

ORDINANCE 3219

AN ORDINANCE TO ASSIST IN REDUCING OR ELIMINATING LITIGATION RISK, TO TITLE 15 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF), PERTAINING TO BUILDINGS AND CONSTRUCTION

* * * * *

WHEREAS, the Planning and Community Development Department instituted a policy in 2008 that required geo-technical analysis and foundation design recommendations in order to obtain permits to construct new residential dwellings within the city limits; and

WHEREAS, even after the new testing policies were adopted, the development community has advised that it continues to experience costly litigation regarding foundations, other issues resulting from fatty or expansive clays, or other geo-technical issues, in soils throughout Great Falls; and

WHEREAS, local engineering firms indicated to City staff that they were not willing to perform residential geo-technical sampling, analysis and foundation design recommendations, indicating that the costs of litigation outweigh the benefit of providing such reports; and

WHEREAS, in an attempt to facilitate development, City staff worked with the development community to locate and work with other engineering firms licensed in the State of Montana to perform this service and determined that additional firms would be available to perform the service, with additional protections in the Official Code of the City of Great Falls (OCCGF); and

WHEREAS, the City Commission wishes to establish a new ordinance, which if adopted, would be incorporated into Title 15 of the OCCGF; and

WHEREAS, the Planning and Community Development Department recommended that the City Commission adopt Ordinance 3219 at its first reading on June 16, 2020.

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

Section 1. OCCGF Title 15, is hereby amended as depicted by Exhibit "A" attached hereto and by reference incorporated herein, with inserted language **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.

ACCEPTED by the City Commission of the City of Great Falls, Montana on first reading June 16, 2020.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading July 7, 2020.

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 3219 on the Great Falls Civic Center posting board and the Great Falls City website.

Darcy Dea, Deputy City Clerk

(CITY SEAL)

Title 15 BUILDINGS AND CONSTRUCTION [11](#)

Chapter

Chapter 1 - CODE ADOPTION

Chapter 2 - MOBILE HOMES

Chapter 3 - INTERNATIONAL ENERGY CONSERVATION CODE

Chapter 4 - INTERNATIONAL EXISTING BUILDING CODE

Chapter 5 - MECHANICAL CODE

Chapter 6 - PLUMBING CODE

Chapter 7 - INTERNATIONAL FUEL GAS CODE

Chapter 8 - ELECTRICAL CODE

Chapter 9 - FIRE CODE

Chapter 10 - SCREENING

Chapter 11 - DESIGN PROFESSIONALS

Chapter 12 - ~~APPLICABILITY~~ **GEOLOGIC HAZARDS**

Chapter 13 – APPLICABILITY

PROPOSED 06/16/20

Chapter 12 GEOLOGIC HAZARDS

Sections:

[15.12.010 Purpose and Intent.](#)

[15.12.020 Applicability and Exemptions.](#)

[15.12.030 Geologic Hazards Plan and Report.](#)

[15.12.040 Mitigation Measures.](#)

[15.12.050 Review Procedures.](#)

15.12.010 - Purpose and Intent.

1. Property within the City of Great Falls has areas that are susceptible to one or more geologic hazards occurring either on or affected by property which is proposed to be developed. A list of common geologic hazards found in Great Falls includes but is not limited to:
 - a. Expansive or unstable soils and/or rock;
 - b. Unstable or potentially unstable slopes;
 - c. Landslide or laterally unstable areas or potential landslide areas;
 - d. Flood inundation, debris flows, and debris fans;
 - e. Unstable fill;
 - f. Erosion and deposition areas, or highly erodible soils;
 - g. Rock fall;
 - h. Subsidence;
 - i. Shallow water tables;
 - j. Groundwater springs or seeps;
 - k. Flood-prone areas;
 - l. Collapsible soils;
 - m. Faults;
 - n. Uprturned or steeply dipping bedrock;
 - o. Radon;
 - p. Problems caused by features or conditions on adjacent properties; and
 - q. Other general geologic or site problems.
2. Geologic hazards can be interrelated, and evaluation of geologic hazards requires comprehensive review and analysis. Development within the City of Great Falls should consider geologic hazards and consult maps or other information to conduct initial review of site hazards prior to site development.
3. Recognition of these hazards must be acknowledged by those intending to develop property within the City of Great Falls, in order to allow those

developing property to minimize losses due to geologic conditions in the City, and to:

- a. Protect human life, safety, and property;
- b. Minimize damage to private property;
- c. Minimize damage to public facilities, infrastructure, and utilities;
- d. Provide flexible approaches to evaluating geologic hazards risk;
- e. Reduce the amount of effort and expenditures associated with response, cleanup, and repair following a geologic hazard event;
- f. Educate the public about the potential risks associated with geologic hazards in Great Falls;
- g. Require applicants who desire to develop property in the City to evaluate, mitigate as necessary, and be responsible for geologic hazards related to the property to be developed; and
- h. Require applicants to comply with requirements in the International Building Code and International Residential Code as applicable.

