

ORDINANCE 3194

AN ORDINANCE AMENDING TITLE 17 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF): RESERVING CHAPTERS 1 THROUGH 3; AND, REPEALING AND REPLACING CHAPTER 4 PERTAINING TO GENERAL PROVISIONS OF THE LAND DEVELOPMENT CODE

* * * * *

WHEREAS, the City Commission established Title 17 of the OCCGF outlining provisions pertaining to and known as the Land Development Code; and

WHEREAS, the City Commission wishes to establish and reserve Chapters 1 through 3 of OCCGF Title 17; and

WHEREAS, the City Commission has recognized deficiencies throughout OCCGF Title 17, Chapter 4, including but not limited to, typographical, grammatical, formatting, and referencing deficiencies; and

WHEREAS, the City Commission wishes to cure the deficiencies and make substantive amendments to OCCGF Title 17, Chapter 4, as well as to establish consistency within the OCCGF and, where applicable, the Montana Code Annotated; and

WHEREAS, at its regularly scheduled January 8, 2019, meeting, the Great Falls Planning Advisory Board voted to recommend that the City Commission adopt Ordinance 3194.

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

Section 1. OCCGF Title 17, Chapters 1-3 are hereby established and reserved;

Section 2. OCCGF Title 17, Chapter 4 is hereby repealed and replaced as depicted in Exhibit "A" attached hereto and by reference incorporated herein, with deleted language identified by ~~strikeout~~ and inserted language **bolded**; and

Section 3. This ordinance shall be in full force and effect thirty (30) days after second reading and final adoption by the City Commission.

ACCEPTED by the City Commission of the City of Great Falls, Montana on first reading February 19, 2019.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading March 5, 2019.

Bob Kelly, Mayor

ATTEST:

(CITY SEAL)

Darcy Dea, Deputy City Clerk

APPROVED FOR LEGAL CONTENT:

Sara R. Sexe, City Attorney

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

I, Darcy Dea, Deputy City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3194 on the Great Falls Civic Center posting board and the Great Falls City website.

Darcy Dea, Deputy City Clerk

(CITY SEAL)

Chapter 1 RESERVED

Chapter 2 RESERVED

Chapter 3 RESERVED

Chapter 4 GENERAL PROVISIONS

Sections:

~~17.4.010 Name of title.~~

~~17.4.020 Authority.~~

~~17.4.030 General intent.~~

~~17.4.040 Legislative findings.~~

~~17.4.050 Purpose.~~

~~17.4.060 Compliance.~~

~~17.4.070 Relationship of this Title to other regulations.~~

~~17.4.080 Applicability of zoning regulations to public entities.~~

~~17.4.090 No defense to nuisance action.~~

~~17.4.100 Incorporation by reference.~~

~~17.4.110 Citations.~~

~~17.4.120 Severability.~~

17.4.010 Name of title.

17.4.020 Authority.

17.4.030 General intent.

17.4.040 Legislative findings.

17.4.050 Purpose.

17.4.060 Compliance.

17.4.070 Relationship of this Title to other regulations.

17.4.080 Applicability of zoning regulations to public entities.

17.4.090 No defense to other OCCGF violation.

17.4.100 Severability.

Exhibit "A"

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 ~~the Montana State statute~~ **Code Annotated** or are adopted consistent with the City's ~~police~~ powers as authorized in ~~State by~~ law.

17.4.030 General intent.

This Title has been adopted to implement the City's ~~growth policy~~ **Growth Policy**, ~~river corridor plan~~ **River Corridor Plan**, neighborhood plans as may be adopted, the City's ~~transportation plan~~ **Urban Area Transportation Plan**, **Missouri River Corridor Plan**, **Downtown 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 **Mont. Code Ann. § 76-1-601**, ~~MCA~~, the Great Falls ~~City-County~~ Planning **Advisory** Board recommended the adoption of a ~~growth policy~~ **Growth Policy** by the City Commission;
2. Pursuant to **Mont. Code Ann. § 76-1-604**, ~~MCA~~, the City Commission adopted the growth policy;
3. The City Commission has adopted a ~~river corridor plan~~ **River Corridor Plan**;
4. This Title is consistent with and furthers the intent of the ~~growth policy~~ **Growth Policy** and ~~river corridor plan~~ **River Corridor Plan**; and
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 **of this Title** as appropriate.

17.4.050 Purpose.

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

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

Exhibit "A"

- ~~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, **or otherwise in conflict with State or Federal laws or regulations**, the provisions of this Title shall apply to all development within the **incorporated City limits**, and no development shall be undertaken without the prior authorizations required by this Title.
- ~~B. **Previously granted permits, an exception.**~~ **B.** 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 (1) 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 **in the discretion of the Planning and Community Development Director** 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~~ **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 **incorporated City of Great Falls limits** that is in violation of ~~federal, state~~ **Federal, State**, or local law.

