMINED FOR COMPLIANCE WITH SUBDIVISION AND PLATTING ACT

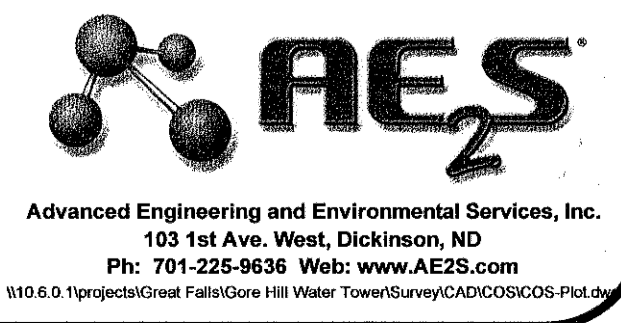
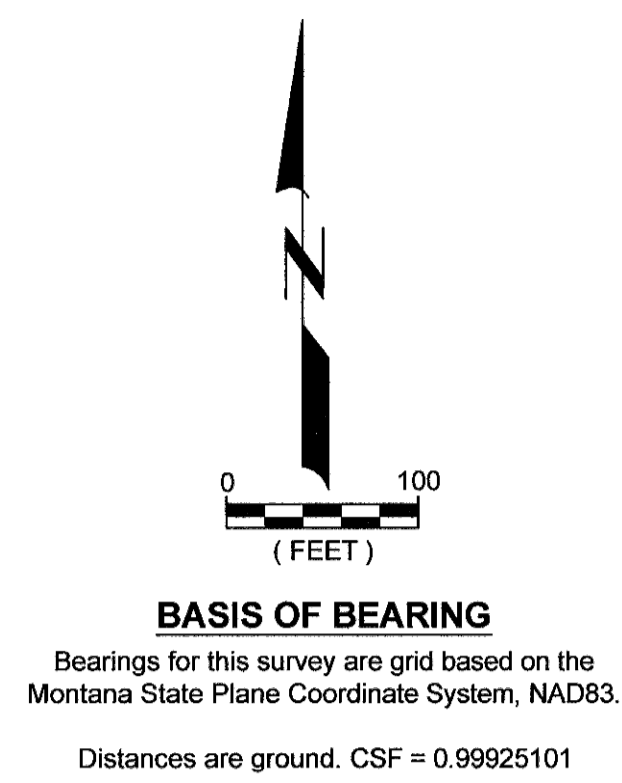
TREASURER'S STAMP YES X NO \_\_\_\_\_

