



Planning Advisory Board/Zoning Commission Agenda
2 Park Drive South, Great Falls, MT
City Commission Chambers
July 09, 2019
3:00 PM

OPENING MEETING

1. Call to Order 3:00 P.M.
2. Roll Call- Board Introductions
Peter Fontana- Chair
Michael Wedekind- Vice Chair
Dave Bertelsen
Kelly Buschmeyer
Anthony Houtz
Tory Mills
Charles Pankratz
Samantha Shinaberger
Patrick VanWorth
3. Recognition of Staff
4. Approval of Meeting Minutes- June 25, 2019

BOARD ACTIONS REQUIRING PUBLIC HEARING

5. Public Hearing – Annexation of a tract of land legally described as Tract 1 of Certificate of Survey #5142, Section 21, Township 20 North, Range 3 East, P.M.M., Cascade County, Montana and Tract 2 of Certificate of Survey #5142, Section 21, Township 20 North, Range 3 East, P.M.M., Cascade County, Montana; establishment of AI Airport Industrial zoning.

BOARD ACTIONS NOT REQUIRING PUBLIC HEARING

6. Ordinance 3205, “An Ordinance Amending Title 17 of the Official Code of the City of Great Falls (OCCGF): Reserving Chapters 9 Through 11; and, Repealing and Replacing Chapter 12 Pertaining to Administrative and Enforcement Bodies.”

COMMUNICATIONS

7. Next Meeting Agenda- Tuesday, July 23, 2019
-None
8. Petitions & Applications Received
-None

PUBLIC COMMENT

ADJOURNMENT

**MINUTES OF THE MEETING
OF THE
GREAT FALLS PLANNING ADVISORY BOARD/ZONING COMMISSION
June 25, 2019**

CALL TO ORDER

The regular meeting of the Great Falls Planning Advisory Board/Zoning Commission was called to order by Chair Pete Fontana at 3:00 p.m. in the Rainbow Room of the Civic Center.

ROLL CALL & ATTENDANCE

Planning Board Members present:

Pete Fontana, Chair
Michael Wedekind, Vice Chair
Dave Bertelsen
Kelly Buschmeyer
Anthony Houtz
Tory Mills
Charles Pankratz
Samantha Shinaberger
Patrick VanWorth

Planning Board Members absent:

None

Planning Staff Members present:

Craig Raymond, Director P&CD
Tom Micuda, Deputy Director P&CD
Andrew Finch, Sr. Transportation Planner
Connie Tryon, Sr. Admin Assistant

Other Staff present:

Joseph Cik, Assistant City Attorney

Mr. Raymond affirmed a quorum of the Board was present.

MINUTES

Chair Pete Fontana asked if there were any comments or corrections to the minutes of the meeting held on June 11, 2019. Seeing none, Mr. Pankratz moved to approve the minutes. Mr. Mills seconded, and all being in favor, the minutes were approved.

BOARD ACTIONS NOT REQUIRING PUBLIC HEARING

2018 Long Range Transportation Plan Minor Amendment #1

Andrew Finch, Senior Transportation Planner, gave a brief overview of transportation planning processes, and the Planning Advisory Board's role in the process. He said the Long Range Transportation Plan (LRTP) for Great Falls occasionally requires updating to ensure compliance with Federal or State procedures, processes or regulations. An amendment is being proposed to shift a project priority and add a Transit-related Performance Measure. Mr. Finch reviewed an overview of the changes as listed in the staff report, and recommended approval.

PUBLIC QUESTION AND ANSWER SESSION

Mr. Fontana asked if a reconstruction included all utilities on one of the project estimates in the LRTP. Mr. Finch said if they need to be done, they will. The cost estimate was based on a full reconstruct, which is costly.

There was clarification on the location of the Watson Coulee Rd. reconstruction project.

There was discussion on where utility easements were previously, compared to what is proposed. There was also discussion on the fiscal constraint tables and clarification on the estimates.

Mr. Mills asked if the Watson Coulee Rd. project addressed traffic signals. Mr. Mills expressed concern and the need for the signals, and Mr. Finch said he can initiate a conversation with the State to review the intersection for safety.

PUBLIC COMMENT

Shyla Patera, 1120 25th Ave NE, expressed desire for traffic calming measures in identified project areas, including the Watson Coulee project.

BOARD DISCUSSION AND ACTION

MOTION: That the Planning Advisory Board approve Amendment #1 to the 2018 Great Falls Area Long Range Transportation Plan, and recommend approval by the City Commission.

Made by: Mr. Bertelsen
Second: Mr. Wedekind

VOTE: All in favor, the motion carried.

FFY 2019-2023 Transportation Improvement Program Amendment #1

Mr. Finch said the Transportation Improvement Program (TIP) is essentially a five year, capital improvement program of transportation projects proposed for implementation. Occasionally, a minor modification of the TIP becomes necessary due to a change in project cost, a shift of project phase from one fiscal year to another, or addition of a new project. Mr. Finch briefly reviewed

major changes to the TIP, which are detailed in the staff report and attachments. He recommended approval of the TIP and offered to answer any questions.

PUBLIC COMMENT

Shyla Patera, 1120 25th Ave NE, said the projects proposed in the TIP Amendment are worthy projects, and encouraged including projects that take into consideration pedestrian and ADA facilities.

BOARD DISCUSSION AND ACTION

MOTION: That the Planning Advisory Board approve Amendment #1 to the 2019-2023 Transportation Improvement Program.

Made by: Mr. VanWorth

Second: Mr. Houtz

VOTE: All in favor, the motion carried.

COMMUNICATIONS

Next Meeting Agenda – Tuesday, July 9, 2019

- Ordinance 3205 Code Changes Title 17
- Love's Travel Stop Annexation and Zoning Request

Petitions & Applications Received:

- None

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

There being no further business, Chair Pete Fontana adjourned the meeting at 3:35 p.m.

CHAIRMAN

SECRETARY



Agenda #: 5
Commission Meeting Date: July 9, 2019

CITY OF GREAT FALLS
PLANNING ADVISORY BOARD / ZONING COMMISSION AGENDA REPORT

Item: Public Hearing – Annexation of a tract of land legally described as Tract 1 of Certificate of Survey #5142, Section 21, Township 20 North, Range 3 East, P.M.M., Cascade County, Montana and Tract 2 of Certificate of Survey #5142, Section 21, Township 20 North, Range 3 East, P.M.M., Cascade County, Montana; establishment of AI Airport Industrial zoning.

Initiated By: Love’s Travel Stop and Country Stores

Presented By: Brad Eatherly, Planner I, Planning and Community Development

Action Requested: Recommendation to the City Commission.

Public Hearing:

1. Chairman of the Board conducts public hearing, calling three times each for proponents and opponents.
2. Chairman of the Board closes public hearing and asks the will of the Board.

Suggested Motion:

1. Board Member moves:

- I. “I move that the Planning Advisory Board recommend the City Commission approve the (approve/deny) annexation of the subject properties as legally described in the staff report, the Draft Annexation and Improvement Agreement, and the accompanying Findings of Fact/Basis of Decision, subject to the Conditions of Approval being fulfilled by the applicants.”

And;

- II. “I move that the Zoning Commission recommend the City Commission (approve/deny) the establishment of AI Airport Industrial zoning for the subject properties as legally described in the staff report, and the accompanying Findings of Fact/Basis of Decision, subject to the Conditions of Approval being fulfilled by the applicant.”

2. Chairman calls for a second, discussion, and calls for the vote.

Background:

The applicant, Love’s Travel Stop and Country Stores, is requesting annexation and establishment of zoning in order to develop the subject properties to accommodate a Love’s Travel Stop and Country Store which includes a truck stop, convenience store, and possibly two fast food restaurants. The

properties are legally described as Tract 1 of Certificate of Survey #5142 and Tract 2 of Certificate of Survey #5142, and consists of 2.775 acres. The two parcels to be annexed will be a part of a development that will include two additional parcels already within the City limits that are owned by the Great Falls International Airport Authority.

Public Notice for the Planning Advisory Board/Zoning Commission Public Hearing was published in the *Great Falls Tribune* on June 30, 2019. Staff has received no correspondence regarding the project.

Annexation by Petition

The lots in the subject properties are outside the City limits and are bordered to the northwest by lots that are within the City limits. The applicant is requesting annexation of the two subject lots in order to develop the vacant parcels. The applicant of the subject property requires annexation because the development of the project cannot cross jurisdictional lines.

Water, sewer, and sanitary services are currently within or near the two Airport-owned parcels that are within the City limits that is to be part of the Love's development. Water services will not be needed for the two lots that are to be annexed. However, a public water main will need to be extended to service the development site. An existing sanitary service line that crosses the two Love's parcels to be annexed will be re-routed to accommodate the construction of the development.

The basis for a decision on annexation is listed in the Official Code of the City of Great Falls (OCCGF) § 17.16.7.050 of the Land Development Code. The recommendation of the Planning Advisory Board and the decision of City Commission shall at a minimum consider the criteria which are attached as Findings of Fact – Annexation.

Establishment of Zoning

The subject property to be annexed will be used to account for two of four total parcels in which a Love's Travel Stop and Country Store has been proposed to be constructed. The two subject properties to be annexed are proposed to have an AI Airport Industrial zoning designation assigned to them. This zoning designation was selected because it best fits with existing parcels within the City limits located to the northwest. Any future building construction or building additions will be governed under the standards of the AI zoning district.

The basis for decision on zoning map amendments is listed in OCCGF § 17.16.40.030. The recommendation of the Zoning Commission and decision of the City Commission shall at a minimum consider the criteria which are attached as Findings of Fact – Zoning Map Amendment.

Neighborhood Council Input:

All parcels designated AI Airport Industrial are not located in a Neighborhood Council district negating the need for Neighborhood Council input.

Concurrences:

Representatives from the City's Public Works, Legal, Fire, and Police Departments have been involved throughout the review process for this project. Any comments provided from these various departments have been incorporated into this report.

Fiscal Impact:

The cost of any improvements will be borne by the applicant per the agreed upon terms in the attached Annexation and Improvement Agreement. The annexation of the property will increase the City’s tax base.

Staff Recommendation:

Staff recommends approval of the annexation and assignment of AI Airport Industrial zoning request with conditions.

Conditions of Approval for Annexation:

1. General Code Compliance. The proposed project shall be developed consistent with the conditions in this report, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.

2. Annexation and Development Agreement. The applicant shall abide by the terms and conditions specified in the attached Annexation and Development Agreement for the subject properties. The Annexation and Development Agreement must be signed by the applicant and recorded with the Cascade County Clerk and Recorder’s Office.

Conditions of Approval for Establishment of Zoning:

1. Utilities. The extension and connection of on-site utilities for the subject properties shall be approved by the City Public Works Department.

2. Land Use & Zoning. The development standards and land uses for the subject properties shall be consistent with the Official Code of the City of Great Falls (OCCGF).

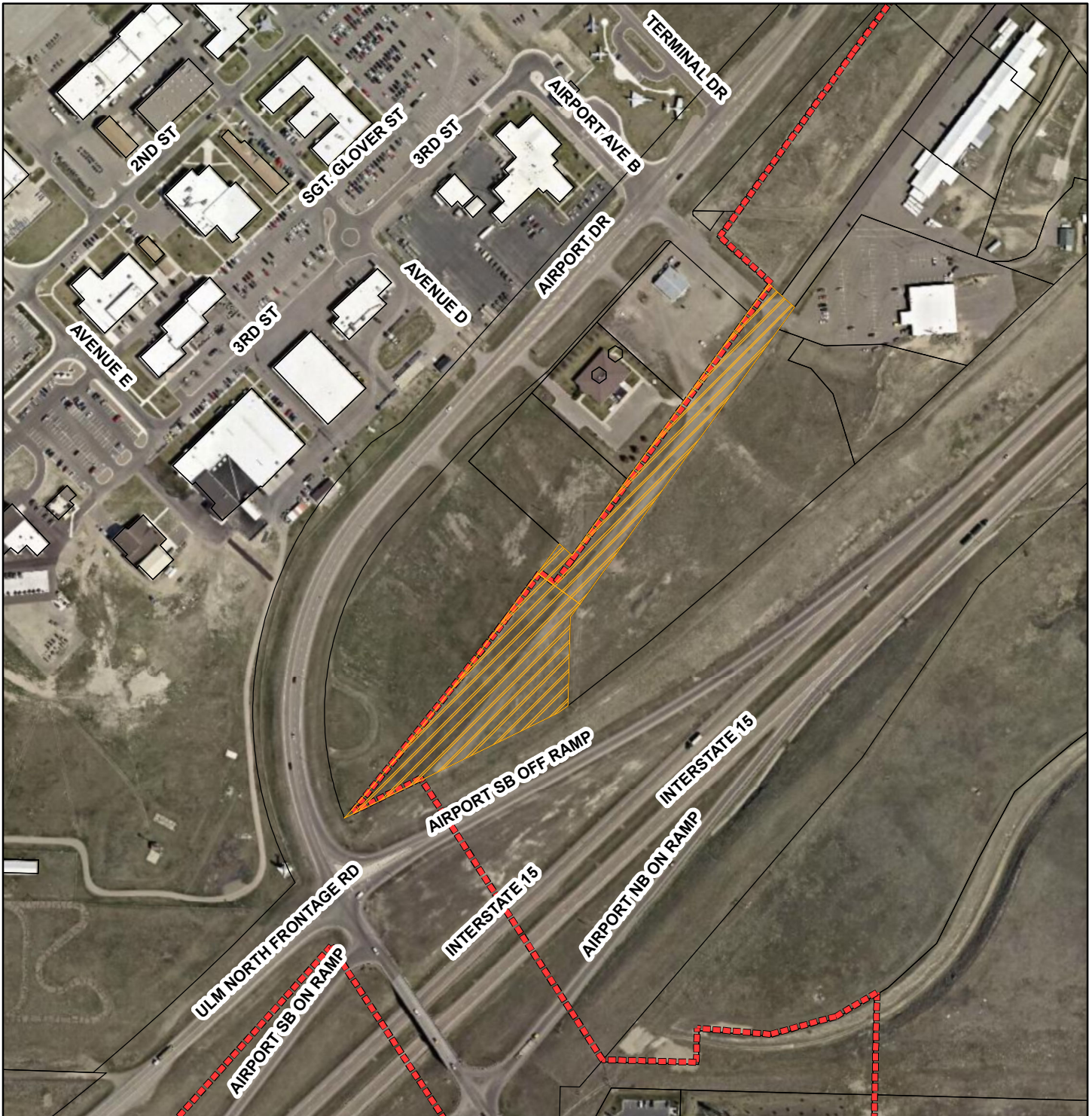
Alternatives:

The Planning/Advisory Board/Zoning Commission could recommend denial of the annexation and establishment of zoning to the City Commission. For these actions, Planning Advisory Board/Zoning Commission must provide alternative Findings of Fact/Basis of Decision for the denial of annexation and establishment of zoning.

