

ORDINANCE 3198

AN ORDINANCE AMENDING TITLE 17, CHAPTER 16, ARTICLE 6, OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF), PERTAINING TO PUBLIC HEARINGS.

* * * * *

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

WHEREAS, Title 17, Chapter 16, Article 6, contains the OCCGF provisions pertaining to the procedure for conducting public hearings; and

WHEREAS, the City Commission wishes to amend the procedure for the conducting of public hearings by all City Commissions, Boards, Councils and Committees; and

WHEREAS, the City Commission wishes to create consistency in procedure while still protecting citizens' rights to due process; and

WHEREAS, at its regularly scheduled March 12, 2019, meeting, the Great Falls Planning Advisory Board voted to recommend that the City Commission adopt Ordinance 3198.

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

Section 1. OCCGF Title 17, Chapter 16, Article 6, pertaining to public hearings is hereby amended as depicted by Exhibit "A" attached hereto and by reference incorporated herein with deleted language identified by ~~strikeout~~ and inserted language **bolded**; and

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

ACCEPTED by the City Commission of the City of Great Falls, Montana on first reading April 2, 2019.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading April 16, 2019.

Bob Kelly, Mayor

ATTEST:

(CITY SEAL)

Lisa Kunz, City Clerk

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 3198 on the Great Falls Civic Center posting board and the Great Falls City website.

Lisa Kunz, City Clerk

(CITY SEAL)

Exhibit "A"

Title 17 LAND DEVELOPMENT CODE

Article 6 PUBLIC HEARINGS

Sections:

~~17.16.6.010 Legislative findings.~~

~~17.16.6.020 General requirements.~~

~~17.16.6.030 Procedure.~~

~~17.16.6.040 Continuances.~~

~~17.16.6.050 Public comment.~~

17.16.6.010 Legislative findings.

17.16.6.020 General requirements.

17.16.6.030 Procedure.

17.16.6.040 Additional Public Hearing in Subdivision Applications.

17.16.6.050 Continuances and Additional Hearings.

17.16.6.060 Public comment.

17.16.6.010 Legislative findings.

The City Commission makes the following findings:

- 1.—**A.** Public hearings should be conducted in an orderly, timely, and efficient manner; **and**
- 2.—**B.** Public ~~input~~ **participation** is important and should be encouraged.

(Ord. 3198, 2019; Ord. 2923, 2005)

17.16.6.020 General requirements.

- A.—~~Meetings to be public.~~ All public hearings shall be conducted in a place that is open to the public.
- B.—~~Notice of meetings.~~ **B.** Notice of public hearings shall be given as provided for in Article 4 of this chapter **Chapter and/or in accordance with other applicable laws and regulations.**
- C.—~~Minutes.~~ The body conducting the hearing shall keep minutes ~~of the proceedings,~~ **indicating in compliance with Mont. Code Ann. §2-3-212.**
- D. **All public hearings pertaining to land use and development shall be conducted pursuant to the provisions of this Article.**
- E. **To allow public access to the attendance of each member, and the vote of each member on each question. The applicant's materials:**

Exhibit "A"

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1. ~~must be submitted to the appropriate body conducting the hearing shall approve the minutes, and upon approval shall become part~~ **liaison in advance of the posting of the meeting agenda for the public, but**
 2. **if after receipt of the staff agenda report, an applicant has additional materials for electronic viewing at the meeting, those materials must be provided to the appropriate body liaison no less than 72 hours prior to the meeting.**
- F. ~~Members of the public record~~ **are encouraged to submit written information prior to the public hearing.**

(Ord. 3198, 2019; Ord. 2923, 2005)

17.16.6.030 Procedure.

The body conducting the public hearing shall follow the following general procedure:

- 1.—**A.** The presiding officer shall announce the purpose and subject of, **and open**, the public hearing;
- 2.—**B.** The presiding officer shall ask the staff to present a staff report, ~~if required~~ **on the matter at issue;**
- 3.—**C.** ~~The presiding officer shall allow the applicant (either directly or through a representative) to provide a presentation. The applicant's presentation at the hearing is limited to ten minutes, subject to extension at the discretion of the presiding officer with the concurrence of the body;~~
- D.** The body conducting the public hearing may adopt optional processes to allow for public questions for the purposes of understanding and clarification. If such processes are adopted, before requesting comments from proponents or opponents, the presiding officer will call for questions from the public, which will be accepted and answered in the following manner:
 1. **All questions from the public shall be directed to the presiding officer; and**
 2. **After all questions have been presented to the presiding officer, the officer shall close the question period and request that the staff and/or the applicant provide responses to the questions;**
- E.** Members of the body conducting the public hearing may **then** direct questions to ~~both the applicant and staff, if present~~ **staff and/or to the applicant for the purposes of understanding and clarification of issues regarding the application;**
- 4.—**F.** **No member of the body or public shall express, or engage in, substantive opinions or discussion during the question periods;**
- G.** The presiding officer shall ask for ~~statements~~ **comments, not questions**, from the public who are in favor of the application;
- 5.—**H.** The presiding officer shall ask for ~~statements~~ **comments, not questions**, from the public who oppose the application;
- 6.—**I.** ~~The presiding officer shall call for discussion of the members of the body conducting the public hearing during which time they may ask questions of the applicant and staff, if present. 7. The presiding officer shall ask the applicant if he/she wishes to (1) respond to any comment made by an individual during the proceeding; (2) submit additional~~

