

**ORDINANCE 3192**

**AN ORDINANCE AMENDING TITLE 17, CHAPTER 16, ARTICLE 2, SECTION 050 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF), PERTAINING TO BURDEN OF PROOF**

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**WHEREAS**, OCCGF § 17.16.050 specifies what party bears the burden of proof in Land Use application decisions and Board of Adjustment appeal proceedings; and

**WHEREAS**, when an administrative unit or department decision is appealed to the Great Falls Board of Adjustment, the administrative unit or department bears the burden of proof that such decision is correct; and

**WHEREAS**, the City Commission wishes to require the applicant or individual appealing such a decision to bear the burden of proof that the administrative unit or department decision should be modified or reversed.

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

Section 1. Title 17, Chapter 16, Article 2, Section 050, of the OCCGF pertaining to burden of proof shall be amended as depicted by Exhibit "A", attached hereto, which removes any language indicated by a ~~strike-out~~ and adds any language which is **bolded**; and,

Section 2: This ordinance shall be in full force and effect thirty (30) days after second reading and final adoption by the City Commission.

APPROVED by the City Commission on first reading September 4, 2018.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading September 18, 2018.

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

ATTEST:

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Lisa Kunz, 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, 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 3192 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)

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Lisa Kunz, City Clerk

Exhibit "A" (Updated from First Reading)

Title 17 LAND DEVELOPMENT CODE

Chapter 16 – ADMINISTRATIVE AND ENFORCEMENT PROCEDURES

Article 2 - GENERALLY

**17.16.2.050 Burden of proof.**

- A. ~~During application process.~~ During the application processes, the applicant has the burden of proof to show that the proposed **action or** development is consistent with ~~this Title.~~ **the Official Code of the City of Great Falls (OCCGF).**
- B. ~~During appeal of an administrative decision.~~ In instances where an applicant **or individual** appeals an administrative decision to the Board of Adjustment, the ~~administrative unit or department making said decision~~ **applicant or individual** has the burden of proof to show that the **administrative unit or department** decision is ~~consistent~~ **inconsistent with this Title. the OCCGF, should be reversed, and/or how it should be modified.**
- C. ~~During enforcement proceedings.~~ During enforcement proceedings, the administrative unit or department taking enforcement action has the burden of proof to show that the action or development is in violation of ~~this Title~~ **the OCCGF.**