Attachments/Exhibits:

- Aerial Map
- Zoning Map
- Findings of Fact/Basis of Decision – Annexation
- Findings of Fact/Basis of Decision – Zoning Map Amendment
- Draft Annexation and Development Agreement

AERIAL MAP



 Subject Properties

 City Limits

360 180 0 360 Feet

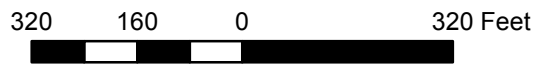


ZONING MAP



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

-  Subject Properties
-  PLI Public Lands and Institutional
-  AI Airport Industrial
-  Tracts of Land



FINDINGS OF FACT – ANNEXATION

Tract 1 of Certificate of Survey #5142, Section 21, T20N, R3E, PMM, Cascade County, Montana, and Tract 2 of Certificate of Survey #5142

PRIMARY REVIEW CRITERIA:

The basis for decision on annexation is listed in Official Code of the City of Great Falls §17.16.7.050 of the Land Development Code. The recommendation of the Planning Advisory Board and the decision of City Commission shall at a minimum consider the following criteria:

1. The subject property is contiguous to the existing City limits.

The subject property is contiguous to the existing City limits, with previously annexed property being present to the northwest of the proposed annexation area.

2. The proposed annexation is consistent with the City's growth policy.

The proposed annexation is consistent with the overall intent and purpose of the 2013 City Growth Policy Update. Additionally, the annexation specifically supports the following policies:

Phy4.2.5 Promote orderly development and the rational extension of infrastructure and City services.

Phy4.3.2 Plan for the provision of appropriate infrastructure improvements, where needed, to support development.

3. The proposed annexation is consistent with applicable neighborhood plans, if any.

Great Falls is separated into nine Neighborhood Councils. There are no adopted Neighborhood Plans for any of the Councils within the City. The subject properties are located in an area where no Neighborhood Councils exist.

4. The proposed annexation is consistent with other planning documents adopted by the City Commission, including a river corridor plan, transportation plan, and sub-area plans.

The subject properties are not located on any street but the properties will be connected to two parcels proposed for development. The two parcels currently existing within the City limits are on a minor arterial roadway. The City's Long Range Transportation Plan's Goals and Objectives supports the following policy:

Objective 5.1 Optimize the transportation system to meet the needs of the Great Falls international Airport, Malmstrom Air Force Base, Downtown Great Falls, employment centers, and industrial and commercial areas.

Additionally, the Annexation and Development Agreement calls for the future installation of a Shared Use Path along the Airport Drive right-of-way.

5. The City has, or will have, the capacity to provide public services to the subject property.

The City Public Works Department has verified that the capacity is adequate to provide these services. A full description of the various public services that will be provided to the development has been outlined in the agenda report as well as in the attached Annexation and Development Agreement.

The subject properties are bordered by City properties that are currently receiving law enforcement and fire protection services from the City of Great Falls. Providing these services to the proposed development is expected to be a manageable cost to the City.

6. The subject property has been or will be improved to City standards.

Any future improvements to the subject properties will comply with current City code requirements.

7. The owner(s) of the subject property will bear all of the cost of improving the property to City standards and or/ the owner(s) has signed an agreement waiving the right of protest to the creation of a special improvement district created to pay, in whole or in part, any necessary improvement.

An Annexation and Development Agreement for the property has been drafted outlining the responsibilities and costs for annexation requirements. This Agreement has been attached to the report. This Agreement addresses special improvement districts.

8. The subject property has been or will be surveyed and officially recorded with the County Clerk and Recorder.

The subject property has been surveyed and recorded prior to this petition. The certificate of survey for the subject properties is on file with the County Clerk and Recorder.

9. The City will provide both water and sewer service to each of the uses in the subject property that may require potable water and waste water treatment and disposal.

Public improvements for City water and City sewer services have been addressed fully in the agenda report as well as in the attached Annexation and Development Agreements.

10. The subject property is not located in an area the City Commission has designated as unsuitable for annexation.

The subject properties are not located in an area the City Commission has designated as unsuitable for annexation.

11. The subject property is not located in another city or town. (See: 7-2-4608 (1), MCA)

The subject properties are not located in another city or town.

12. The subject property is not used in whole or in part for agriculture, mining, smelting, refining, transportation, or any other industrial or manufacturing purpose or any purpose incidental thereto. (See: 7-2-4608 (2), MCA)

The subject properties are not used for the uses listed above. The properties are vacant parcels that rest in the County.

FINDINGS OF FACT/BASIS OF DECISION – ZONING MAP AMENDMENT

Tract 1 of Certificate of Survey #5142, Section 21, T20N, R3E, PMM, Cascade County, Montana, and Tract 2 of Certificate of Survey #5142

PRIMARY REVIEW CRITERIA:

The basis for decision on zoning map amendments is listed in the Official Code of the City of Great Falls §17.16.40.030 of the Land Development Code. The recommendation of the Zoning Commission and the decision of the City Commission shall at a minimum consider the following criteria:

1. The amendment is consistent with and furthers the intent of the City's growth policy.

The proposed annexation is consistent with the overall intent and purpose of the 2013 City Growth Policy Update. Additionally, the annexation specifically supports the following policies:

Phy4.2.5 Promote orderly development and the rational extension of infrastructure and City services.

Phy4.3.2 Plan for the provision of appropriate infrastructure improvements, where needed, to support development.

2. The amendment is consistent with and furthers adopted neighborhood plans, if any.

Great Falls is separated into nine Neighborhood Councils. There are no adopted Neighborhood Plans for any of the Councils within the City. The subject properties are located in an area where no Neighborhood Councils exist.

3. The amendment is consistent with other planning documents adopted by the City Commission, including a river corridor plan, transportation plan, and sub-area plans.

The subject properties do not lie within any adopted plan or sub-area planning areas. The proposed improvements for all proposed roads in the development are consistent with City transportation planning documents.

4. The code with the amendment is internally consistent.

The proposed establishment of zoning is not in conflict with any portion of the existing City Code and will be consistent with the adjacent zoning to the north and east. The proposal will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor substantially diminish and impair property values in the neighborhood.

5. The amendment is the least restrictive approach to address issues of public health, safety, and welfare.

There are no existing public health, safety or welfare issues that have been identified for these properties. Street and utility infrastructure have been proposed with consideration of the potential development possibilities of surrounding properties.

6. The City has or will have the financial and staffing capability to administer and enforce the amendment.

The City has the financial and staffing capability to enforce the amendment if it is approved. The zoning map amendment will only affect the subject properties and they will be developed in a manner consistent with the zoning for this area.

ANNEXATION AND DEVELOPMENT AGREEMENT

Between the City of Great Falls, the Great Falls International Airport Authority, and Love's Travel Stops & Country Stores, Inc. for the development of a Love's Travel Stop and Country Store.

The following is a binding Annexation and Development Agreement dated this _____ day of _____, 2019 (the "Agreement"), by, between and among Love's Travel Stops & Country Stores, Inc. ("Love's"), the Great Falls International Airport Authority, ("Airport"), and the City of Great Falls, Montana, a municipal corporation of the State of Montana ("City"), regarding the requirements for annexation and/or development of four tracts of land ("the Development"). The Airport Authority and Love's are collectively referred to herein as the "Owners." Two of such tracts are currently within the corporate limits of the City, are owned by the Airport and are legally described as 1) The NW ¼ and the NE ¼ of Section 21, Township 20 North, Range 3 East, Mark C, and 2) Lot 2, Section 21, Township 20, Range 3E, Airport Drive Minor Subdivision, P.M.M., Cascade County, Montana ("the Airport tracts"). Two of such tracts to be annexed into the corporate limits of the City are owned by, or will be acquired by, Love's and are legally described as 1) Tract 1 of Certificate of Survey #5142, Section 21, Township 20 North, Range 3 East ("Tract 1"); and 2) Tract 2 of Certificate of Survey #5142, Section 21, Township 20 North, Range 3 East ("Tract 2") ("Love's tracts"). The four tracts are hereinafter referred to collectively as the "Subject Properties". The plan of development is based upon Love's leasing of the Airport tracts to construct a travel stop. Except as otherwise provided in this Agreement, the Owners of the Subject Properties agree to, and are bound by, the provisions of this Agreement, and by signing this Agreement, therefore agree to terms applicable to the Subject Properties. The City is authorized to enter into this Agreement by §17.68.010-040 of the Official Code of the City of Great Falls ("OCCGF").

1. Purpose. The purpose of this Agreement is to ensure that certain improvements are made and certain conditions are fulfilled by Love's as it seeks to develop the Subject Properties, as required by the City's approval of the supporting documents. Generally, this Agreement:

1.1 Declares that Love's is aware of and has properly accounted for any natural conditions on the Subject Properties that may adversely affect the Development;

1.2 Insulates the Development from the impact of changes in the City's subdivision and zoning regulations, provided that no substantial changes in the Development are proposed;

1.3 Requires Love's to guarantee that the promised on-site improvements are made in a timely manner by providing the financial securities required by the OCCGF;

1.4 Provides for the inspection and warranty of the required on-site improvements before they are accepted for operation and maintenance by the City;

1.5 As to the Love's tracts only, waives protest and appeal by Love's and its successors against the creation of special improvement districts that would provide and maintain necessary infrastructure for the Subject Properties;

1.6 Establishes how necessary changes of final construction plans required by the Agreement may be made with the approval of the City;

1.7 Contemplates the opportunity for Love's to request reimbursements when neighboring properties that benefit from improvements made by Love's are developed;

1.8 Indemnifies the City from challenges by the Owners to its approval of the Development.

2. Duration; Conditions Precedent. The term of this Agreement begins when it is fully executed by each of the parties, including the City, and with the exceptions stated below, ends at the time the warranty required by Section 14 of this Agreement on the required improvements installed by the Owners expires and the funds securing that warranty are released.

2.1 If Work Does Not Begin. This Agreement is void if final construction plans for the Development are not submitted for approval within three years of the date of the City Manager's signature on this Agreement.

2.2 Failure to Build. Love's failure to complete on-site improvements in accordance with the final construction plans may also void this Agreement and the vested rights established by Section 8, below.

2.3 Conditions Precedent. Love's obligations under this Agreement are subject to Love's acquisition of Tract 2. In the event Love's does not acquire Tract 2 on or before July 31, 2019, Love's, at Love's option, may terminate this Agreement without liability and the Agreement in such event will be terminated as to all parties.

3. Supporting Documents. Each of the following supporting documents is to be submitted for review and approval by the City.

3.1 Construction Documents. Engineering drawings, specifications, reports and cost estimates, preliminary and final, prepared for the Subject Properties, consisting of documents for, but not limited to the public and/or private sanitary sewer, water, storm drain, and access drive improvements.

3.2 As Built Drawings. "As Built" reproducible 4 mil mylar drawings of public infrastructure, private utilities, and drainage facilities shall be supplied to the City Engineer upon completion of the construction. "As Built" electronic copies of public infrastructure, private utilities, and drainage facilities shall be supplied to the City's Environmental Division upon completion of construction.

3.3 Legal Documentation. Legal documents, including but not limited to any articles of incorporation, bylaws, covenants, and declarations establishing the authority and responsibilities of Owners, which may be recorded in the Clerk and Recorder's Office of Cascade County, Montana.

4. Changes. The Owners understand that failure of Love's to install required improvements in accordance with the final construction plans is a breach of, and may void, this Agreement. The Owners also understand that failure to build in compliance with the approved plans is a breach of this Agreement and a violation of the OCCGF, subject to the penalties provided for such violations. The City recognizes, however, that minor changes are often necessary as construction proceeds and the

Administrator (the Administrator is the person or persons charged by the City Manager with the administration of this Agreement) is hereby authorized to allow minor changes to approved plans, as provided below:

4.1 Minor Changes. Minor changes to engineering documents and such revisions to the engineering drawings as are deemed appropriate and necessary by the Administrator and which do not materially affect the hereinabove mentioned Subject Properties, can be made as follows:

4.1.1 Before making changes, Love's must submit revised plans to the Administrator for review. Failure to do this before the proposed change is made may be considered by the City to be a breach of this Agreement and a violation of the OCCGF. The Administrator shall respond to all proposed changes within ten (10) business days of receipt of the revised plans.

4.1.2 Based on a review of the revised plans, the Administrator may permit minor dimensional changes provided they do not result in a violation of the conditions of approval for the Subject Properties or the OCCGF.

4.1.3 Based on a review of the revised plans, the Administrator may permit substitutions for proposed building and construction materials provided that the proposed substitute has the same performance and, for exterior materials, appearance as the originally approved material.

4.1.4 Minor changes in the location and specifications of the required public improvements may be permitted by the Administrator. Love's must submit revised plans showing such changes to the Administrator. Revised plans are not accepted until approved by the Administrator.

4.2 Substantial Changes. Substantial changes are not permitted by this Agreement. A new public review and permitting process will be required for such changes. A "Substantial Change" versus a "Minor Change" is described as follows in order to further clarify what may be permitted as a "Minor Change":

4.2.1 A substantial change adds one or more lots; changes the approved use; changes the location or extent of the area proposed to be cleared, graded, or otherwise disturbed by more than 4,000 square feet (a smaller change in the area that will be cleared, graded, or otherwise disturbed may be treated as a minor dimensional change); changes the location, extent, or design of any required public improvement, except where a minor change is approved by the Administrator; changes the approved number of buildings, structures or units; or the size of any building or structure by more than 10%. A smaller change in the size of a lot, building, or structure may be treated as a minor dimensional change.

5. Fees. Love's understands that it is required to pay the following fees as they come due during the development process.

5.1 Recording Fees. All recording fees at the rate charged by Cascade County at the time a document or plat is submitted for recording.

5.2 Engineering Inspections. All applicable engineering fees established by Resolution 10075 of the City of Great Falls or its successors.

5.3 Permit Fees. All applicable planning and building permit fees established by Resolution of the City Commission of the City of Great Falls.

5.4 Connection and Construction Fees. Water service tapping and water and sewer service connection fees will be assessed at the times of tapping and connections. The absence of any fee from this Agreement which is lawfully charged by the City in connection with construction activity associated with the Subject Properties shall not constitute a waiver by the City.

5.5 Storm Drain Fee. Love's is responsible to pay a storm drain fee in the amount of \$250 per acre for each lot proposed for annexation. This would equal a total of **\$948.00** for storm drain fee for the Subject Properties. The total storm drain fee must be paid to the City no later than 30 days after City Commission action to annex the Subject Properties into the City.

5.6 Application Fees. In addition to the fees outlined above, application fees paid by Loves are: the \$2,000.00 application fee for zoning map amendment and the \$500.00 application fee for Annexation, which have been paid prior to execution of this Agreement.

6. Site Conditions. Loves warrants that it has conducted site investigations sufficient to be aware of all natural conditions, including, but not limited to, flooding, slopes, and soils characteristics, that may affect the installation of improvements on the site and its development for the approved use. Love's further warrants that all plans submitted pursuant to this Agreement and all applications for building permits within the Development will properly account for all such conditions. Love's holds the City harmless for natural conditions and for any faults in its own assessment of those conditions.

7. Permits. This Agreement must be approved by the City Commission and signed by the City Manager before permits for any work will be approved, including, but not limited to trenching for the installation of utilities.