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information; ~~(3)~~ and/or amend **respond to any comment made during the question or public comment periods. The applicant's submission or response is limited to five minutes, subject to extension at the discretion of the presiding officer with the concurrence of the body;**

- J. **The presiding officer shall close the public hearing;**
- K. **The presiding officer shall call for a motion regarding the application-**
- ~~8. Following discussion, a motion to approve or deny the application or a, and after the motion to recommend approval or denial, as appropriate, shall be made and is seconded-, the presiding officer shall call for discussion from the members of the body; and~~
- L. **After the discussion by the members of the body, the presiding officer shall call for a vote.**

(Ord. 3198, 2019; Ord. 2923, 2005)

17.16.6.040 Additional Public Hearing in Subdivision Applications.

In subdivision applications, before a motion to approve, deny, amend, or otherwise regarding an application, the body shall determine, under the provisions of Mont. Code Ann. §76-3-615(2)(b), whether the public comments or documents presented during the public hearing constitute new information which has not been previously submitted for public examination and comment.

- A. **If the body determines that new information at the hearing meets the terms of Mont. Code Ann. §76-3-615(2)(b), the body may:**
 - 1. **Approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information if the governing body determines that the new information is either irrelevant or not credible; or**
 - 2. **Schedule, or direct City staff to schedule, a subsequent public hearing for consideration of only the new information that may impact the findings and conclusions that the body will rely upon in making its decision.**
- B. **An additional public hearing set according to this process, suspends the time requirements for final decision during the time between the original and the subsequent public hearings.**

(Ord. 3198, 2019; Ord. 2923, 2005)

17.16.6.050 Continuances, Additional Comment and Public Comment.

- ~~A. —Initiation—~~ **The applicant or applicant's representative may request a continuance during the proceedings and the body conducting the public hearing may agree to grant the continuance upon a showing of good cause. Likewise, the body conducting the public hearing may ask the applicant for a**
- B. **A public hearing which has been formally closed may not be reopened. If after a public hearing has been closed, a seconded motion substantially deviates from the publicly noticed suggested motion, the presiding officer may offer an opportunity for additional public comment on the motion before final action;**
- C. **The body, upon motion and vote, may call for an additional public hearing, if the body determines that new, relevant and credible information has been presented**

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during the public hearing which the public and/or the body has not had a reasonable opportunity to comment upon and/or to consider.

- D. ~~A granted~~ continuance, ~~who is not under compulsion to grant such continuance.~~
Effect. ~~A continuance stops the time clock for making a decision.~~ **or an additional public hearing suspends any time requirements for final decision during the time between the original and the subsequent public hearings.**

(Ord. 3198, 2019; Ord. 2923, 2005)

~~17.16.6.050060~~ **Public comment.**

A. ~~Time limitations on public comment.~~ **If limits are not previously established by the body, the** presiding officer may impose time limits on ~~each individual members of the public who wishes~~ **wish** to speak to assure completion of the agenda in a timely manner.

B. ~~Written comment.~~ **B.** Members of the public may submit written statements to the body conducting the public hearing **prior to the body taking final action on the item.**

(Ord. 3198, 2019; Ord. 2923, 2005)

Exhibit "B"

Title 17 LAND DEVELOPMENT CODE

Article 6 PUBLIC HEARINGS

Sections:

- 17.16.6.010 Legislative findings.
- 17.16.6.020 General requirements.
- 17.16.6.030 Procedure.
- 17.16.6.040 Additional Public Hearing in Subdivision Applications.
- 17.16.6.050 Continuances and Additional Hearings.
- 17.16.6.060 Public comment.

17.16.6.010 Legislative findings.

The City Commission makes the following findings:

- A. Public hearings should be conducted in an orderly, timely, and efficient manner; and
- B. Public participation is important and should be encouraged.

