

**MINUTES  
CITY OF LAUREL  
CITY COUNCIL WORKSHOP  
TUESDAY, FEBRUARY 04, 2020**

A Council Workshop was held in the Council Chambers and called to order by Mayor Tom Nelson at 6:30 p.m. on February 4, 2020.

**COUNCIL MEMBERS PRESENT:**

<input checked="" type="checkbox"/> Emelie Eaton	<input checked="" type="checkbox"/> Heidi Sparks
<input checked="" type="checkbox"/> Bruce McGee	<input checked="" type="checkbox"/> Richard Herr
<input checked="" type="checkbox"/> Scot Stokes	<input checked="" type="checkbox"/> Irv Wilke
<input checked="" type="checkbox"/> Richard Klose	<input checked="" type="checkbox"/> Don Nelson

**OTHERS PRESENT:**

Nick Altonaga, Planning Director

Kurt Markegard, Public Works Director

Brent Peters, Fire Chief

Denis Pitman, Yellowstone County Commissioner

**Public Input:**

Denis Pitman, Yellowstone County Commissioner address 726 Aquarius Place Billings, stated he has promised to get out here and visit every once and a while. He stated he spoke with the Mayor to reinitiate the City/County meetings and have an informational meeting. This would be a casual conversation on how things are going. He stated he and the Mayor would coordinate a time to schedule this meeting.

Mayor Nelson stated that this meeting would be establishing a relationship for things that may affect County residents. Talk about the future and brainstorm a bit.

**General Items**

1. Appointment of Colton McCleary and Kently Kuntz to the Laurel Volunteer Fire Department.

Brent Peters, Fire Chief, stated Kently Kuntz is one of two selected by the Department to seek Councils' blessing to be a volunteer firefighter. Colton McCleary is in an EMT class Tuesday evenings and will not be able to attend either tonight or next week's Council meetings.

It was questioned how many volunteers does the department have after these two appointments. It was clarified that the Department would have 36 out of 45 firefighters. Trying to build up the numbers again before grass season.

Mayor Nelson stated Laurel's Volunteer Fire Department is one of the best volunteer departments throughout the State of Montana.

### **Executive Review**

2. Resolution - A Resolution Of The City Council Authorizing City Staff To Nominate Riverside Park For Inclusion On The National Registry Of Historic Places.

Nick Altonaga, Planning Director, stated he had come before Council a few weeks ago. He gave a brief summary of his recommendation, see attached. All previous concerns were addressed through his research. There are some variances for the floodplain regulations that Council will have to grant. He stated he made sure that the City is not burdened by the floodplain regulations. The City will need to maintain the historic character of the buildings. Overall this is mostly a good thing. He stated that he had not seen many negatives, a lot of those have been dealt with. There are two options for variances; once this project gets going will bring an ordinance forward when finalized.

It was stated that the Park Board has a meeting on Thursday and are slated to discuss the building that is scheduled to be torn down. It was questioned if this will hinder the ability to tear down that building. It was clarified that this designation does not hinder the ability to tear down any buildings unless there was federal grant money. The building would be documented prior to demolition.

Council Member Wilke stated that someone had approached him stating that years ago, there was a grant from the Federal Government that was given to the City and never paid back. Planning Director Altonaga did not have knowledge of that grant but would look into it.

3. Resolution - Resolution Approving Certain Public Infrastructure Improvements In The Laurel Urban Renewal District As An Urban Renewal Project; Making Findings With Respect Thereto And Approving The Issuance Of Tax Increment Urban Renewal Bonds To Pay Costs Thereof; Preliminarily Authorizing The Issuance And Private Negotiated Sale Of Bonds And Authorizing The Process For Selecting A Purchaser Thereof (Public Hearing 2.11.2020)

Mayor Nelson stated there is a public hearing scheduled on February 11, 2020. This resolution allows the City to solicit offers on the purchase of the bonds for the EDII project.

It was questioned what the difference was between this week's resolution and last week's resolution. It was clarified that last week's resolution was the intent where is this allows the City to solicit offers for the purchase of bonds. This allows the City to know where it is when the bids come in instead of securing bonding after the fact.