8. Vested Rights. This Agreement and approval by the City create a vested right that protects the Owners from changes in the zoning and subdivision requirements of Title 17 of the OCCGF until this Agreement expires. This vested right does not exempt the Owners from compliance with other provisions of the OCCGF, including specifically those intended to prevent and remediate public nuisances, nor does it protect the Owners from changes in the City's building codes and fees, development fees, and inspection fees. This vested right does not exempt the Owners from compliance with changes to state and federal requirements. This vested right may be voided, in whole or in part, if the Owners propose substantial changes in the approved construction plans of the Properties.

9. Required Public Improvements. The public improvements required for the Development shall be installed as shown on the final construction plans that are submitted to and approved by the Engineering Department prior to Certificate of Occupancy. As an alternative, Love's may request a temporary Certificate of Occupancy and provide a financial security for said improvements as prescribed in Section 15 of this Agreement; if such a temporary Certificate of Occupancy is provided by the City, then Love's must ensure that all public improvements as shown on the final construction plans are

completed within six months after issuance of the temporary Certificate of Occupancy. The on-site improvements shall include everything required to provide water, sanitary sewer, and stormwater management, serving each lot proposed in the Development. All on-site improvements will be installed at Love's expense, unless otherwise noted in this Agreement. The improvements described in this Section 9 are referred to in this Agreement as the "required public improvements" or the "required improvements".

9.1 Water. Love's hereby agrees to install a public water main consistent with City standards and submitted plans approved by the City of Great Falls Engineering Division, including the addition of fire hydrants. The improvements shall be in accordance with City and Montana Department of Environmental Quality standards and approved plans and specifications. Any portion of water main service located outside of the public right-of-way shall be located in a minimum 20-foot wide public utility easement. The improvement is to be owned and maintained by the City upon completion.

9.2 Sanitary Sewer. Love's hereby agrees to re-route and install a public sanitary sewer main consistent with City standards and submitted plans approved by the City of Great Falls Engineering Division. The improvements shall be in accordance with City and Montana Department of Environmental Quality standards and approved plans and specifications. Any portion of sewer main service located outside of the public right-of-way shall be located in a public utility easement. The width of the easement shall be determined by the City Engineer based upon the depth of the sanitary sewer line. The improvement is to be owned and maintained by the City upon completion. The Airport consents to the re-routing and installation of the sewer main to the extent it is on the Airport tracts.

9.3 Stormwater. Love's agrees to install stormwater quantity improvements consistent with City standards and submitted plans approved by the City of Great Falls Public Works Department. Stormwater quantity control measures must comply with the standards of the City of Great Falls Storm Drainage Design Manual. The City, the Montana Department of Transportation and/or Federal Highway Administration, as required, must approve all stormwater plans prior to issuance of a building permit. Pipe size and all other construction specifications shall comply with City standards and submitted plans approved by the City of Great Falls Public Works Department. Any portion of storm main service located outside of the public right-of-way shall be located in a minimum 20-foot wide public utility easement. Any portion of storm main service located outside of the public right-of-way or public utility easement is considered private and is to be owned and maintained by the Owners. The Airport consents to the installation of stormwater quantity improvements to the extent they are on the Airport tracts.

10. Reimbursements owed to Owners. The Owners shall provide the City with documentation of their actual out-of-pocket costs of the installation of the hereinabove described required improvements within four (4) months after approval and acceptance thereof by the City. In the event of Owner's' failure to provide the City with said cost data, the City shall not be obliged to assist in undertaking collection of the reimbursement provided for herein, and the responsibility for collection thereof shall be that of the Owner, their successors and assigns. Failure of the Owners to provide the City with said cost data for reimbursement as herein required shall in no way alter the obligation of any party to make reimbursements as provided for herein, said failure affecting only the City's obligation to assist in collection thereof.

11. Environmental. Love's agrees to comply with all requirements of the City's industrial pretreatment and MS-4 program requirements, including but not limited to, submission for approval and installation of applicable Fats, Oil, and Grease (FOG) controls, completion of an Industrial Pretreatment Survey, stormwater quality best management practices, Stormwater Maintenance Agreement, Storm Water Pollution Prevention Plan (SWPPP), and completion of a Dust Control Plan.

12. Emergency Communications Center. Per the *Great Falls International Airport Authority and City of Great Falls Lease Agreement, September 1, 2017 – August 31, 2047* (the "Lease Agreement"), regarding the 911 Emergency Communications Center (ECC), approved by the Great Falls City Commission on October 3, 2017, the City agrees to pay the Airport \$104,400.00 toward construction of the new entry road shown in Exhibit B of said Lease Agreement. The City acknowledges the new entry road will be constructed by Love's. Such amount will be payable to the Airport simultaneous with the issuance of a building permit for the Love's Travel Stop project. The new entry road shall provide the primary access to the ECC and shall be recorded as an access easement in favor of the City and the Airport. The terms of the easement shall be approved by City staff and the City Commission. Because the new entry road will replace the existing access drive from Airport Road as the ECC's primary means of ingress and egress and eliminate all unrestricted access from Airport Road, Love's is required to provide no greater than five thousand dollars (\$5,000) towards installation of a knockdown gate or other access control measure satisfactory to the City to allow the amended access to be maintained as an emergency access only. It is understood by all parties that the Airport intends to expand Airport Road to enhance traffic flow and functionality. The Airport agrees that it will to the maximum extent feasible, design its expansion to maintain the emergency only access point where the access exists currently, or provide alternative secondary access that is reasonably acceptable to the City.

Additionally, Love's agrees to construct and maintain two earthen berms at its cost on the east side of the newly constructed roadway. The berms, which are subject to City review and approval, shall be constructed with side slopes at a 3:1 grade ratio and be 4 feet in height. Berms must be landscaped with irrigation according to the OCCGF. If the Owners propose to include fencing as part of the berm design, inclusion of fencing is subject to City review and approval.

13. Deferral Agreement for Shared Use Path. The Owners are required to sign and record an agreement subject to approval by the City Commission to defer installation of a ten (10) foot wide, shared-use path in the right-of-way of Airport Drive.

14. Warranty, Ownership and Inspection of Public Improvements. Love's is responsible for the repair or replacement of any faults in the materials or workmanship of the required public improvements for a period of two years from the date those improvements are accepted for maintenance by the City. If Love's financially guarantees the required improvements, this warranty will be enforced by the City retaining 10% of the security required by Section 15 of this Agreement for the two-year warranty period. If no financial guarantee is needed for the project and Love's will be completing installation of all public improvements as part of the building permit prior to Certificate of Occupancy, Love's is required to submit a cost estimate of the public improvements to the City at the time of building permit. After a Certificate of Occupancy is granted and improvements are accepted, the City shall retain 10% of the cost of the improvements noted in the approved estimate as a warranty for a two-year period. That sum will be released at the end of such two year period unless the parties are involved in a dispute about the

condition, repair, or replacement of any of the required improvements, in which case funds will be held by the City until that dispute is resolved. The release of warranty funds will follow the procedure established in Section 15 of this Agreement for the release of securities.

Installation of all other public improvements required for the Subject Properties shall be subject to the City's inspection policy in place at the time of installation.

15. Security for Public Improvements. If Love's financially guarantees the required public improvements listed in this Agreement prior to their installation, Love's shall provide the City with a performance bond or another form of security acceptable to the Administrator in an amount equal to one hundred thirty-five percent (135%) of the costs of the required public improvements.

The security required by this section shall be returned or released upon acceptance of the required improvements, except as provided in Section 14. Following the final required inspection, the Director of Public Works shall promptly inform the Administrator, in writing, that all improvements have been inspected and are acceptable for maintenance by the City. If the Development is in compliance all conditions of approval, this Agreement, and the OCCGF, the Administrator shall then instruct the Finance Director to release the security to the Owners, minus the retained portion to be held in warranty as required by Section 14 of this Agreement.

16. Maintenance Districts. Love's hereby agrees to waive its right to protest and appeal the lawful creation by the City of maintenance districts for any proper purpose including, but not limited to, fire hydrant and street maintenance and shall pay the proportionate share of the costs associated with said maintenance districts as they may be applied to the Love's tracts.

17. City Acceptance and Zoning. In consideration of the terms of this Agreement, the City hereby accepts the Love's tracts incorporation by annexation into the corporate limits of the City of Great Falls, Montana, with an assigned zoning classification of AI Airport Industrial.

18. Limitation of Liability. The City will conduct a limited review of plans and perform inspections for compliance with requirements set forth in this Agreement and/or in applicable law. The scope of such review and inspections will vary based upon development type, location and site characteristics. Love's is exclusively responsible for ensuring that the design, construction drawings, completed construction, and record drawings comply with acceptable engineering practices, State requirements, and other applicable standards. The City's limited plans review and inspections are not substantive reviews of the plans and engineering. The City's approval of any plans or completed inspections is not an endorsement of the plan or approval or verification of the engineering data and plans. Neither the Owners, nor any third party may rely upon the City's limited review or approval.

The Owners shall indemnify, hold harmless and defend the City of Great Falls, its officers, agents, servants and employees and assigns from and against all claims, debts, liabilities, fines, penalties, obligations and costs including reasonable attorney fees, that arise from, result from or relate to obligations relating to that Owners' properties described herein. Upon the transfer of ownership of the properties, the prior owner's (whether it is the Owners that signed this agreement or a subsequent owner) indemnity obligation herein for the transferred properties is released as to that owner and the indemnity obligation runs to the new owner of the properties. Only the owner of the parcel of property at the time the City incurs the claim, debt, liability, fine, penalty, obligation or cost is obligated to

indemnify, and no owner of properties is obligated to indemnify for adverse conditions on property owned by someone else. This indemnification by the owner of the property shall apply unless such damage or injury results from the gross negligence or willful misconduct of the City. For the avoidance of doubt, in no event will Love's be liable to the City for any liability of the Airport under this Agreement, and neither will the Airport be liable to the City for any liability of Love's under this Agreement.

19. Binding Effect; Miscellaneous. The provisions, covenants and terms of this Agreement shall run with the land and bind the present owners, their devisees, successors, and assigns; and any and all parties claiming by, through, or under them, shall be taken to agree and covenant with each of the parties to the Agreement, their devisees, successors and assigns, to conform to the provisions, covenants and terms of this Agreement. Except as expressly provided otherwise, whenever the City's approval is required in this Agreement, such approval shall not be unreasonably withheld or delayed. This Agreement may be executed in one or more counterparts which, taken together, shall constitute one agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day, month and year first hereinabove written.

THE CITY OF GREAT FALLS, MONTANA
A Municipal Corporation of the State of Montana

Gregory T. Doyon, City Manager

ATTEST:

Lisa Kunz, City Clerk

(Seal of City)

APPROVED FOR LEGAL CONTENT*:

Sara R. Sexe, City Attorney

*By law, the City Attorney may only advise or approve contract or legal document language on behalf of the City of Great Falls, and not on behalf of other parties. Review and approval of this document was conducted solely from the legal perspective, and for the benefit, of the City of Great Falls. Other parties should not rely on this approval and should seek review and approval by their own respective counsel.

Great Falls International Airport Authority

Love's Travel Stops & Country Stores, Inc.

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

State of _____)
:ss.
County of _____)

State of Montana
County of _____

This instrument was signed or acknowledged before me on _____ by _____
(Name of signer), _____ as _____
(representative capacity) of Great Falls International Airport Authority.

(Notary Signature)
[Affix seal/stamp]

This instrument was signed or acknowledged before me on _____ by _____
_____ as _____ of Love's Travel
Stops & Country Stores, Inc.

(Notary Signature)
[Affix seal/stamp to the left or below]



CITY OF GREAT FALLS
PLANNING ADVISORY BOARD / ZONING COMMISSION AGENDA REPORT

Item: Ordinance 3205, “An Ordinance Amending Title 17 of the Official Code of the City of Great Falls (OCCGF): Reserving Chapters 9 Through 11; and, Repealing and Replacing Chapter 12 Pertaining to Administrative and Enforcement Bodies.”

From: Legal Department

Initiated By: Legal Department

Presented By: Joseph Cik, Assistant City Attorney

Action Requested: Recommendation to the City Commission.

Suggested Motion:

1. Board Member moves:

“I move that the Planning Advisory Board recommend the City Commission adopt Ordinance 3205.”

2. Chairperson calls for a second, discussion, and calls for the vote.

Background:

Members of the City Commission and Staff have examined numerous sections of the OCCGF and have identified various types of deficiencies throughout numerous sections of the code. The deficiencies range from typographical errors, needed updates, and conflicts with State and Federal law. Additionally, the OCCGF conflicts in various places with itself. In an effort to cure these issues, City staff has assembled input from the different departments to continue a comprehensive revision of the Code.

OCCGF Title 17 is the Great Falls Land Development Code. As such, it is the largest and most complex of all OCCGF Titles. The Ordinance under consideration is for revisions to the second Chapter that has been presented in City Staff’s overall code revision effort pertaining to Title 17.

Most of the proposed changes are non-substantive. These changes include establishing and reserving Chapters 9 through 11 of Title 17. Other non-substantive changes include correcting typographical, grammatical, formatting, and referencing deficiencies in OCCGF Title 17, Chapter 12.

The Ordinance under consideration has minor substantive changes. The first change amends articles 1 and 2 to move zoning approval provisions from the Planning Advisory Board (PAB) provisions to the Zoning Commission (ZC) provisions. This amendment will be consistent with State Law and current practice.

The Second proposed substantive change is to eliminate repetitive election membership and officer regulations in the Zoning Commission regulations. The Zoning Commission is comprised of the same membership, term limits, and elected officers as the Planning Advisory Board. By simply cross referencing the PAB provisions in the ZC Article, a large amount of unnecessary language will be eliminated.

The final substantive change is removing Airport Zoning and Hazard Board designations from the Zoning Commission and Board of Adjustment. These designations are not required under Montana Law and would be consistent with current practice.

Ord. 3205 Exhibit “A” is a document illustrating the provisions that will replace the current OCCGF Title 17 with added language in **bold** and deleted language in ~~strikethrough~~. Exhibit “B”, attached to this agenda report, illustrates the proposed Code in clean format.

Concurrences: City Manager’s Office
Planning and Community Development
Public Works
Park and Recreation
City Clerk’s Office

Fiscal Impact: None

Staff Recommendation:

Staff recommends that the Planning Advisory Board recommend that the City Commission adopt Ordinance 3205.

Alternatives:

The Planning Advisory Board may choose not to recommend that the City Commission adopt Ordinance 3205. The Planning Advisory Board may also table action on the item to a date certain to provide additional suggested revisions.

Attachments/Exhibits:

Ordinance 3205, Ord. 3194 Exhibit “A”, and Ord. 3205 Exhibit “B”.

ORDINANCE 3205

AN ORDINANCE AMENDING TITLE 17 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF): RESERVING CHAPTERS 9 THROUGH 11; AND, REPEALING AND REPLACING CHAPTER 12 PERTAINING TO ADMINISTRATIVE AND ENFORCEMENT BODIES.

* * * * *

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 9 through 11 of OCCGF Title 17; and

WHEREAS, the City Commission has recognized deficiencies throughout OCCGF Title 17, Chapter 12, 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 12, as well as to establish consistency within the OCCGF and, where applicable, the Montana Code Annotated; and

WHEREAS, at its regularly scheduled July 9, 2019, meeting, the Great Falls Planning Advisory Board voted to recommend that the City Commission adopt Ordinance 3205; and

WHEREAS, at its special July 11, 2019, meeting, the Great Falls Board of Adjustment voted to recommend that the City Commission adopt Ordinance 3205.