~~(Ord. No. 3054, § 1, 6-1-2010)~~

17.4.080 Applicability of zoning regulations to public entities.

- A. **Pursuant to Mont. Code Ann. §76-2-402**, A a State or local agency may develop public land for use contrary to the zoning regulations ~~contained in this Title~~ **set forth in Chapter 20 of this Title** restricting:
1. **The height, number of stories, and size of buildings and other structures;**
 2. **The percentage of lot that may be occupied;**
 3. **The size of yards, courts, and other open spaces;**
 4. **The density of population; and**
 5. **The location and use of buildings, structures, and land for trade, industry, residence, or other purposes.**
- B. However, the agency shall notify the Director of the Planning and Community Development Department of its intent to do so and the Board of Adjustment shall hold a public hearing within thirty (30) days of the date of such notice. The Board of Adjustment

Exhibit "A"

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~~)

- C. If a private developer develops land ~~under contract~~ for a State or local agency ~~use, 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~~ **all development shall conform to the provisions of this Title.**
- D. **The development of public land for use contrary to the allowable uses within the particular zoning district shall conform to all other development and property maintenance standards provided by the Official Code of the City of Great Falls (OCCGF).**

(~~Ord. No. 3056, § 1, 8-17-2010~~)

17.4.090 No defense to ~~nuisance action~~ other OCCGF violation.

Compliance with the standards and requirements contained in this Title shall not constitute an absolute defense to an action to abate a ~~nuisance~~ **Nuisance pursuant to the Official Code of the City of Great Falls (OCCGF) Title 8, Chapter 49, a specific violation of the OCCGF, or a Criminal Public Nuisance action pursuant to OCCGF Title 8, Chapter 50.**

~~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 and Community Development Department.~~
- ~~5. "Arboricultural and Standards and Specifications" as kept on file by the City Clerk.~~

(~~Ord. No. 3056, § 1, 8-17-2010~~)

~~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).~~

17.1.1200 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.

Chapter 1 RESERVED

Chapter 2 RESERVED

Chapter 3 RESERVED

Chapter 4 GENERAL PROVISIONS

Sections:

17.4.010 Name of title.

17.4.020 Authority.

17.4.030 General intent.

17.4.040 Legislative findings.

17.4.050 Purpose.

17.4.060 Compliance.

17.4.070 Relationship of this Title to other regulations.

17.4.080 Applicability of zoning regulations to public entities.

17.4.090 No defense to other OCCGF violation.

17.4.100 Severability.

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 the Montana Code Annotated or are adopted consistent with the City's powers as authorized by 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 Urban Area Transportation Plan, Medical District Master Plan, Missouri River Corridor Plan, Downtown Transportation Plan, and any other land planning documents that may be duly adopted.

Exhibit "B"

17.4.040 Legislative findings.

- A. The City Commission makes the following findings:
 - 1. Pursuant to Mont. Code Ann. § 76-1-601, the Great Falls Planning Advisory Board recommended the adoption of a Growth Policy by the City Commission;
 - 2. Pursuant to Mont. Code Ann. § 76-1-604, 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; and
 - 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 are included in the various chapters, articles, and sections of this Title as appropriate.

17.4.050 Purpose.

- A. This Title is established to promote the public health, safety, and welfare and is intended to accomplish the following general 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; and
 - 6. Safeguard the public health, safety, and general welfare by establishing minimum standards for design and development.
- B. Specific purposes are included in the various chapters, articles, and sections as appropriate.

17.4.060 Compliance.

- A. Except as specifically provided, or otherwise in conflict with State or Federal laws or regulations, the provisions of this Title shall apply to all development within the incorporated City limits, and no development shall be undertaken without the prior authorizations required by this Title.
- B. 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 (1) year from date of issuance. If the action, as authorized by the permit, does not commence within that time period and in the discretion of the Planning and Community Development Director continue in good faith to completion, said permit shall lapse and be null and void.
- C. 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

Exhibit "B"

continue to completion even when the use, structure, or building requires a permit or other authorization under this Title.

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 incorporated City limits that is in violation of Federal, State, or local law.

17.4.080 Applicability of zoning regulations to public entities.

- A. Pursuant to Mont. Code Ann. §76-2-402, a State or local agency may develop public land for use contrary zoning regulations set forth in Chapter 20 of this Title restricting:
 - 1. The height, number of stories, and size of buildings and other structures;
 - 2. The percentage of lot that may be occupied;
 - 3. The size of yards, courts, and other open spaces;
 - 4. The density of population; and
 - 5. The location and use of buildings, structures, and land for trade, industry, residence, or other purposes.
- B. However, the agency shall notify the Director of the Planning and Community Development Department of its intent to Contrary to zoning regulations and the Board of Adjustment shall hold a public hearing within thirty (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.
- C. If a private developer develops land for a State or local agency use, all development shall conform to the provisions of this Title.
- D. The development of public land for use contrary to the allowable uses within the particular zoning district shall conform to all other development and property maintenance standards provided by the Official Code of the City of Great Falls (OCCGF).

17.4.090 No defense to other OCCGF violation.

Compliance with the standards and requirements contained in this Title shall not constitute an absolute defense to an action to abate a Nuisance pursuant to the Official Code of the City of Great Falls (OCCGF) Title 8, Chapter 49, a specific violation of the OCCGF, or a Criminal Public Nuisance action pursuant to OCCGF Title 8, Chapter 50.

17.4.100 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.