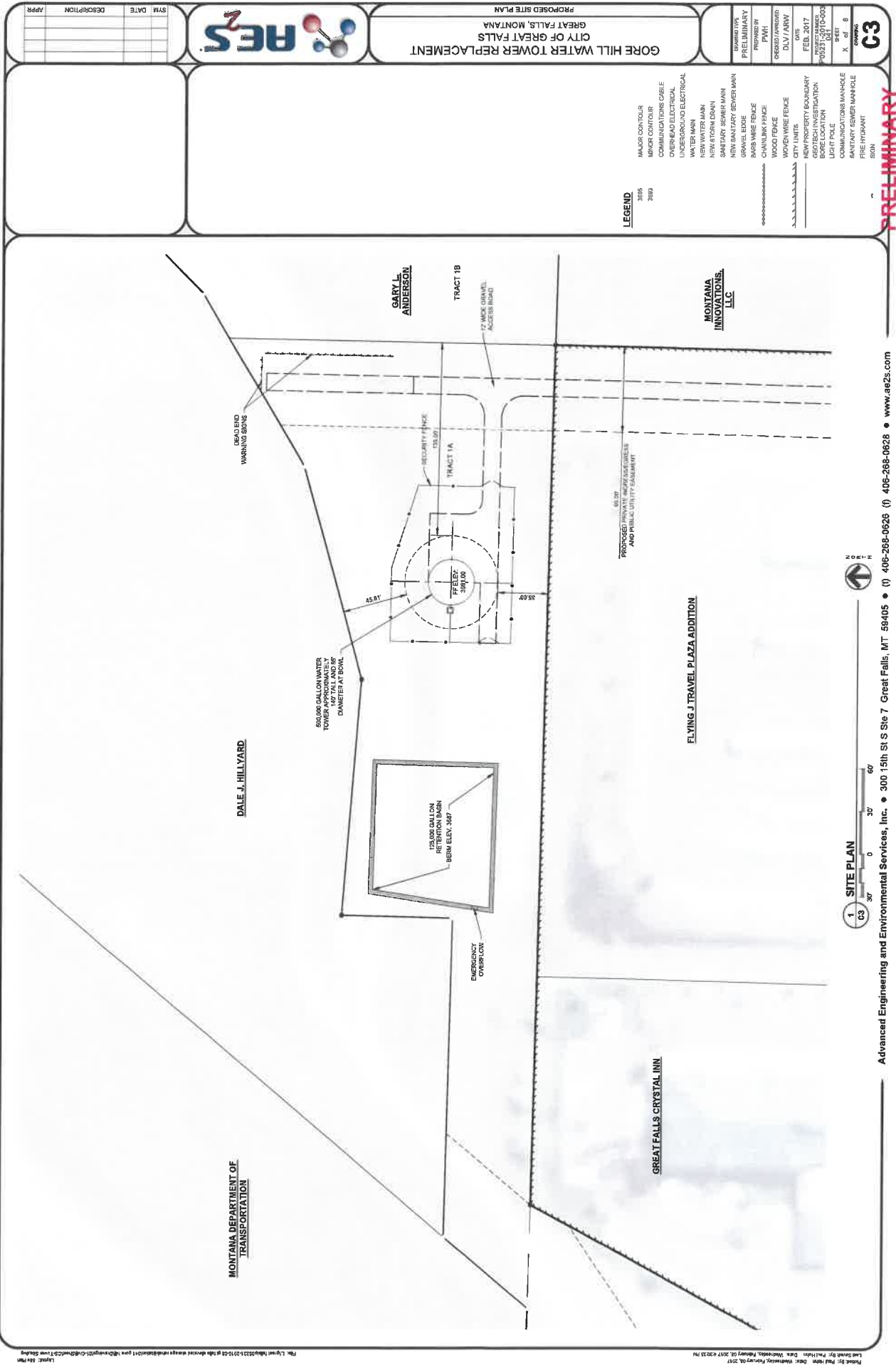
DATE March 6, 2017

BY Donald P. Smith  
CASCADE COUNTY PLANNING DIVISION



LEGEND	
●	SET REBAR W/ RED CAP MARKED "ADVANCE ENG 15276"
○	FOUND REBAR W/ YELLOW CAP MARKED "BABB 11699" UNLESS OTHERWISE NOTED
△	FOUND AC MARKED "ELI 9328"
●	FOUND REBAR OR STEEL PIN
- - -	PROPOSED EASEMENT
- - -	EXISTING EASEMENT
YPC	YELLOW PLASTIC CAP
AC	ALUMINUM CAP





SYN	DATE	DESCRIPTION	APPR



GORE HILL WATER TOWER REPLACEMENT  
 CITY OF GREAT FALLS  
 GREAT FALLS, MONTANA  
 PROPOSED SITE PLAN

SUBMITTER: PRELIMINARY  
 PROJECT: PW1  
 SHEET: 06280 / 06280  
 DATE: FEB. 2017  
 PUBLISHED: 02/01/2017  
 DRAWN: X  
 CHECKED: 6  
 DESIGNED: C3

- LEGEND**
- 3895 MAJOR CONTOUR
  - 3890 MINOR CONTOUR
  - COMMUNICATIONS CABLE
  - OVERHEAD ELECTRICAL
  - UNDERGROUND ELECTRICAL
  - WATER MAIN
  - NEW WATER MAIN
  - NEW STORM DRAIN
  - SEWERY SEWER MAIN
  - SEWERY SEWER MAIN
  - GRAVEL FENCE
  - BARB WIRE FENCE
  - CHAINLINK FENCE
  - WOOD FENCE
  - WOVEN WIRE FENCE
  - CITY LIMITS
  - NEW PROPERTY BOUNDARY
  - EXISTING PROPERTY BOUNDARY
  - EXISTING UTILITY EASEMENT
  - EXISTING EASEMENT
  - EXISTING LIGHT POLE
  - EXISTING COMMUNICATIONS MANHOLE
  - EXISTING SEWER MANHOLE
  - EXISTING FIRE HYDRANT SIGN

**PRELIMINARY**

Project: PW1, Title: GORE HILL WATER TOWER REPLACEMENT, Date: FEBRUARY 01, 2017, 4:23:33 PM, Layout: 06280, Plot: 06280 / 06280, User: MONTANA DEPARTMENT OF TRANSPORTATION, Path: \\aes\projects\2017\02\01\Gore Hill Water Tower Replacement\06280.dwg

## DESCRIPTIONS OF RIGHTS-OF-WAY

The following description is of the boundary of abutting portions of Interstate 15 and 31<sup>st</sup> Street Southwest being annexed into the City of Great Falls. Bearings and distance provided are not based on field measurements, and as such are only approximate in nature.