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

Section 1. OCCGF Title 17, Chapters 9-11 are hereby established and reserved;

Section 2. OCCGF Title 17, Chapter 12 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 _____, 2019.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading _____, 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 3205 on the Great Falls Civic Center posting board and the Great Falls City website.

Lisa Kunz, City Clerk

(CITY SEAL)

Exhibit "A"

Chapter 9 RESERVED

Chapter 10 RESERVED

Chapter 11 RESERVED

Chapter 12 ADMINISTRATIVE AND ENFORCEMENT BODIES

Articles:

Article 1 - PLANNING ADVISORY BOARD

Article 2 - ZONING COMMISSION

Article 3 - DESIGN REVIEW BOARD

Article 4 - HISTORIC PRESERVATION ADVISORY COMMISSION

Article 5 - BOARD OF ADJUSTMENT

Article 1 PLANNING ADVISORY BOARD

Sections:

17.12.1.010 Establishment.

17.12.1.020 Jurisdiction.

17.12.1.030 Duties, services and functions.

17.12.1.040 Composition and appointment of members.

17.12.1.050 Officers.

17.12.1.060 Board procedures.

17.12.1.070 Schedule of meetings.

17.12.1.080 Special meetings.

17.12.1.090 Voting and quorum.

17.12.1.100 Compensation and expenses.

17.12.1.110 Ethics.

17.12.1.120 Contracts and agreements.

17.12.1.130 Staff.

Exhibit "A"

~~17.12.1.140 Fiscal administration and budget.~~

17.12.1.010 Establishment.

17.12.1.020 Jurisdiction.

17.12.1.030 Duties, services, and functions.

17.12.1.040 Composition and appointment of members.

17.12.1.050 Officers.

17.12.1.060 Board procedures.

17.12.1.070 Schedule of meetings.

17.12.1.080 Special meetings.

17.12.1.090 Voting and quorum.

17.12.1.100 Compensation and expenses.

17.12.1.110 Contracts and agreements.

17.12.1.120 Staff.

17.12.1.130 Fiscal administration and budget.

17.12.1.010 Establishment.

The Great Falls Planning Advisory Board is established to undertake the responsibilities herein defined, pursuant to and under the provisions of the Charter of the City of Great Falls.

17.12.1.020 Jurisdiction.

The jurisdictional area of the board includes the area within the incorporated limits of the City of Great Falls and such areas as may be granted or authorized pursuant to intergovernmental agreements.

17.12.1.030 Duties, services, and functions.

A.— **Generally.** ~~In general, the~~ **The** Board shall perform and provide the duties, services and functions established and assigned through ~~City ordinance, the OCCGF, Commission resolution, agreements, this Title, etc., or other Commission initiative~~ including the authority and responsibility to:

- 1.— Advise the City Commission on all community planning and land development activities specified in this Title, ~~as well as any other duties, functions, services and activities requested or assigned;~~ **and**
- 2.— Undertake and perform other duties, services and functions, as requested by the City Commission.

B.— **Long-range planning.** The board shall have the authority and responsibility to:

- 1.— ~~If requested by the City, initiate~~ **Initiate**, prepare, review, hear, and make recommendations to the City Commission on the adoption or amendment of a growth policy ~~and such ordinances and resolutions necessary to implement the growth policy;~~ **and**

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Exhibit "A"

- 2.— Initiate, prepare, review, hear, and make recommendations to the City Commission on the adoption or amendment of any planning documents designed to guide the orderly development of the community.
- C.— **Subdivision, and annexation, zoning and conditional use review.** The board shall have the authority and responsibility to review, hear, and make recommendations to the City Commission on ~~subdivision applications and plats, annexations, zoning and rezoning petitions and conditional use permits.:~~
 1. **Subdivision applications and plats; and**
 2. **Annexations.**
- D.— **Transportation.** The board shall have the authority and responsibility to:
 1. ~~Review, prioritize, and recommend projects for use of Community Transportation Enhancement Program (CTEP) funds;~~
 2. ~~Sserve~~ **serve** as the Metropolitan Planning Organization (MPO) for the Great Falls Urbanized Area Transportation Planning Process, ~~including participation in said process and all associated duties.~~

17.12.1.040 Composition and appointment of members.

- A.— **Number and appointment.** The board shall consist of nine (9) members appointed by the City Commission, who:
 - 1.— Are residents of the City of Great Falls; ~~and,~~
 - 2.— Are not City employees or elected officials.; **and**
 3. **Are qualified Montana electors.**
- B.— ~~Considerations~~ **Consideration in making appointments.** Any interested and eligible citizen may be appointed to the board. ~~but those Applicants with knowledge of or, experience, or interest in the fields of planning, development, Planning, Development, and zoning shall receive special consideration. Zoning are preferred.~~
- C.— **Terms.** Each member shall be appointed to a three-year term, beginning and ending ~~on~~ the first day of January 1st.
- D.— **Vacancies.** When a position becomes vacant before the end of the term, the position shall be filled by the City Commission for the unexpired term.
- E.— **Conditions for of removal.** A member may be removed ~~from office by a majority vote of the City Commission. pursuant to OCCGF Title 2.~~
- F.— **Reappointments.** Each member may be reappointed when ~~their his or her term has expired to the extent that City policy regarding reappointments allows expires as set by Commission resolution.~~

17.12.1.050 Officers.

- A.— ~~Election.~~ **Elections.** At its first regular meeting in each calendar year, the board shall elect from its members a ~~chairman~~ **Chairperson** and ~~vice chairman~~ **Vice-Chairperson** to serve for a period of one (1) year. If there is more than one (1) nominee for any office, voting shall be **conducted** by secret ballot.
- B.— **Nominations.** A nominating committee of three (3) members, elected by a majority vote of the board, shall prepare a slate of nominees. The committee shall present the slate at the regular meeting preceding the annual meeting or notify the members in writing at

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Exhibit "A"

least two (2) weeks before the election at the annual meeting. Nominations may also be made from the floor, provided the nominee consents to the nomination.

- C.— **Terms of office.** All elective offices shall be for one (1) year. An officer whose term has expired shall hold office until a successor is elected.
- D.— ~~Limitation~~ **Limitations on consecutive terms.** No member-~~Officer~~ shall hold-~~serve~~ in the same ~~elective office~~ **position** for more than three (3) consecutive terms.
- E.— **Vacancies.** In the event of a vacancy in any office, the ~~chairman, upon approval by a majority of voting members present,~~ **Chairperson** shall designate a member to fill the unexpired term of the office- **pursuant to a confirmation by a majority of the board.**
- F.— ~~Rights of chairman.~~ **and duties of Chairperson.** The ~~chairman~~ **Chairperson** shall have all the rights and privileges of a board member.
- G.— ~~Duties of chairman.~~ ~~The chairman~~ **and** shall:
- 1.— Preside at all meetings of the board;;
 - 2.— Be an ex-officio member of all committees except the nominating committee;;
 - 3.— Act as a liaison between the board ~~and the Planning, City staff, and Community Development Department,~~ **the City Commission;**
 - 4.— Execute all legal documents on behalf of the board;;
 - 5.— Authorize all financial transactions upon approval of a majority of members present;;
 - 6.— Appoint the chair and members of all committees except the nominating committee; **and**
 - 7.— Call special meetings as provided herein, ~~and.~~
 - 8.— ~~Act as the public representative of the board or designate an alternate.~~
- G.— ~~Duties of vice-chairman.~~ **Vice-Chairperson.** The ~~vice-chairman~~ **Vice-Chairperson** shall perform the duties of the ~~chairman in all cases in which the chairman~~ **Chairperson when the Chairperson** is unable to serve ~~or as otherwise directed by the chairman.~~
- H.— ~~Duties of secretary.~~ **Secretary.** The Director of the Planning and Community Development Department shall function as the ~~secretary of the board~~ **Secretary.** The ~~secretary~~ **Secretary** shall maintain:
1. **Maintain** the minutes and records of the board and issue calls and notices pertaining to the board, ~~prepare;~~
 2. **Prepare** and distribute the agenda for all regular meetings at least four (4) days prior to the meeting, ~~keep a roll of membership and attendance, and supervise the balloting at all elections.;~~
- (Ord. No. 3056, § 1, 8-17-2010)
3. **Keep a roll of membership and attendance; and**
 4. **Supervise the balloting at all elections.**

17.12.1.060 Board procedures.

~~The~~ **Unless otherwise specified in this Title, the** board shall be governed by the rules contained in **the most recent edition of "Robert's Rules of Order, Revised,"** in all parliamentary procedures, as applicable.

TITLE 17 LAND DEVELOPMENT CODE

Exhibit "A"

17.12.1.070 Schedule of meetings.

~~The~~**Unless otherwise specified in this Title, the** board shall fix the time for holding regular meetings, ~~but~~ **and** shall meet at least once in the months of January, April, July, and October.

~~(Ord. No. 3056, § 1, 8-17-2010)~~

17.12.1.080 Special meetings.

Special meetings of the board may be called by the ~~chairman~~**Chairperson** or by two (2) members upon written request to the secretary of the board. The secretary shall ~~send~~**provide written notice** to all members, at least two (2) days in advance of a special meeting, ~~a written notice fixing the time and place of the meeting.~~ Written notice of a special meeting is not required if the time of the special meeting has been fixed in a regular meeting ~~or if all the members are present at the special meeting.~~

17.12.1.090 Voting and quorum.

- A.— **Requirements for quorum.** A quorum shall consist of five (5) members.
- B.— **Requirements for official action.** Each decision of the board shall be approved by a majority vote of the members present ~~at a meeting in which a quorum is in attendance and voting.~~
- C.— **Disqualification or voluntary abstention from voting.** In adjudicative decisions, a member shall abstain from voting on a particular issue or shall be disqualified by majority vote of the remaining members present, if any of the following circumstances apply:
 - 1.— The member has a direct financial interest in the outcome of the matter at issue; ~~or~~
 - 2.— The member has ~~such close~~**a personal ties relationship** to the applicant, the project, or to a party opposing the application ~~that impacting the member cannot reasonably be expected to member's exercise sound judgment in for the public interest; or~~
 - 3.— The member owns property within the area entitled to receive written notice; or
 - 4.— Participation in the matter ~~might~~**could** violate ~~the letter or spirit~~ **a provision of a member's code of professional responsibility; or**
 - 5.— ~~Other applicable law that applies.~~

~~(Ord. No. 3056, § 1, 8-17-2010)~~ **OCCGF Title 2, Chapter 21, or Mont. Code Ann. Title 2, Chapter 2.**

17.12.1.100 Compensation and expenses.

Members shall ~~receive no salary~~**not be compensated** for serving on the board but may be reimbursed for transportation and actual expenses up to but not exceeding State transportation reimbursements and allowable expenses for attendance at conferences, workshops, training sessions, etc.

17.12.1.110 Ethics.

~~All members of the board shall comply with the provisions of the City of Great Falls Code of Ethics.~~

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Exhibit "A"

17.12.1.120—Contracts and agreements.

~~Through the City, the~~**The board may accept, receive, and expend funds, grants, and services from and may contract with respect thereto**~~the:~~

- A. The** Federal government or its agencies and instrumentalities~~;~~~~from~~;
- B.** State or local governments or their agencies and instrumentalities~~;~~~~or from~~
- C. From** civic sources~~;~~.

~~may contract with respect thereto; and may provide such information and reports as may be necessary to secure such financial aid. The City may make all contracts for special or temporary services and any professional services to assist the board.~~

17.12.1.130120 Staff.

The City shall assign **City** staff ~~employed by the City~~ to assist the board in conducting its duties. The board may delegate to assigned staff the authority to perform ministerial acts ~~in all cases except when final action of the board is not necessary.~~~~The staff will be responsive and responsible to the board for all work necessary to carry out its responsibilities.~~

17.12.1.140130 Fiscal administration and budget.

~~To finance the yearly operations of the board, the Director of the Planning and Community Development Department shall prepare a budget for approval by the board and the City, in the same manner as City departments. The budget shall be based on projected revenue from all sources and shall estimate projected expenditures. Further, the budget shall be limited in all expenditures to the provisions made therefore by the City.~~

~~(Ord. No. 3056, § 1, 8-17-2010)~~**The board shall be financed pursuant to the annual budget adopted by the City Commission.**

Article 2 ZONING COMMISSION

Sections:

~~17.12.2.010 Establishment.~~

~~17.12.2.020 Jurisdiction.~~

~~17.12.2.030 Authority.~~

~~17.12.2.040 Composition and appointment of members.~~

~~17.12.2.050 Officers.~~

~~17.12.2.060 Commission procedures.~~

~~17.12.2.070 Schedule of meetings.~~

~~17.12.2.080 Notice for special meetings.~~

~~17.12.2.090 Voting and quorum.~~

~~17.12.2.100 Compensation and expenses.~~

~~17.12.2.110 Ethics.~~

~~17.12.2.120 Joint airport zoning board.~~

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17.12.2.010 Establishment.

17.12.2.020 Jurisdiction.

17.12.2.030 Authority.

17.12.2.040 Composition and appointment of members.

17.12.2.050 Officers.

17.12.2.060 Commission procedures.

17.12.2.070 Schedule of meetings.

17.12.2.080 Notice for special meetings.

17.12.2.090 Voting and quorum.

17.12.2.100 Compensation and expenses.

17.12.2.010 Establishment.

~~Pursuant to 76-2-307, MCA, a~~ **A Zoning Commission** is established to undertake the responsibilities herein defined **pursuant to this Article.**

17.12.2.020 Jurisdiction.

The jurisdictional area of the commission includes the area within the incorporated limits of the City, **as may be altered pursuant to annexation.**

17.12.2.030 Authority.

The commission shall have the authority to:

- 1.—**A.** Review, hear, and make recommendations to the City Commission on conditional use permits;
- 2.—**B.** Prepare and submit an application to amend this Title ~~when it deems appropriate;~~
- 3.—**C.** Review, hear, and make recommendations to the City Commission on applications to amend this Title;
- 4.—**D.** **Review, hear, and make recommendations to the City Commission on zoning and rezoning petitions; and**
- E.** Review and hear other applications ~~as may be specified in~~ **pursuant to** this Title.

17.12.2.040 Composition and appointment of members.

The members of the Great Falls Planning Advisory Board shall serve as the members of the ~~zoning commission~~ **Zoning Commission.**

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Exhibit "A"

17.12.2.050 Officers.

A. ~~**Election.** At its first regular meeting in each calendar year, the commission shall elect from its members a chairman and vice chairman to serve for a period of one (1) year. All provisions provided by OCCGF § 17.12.1.050 shall apply to the Zoning Commission.~~

If there is more than one (1) nominee for any office, voting shall be by secret ballot.

