

ORDINANCE 3054

AN ORDINANCE AMENDING TITLE 17 OF THE
OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS TO
PROSCRIBE ALL LAND USES THAT ARE IN VIOLATION OF
FEDERAL, STATE, OR LOCAL LAW AND DECLARING AN
EFFECTIVE DATE

* * * * *

WHEREAS, pursuant to § 76-2-301, MCA, the City of Great Falls, as a duly formed municipality of the State of Montana, is authorized to regulate land uses within the city for the purpose of promoting health, safety, morals, or the general welfare of the community; and

WHEREAS, Title 17 of the Official Code of the City of Great Falls (OCCGF) contains the provisions applicable to regulating land use within the City of Great Falls; and

WHEREAS, the City Commission of the City of Great Falls, Montana, has determined that it is in the best interests of the city and its citizens and for the purpose of promoting health, safety, morals, or general welfare of its citizens that land uses that are in violation of federal, state or local law shall not be permitted by right or conditionally permitted within the City of Great Falls.

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

- Section 1. That Title 17, Chapter 20, Article 1, Section 020 of the Official Code of the City of Great Falls (OCCGF) be amended as depicted in Exhibit "A" attached hereto, which removes any language indicated by a strike-out and adds any language which is bolded; and
- Section 2. That Title 17, Chapter 20, Article 3, Section 070 of the Official Code of the City of Great Falls (OCCGF) be amended as depicted in Exhibit "B" attached hereto, which removes any language indicated by a strike-out and adds any language which is bolded; and
- Section 3. That Title 17, Chapter 4, Section 070 of the Official Code of the City of Great Falls (OCCGF) be amended as depicted in Exhibit "C" attached hereto, which removes any language indicated by a strike-out and adds any language which is bolded.

APPROVED by the City Commission on first reading May 4, 2010.

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on second reading June 1, 2010.

Michael J. Winters, Mayor

ATTEST:

Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

James W. Santoro, City Attorney

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

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3054 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 Court House;
On the Bulletin Board, Great Falls Public Library

Lisa Kunz, City Clerk

(CITY SEAL)

Chapter 20
LAND USE

Articles:

- | | |
|---------------------------------------|---|
| 1. General provisions | 5. General standards |
| 2. Zoning districts and zoning map | 6. Special standards for principal uses |
| 3. Allowable uses | 7. Special standards for accessory uses |
| 4. Lot area and dimensional standards | 8. Special standards for temporary uses |

Article 1
GENERAL PROVISIONS

Sections:

- 17.20.1.010 Legislative findings
- 17.20.1.020 Purpose

17.20.1.010 Legislative findings

The City Commission makes the following findings:

1. The use of land in the City has a direct bearing on the public health, safety, and welfare.
2. Standards are needed to ensure that new development is done in a coordinated manner.
3. The provisions contained in this chapter are adopted consistent with the provisions of State statutes.
4. Each parcel in the City is intended to have a zoning designation.
5. The provisions in this chapter are adopted in accordance with the City’s adopted growth policy.

17.20.1.020 Purpose

This chapter is established to promote the public health, safety, and welfare and is intended to accomplish the following purposes:

1. promote a sound development pattern by separating the City into various districts where each has uniformly applicable development standards
2. separate incompatible land uses to the greatest extent possible
3. encourage the most appropriate use of land throughout the City
4. regulate and restrict the erection, construction, reconstruction, alteration, repair, and use of buildings, structures, and land
5. provide for a wide range of housing options
6. allow different, but compatible land uses (i.e., mixed uses) to occur in specified areas of the City
7. avoid, or as a less preferred alternate, minimize congestion
8. avoid, or as a less preferred alternate, minimize environmental degradation
9. implement the City’s adopted growth policy
10. prohibit any use of land within the City of Great Falls that is in violation of federal, state or local law.

Article 3 ALLOWABLE USES

Sections:

17.20.3.010	Allowable uses within zoning districts
17.20.3.020	Similarity of uses
17.20.3.030	Uses not listed
17.20.3.040	Project classified in more than one land use category
17.20.3.050	Relationship of a principal use to an accessory use
17.20.3.060	Certain land uses shown as permitted may be a conditional use
17.20.3.070	Prohibited Land Uses

17.20.3.010 Allowable uses within zoning districts

For the purposes of this Title, land uses are categorized as principal, accessory, and temporary. The land uses that are allowable in one or more districts are defined in Chapter 8 of this Title. Exhibit 20-1 through 20-3 lists the uses as allowed in one or more base zoning districts. The coding system, as described below, is used to identify the appropriateness of the land uses in each of the various base districts and the type of review if allowed.

"P" indicates that the use is permitted in the district by right, provided that all other provisions of this Title are met. These uses do not undergo public review, but are reviewed at the administrative level to ensure compliance.

"-" indicates that the use is not permitted in the district.

"C" indicates that the use is permitted in the district as a conditional use.

17.20.3.020 Similarity of uses

Because the list of uses cannot include every conceivable type of activity, those uses that are listed shall be interpreted to include other uses that are of a similar nature and have similar impacts to the listed use.

17.20.3.030 Uses not listed

Those uses not listed, and which cannot be interpreted to be similar to any listed use, as provided for above, shall be prohibited.

17.20.3.040 Project classified in more than one land use category

In the event that the proposed project includes more than one land use category, the following rules shall apply:

1. Prohibited and allowable uses in project. If a proposed project includes both an allowable use(s) and a prohibited use(s), the prohibited portion of the project may not occur in the district.
2. More than one review type or development standard in project. If a proposed project includes more than one use, with different levels of approval, the strictest of the approval procedures shall apply to the whole project.