15.12.020 - Applicability and Exemptions.

1. **Applicability of Geologic Hazards Plan and Report.** Unless exempted under this chapter, the geologic hazards standards in this section shall apply to any of the following activities or scenarios:
 - a. Any building permit or property improvement permit for construction of a new building with a building footprint of two hundred (200) square feet or larger and that is located on a permanent foundation;
 - b. Any application or development activity requiring a grading permit;
 - c. Any of the following development application types:
 - i. Major Development Plans, defined as, commercial development including
 - i. mineral extraction, waste development, any development with a disturbed area of 1 acre or more; and/or
 - ii. Major or Minor Subdivisions as defined in Chapter 8 of Title 17.
 - d. Any application for development or redevelopment on any property with slopes exceeding seventeen (17) percent within the limits of disturbance.
2. The Planning and Community Development Director, may at the Director's discretion, have any geologic hazard evaluation reviewed by an independent qualified professional geologist or a qualified professional geotechnical engineer. This separate review shall supplement the Initial Site Evaluation, any Geologic Hazards Plan and Report, and the City's review, and will be considered by the City in making a final determination on the associated land developmental proposal. The cost of having an independent review and analysis of geological hazard evaluation reports shall be borne by the developer.
3. **Exemptions from Geologic Hazards Plan and Report.**

- a. **The following types of development activities are exempt from Geologic Hazards Evaluation in this section:**
 - i. **Fences;**
 - ii. **Residential garages and carports;**
 - iii. **Lighting;**
 - iv. **Booms;**
 - v. **Poles;**
 - vi. **Monument and Free Standing Pole Signs unless specifically recommended by the design engineer;**
 - vii. **Decorations;**
 - viii. **Machinery or equipment;**
 - ix. **Decorative or perimeter walls that do not serve to retain soil, unless supporting a load or other weight surcharge;**
 - x. **Any replat of a previous subdivision in which no new structures or new building lots are being created and no new development is proposed; and/or**
 - xi. **Sites with existing studies or reports that are 10 years or older shall be subject to the procedure herein to determine whether the existing study or report is sufficient for the proposed development application, or if changes in conditions warrant a new evaluation.**
- b. **An exemption from these standards does not exempt the applicant from liability and responsibility to evaluate and mitigate known geologic hazards on a site.**

15.12.030 - Geologic Hazards Plan and Report.

1. **The purpose of the Geologic Hazards Plan and Report is to:**
 - a. **Identify the geologic hazards affecting the development site;**
 - b. **Assess proposed development that could pose a more significant geologic hazard impact;**
 - c. **Analyze potential geologic hazard impacts the proposed development could have on surrounding properties or public facilities;**
 - d. **Identify appropriate mitigation measures that shall be employed to reduce or avoid the identified hazards to acceptable levels so that development may proceed;**
 - e. **Require on-site monitoring and assessment by a qualified professional geologist or a qualified professional geotechnical engineer during the project;**
 - f. **Recommend areas that are not suitable for the proposed development or that pose unacceptable risks for development; and**
 - g. **Include the requirements or reporting pursuant to the International Building Code and International Residential Code, as applicable.**
2. **Geologic Hazards Analysis. A Geologic Hazards Plan and Report, when required, shall be prepared by a qualified professional geologist, qualified**

professional geotechnical engineer, or a qualified professional structural engineer. The Geologic Hazards Plan and Report shall address the topics listed in this subsection, where applicable. The level of detail and emphasis may vary due to specific geologic conditions or hazard risks of the site or the scale and type of proposed development activity.

a. General Project Description and Certification.

i. A project description shall be included that presents the overall proposed project details including the size and location of the project and the existing and proposed land uses.

ii. The qualified professional geologist or qualified professional geotechnical engineer preparing or certifying the Plan and Report shall apply their professional seal and sign the Plan and Report.