B. ~~**Nominations.** Nominations may be made from the floor, provided the nominee consents to the nomination.~~

C. ~~**Terms of office.** All elective offices shall be for one (1) year. An officer whose term has expired shall hold office until a successor is elected.~~

D. ~~**Limitation on consecutive terms.** No member shall hold the same elective office for more than three (3) consecutive terms.~~

E. ~~**Vacancies.** In the event of a vacancy in any office, the chairman, upon approval by a majority of voting members present, shall designate a member to fill the unexpired term of the office.~~

F. ~~**Rights of chairman.** The chairman shall have all the rights and privileges of a commission member.~~

G. ~~**Duties of chairman.** The chairman shall:~~

- ~~1. Preside at all meetings of the commission,~~
- ~~2. Act as a liaison between the commission and the Planning and Community Development Department,~~
- ~~3. Execute all legal documents on behalf of the commission,~~
- ~~4. Call special meetings as provided herein, and~~
- ~~5. Act as the public representative of the commission or designate an alternate.~~

H. ~~**Duties of vice chairman.** The vice chairman shall perform the duties of the chairman in all cases in which the chairman is unable to serve or as otherwise directed by the chairman.~~

I. ~~**Duties of secretary.** The Director of the Planning and Community Development Department shall function as the secretary of the commission. The secretary shall maintain the minutes and records of the commission and issue calls and notices pertaining to the commission, prepare and distribute the agenda for all regular meetings at least four (4) days prior to the meeting, keep a roll of membership and attendance, and supervise the balloting at all elections.~~

~~(Ord. No. 3056, § 1, 8-17-2010)~~ **17.12.2.060 Commission procedures.**

~~The~~ **Unless otherwise specified in this Title, the** commission shall be governed by the rules contained in "Robert's Rules of Order, Revised," in all parliamentary procedures, as applicable.

17.12.2.070 Schedule of meetings.

A. ~~**Regular meeting.** The commission provisions of OCCGF §§ 17.12.1.070 and 080 shall schedule meetings apply to review applications for which it has authority to review.~~

B. ~~**Special meeting.** Special meetings may be called by the chairman, two (2) members of the commission, or the City Zoning Commission upon written request to the secretary.~~

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17.12.2.080 Notice for special meetings.

The secretary shall send a written notice to all members at least two (2) days in advance of a special meeting.

17.12.2.090 Voting and quorum.

~~A. **Requirements for quorum.** A quorum ~~The provisions of OCCGF § 17.12.1.090 shall apply to the Zoning Commission.~~ consist of five (5) members.~~

~~B. **Requirements for voting.** Each decision of the commission shall be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting.~~

~~C. **Disqualification or voluntary abstention from voting.** In adjudicative decisions, a member shall abstain from voting on a particular issue or shall be disqualified by majority vote of the remaining members present, if any of the following circumstances apply:~~

- ~~1. The member has a direct financial interest in the outcome of the matter at issue; or~~
- ~~2. The member has such close personal ties to the applicant, the project, or to a party opposing the application that the member can not reasonably be expected to exercise sound judgment in the public interest; or~~
- ~~3. The member owns property within the area entitled to receive written notice; or~~
- ~~4. Participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or~~

~~5. Other applicable laws that apply.~~

17.12.2.100 Compensation and expenses.

Members shall ~~receive no salary~~ **not be compensated** for serving on the commission but may be reimbursed for transportation and actual expenses up to but not exceeding State transportation reimbursements and allowable expenses for attendance at conferences, workshops, training sessions, etc.

~~**17.12.2.110 Ethics.**~~

~~All members of the commission shall comply with the provisions of the City of Great Falls Code of Ethics.~~

~~**17.12.2.120 Joint airport zoning board.**~~

~~The commission established by this part shall also assume the responsibilities of the Joint Airport Zoning Board.~~

Article 3 DESIGN REVIEW BOARD

Sections:

~~17.12.3.010 Establishment.~~

~~17.12.3.020 Authority.~~

~~17.12.3.030 Composition and appointment of members.~~

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~~17.12.3.040 Officers.~~

~~17.12.3.050 Board procedures.~~

~~17.12.3.060 Schedule of meetings.~~

~~17.12.3.070 Voting and quorum.~~

~~17.12.3.080 Compensation and expenses.~~

~~17.12.3.090 Legal representation.~~

17.12.3.010 Establishment.

17.12.3.020 Authority.

17.12.3.030 Composition and appointment of members.

17.12.3.040 Officers.

17.12.3.050 Board procedures.

17.12.3.060 Schedule of meetings.

17.12.3.070 Voting and quorum.

17.12.3.080 Compensation and expenses.

17.12.3.090 Legal representation.

17.12.3.010 Establishment.

A Design Review Board is established to undertake the responsibilities herein defined, **pursuant to this Article.**

17.12.3.020 Authority.

To further promote the health, safety, and general welfare ~~of the City~~, the board has the authority and responsibility to review specified types of development proposals to ensure that the design and aesthetics conform to the review criteria contained in this Title. The board may approve ~~or, deny, in whole or in part,~~ **or may modify and, or** set conditions for approval **of development proposals**, or provide advice and counsel.

17.12.3.030 Composition and appointment of members.

- A.— **Number and appointment.** The board shall consist of five (5) voting members appointed by the City Commission.
- B.— ~~Considerations~~ **Consideration in making appointments.** Members shall be residents of the City. ~~The~~ **and qualified Montana electors.** City Commission shall ~~make an effort to achieve a diversity of expertise, background, and interest. Such diversity should preferably include two members and City staff may not be members of the board.~~
- C. **Preferred composition. The preferred board composition includes:**
 - 1. **Two (2) architects; and three**

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2. **Three** (3) individuals chosen for their demonstrated interest in ~~and~~ or expertise in design or community aesthetics. ~~No member of the City Commission or employee of the City shall be eligible for membership on the board.~~

~~C.~~**D. Terms.** Each member shall be appointed to a three-year term. The expiration of initial terms of board members will be staggered to assure continuity.

~~D.~~**E. Vacancies.** When a position becomes vacant before the end of the term, the City Commission shall ~~make an appointment~~ **appoint a member to fill the vacancy**. A member whose term expires may continue to serve until a successor is appointed and qualified.

~~F.~~ **Conditions for of removal.** ~~A member shall~~ **Members may** be removed from the board and the member's office declared vacant under the following conditions: **pursuant to OCCGF Title 2, Chapter 23.**

- ~~1.~~ The member fails to attend three (3) successive regular meetings without excused absences; or
- ~~2.~~ The member moves outside of the City; or
- ~~3.~~ The City Commission declares without notice and without assignment of cause the removal of a member.

17.12.3.040 Officers.

A.— **Election.** At its annual meeting, the board shall elect a ~~chair~~ **Chairperson** and ~~vice chair~~ **Vice-Chairperson** from among its membership by majority vote. ~~If there is more than one (1) nominee for any office, voting shall be by secret ballot.~~

~~B.~~**B. Nominations.** Nominations may be made from the floor, provided the nominee consents to the nomination.

~~C.~~ **Terms of office.** ~~All elective offices shall be for one (1) year. An officer whose term has expired shall hold office until a successor is elected.~~

~~D.~~**C. Terms of office.** All elective offices shall be for one (1) year. An officer whose term has expired shall hold office until a successor is elected.

D.— **Limitation on consecutive terms.** No member shall hold the same elective office for more than three (3) consecutive terms.

E.— **Vacancies.** In the event of a vacancy in any office, the chair, upon approval by a majority of voting members present, shall designate a member to fill the unexpired term of the office.

F.— **Rights of chair, the Chairperson.** The ~~chair~~ **Chairperson** shall have all the rights and privileges of a board member.

G.— **Duties of chair, the Chairperson.** The ~~chair~~ **Chairperson** shall:

- 1.— Preside at all meetings of the board,;
- 2.— Plan the agenda for the board,;
- 3.— Act as a liaison between the board ~~and~~, the Planning and Community Development Department, **and the City Commission;**
- 4.— Execute all legal documents on behalf of the board,;
- 5.— Call special meetings as provided herein,; and
- 6.— Act as the public representative of the board or designate an alternate.

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H.— ~~Duties of vice-chair, the~~ **Vice-Chairperson.** The ~~vice-chair~~ **Vice-Chairperson** shall perform the duties of the ~~chair~~ **Chairperson** in all cases in which the ~~chair~~ **Chairperson** is unable to serve or as otherwise directed by the chair.

I.— ~~Duties of secretary, I.~~ The ~~secretary~~ **Secretary** shall:

- 1.— Maintain the minutes and records of the board and issue calls and notices pertaining to the board;
- 2.— Distribute the agenda for all regular and annual meetings at least ~~one (1) week~~ **forty-eight (48) hours** prior to the meeting;
- 3.— Keep a roll of membership and attendance; and
- 4.— Supervise the balloting at all elections.

J.— **Delegation of duties.** The board may delegate the duties of the ~~secretary~~ **Secretary** to the Planning and Community Development Department by a majority vote.

(Ord. No. 3056, § 1, 8-17-2010)

17.12.3.050 Board procedures.

The board may adopt rules of procedure to carry out its purposes. All rules must conform to ~~this Title, other City regulations,~~ the **OCCGF** and State law and shall be filed in the office of the City Clerk.

17.12.3.060 Schedule of meetings.

- A.— **Annual meeting.** The board shall meet at least once a year in January to elect officers and for such other business as may arise.
- B.— **Regular Meeting.** The board shall schedule meetings to review applications for which it has authority to review.
- C.— **Special meeting.** Special meetings may be called by the ~~chair or~~ **Chairperson**, by two (2) members of the board, or the City Commission upon written request to the ~~secretary~~ **Secretary**.

17.12.3.070 Voting and quorum.

- A.— **Requirements for a quorum.** A quorum shall consist of three (3) voting members.
- B.— **Requirements for voting.** Each decision of the board shall be approved by a majority vote of the members present at a regular, annual, or special meeting in which a quorum is in attendance and voting.
- C.— **Disqualification or voluntary abstention from voting.** A member shall abstain from voting on a particular issue ~~or shall be disqualified by majority vote of the remaining members present,~~ if any of the following circumstances apply:
 - 1.— The member has a direct financial interest in the outcome of the matter at issue; ~~or~~
 - 2.— The member has ~~such close~~ a **personal ties-relationship** to the applicant-, the project, or to a party opposing the application ~~that the member can not reasonably be expected to~~ **impacting the member's** exercise sound judgment ~~in~~ **for** the public interest; ~~or~~
 - 3.— The member owns property within the area entitled to receive written notice; or

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- 4.— Participation in the matter might **could** violate the letter or spirit of a member's code of professional responsibility; or
- 5.— ~~Other applicable law that applies.~~ **a provision of OCCGF Title 2, Chapter 21, or Mont. Code Ann. Title 2, Chapter 2.**

17.12.3.080 Compensation and expenses.

- A.— **Compensation.** Members shall not be compensated for their services on the board.
- B.— **Expenses.** Members may be paid for travel and other expenses incurred on board business under procedures prescribed in advance by the City Commission.

17.12.3.090 Legal representation.

The City Commission may appoint legal counsel to represent the board when it deems necessary.

Article 4 HISTORIC PRESERVATION ADVISORY COMMISSION

Sections:

~~17.12.4.010 Establishment.~~

~~17.12.4.020 Authority.~~

~~17.12.4.030 Composition and appointment of members.~~

~~17.12.4.040 Officers.~~

~~17.12.4.050 Commission procedures.~~

~~17.12.4.060 Schedule of meetings.~~

~~17.12.4.070 Voting and quorum.~~

~~17.12.4.080 Compensation and expenses.~~

~~17.12.4.090 Legal representation.~~

~~17.12.4.100 Staff.~~

17.12.4.010 Establishment.

17.12.4.020 Authority.

17.12.4.030 Composition and appointment of members.

17.12.4.040 Officers.

17.12.4.050 Commission procedures.

17.12.4.060 Schedule of meetings.

17.12.4.070 Voting and quorum.

17.12.4.080 Compensation and expenses.

17.12.4.090 Legal representation.

17.12.4.100 Staff.

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17.12.4.010 Establishment.

- A.— **Commission.** In order to carry out the purpose of this ~~chapter~~ **Chapter**, the Great Falls ~~City~~ **Cascade** County Historical Preservation Advisory Commission is hereby ~~created~~ **established**.
- B.— **Historic preservation program.** A local historic preservation program is hereby created to promote the preservation of historic ~~and prehistoric sites~~, **pre-historic** sites, structures, buildings, and districts through the identification, evaluation, and protection of historic resources within the County and City. This program is intended to promote the public interest and welfare by:
- 1.— Enhancing the visual character of the City and County by encouraging preservation ideals;
 - 2.— Promoting ~~the tourist industry of~~ **tourism within** the City and County by encouraging the preservation of historically significant buildings and structures;
 - 3.— Fostering public appreciation of and civic pride in the beauty of the community and the accomplishments of the past;
 - 4.— Integrating historic preservation into **the** local, State, and ~~federal~~ **Federal** planning and decision-making processes; **and**
 - 5.— Safeguarding the heritage of the community by providing a system for identification and evaluation of historic buildings and structures representing significant elements of its history.

17.12.4.020 Authority.

The commission shall serve in an advisory capacity to the Board of County Commissioners, City Commission, Great Falls Planning Advisory Board, and the Business Improvement District and have the authority to:

- 1.—**A.** Maintain a system for the survey and inventory of historic properties. ~~The commission shall, maintain this~~ **the** inventory of identified districts, sites and/or structures within the County and the City, and make this information available to the public;
- 2.—**B.** Use the National Register of Historic Places criteria for designation of historic and prehistoric properties;
- 3.—**C.** Participate in the process of nominating to the National Register of Historic Places, according to procedures established for certified local governments. ~~This includes, by reviewing and commenting on any National Register nominations of property within the County and City;~~
- 4.—**D.** Consult with ~~the~~ City, County, State, and ~~federal~~ Federal agencies on ~~all~~:
 1. **All** applications, ~~environmental~~;
 2. **Environmental** assessments, ~~environmental~~;
 3. **Environmental** impact statements,; and ~~other~~
 4. **Other** similar documents pertaining to historic districts, landmark sites, landmarks or properties;

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- 5.—~~E.~~ Review the City's land development regulations ~~OCCGF~~ for their applicability to issues of historic preservation and make appropriate recommendations to the Planning **Advisory Board** and Zoning Commission concerning any changes or modifications to ~~the zoning~~ **OCCGF** regulations and zoning district boundaries;
- 6.—~~F.~~ Render advice and guidance upon request of property owners as to the restorations, alterations, decoration, landscaping or maintenance of historic buildings or structures. ~~The commission shall,~~ **and** create design guidelines which will be made available to the public for assistance in preservation projects;
- 7.—~~G.~~ Provide a means of informing owners of **information to** property, buildings ~~building,~~ and structures **structure owners** of potential tax incentives and ~~federal~~ **Federal** and/or State grants that might be obtained through the preservation of historic facilities;
- 8.—~~H.~~ Participate in, promote, and conduct ~~public:~~
 1. **Public** informational, ~~educational;~~
 2. **Educational;** and ~~interpretive~~
 3. **Interpretive** programs pertaining to historic preservation; **and**
- 9.—~~I.~~ Advise on State guidelines and make recommendations in an attempt to ensure compliance regarding certification;.
- 10.—~~J.~~ ~~In e~~ **Carrying** out the listed powers and duties of the commission, ~~the commission~~ **and** shall at all times ensure that any surveys, analyses, evaluations, reviews, or reports relating to any property or project within the City are completed within the current time frames for development. Should the commission fail to complete any of the above actions in time to be included for final action of the City Commission or Board of County Commissioners, such failure shall not in any way impede the decision of the City Commission or Board of County Commissioners.