(Ord. 3198, 2019; Ord. 2923, 2005)

17.16.6.020 General requirements.

- A. All public hearings shall be conducted in a place that is open to the public.
- B. Notice of public hearings shall be given as provided for in Article 4 of this Chapter and/or in accordance with other applicable laws and regulations.
- C. The body conducting the hearing shall keep minutes in compliance with Mont. Code Ann. §2-3-212.
- D. All public hearings pertaining to land use and development shall be conducted pursuant to the provisions of this Article.
- E. To allow public access to the application materials, the applicant's materials:
 - 1. must be submitted to the appropriate body liaison in advance of the posting of the meeting agenda for the public, but
 - 2. if after receipt of the staff agenda report, an applicant has additional materials for electronic viewing at the meeting, those materials must be provided to the appropriate body liaison no less than 72 hours prior to the meeting.
- F. Members of the public are encouraged to submit written information prior to the public hearing.

(Ord. 3198, 2019; Ord. 2923, 2005)

Exhibit "B"

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17.16.6.030 Procedure.

The body conducting the public hearing shall follow the following general procedure:

- A. The presiding officer shall announce the purpose and subject of, and open, the public hearing;
- B. The presiding officer shall ask the staff to present a staff report on the matter at issue;
- C. The presiding officer shall allow the applicant (either directly or through a representative) to provide a presentation. The applicant's presentation at the hearing is limited to ten minutes, subject to extension at the discretion of the presiding officer with the concurrence of the body;
- D. The body conducting the public hearing may adopt optional processes to allow for public questions for the purposes of understanding and clarification. If such processes are adopted, before requesting comments from proponents or opponents, the presiding officer will call for questions from the public, which will be accepted and answered in the following manner:
 - 1. All questions from the public shall be directed to the presiding officer; and
 - 2. After all questions have been presented to the presiding officer, the officer shall close the question period and request that the staff and/or the applicant provide responses to the questions;
- E. Members of the body conducting the public hearing may then direct questions to staff and/or to the applicant for the purposes of understanding and clarification of issues regarding the application;
- F. No member of the body or public shall express, or engage in, substantive opinions or discussion during the question periods;
- G. The presiding officer shall ask for comments, not questions, from the public who are in favor of the application;
- H. The presiding officer shall ask for comments, not questions, from the public who oppose the application;
- I. The presiding officer shall ask the applicant if the applicant wishes to submit additional information and/or respond to any comment made during the question or public comment periods. The applicant's submission or response is limited to five minutes, subject to extension at the discretion of the presiding officer with the concurrence of the body;
- J. The presiding officer shall close the public hearing;
- K. The presiding officer shall call for a motion regarding the application, and after the motion is seconded, the presiding officer shall call for discussion from the members of the body;
and
- L. After the discussion by the members of the body, the presiding officer shall call for a vote.

(Ord. 3198, 2019; Ord. 2923, 2005)

17.16.6.040 Additional Public Hearing in Subdivision Applications.

In subdivision applications, before a motion to approve, deny, amend, or otherwise regarding an application, the body shall determine, under the provisions of Mont. Code Ann. §76-3-615(2)(b), whether

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the public comments or documents presented during the public hearing constitute new information which has not been previously submitted for public examination and comment.

- A. If the body determines that new information at the hearing meets the terms of Mont. Code Ann. §76-3-615(2)(b), the body may:
 - 1. Approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information if the governing body determines that the new information is either irrelevant or not credible; or
 - 2. Schedule, or direct City staff to schedule, a subsequent public hearing for consideration of only the new information that may impact the findings and conclusions that the body will rely upon in making its decision.
- B. An additional public hearing set according to this process, suspends the time requirements for final decision during the time between the original and the subsequent public hearings.

(Ord. 3198, 2019; Ord. 2923, 2005)

17.16.6.050 Continuances, Additional Comment and Public Comment.

- A. The applicant or applicant's representative may request a continuance during the proceedings and the body conducting the public hearing may grant the continuance upon a showing of good cause.
- B. A public hearing which has been formally closed may not be reopened. If after a public hearing has been closed, a seconded motion substantially deviates from the publicly noticed suggested motion, the presiding officer may offer an opportunity for additional public comment on the motion before final action;
- C. The body, upon motion and vote, may call for an additional public hearing, if the body determines that new, relevant and credible information has been presented during the public hearing which the public and/or the body has not had a reasonable opportunity to comment upon and/or to consider.
- D. A granted continuance or an additional public hearing suspends any time requirements for final decision during the time between the original and the subsequent public hearings.

(Ord. 3198, 2019; Ord. 2923, 2005)

17.16.6.060 Public comment.

- A. If limits are not previously established by the body, the presiding officer may impose time limits on members of the public who wish to speak to assure completion of the agenda in a timely manner.
- B. Members of the public may submit written statements to the body conducting the public hearing prior to the body taking final action on the item.

(Ord. 3198, 2019; Ord. 2923, 2005)