b. Conclusions and Recommendations. The Geologic Hazard Plan and Report shall address the following:

i. Whether the intended use of the land is compatible with any identified or potential geologic hazards or constraints;

ii. The development of mitigation procedures or design changes necessary to minimize or abate any hazardous condition, if such mitigation or design change is possible. Each hazardous condition requires a recommendation, which may be a recommendation that the conditions are too severe to warrant development;

iii. The long-term stability and safety of the proposed project. Discuss the critical planning and construction aspects of the development, including the suitability of using irrigated landscaping, the stability of earth materials, the appropriateness of the proposed grading plans, the need for selective location of project facilities, and the static and dynamic parameters for the design of structures; as applicable;

iv. Include the reporting requirements in the International Building Code and International Residential Code, as applicable;

v. Identify that qualified professional geologist, qualified professional geotechnical engineer, and/or qualified professional special inspector approved by the Building Official which will be on site, monitoring, and assessing development to ensure compliance with conclusions, recommendations and mitigation measures; and

vi. Clearly state the geologic basis for all conclusions.

15.12.040 - Mitigation Measures.

In cases where geologic hazards are identified, appropriate mitigation measures shall be required in conjunction with the approval of the project, if approval is recommended. Such mitigation measures may include, but not limited to:

- 1. Changes to the proposed land use configuration;**
- 2. Changes to the location of proposed structures;**
- 3. Modification of land use types;**
- 4. Modification of lot boundaries or building envelopes;**
- 5. Special foundation designs and/or over-excavation;**
- 6. Mitigation of rock fall and/or debris flow;**
- 7. Grading, drainage, and erosion controls;**
- 8. Geotechnical engineering solutions; and**
- 9. Limitations on irrigated landscapes.**
- 10. Recommend areas that are not suitable for the proposed development or that pose unacceptable risks for development**

15.12.050 - Review Procedures.

- 1. The Geologic Hazard Plan and Report shall be reviewed by the Planning and Community Director and/or City Engineer or their designee as part of the review of the land development application. The City's review shall determine whether the findings, conclusions, and recommendations of the Geologic Hazard Plan and Report have been incorporated into the design of the Major or Minor Development Plan, Subdivision Plat, Drainage and Erosion Control Plan, Grading Plan, and public improvement construction drawings, or other required documents. If the city review determines that the submitted study is incomplete or fails to comply with the standards and requirements set forth in this section, the Planning and Community Development Director may require new or supplemental information.**
- 2. Recommendations of the Geologic Hazards Plan and Report shall be incorporated, as applicable, into the approval of the Major or Minor Development Plan, Subdivision Plat, Drainage and Erosion Control Plan, Grading Plan, public improvement construction drawings, and building construction plans.**
- 3. The qualified professional geologist, qualified professional geotechnical engineer, or qualified professional structural engineer preparing or certifying the Plan and Report shall review any on-site monitoring reports of the development to ensure compliance with the mitigation measures set forth in the Geologic Hazard Plan and Report.**

4. Before permanent foundation structures are placed in the development, the qualified professional engineer which prepared the Geologic Hazards Plan and Report must provide the Planning and Community Development Director with a letter of compliance with the Geologic Hazards Plan and Report and mitigation procedures.
5. Applicants who intend to develop property within the City of Great Falls assume liability and responsibility to evaluate for, and mitigate known, geologic hazards on their proposed development sites.
6. The assumption of liability in this Chapter shall be placed on development permit applications, permits, certificates of occupancy and other documents associated with the development, as determined by the Director of Planning and Community Development.

(Ord. 3219, 2020)

Chapter 1213 APPLICABILITY

Sections:

[15.4213.010 Applicability.](#)

[15.4213.020 Appeals.](#)

15.4213.010 Applicability.

OCCGF Title 15 is applicable to all buildings within the incorporated City limits of Great Falls, including but not limited to:

- A. Residential buildings, containing less than four (4) dwelling units or their attached-to structures;
- B. Any farm or ranch building; and
- C. Any private garage or private storage structure used only for the owner's own use as provided by Mont. Code Ann. § 50-60-102(1)(a).

(Ord. 3219, 2020; Ord. 3189, 2018).

15.4213.020 Appeals.

Appeals may be filed to any order, requirement, permit decision, refusal or determination of the Building Official or designee in accordance with OCCGF Title 17, Chapter 12, Article 5.

(Ord. 3219, 2020; Ord. 3189, 2018).

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