17.12.4.030 Composition and appointment of members.

- A.— **Number and appointment.** The commission shall consist of nine (9) members appointed as follows:
 - 1.— Four (4) members as appointed by the Board of County Commissioners;
 - 2.— Four (4) members as appointed by the City Commission; **and**
 - 3.— One (1) member who has professional architectural expertise as appointed by the commission by a majority vote.
- B.— **Considerations in making appointments.** Members shall have expertise/qualifications in one (1) or more of the following areas: ~~history, planning, archaeology, architecture,~~
 1. **History;**
 2. **Planning;**
 3. **Architecture and/or** architectural history;
 4. **Archaeology; or**
 5. **Other** historic ~~archaeology, or other history~~ preservation-related disciplines such as cultural geography or cultural anthropology. Ownership of property nominated to the National Register of Historic Places may also qualify a person to serve on this commission.
- C.— **Terms.** Each member shall be appointed to a three-year term. ~~During the initial round of appointments, two (2) members shall be appointed to one-year terms.~~

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- D.— **Vacancies.** When a position becomes vacant before the end of the term, the position shall be filled by the appropriate governing body. A member whose term expires may continue to serve until a successor is appointed and qualified.
- E.— **Conditions for removal.** A member shall be removed from the commission and the member's office declared vacant under the following conditions:
- 1.— ~~The member fails to attend three (3) successive meetings without excused absences; or~~
 - 2.— **1. a City Commission appointee is removed pursuant to OCCGF Title 2, Chapter 23;**
 2. The member moves outside of the jurisdiction the member represents; or
 - 3.— ~~The governing body that appoints the member to the commission declares without notice and without assignment of~~ **3. The County Commissioners determine there is cause for the removal of a County appointed member.**

17.12.4.040 Officers.

- A.— ~~**Election.**~~ **Elections.** At its annual meeting, the commission shall elect a ~~chair, vice-chair~~ **Chairperson, Vice-Chairperson,** and ~~secretary~~ **a Secretary** from among its membership by majority vote. If there is more than one (1) nominee for any office, voting shall be by secret ballot.
- B.— **Nominations.** A nominating committee of three (3) members, elected by a majority vote of the commission, shall prepare a slate of nominees. The committee shall present the slate at the regular meeting preceding the annual meeting or notify the members in writing at least ~~two (2) weeks~~ **forty-eight (48) hours** before the election at the annual meeting. Nominations may also be made from the floor, provided the nominee consents to the nomination.
- C. **Terms of office.** All elective offices shall be for one (1) year. An officer whose term has expired shall hold office until a successor is elected.
- D. —**Limitation on consecutive terms.** No ~~member~~ **Officer** shall hold the same elective office for more than three (3) consecutive terms.
- E.— **Vacancies.** In the event of a vacancy in any office, the ~~chair~~ **Chairperson**, upon approval by a majority of voting members present, shall designate a member to fill the unexpired term of the office.
- F.— **Rights of chair.** ~~Chairperson.~~ The ~~chair~~ **Chairperson** shall have all the rights and privileges of a commission member.
- G.— **Duties of chair.** ~~Chairperson.~~ The ~~chair~~ **Chairperson** shall:
- 1.— Preside at all meetings of the commission;
 - 2.— Plan the agenda for the commission;
 - 3.— Act as a liaison between the commission ~~and~~, the Planning and Community Development Department; **and the City and County Commissions;**
 - 4.— Execute all legal documents on behalf of the commission;
 - 5.— Call special meetings as provided herein; and
 - 6.— Act as the public representative of the commission or designate an alternate.
- H.— **Duties of vice-chair.** ~~Vice-Chairperson.~~ The ~~vice-chair~~ **Vice-Chairperson** shall perform the duties of the ~~chair in all cases in which~~ **Chairperson when the chair** **Chairperson** is unable to serve or as otherwise directed by the ~~chair~~ **Chairperson**.

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- I.— **Duties of ~~secretary~~-Secretary.** The ~~secretary~~-**Secretary** shall:
- 1.— Maintain the minutes and records of the commission and issue calls and notices pertaining to the commission;
 - 2.— Distribute the agenda for all meetings at least ~~one (1) week~~-**forty-eight (48) hours** prior to the meeting;
 - 3.— Keep a roll of membership and attendance, and
 - 4.— Supervise the balloting at all elections.
- J.— **Delegation of duties.** The commission may delegate the duties of the secretary to the Planning and Community Development Department by a majority vote.

(Ord. No. 3056, § 1, 8-17-2010)

17.12.4.050 Commission procedures.

The commission may adopt rules of procedure to carry out its purposes. All rules must conform to ~~this Title, other City regulations, and the OCCGF~~, State law, and shall be filed in the office of the City Clerk and County Clerk and Recorder.

17.12.4.060 Schedule of meetings.

- A.— **Annual meeting.** The commission shall meet at least once a year in January to elect officers and for such other business as may arise.
- B.— **~~Special meeting~~-meetings.** Special meetings may be called by the ~~chair~~-**Chairperson** or by two (2) members of the commission, the City Commission, or the Board of County Commissioners upon written request to the ~~secretary~~-**Secretary**.

17.12.4.070 Voting and quorum.

- A.— **Requirements for quorum.** A quorum shall consist of four (4) voting members.
- B.— **Requirements for voting.** Each decision of the commission shall be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting.
- C.— **Disqualification or voluntary abstention from voting.** In adjudicative decisions, a member shall abstain from voting on a particular issue ~~or shall be disqualified by majority vote of the remaining members present~~, if any of the following circumstances apply:
- 1.— The member has a direct financial interest in the outcome of the matter at issue; ~~or~~
 - 2.— The member has ~~such close a~~ personal ~~ties~~-**relationship** to the applicant, the project, or to a party ~~opposed to~~-**opposing** the application ~~that the member can not reasonably be expected to impacting the member's exercise sound judgment in~~ ~~for~~ the public interest; ~~or~~
 - 3.— The member owns property within the area entitled to receive written notice; or
 - 4.— Participation in the matter ~~might~~-**could** violate ~~the letter or spirit of a member's code of professional responsibility~~; or
 - 5.— ~~Other applicable law that applies~~-**a provision of OCCGF Title 2, Chapter 21, or Mont. Code Ann. Title 2, Chapter 2.**

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17.12.4.080 Compensation and expenses.

- A.— **Compensation.** Members shall not be compensated for their services on the commission.
- B.— **Expenses.** Members may be paid for travel and other expenses incurred on commission business under procedures prescribed in advance by the ~~City Commission and Board of County Commissioners.~~ **appropriate appointing body.**

17.12.4.090 Legal representation.

The City Commission ~~and~~ Board of County Commissioners may appoint legal counsel to represent the commission when, ~~it deems in the judgement of either body,~~ **legal representation is necessary.**

17.12.4.100 Staff.

- A.— **Historic preservation officer.** The City shall provide a historic preservation officer to act as staff to the commission. The commission ~~should~~ **may** be involved in the selection process for new hires.
- B.— **Duties.** Duties of the preservation officer include ~~coordinating:~~
 - 1. **Coordinating** the local historic preservation programs, ~~helping;~~
 - 2. **Assisting** in the development of local surveys, projects, and historic preservation planning documents, ~~advising;~~
 - 3. **Advising** and providing assistance to the commission, government agencies and the public;; and ~~ensuring~~
 - 4. **Ensuring** to ~~the~~ **a reasonable** extent ~~practicable that~~ the duties and responsibilities delegated by this article are carried out.

Article 5 BOARD OF ADJUSTMENT

Sections:

~~17.12.5.010 Establishment.~~

~~17.12.5.020 Authority.~~

~~17.12.5.030 Composition and appointment of members.~~

~~17.12.5.040 Officers.~~

~~17.12.5.050 Board procedures.~~

~~17.12.5.060 Schedule of meetings.~~

~~17.12.5.070 Voting and quorum.~~

~~17.12.5.080 Compensation and expenses.~~

~~17.12.5.090 Legal representation.~~

~~17.12.5.100 Board of Airport Hazard Adjustment.~~

17.12.5.010 Establishment.

17.12.5.020 Authority.

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17.12.5.030 Composition and appointment of members.

17.12.5.040 Officers.

17.12.5.050 Board procedures.

17.12.5.060 Schedule of meetings.

17.12.5.070 Voting and quorum.

17.12.5.080 Compensation and expenses.

17.12.5.090 Legal representation.

17.12.5.100 Board of Airport Hazard Adjustment.

17.12.5.010 Establishment.

Pursuant to **Mont. Code Ann. § 76-2-321, MCA**, a Board of Adjustment is established to undertake the responsibilities herein defined.

17.12.5.020 Authority.

- A.— **Generally.** The Board of Adjustment shall have the following authority and responsibility:
1. **Appeals.**— To hear and decide appeals where it is alleged that an administrative official responsible for administering this Title or the housing or building regulations:
 - a.— failed **i. Failed** to act as required;
 - b.— made **ii. Made** an error in issuing a permit or in denying an application;
 - c.— made **iii. Made** an error in enforcement; or
 - d.— made **iv. Made** an error in an ~~interpretation~~ or any other determination. ~~(See: 76-; and~~
2-323 (1), MCA)
 - 2.— ~~Variences.~~ **2 Variances.** To hear and decide variances ~~consistent with~~ **pursuant to** this Title. ~~(See: 76-2-323 (1), MCA)~~
- B.— **Powers.** In exercising these powers, the board may ~~compel the~~:
1. **Compel an** administrative official to act as required ~~or reverse or; and~~
 2. **Reverse**, affirm, ~~wholly or partly~~, or modify ~~the~~, **in whole or in part, any** order, requirement, decision, or determination appealed from ~~and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken. (See: 76-2-323 (2), MCA).~~
- C.— **Chair. Witnesses.** The ~~chair~~ **Chairperson** or acting ~~chair~~ **Chairperson** may administer oaths and compel the attendance of witnesses. ~~(See: 76-2-321, MCA)~~

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17.12.5.030 Composition and appointment of members.

- A.— **Number and appointment.** The board shall consist of five (5) members as appointed by the City Commission.
- B.— **Considerations in making appointments.** Board members shall be residents of the City, and qualified State electors.
- C.— **Terms and vacancies.** Each member shall be appointed to hold office for a period of three (3) years and until a successor is appointed and qualified. ~~(See: 76-2-322 (1), MCA) Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. (See: 76-2-322 (2), MCA)~~
- D.— ~~Conditions~~ **Condition of vacancy filling. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.**
- E. **Removal.** The City Commission may remove a member ~~for cause upon written charges and after public hearing. (See: 76-~~ **pursuant to OCCGF Title 2-322 (1), MCA), Chapter 23.**

17.12.5.040 Officers.

- A.— ~~Election.~~ **Elections.** At its annual meeting, the board shall elect a ~~chair, vice chair~~ **Chairperson, Vice-Chairperson,** and ~~secretary~~ **a Secretary** from among its membership by majority vote. ~~If there is more than one (1) nominee for any office, voting shall be by secret ballot.~~
- B. **Nominations.** Nominations may be made from the floor, provided the nominee consents to the nomination.
- C. **Term of office.** ~~C.— Terms of office.~~ All elective offices shall be for one (1) year. An officer whose term has expired shall hold office until a successor is elected.
- D. **Limitation on consecutive terms.** No member shall hold the same elective office for more than three (3) consecutive terms.
- E.— **Vacancies.** In the event of a vacancy in any office, the ~~chair~~ **Chairperson**, upon approval by a majority of voting members present, shall designate a member to fill the unexpired term of the office.
- F.— **Rights of chair.** ~~Chairperson.~~ The ~~chair~~ **Chairperson** shall have all the rights and privileges of a board member.
- G.— **Duties of chair.** ~~Chairperson.~~ The ~~chair~~ **Chairperson** shall:
 - 1.— Preside at all meetings of the board;
 - 2.— Plan the agenda for the board;
 - 3.— Act as a liaison between the board ~~and,~~ the Planning and Community Development Department, **and the City Commission;**
 - 4.— Execute all legal documents on behalf of the board;
 - 5.— Call special meetings as provided herein; and
 - 6.— Act as the public representative of the board or designate an alternate.
- H.— **Duties of vice chair.** ~~the Vice-Chairperson.~~ The ~~vice chair~~ **Vice-Chairperson** shall perform the duties of the ~~chair~~ **Chairperson** in all cases in which the chair is unable to serve or as otherwise directed by the ~~chair~~ **Chairperson.**
- I.— **Duties of secretary.** ~~the Secretary.~~ The ~~secretary~~ **Secretary** shall:

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Exhibit "A"

- 1.— Maintain the minutes and records of the board and issue calls and notices pertaining to the board;
 - 2.— Distribute the agenda for all meetings at least ~~one (1) week~~ **forty-eight (48) hours** prior to the meeting;
 - 3.— Keep a roll of membership and attendance; and
 - 4.— Supervise the balloting at all elections.
- J.— **Delegation of duties.** The board may delegate the duties of the secretary to the Planning and Community Development Department by a majority vote.

~~(Ord. No. 3056, § 1, 8-17-2010)~~

17.12.5.050 Board procedures.

The board may adopt rules of procedure to carry out its purposes. All rules must conform to ~~this Title, other City regulations,~~ **the OCCGF** and State law and shall be filed in the office of the City Clerk.

17.12.5.060 Schedule of meetings.

- A.— **Annual meeting.** The board shall meet at least once a year in January to elect officers and for such other business as may arise.
- B. **Regular meeting. The board shall schedule meetings to review applications for which it has authority to review.**
- ~~C.B.— **Regular meeting.** The board shall schedule meetings to review applications for which it has authority to review.~~
- C.— **Special meeting.** Special meetings may be called by the ~~chair~~ **Chairperson** or by two (2) members of the board or the City Commission upon written request to the ~~secretary.~~ **Secretary.** ~~(See: 76-2-321 (3), MCA)~~

17.12.5.070 Voting and quorum.

- A.— **Requirements for quorum.** A quorum shall consist of four (4) voting members.
- B.— **Requirements for voting.** The concurring vote of four (4) members shall be necessary to grant a variance or overturn, in whole or part, an administrative decision, or interpretation. ~~(See: 76-2-324, MCA).~~
- C.— **Disqualification or voluntary abstention from voting.** In adjudicative decisions, a member shall abstain from voting ~~on a particular issue or shall be disqualified by majority vote of the remaining members present,~~ if any of the following circumstances apply:
 - 1.— The member has a direct financial interest in the outcome of the matter at issue; ~~or~~
 - 2.— The member has ~~such close~~ **a personal ties-relationship** to the applicant, the project, or to a party opposing the application ~~that the member can not reasonably be expected to~~ **impacting the member's** exercise sound judgment ~~in~~ **for** the public interest; ~~or~~
 - 3.— The member owns property within the area entitled to receive written notice; or
 - 4.— Participation in the matter ~~might~~ **could** violate ~~the letter or spirit of a member's code of professional responsibility;~~ or

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Exhibit "A"

5. ~~Other applicable law that applies~~ **provision of OCCGF Title 2, Chapter 21, or Mont. Code Ann. Title 2, Chapter 2.**

17.12.5.080 Compensation and expenses.

- A.— **Compensation.** Members shall not be compensated for their services on the board.
- B.— **Expenses.** Members may be paid for travel and other expenses incurred on board business under procedures prescribed in advance by the City Commission.