Beginning at the Center  $\frac{1}{4}$  Corner of Section 21, Township 20 North, Range 3 East, PMM, Cascade County Montana, said POINT OF BEGINNING being marked by an aluminum cap:

Basis of Bearing for the following Bearings are grid based on the Montana State Plane Coordinate System, NAD83

THENCE, S88°30'47"E, a distance of 44.29';

THENCE, N40°41'33"E, a distance of 76.83'

Note that there is not a Basis of Bearing for the following Bearings

THENCE, in a Northwesterly direction approximately perpendicular to the center line of Interstate 15, a distance of approximately 770', to a point on the Westerly Right-of-Way line of said interstate;

THENCE, in a Southwesterly direction along said interstate Right-of-Way line, a distance of approximately 194', to a point on said interstate Right-of-Way and also being a point on the existing City of Great Falls limits;

THENCE, in a Southeasterly direction along said City of Great Falls limits line, a distance of approximately 182' along a curve to the left;

THENCE, in a Southwesterly direction along said City of Great Falls limits line, a distance of approximately 175';

THENCE, in a Southeasterly direction approximately perpendicular to the center line of said interstate, an approximate distance of 680', to a 4"x4" concrete Right-of-Way monument as called for on Certificate of Survey 2103;

Basis of Bearing for the following Bearings is the East Line of the NE1/4 of the SW1/4 of Section 21, T.20N., R.3E., as shown on said COS 2103

THENCE, 361.5' (360') along a curve to the right having a radius of 748.6';

THENCE, S89°55'E, a distance of 33.6', to an iron pin or Right-of-Way monument as shown on said COS 2103, said point also being a point on the existing City of Great Falls limits;

Basis of Bearing for the following Bearings is along the West line of the SE1/4 of Section 21; S00°07'E (Recorded) S00°06'45"E (Measured) as shown on the Minor Subdivision of the Flying J Travel Plaza Addition Plat

THENCE, N89°53'15"E, a distance of 80' along said existing City of Great Falls limits;

THENCE, along a curve to the left with a radius of 868.60', a distance of 296.15' (297') along said existing City of Great Falls limits;

THENCE, N00°06'45"W, a distance of 73.43' (73') along said City of Great Falls limits;

THENCE, N00°06'45"W, a distance of 227.14 (227') to the POINT OF BEGINNING;

CONTAINING approximately 7.59 acres.





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**Item:** Ordinance 3152 – An Ordinance by the City Commission of the City of Great Falls to rezone the properties legally described as: Marks 2, 3, 5, 11, Block 3, Country Club Addition, located in Section 14, Township 20 North, Range 3 East, P.M.M. Cascade County, Montana; and, Lots 1B, 1, 1A-1, Block 1, Tietjen Triangle Addition, located in Section 15, Township 20 North, Range 3 East, P.M.M. Cascade County, Montana; and, Lot 1, Block 1, Montana Addition, located in Section 15, Township 20 North, Range 3 East, P.M.M. Cascade County, Montana, from C-1 Neighborhood commercial to C-2 General commercial.

**From:** Planning and Community Development

**Initiated By:** Brett and Sandra Haverlandt, Meadowlark FF&S LLC, Billings Holdings, LLC, and Galloway Investments I

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

**Action Requested:** City Commission remove Ordinance 3152 from the table, and set public hearing for consideration of Ordinance 3152 for May 2, 2017.

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**Suggested Motion:**

Each motion considered separately:

1. Commissioner moves:

“I move that the City Commission (remove/not remove) Ordinance 3152 from the table for discussion purposes and further action.”

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

And,

1. Commissioner moves:

“I move that the City Commission (set/not set) a public hearing for consideration of Ordinance 3152 for May 2, 2017.”

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

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**Staff Recommendation:**

Ordinance 3152 was extensively discussed at the March 7, 2017, City Commission meeting. There was a significant amount of testimony from the public raising concerns about the proposed rezoning request. In response, the City Commission passed a motion at the public hearing directing staff from the Planning and Community Development Department to bring back an alternative rezoning proposal for the 5.949 acres. This proposal would create a Planned Unit Development for the property rather than General Commercial (C-2) zoning.

Staff is working on the PUD proposal, but needs additional time to work with the applicant to develop conditions that would mitigate impacts of the rezoning and traffic on Fox Farm Road. As a result, staff recommends that the City Commission remove Ordinance 3152 from the table for discussion purposes and set public hearing for consideration of Ordinance 3152 for May 2, 2017.