17.20.3.050 Relationship of a principal use to an accessory use

Before an accessory use may be established, the premises shall host a principal use.

17.20.3.060 Certain land uses shown as permitted may be a conditional use

A permitted land use (as shown in Exhibit 20-1, 20-2, 20-3) that emits air contaminants or potentially offensive odors outside of the building, or that handles radioactive materials, hazardous substances, hazardous waste, or regulated substances shall be considered a conditional use in every circumstance.

17.20.3.070 Prohibited Land Uses

No use of land shall be permitted by right or conditionally permitted within the City of Great Falls that is in violation of federal, state or local law.

Chapter 4
GENERAL PROVISIONS

Sections:

17.4.010	Name of title	17.4.080	Applicability of zoning regulations to public entities
17.4.020	Authority		
17.4.030	General intent	17.4.090	No defense to nuisance action
17.4.040	Legislative findings	17.4.100	Incorporation by reference
17.4.050	Purpose	17.4.110	Citations
17.4.060	Compliance	17.4.120	Severability
17.4.070	Relationship of this Title to other regulations		

17.4.010 Name of title

This Title shall be known as the "Land Development Code" and may be referred to herein as "this Title".

17.4.020 Authority

The regulations contained in this Title are specifically authorized by Montana State statute or are adopted consistent with the City's police powers as authorized in State law.

17.4.030 General intent

This Title has been adopted to implement the City's growth policy, river corridor plan, neighborhood plans as may be adopted, the City's transportation plan, and any other land use planning documents that may be duly adopted from time to time.

17.4.040 Legislative findings

A. General findings. The City Commission makes the following findings:

1. Pursuant to 76-1-601, MCA, the Great Falls City-County Planning Board recommended the adoption of a growth policy by the City Commission
2. Pursuant to 76-1-604, MCA, the City Commission adopted the growth policy
3. The City Commission has adopted a river corridor plan
4. This Title is consistent with and furthers the intent of the growth policy and river corridor plan
5. The legislative, administrative, and enforcement bodies may not permit or otherwise allow any development to occur that is not in compliance with this Title

B. Specific findings. Specific findings are included in the various chapters, articles, and sections as appropriate.

17.4.050 Purpose

A. General purpose. This Title is established to promote the public health, safety, and welfare and is intended to accomplish the following purposes:

1. implement the goals, objectives, and policies of the growth policy
2. ensure that all development is guided by and gives consideration to the growth policy
3. establish a comprehensive compendium of regulations that controls the use or development of land within the City
4. provide for clear, consistent standards, regulations, and procedures for the review and approval of all proposed development within the City
5. address the substantive findings as contained in this Title
6. safeguard the public health, safety, and general welfare by establishing minimum standards for design and development

B. Specific purposes. Specific purposes are included in the various chapters, articles, and sections as appropriate.

17.4.060 Compliance

- A. Generally. Except as specifically provided, the provisions of this Title shall apply to all development within the City, and no development shall be undertaken without the prior authorizations required by this Title.
- B. Previously granted permits, an exception. When a permit has been issued in accordance with the law prior to the effective date of this Title, or amendment thereto, it shall be valid for one year from date of issuance, even if it authorizes an action that is not allowed under this Title, or amendment. If the action, as authorized by the permit, does not commence within that time period and continue in good faith to completion, said permit shall lapse and be null and void.
- C. Establishment of a use, structure or building not requiring authorization, an exception. If prior to the adoption of this Title, or amendment thereto, a use, structure, or building is actively being established that did not require a permit or authorization, said work may continue to completion even when the use, structure, or building requires a permit or other authorization under this Title, is being developed contrary to this Title, or is otherwise prohibited.

17.4.070 Relationship of this Title to other regulations

In addition to meeting the regulations contained in this Title, development shall comply with all applicable regulations of federal and State agencies. In all cases, the strictest of the applicable provisions shall apply. **No use of land shall be permitted by right or conditionally permitted within the City of Great Falls that is in violation of federal, state or local law.**

17.4.080 Applicability of zoning regulations to public entities

A State or local agency may develop public land contrary to the zoning regulations contained in this Title. However, the agency shall notify the Director of the Planning Department of its intent to do so and the Board of Adjustment shall hold a public hearing within 30 days of the date of such notice. The Board of Adjustment shall host the public hearing as a public forum for comment on the proposed use but shall have no power to deny the proposed use. (See 76-2-402, MCA) If a private developer develops land under contract for a State or local agency that is contrary to this Title, the property, including uses, buildings, and structures, shall conform to this Title when the State agency vacates the building.

17.4.090 No defense to nuisance action

Compliance with the standards and requirements contained in this Title shall not constitute an absolute defense to an action to abate a nuisance.

17.4.100 Incorporation by reference

The following, as may be amended from time to time, are incorporated into and made part of this Title by reference:

1. the official zoning map on file with the City Clerk
2. the flood insurance rate maps for Great Falls, as may be amended, having the revision date of February 15, 2002
3. "Storm Drainage Design Manual", dated June 1990
4. the City's street classification map, as maintained by the Planning Department
5. "Arboricultural and Standards and Specifications" as kept on file by the City Clerk

17.4.110 Citations

This Title is organized into chapters, articles and sections. When a chapter is divided into articles, a citation would be in the form of title.chapter.article.section (e.g., 17.8.2.230). When a chapter is not divided into articles, a citation would be in the form of title.chapter.section (e.g., 17.12.280).

17.4.120 Severability

If a court of competent jurisdiction finds that a part of this Title is invalid, the remaining sections shall continue in full force and effect.