17.12.5.090 Legal representation.

The City Commission may appoint legal counsel to represent the board when it deems necessary.

~~**17.12.5.100 Board of Airport Hazard Adjustment.**~~

~~The board established in this article shall also serve as the Board of Airport Hazard Adjustment consistent with 67-4-312, MCA. The board shall expressly state in its public notice and at the opening of its meetings that it is acting as the Board of Airport Hazard Adjustment.~~

(Ord. 3205, 2019; Ord. 3056, 2010; Ord. 2950, 2007; Ord. 2923, 2005)

Chapter 9 RESERVED

Chapter 10 RESERVED

Chapter 11 RESERVED

Chapter 12 ADMINISTRATIVE AND ENFORCEMENT BODIES

Articles:

Article 1 - PLANNING ADVISORY BOARD

Article 2 - ZONING COMMISSION

Article 3 – DESIGN REVIEW BOARD

Article 4 - HISTORIC PRESERVATION ADVISORY COMMISSION

Article 5 - BOARD OF ADJUSTMENT

Article 1 PLANNING ADVISORY BOARD

Sections:

17.12.1.010 Establishment.

17.12.1.020 Jurisdiction.

17.12.1.030 Duties, services, and functions.

17.12.1.040 Composition and appointment of members.

17.12.1.050 Officers.

17.12.1.060 Board procedures.

17.12.1.070 Schedule of meetings.

17.12.1.080 Special meetings.

17.12.1.090 Voting and quorum.

17.12.1.100 Compensation and expenses.

17.12.1.110 Contracts and agreements.

17.12.1.120 Staff.

17.12.1.130 Fiscal administration and budget.

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Exhibit "B"

17.12.1.010 Establishment.

The Great Falls Planning Advisory Board is established to undertake the responsibilities herein defined, pursuant to and under the provisions of the Charter of the City of Great Falls.

17.12.1.020 Jurisdiction.

The jurisdictional area of the board includes the area within the incorporated limits of the City of Great Falls and such areas as may be granted or authorized pursuant to intergovernmental agreements.

17.12.1.030 Duties, services, and functions.

- A. **Generally.** The Board shall perform and provide duties, services and functions established and assigned through the OCCGF, Commission resolution, or other Commission initiative including:
 - 1. Advise the City Commission on all community planning and land development activities specified in this Title; and
 - 2. Undertake and perform other duties, services and functions, as requested by the City Commission.
- B. **Long range planning.** The board shall have the authority and responsibility to:
 - 1. Initiate, prepare, review, hear, and make recommendations to the City Commission on the adoption or amendment of a growth policy; and
 - 2. Initiate, prepare, review, hear, and make recommendations to the City Commission on the adoption or amendment of any planning documents designed to guide the orderly development of the community.
- C. **Subdivision and annexation review.** The board shall have the authority and responsibility to review, hear, and make recommendations to the City Commission on:
 - 1. Subdivision applications and plats; and
 - 2. Annexations.
- D. **Transportation.** The board shall have the authority and responsibility to serve as the Metropolitan Planning Organization (MPO) for the Great Falls Urbanized Area Transportation Planning Process and all associated duties.

17.12.1.040 Composition and appointment of members.

- A. **Number and appointment.** The board shall consist of nine (9) members appointed by the City Commission, who:
 - 1. Are residents of the City of Great Falls;
 - 2. Are not City employees or elected officials; and
 - 3. Are qualified Montana electors.

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Exhibit "B"

- B. **Consideration in making appointments.** Any interested and eligible citizen may be appointed to the board. Applicants with knowledge, experience, or interest in the fields of, Planning, Development, and Zoning are preferred.
- C. **Terms.** Each member shall be appointed to a three-year term, beginning and ending January 1st.
- D. **Vacancies.** When a position becomes vacant before the end of the term, the position shall be filled by the City Commission for the unexpired term.
- E. **Conditions of removal.** A member may be removed pursuant to OCCGF Title 2.
- F. **Reappointments.** Each member may be reappointed when his or her term expires as set by Commission resolution.

17.12.1.050 Officers.

- A. **Elections.** At its first regular meeting in each calendar year, the board shall elect from its members a Chairperson and Vice-Chairperson to serve for a period of one (1) year. If there is more than one (1) nominee for any office, voting shall be conducted by secret ballot.
- B. **Nominations.** A nominating committee of three (3) members, elected by a majority vote of the board, shall prepare a slate of nominees. The committee shall present the slate at the regular meeting preceding the annual meeting or notify the members in writing at least two (2) weeks before the election at the annual meeting. Nominations may also be made from the floor, provided the nominee consents to the nomination.
- C. **Terms of office.** All elective offices shall be for one (1) year. An officer whose term has expired shall hold office until a successor is elected.
- D. **Limitations on consecutive terms.** No Officer shall serve in the same position for more than three (3) consecutive terms.
- E. **Vacancies.** In the event of a vacancy in any office, the Chairperson shall designate a member to fill the unexpired term of the office pursuant to a confirmation by a majority of the board.
- F. **Rights and duties of Chairperson.** The Chairperson shall have all the rights and privileges of a board member and shall:
 - 1. Preside at all meetings of the board;
 - 2. Be an ex-officio member of all committees except the nominating committee;
 - 3. Act as a liaison between the board, City staff, and the City Commission;
 - 4. Execute all legal documents on behalf of the board;
 - 5. Authorize all financial transactions upon approval of a majority of members present;
 - 6. Appoint the chair and members of all committees except the nominating committee; and
 - 7. Call special meetings as provided herein.
- G. **Duties of Vice-Chairperson.** The Vice-Chairperson shall perform the duties of the Chairperson when the Chairperson is unable to serve.
- H. **Duties of Secretary.** The Director of the Planning and Community Development Department shall function as the board Secretary. The Secretary shall:

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Exhibit "B"

1. Maintain the minutes and records of the board and issue calls and notices pertaining to the board;
2. Prepare and distribute the agenda for all regular meetings at least four (4) days prior to the meeting;
3. Keep a roll of membership and attendance; and
4. Supervise the balloting at all elections.

17.12.1.060 Board procedures.

Unless otherwise specified in this Title, the board shall be governed by the rules contained in the most recent edition of "Robert's Rules of Order, Revised," in all parliamentary procedures, as applicable.

17.12.1.070 Schedule of meetings.

Unless otherwise specified in this Title, the board shall fix the time for holding regular meetings and shall meet at least once in the months of January, April, July, and October.

17.12.1.080 Special meetings.

Special meetings of the board may be called by the Chairperson or by two (2) members upon written request to the secretary of the board. The secretary shall provide written notice to all members, at least two (2) days in advance of a special meeting. Written notice of a special meeting is not required if the time of the special meeting has been fixed in a regular meeting.

17.12.1.090 Voting and quorum.

- A. **Requirements for quorum.** A quorum shall consist of five (5) members.
- B. **Requirements for official action.** Each decision of the board shall be approved by a majority vote of the members present.
- C. **Disqualification or voluntary abstention from voting.** In adjudicative decisions, a member shall abstain from voting on a particular issue or shall be disqualified by majority vote of the remaining members present, if any of the following circumstances apply:
 1. The member has a direct financial interest in the outcome of the matter at issue;
 2. The member has a personal relationship to the applicant, the project, or to a party opposing the application impacting the member's exercise sound judgment for the public interest;
 3. The member owns property within the area entitled to receive written notice; or
 4. Participation in the matter could violate a provision of OCCGF Title 2, Chapter 21, or Mont. Code Ann. Title 2, Chapter 2.

17.12.1.100 Compensation and expenses.

Members shall not be compensated for serving on the board but may be reimbursed for transportation and actual expenses up to but not exceeding State transportation reimbursements and allowable expenses for attendance at conferences, workshops, training sessions, etc.

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Exhibit "B"

17.12.1.110 Contracts and agreements.

The board may accept, receive, and expend funds, grants, and services from and may contract with respect thereto:

- A. The Federal government or its agencies and instrumentalities;
- B. State or local governments or their agencies and instrumentalities; or
- C. From civic sources.

17.12.1.120 Staff.

The City shall assign City staff to assist the board in conducting its duties. The board may delegate to assigned staff the authority to perform ministerial acts when final action of the board is not necessary.

17.12.1.130 Fiscal administration and budget.

The board shall be financed pursuant to the annual budget adopted by the City Commission.

Article 2 ZONING COMMISSION

Sections:

17.12.2.010 Establishment.

17.12.2.020 Jurisdiction.

17.12.2.030 Authority.

17.12.2.040 Composition and appointment of members.

17.12.2.050 Officers.

17.12.2.060 Commission procedures.

17.12.2.070 Schedule of meetings.

17.12.2.080 Notice for special meetings.

17.12.2.090 Voting and quorum.

17.12.2.100 Compensation and expenses.

17.12.2.010 Establishment.

A Zoning Commission is established to undertake the responsibilities pursuant to this Article.

17.12.2.020 Jurisdiction.

The jurisdictional area of the commission includes the area within the incorporated limits of the City, as may be altered pursuant to annexation.

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17.12.2.030 Authority.

The commission shall have the authority to:

- A. Review, hear, and make recommendations to the City Commission on conditional use permits;
- B. Prepare and submit an application to amend this Title;
- C. Review, hear, and make recommendations to the City Commission on applications to amend this Title;
- D. Review, hear, and make recommendations to the City Commission on zoning and rezoning petitions; and
- E. Review and hear other applications pursuant to this Title.

17.12.2.040 Composition and appointment of members.

The members of the Great Falls Planning Advisory Board shall serve as the members of the Zoning Commission.

17.12.2.050 Officers.

All provisions provided by OCCGF § 17.12.1.050 shall apply to the Zoning Commission.

17.12.2.060 Commission procedures.

Unless otherwise specified in this Title, the commission shall be governed by the rules contained in "Robert's Rules of Order, Revised," in all parliamentary procedures, as applicable.

17.12.2.070 Schedule of meetings.

The provisions of OCCGF §§ 17.12.1.070 and 080 shall apply to the Zoning Commission.

17.12.2.080 Notice for special meetings.

The secretary shall send written notice to all members at least two (2) days in advance of a special meeting.

17.12.2.090 Voting and quorum.

The provisions of OCCGF § 17.12.1.090 shall apply to the Zoning Commission.

17.12.2.100 Compensation and expenses.

Members shall not be compensated for serving on the commission but may be reimbursed for transportation and actual expenses up to but not exceeding State transportation reimbursements and allowable expenses for attendance at conferences, workshops, training sessions, etc.

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Article 3 DESIGN REVIEW BOARD

Sections:

17.12.3.010 Establishment.

17.12.3.020 Authority.

17.12.3.030 Composition and appointment of members.

17.12.3.040 Officers.

17.12.3.050 Board procedures.

17.12.3.060 Schedule of meetings.

17.12.3.070 Voting and quorum.

17.12.3.080 Compensation and expenses.

17.12.3.090 Legal representation.

17.12.3.010 Establishment.

A Design Review Board is established to undertake the responsibilities pursuant to this Article.

17.12.3.020 Authority.

To further promote the health, safety, and general welfare the board has the authority and responsibility to review specified types of development proposals to ensure that the design and aesthetics conform to the review criteria contained in this Title. The board may approve, deny, modify, or set conditions for approval of development proposals, or provide advice and counsel.

17.12.3.030 Composition and appointment of members.

- A. **Number and appointment.** The board shall consist of five (5) voting members appointed by the City Commission.
- B. **Consideration in making appointments.** Members shall be residents of the City and qualified Montana electors. City Commission members and City staff may not be members of the board.
- C. **Preferred composition.** The preferred board composition includes:
 - 1. Two (2) architects; and
 - 2. Three (3) individuals chosen for their demonstrated interest or expertise in design or community aesthetics.
- D. **Terms.** Each member shall be appointed to a three-year term. The expiration of initial terms of board members will be staggered to assure continuity.
- E. **Vacancies.** When a position becomes vacant before the end of the term, the City Commission shall appoint a member to fill the vacancy. A member whose term expires may continue to serve until a successor is appointed and qualified.

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Exhibit "B"

- F. **Conditions of removal.** Members may be removed pursuant to OCCGF Title 2, Chapter 23.

17.12.3.040 Officers.

- A. **Election.** At its annual meeting, the board shall elect a Chairperson and Vice-Chairperson from among its membership by majority vote. If there is more than one (1) nominee for any office, voting shall be by secret ballot.
- B. **Nominations.** Nominations may be made from the floor, provided the nominee consents to the nomination.
- C. **Terms of office.** All elective offices shall be for one (1) year. An officer whose term has expired shall hold office until a successor is elected.
- D. **Limitation on consecutive terms.** No member shall hold the same elective office for more than three (3) consecutive terms.
- E. **Vacancies.** In the event of a vacancy in any office, the chair, upon approval by a majority of voting members present, shall designate a member to fill the unexpired term of the office.
- F. **Rights of the Chairperson.** The Chairperson shall have all the rights and privileges of a board member.
- G. **Duties of the Chairperson.** The Chairperson shall:
1. Preside at all meetings of the board;
 2. Plan the agenda for the board;
 3. Act as a liaison between the board, the Planning and Community Development Department, and the City Commission;
 4. Execute all legal documents on behalf of the board;
 5. Call special meetings as provided herein; and
 6. Act as the public representative of the board or designate an alternate.
- H. **Duties of the Vice-Chairperson.** The Vice-Chairperson shall perform the duties of the Chairperson in all cases in which the Chairperson is unable to serve or as otherwise directed by the chair.
- I. The Secretary shall:
1. Maintain the minutes and records of the board and issue calls and notices pertaining to the board;
 2. Distribute the agenda for all regular and annual meetings at least forty-eight (48) hours prior to the meeting;
 3. Keep a roll of membership and attendance; and
 4. Supervise the balloting at all elections.
- J. **Delegation of duties.** The board may delegate the duties of the Secretary to the Planning and Community Development Department by a majority vote.

17.12.3.050 Board procedures.

The board may adopt rules of procedure to carry out its purposes. All rules must conform to the OCCGF and State law and shall be filed in the office of the City Clerk.

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17.12.3.060 Schedule of meetings.

- A. **Annual meeting.** The board shall meet at least once a year in January to elect officers and for such other business as may arise.
- B. **Regular meeting.** The board shall schedule meetings to review applications for which it has authority to review.
- C. **Special meeting.** Special meetings may be called by the Chairperson, by two (2) members of the board, or the City Commission upon written request to the Secretary.

17.12.3.070 Voting and quorum.

- A. **Requirements for a quorum.** A quorum shall consist of three (3) voting members.
- B. **Requirements for voting.** Each decision of the board shall be approved by a majority vote of the members present at a regular, annual, or special meeting in which a quorum is in attendance and voting.
- C. **Disqualification or voluntary abstention from voting.** A member shall abstain from voting on a particular issue, if any of the following circumstances apply:
 - 1. The member has a direct financial interest in the outcome of the matter at issue;
 - 2. The member has a personal relationship to the applicant, the project, or to a party opposing the application impacting the member's exercise sound judgment for the public interest;
 - 3. The member owns property within the area entitled to receive written notice; or
 - 4. Participation in the matter could violate a provision of OCCGF Title 2, Chapter 21, or Mont. Code Ann. Title 2, Chapter 2.

17.12.3.080 Compensation and expenses.

- A. **Compensation.** Members shall not be compensated for their services on the board.
- B. **Expenses.** Members may be paid for travel and other expenses incurred on board business under procedures prescribed in advance by the City Commission.

17.12.3.090 Legal representation.

The City Commission may appoint legal counsel to represent the board when it deems necessary.

Article 4 HISTORIC PRESERVATION ADVISORY COMMISSION

Sections:

17.12.4.010 Establishment.

17.12.4.020 Authority.

17.12.4.030 Composition and appointment of members.

17.12.4.040 Officers.

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17.12.4.050 Commission procedures.

17.12.4.060 Schedule of meetings.

17.12.4.070 Voting and quorum.

17.12.4.080 Compensation and expenses.

17.12.4.090 Legal representation.

17.12.4.100 Staff.

17.12.4.010 Establishment.

- A. **Commission.** In order to carry out the purpose of this Chapter, the Great Falls/Cascade County Historic Preservation Advisory Commission is hereby established.
- B. **Historic preservation program.** A local historic preservation program is hereby created to promote the preservation of historic sites, pre-historic sites, structures, buildings, and districts through the identification, evaluation, and protection of historic resources within the County and City. This program is intended to promote the public interest and welfare by:
 - 1. Enhancing the visual character of the City and County by encouraging preservation ideals;
 - 2. Promoting tourism within the City and County by encouraging the preservation of historically significant buildings and structures;
 - 3. Fostering public appreciation of and civic pride in the beauty of the community and the accomplishments of the past;
 - 4. Integrating historic preservation into the local, State, and Federal planning and decision-making processes; and
 - 5. Safeguarding the heritage of the community by providing a system for identification and evaluation of historic buildings and structures representing significant elements of its history.

17.12.4.020 Authority.

The commission shall serve in an advisory capacity to the Board of County Commissioners, City Commission, Great Falls Planning Advisory Board, and the Business Improvement District and have the authority to:

- A. Maintain a system for the survey and inventory of historic properties, maintain the inventory of identified districts, sites and/or structures within the County and the City, and make this information available to the public;
- B. Use the National Register of Historic Places criteria for designation of historic and prehistoric properties;
- C. Participate in the process of nominating to the National Register of Historic Places, according to procedures established for certified local governments, by reviewing and commenting on any National Register nominations of property within the County and City;
- D. Consult with City, County, State, and Federal agencies on:

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Exhibit "B"

1. All applications;
 2. Environmental assessments;
 3. Environmental impact statements; and
 4. Other similar documents pertaining to historic districts, landmark sites, landmarks or properties;
- E. Review the OCCGF for applicability to issues of historic preservation and make appropriate recommendations to the Planning Advisory Board and Zoning Commission concerning any changes or modifications to OCCGF regulations and zoning district boundaries;
- F. Render advice and guidance upon request of property owners as to the restorations, alterations, decoration, landscaping or maintenance of historic buildings or structures, and create design guidelines which will be made available to the public for assistance in preservation projects;
- G. Provide information to property, building, and structure owners of potential tax incentives and Federal and/or State grants that might be obtained through the preservation of historic facilities;
- H. Participate in, promote, and conduct:
1. Public informational;
 2. Educational; and
 3. Interpretive programs pertaining to historic preservation; and
- I. Advise on State guidelines and make recommendations in an attempt to ensure compliance regarding certification.
- J. Carry out the listed powers and duties of the commission, and shall at all times ensure that any surveys, analyses, evaluations, reviews, or reports relating to any property or project within the City are completed within the current time frames for development. Should the commission fail to complete any of the above actions in time to be included for final action of the City Commission or Board of County Commissioners, such failure shall not in any way impede the decision of the City Commission or Board of County Commissioners.

17.12.4.030 Composition and appointment of members.

- A. **Number and appointment.** The commission shall consist of nine (9) members appointed as follows:
1. Four (4) members as appointed by the Board of County Commissioners;
 2. Four (4) members as appointed by the City Commission; and
 3. One (1) member who has professional architectural expertise as appointed by the commission by a majority vote.
- B. **Considerations in making appointments.** Members shall have expertise/qualifications in one (1) or more of the following areas:
1. History;
 2. Planning;
 3. Architecture and/or architectural history;
 4. Archaeology; or

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5. Other historic preservation-related disciplines such as cultural geography or cultural anthropology. Ownership of property nominated to the National Register of Historic Places may also qualify a person to serve on this commission.
- C. **Terms.** Each member shall be appointed to a three-year term.
- D. **Vacancies.** When a position becomes vacant before the end of the term, the position shall be filled by the appropriate governing body. A member whose term expires may continue to serve until a successor is appointed and qualified.
- E. **Conditions for removal.** A member shall be removed from the commission and the member's office declared vacant under the following conditions:
 1. a City Commission appointee is removed pursuant to OCCGF Title 2, Chapter 23;
 2. The member moves outside of the jurisdiction the member represents; or
 3. The County Commissioners determine there is cause for the removal of a County appointed member.

17.12.4.040 Officers.

- A. **Elections.** At its annual meeting, the commission shall elect a Chairperson, Vice-Chairperson, and a Secretary from among its membership by majority vote. If there is more than one (1) nominee for any office, voting shall be by secret ballot.
- B. **Nominations.** A nominating committee of three (3) members, elected by a majority vote of the commission, shall prepare a slate of nominees. The committee shall present the slate at the regular meeting preceding the annual meeting or notify the members in writing at least forty-eight (48) hours before the election at the annual meeting. Nominations may also be made from the floor, provided the nominee consents to the nomination.
- C. **Terms of office.** All elective offices shall be for one (1) year. An officer whose term has expired shall hold office until a successor is elected.
- D. **Limitation on consecutive terms.** No Officer shall hold the same elective office for more than three (3) consecutive terms.
- E. **Vacancies.** In the event of a vacancy in any office, the Chairperson, upon approval by a majority of voting members present, shall designate a member to fill the unexpired term of the office.
- F. **Rights of Chairperson.** The Chairperson shall have all the rights and privileges of a commission member.
- G. **Duties of Chairperson.** The Chairperson shall:
 1. Preside at all meetings of the commission;
 2. Plan the agenda for the commission;
 3. Act as a liaison between the commission, the Planning and Community Development Department, and the City and County Commissions;
 4. Execute all legal documents on behalf of the commission;
 5. Call special meetings as provided herein; and
 6. Act as the public representative of the commission or designate an alternate.

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- H. **Duties of Vice-Chairperson.** The Vice-Chairperson shall perform the duties of the Chairperson when the Chairperson is unable to serve or as otherwise directed by the Chairperson.
- I. **Duties of Secretary.** The Secretary shall:
 - 1. Maintain the minutes and records of the commission and issue calls and notices pertaining to the commission;
 - 2. Distribute the agenda for all meetings at least forty-eight (48) hours prior to the meeting;
 - 3. Keep a roll of membership and attendance, and
 - 4. Supervise the balloting at all elections.
- J. **Delegation of duties.** The commission may delegate the duties of the secretary to the Planning and Community Development Department by a majority vote.

17.12.4.050 Commission procedures.

The commission may adopt rules of procedure to carry out its purposes. All rules must conform to the OCCGF, State law, and shall be filed in the office of the City Clerk and County Clerk and Recorder.

17.12.4.060 Schedule of meetings.

- A. **Annual meeting.** The commission shall meet at least once a year in January to elect officers and for such other business as may arise.
- B. **Special meetings.** Special meetings may be called by the Chairperson or by two (2) members of the commission, the City Commission, or the Board of County Commissioners upon written request to the Secretary.

17.12.4.070 Voting and quorum.

- A. **Requirements for quorum.** A quorum shall consist of four (4) voting members.
- B. **Requirements for voting.** Each decision of the commission shall be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting.
- C. **Disqualification or voluntary abstention from voting.** In adjudicative decisions, a member shall abstain from voting on a particular issue, if any of the following circumstances apply:
 - 1. The member has a direct financial interest in the outcome of the matter at issue;
 - 2. The member has a personal relationship to the applicant, the project, or to a party opposing the application impacting the member's exercise of sound judgment for the public interest;
 - 3. The member owns property within the area entitled to receive written notice; or
 - 4. Participation in the matter could violate a provision of OCCGF Title 2, Chapter 21, or Mont. Code Ann. Title 2, Chapter 2.

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17.12.4.080 Compensation and expenses.

- A. **Compensation.** Members shall not be compensated for their services on the commission.
- B. **Expenses.** Members may be paid for travel and other expenses incurred on commission business under procedures prescribed in advance by the appropriate appointing body.

17.12.4.090 Legal representation.

The City Commission or Board of County Commissioners may appoint legal counsel to represent the commission when, in the judgment of either body, legal representation is necessary.

17.12.4.100 Staff.

- A. **Historic preservation officer.** The City shall provide a historic preservation officer to act as staff to the commission. The commission may be involved in the selection process for new hires.
- B. **Duties.** Duties of the preservation officer include:
 - 1. Coordinating the local historic preservation programs;
 - 2. Assisting in the development of local surveys, projects, and historic preservation planning documents;
 - 3. Advising and providing assistance to the commission, government agencies and the public; and
 - 4. Ensuring to a reasonable extent the duties and responsibilities delegated by this article are carried out.

Article 5 BOARD OF ADJUSTMENT

Sections:

17.12.5.010 Establishment.

17.12.5.020 Authority.

17.12.5.030 Composition and appointment of members.

17.12.5.040 Officers.

17.12.5.050 Board procedures.

17.12.5.060 Schedule of meetings.

17.12.5.070 Voting and quorum.

17.12.5.080 Compensation and expenses.

17.12.5.090 Legal representation.

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Exhibit "B"

17.12.5.010 Establishment.

Pursuant to Mont. Code Ann. § 76-2-321, a Board of Adjustment is established to undertake the responsibilities herein defined.

17.12.5.020 Authority.

- A. **Generally.** The Board of Adjustment shall have the following authority and responsibility:
 - 1. **Appeals.** To hear and decide appeals where it is alleged that an administrative official responsible for administering this Title or the housing or building regulations:
 - i. Failed to act as required;
 - ii. Made an error in issuing a permit or in denying an application;
 - iii. Made an error in enforcement; or
 - iv. Made an error in an any other determination; and
 - 2. **VariANCES.** To hear and decide variances pursuant to this Title.
- B. **Powers.** In exercising these powers, the board may:
 - 1. Compel an administrative official to act as required; and
 - 2. Reverse, affirm or modify, in whole or in part, any order, requirement, decision, or determination appealed from.
- C. **Witnesses.** The Chairperson or acting Chairperson may administer oaths and compel the attendance of witnesses.

17.12.5.030 Composition and appointment of members.

- A. **Number and appointment.** The board shall consist of five (5) members as appointed by the City Commission.
- B. **Considerations in making appointments.** Board members shall be residents of the City and qualified State electors.
- C. **Terms and vacancies.** Each member shall be appointed to hold office for a period of three (3) years and until a successor is appointed and qualified.
- D. **Condition of vacancy filling.** Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.
- E. **Removal.** The City Commission may remove a member pursuant to OCCGF Title 2, Chapter 23.

17.12.5.040 Officers.

- A. **Elections.** At its annual meeting, the board shall elect a Chairperson, Vice-Chairperson, and a Secretary from among its membership by majority vote. If there is more than one (1) nominee for any office, voting shall be by secret ballot.
- B. **Nominations.** Nominations may be made from the floor, provided the nominee consents to the nomination.
- C. **Term of office.** All elective offices shall be for one (1) year. An officer whose term has expired shall hold office until a successor is elected.

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- D. **Limitation on consecutive terms.** No member shall hold the same elective office for more than three (3) consecutive terms.
- E. **Vacancies.** In the event of a vacancy in any office, the Chairperson, upon approval by a majority of voting members present, shall designate a member to fill the unexpired term of the office.
- F. **Rights of Chairperson.** The Chairperson shall have all the rights and privileges of a board member.
- G. **Duties of Chairperson.** The Chairperson shall:
 - 1. Preside at all meetings of the board;
 - 2. Plan the agenda for the board;
 - 3. Act as a liaison between the board, the Planning and Community Development Department, and the City Commission;
 - 4. Execute all legal documents on behalf of the board;
 - 5. Call special meetings as provided herein; and
 - 6. Act as the public representative of the board or designate an alternate.
- H. **Duties of the Vice-Chairperson.** The Vice-Chairperson shall perform the duties of the Chairperson in all cases in which the chair is unable to serve or as otherwise directed by the Chairperson.
- I. **Duties of the Secretary.** The Secretary shall:
 - 1. Maintain the minutes and records of the board and issue calls and notices pertaining to the board;
 - 2. Distribute the agenda for all meetings at least forty-eight (48) hours prior to the meeting;
 - 3. Keep a roll of membership and attendance; and
 - 4. Supervise the balloting at all elections.
- J. **Delegation of duties.** The board may delegate the duties of the secretary to the Planning and Community Development Department by a majority vote.

17.12.5.050 Board procedures.

The board may adopt rules of procedure to carry out its purposes. All rules must conform to the OCCGF and State law and shall be filed in the office of the City Clerk.

17.12.5.060 Schedule of meetings.

- A. **Annual meeting.** The board shall meet at least once a year in January to elect officers and for such other business as may arise.
- B. **Regular meeting.** The board shall schedule meetings to review applications for which it has authority to review.
- C. **Special meeting.** Special meetings may be called by the Chairperson or by two (2) members of the board or the City Commission upon written request to the Secretary.

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17.12.5.070 Voting and quorum.

- A. **Requirements for quorum.** A quorum shall consist of four (4) voting members.
- B. **Requirements for voting.** The concurring vote of four (4) members shall be necessary to grant a variance or overturn, in whole or part, an administrative decision or interpretation.
- C. **Disqualification or voluntary abstention from voting.** In adjudicative decisions, a member shall abstain from voting, if any of the following circumstances apply:
 - 1. The member has a direct financial interest in the outcome of the matter at issue;
 - 2. The member has a personal relationship to the applicant, the project, or to a party opposing the application impacting the member's exercise sound judgment for the public interest;
 - 3. The member owns property within the area entitled to receive written notice; or
 - 4. Participation in the matter could violate a provision of OCCGF Title 2, Chapter 21, or Mont. Code Ann. Title 2, Chapter 2.

17.12.5.080 Compensation and expenses.

- A. **Compensation.** Members shall not be compensated for their services on the board.
- B. **Expenses.** Members may be paid for travel and other expenses incurred on board business under procedures prescribed in advance by the City Commission.

17.12.5.090 Legal representation.

The City Commission may appoint legal counsel to represent the board when it deems necessary.

(Ord. 3205, 2019; Ord. 3056, 2010; Ord. 2950, 2007; Ord. 2923, 2005)