### **Council Issues**

4. West Railroad Discussion



Kurt Markegard, Public Works Director, stated since the last Workshop, he has been brainstorming the best way to move forward on West Railroad. He stated he has been working on getting everything associated with West Railroad into one file. Will need funding no matter what option the City chooses to go with. He stated he spoke with Rod Nelson last week to see if having KLJ work on this project would be beneficial. Unless the City is doing the project on its own, having KLJ work on this would not be beneficial.

In researching additional ways to fund this project, the Public Works Director stated he went to the DOT website and found a case study from the City of Billings. They created an arterial road network fee. Billings passed an ordinance and then a resolution to create the arterial road network fee. The arterial fees just go towards roads designated as arterials. That fee can be bonded against and can help with the gap funding. Attached is the letter the City received from the State regarding funding the gap in this project. The gap could be funded by Street Maintenance dollars, but the Public Works Director did not feel that was a good idea because there are roads in town that need to be crack/chip sealed. This fee is assessed every year from every property within the City. As the City grows, this may be a great option to address those streets used more heavily. The Public Works Director reviewed what Walmart is paying in Laurel vs. Billings for taxes. The City of Laurel received approximately \$1,600 in Street Maintenance from Walmart each year. The City of Billings receives approximately \$30,000 in Street Maintenance from the Walmart located on the west end.

He reiterated the only reason 8<sup>th</sup> Avenue got built was because of the ARRA funds. They started that project in 2000. It took three years to design. The DOT upped the project when they received ARRA funds. They choose to spend that money in Laurel. If the City agrees to pay the gap and there are any overages, the City is on the hook for those overages. In reviewing the arterial fee, the Public Works Director looked at a lot that was R6000; the total cost was \$59 per year for the arterial fee. He spoke with both the Mayor and Clerk/Treasurer about this and the ability to bond. As the City moves forward with this project, we need to either reduce the scope of the project or find the gap funding. If the Council would like to reduce the scope of the project to 1<sup>st</sup> to 5<sup>th</sup>, they would need to pass a joint resolution with the County reducing the project and submit it to the DOT. As the City grows, it should be looking at an arterial fee anyways as a mechanism to fund those streets.

The TIF District was created to the stormwater on SE 4<sup>th</sup> Street. Storm drain will be required to put in on West Railroad. A SID of the surrounding properties would cover that cost.

The Arterial Fee would give the City something to borrow against. As soon as it is created, the City would then pass a bond and set up a payment plan. The Street Maintenance would stay for residential streets only. It would be imperative that the public understands this fee would only be used for arterials. South 4<sup>th</sup> Street would be classified as an arterial, as it is being used as an arterial.

It was questioned if this Council Member understood correctly. That the City has decided to submit the Urban Route funding and make up the gap funding, it was clarified that Council had not made a decision on pursuing this project, originally requested Urban Route funds.

It was questioned if there are any funding options at the County level. County Commissioner Pitman stated that there may be PELT money, and he could check with the Counties Public Works Director and see if they have anything else. He stated that he served eight years on Billings City Council and understood the arterial fee well. The arterial fee is a way that all residents pay for the improvements on arterials. The property owners on those roads aren't billed for the maintenance on a road that everyone uses. This fee is a way to manage high-density roads that get worn out faster compared to a typical residential street.

It was questioned where the map came from. It was clarified the map is from the 2014 Transportation Plan. The City would need to update this map to reflect the current arterials. West Railroad is not a collector street, an example of a collector would be a subdivision with one road to get out of it. That road would be considered a collector. In the instance of West, Railroad people are coming in from the County and going through; this is not a collector. In order to make an update to the map Council would pass an amendment to the Transportation Plan. It is important to create an ordinance, whereas the City grows, the arterials can be defined by development. Would reference the Transportation Plan as it would change as the City grows. For example, S. 4<sup>th</sup> Street is being used as an arterial. Once that street is fixed, the City can work on fixing in between streets.

Council questioned Mr. Pitman if Billings needed to have money in the fund to borrow against the fund. Mr. Pitman stated that Billings did have issues with Bond Counsel and to check with Dave Mumford on the details. He also stated that the funds built up quickly in that fund. It would take a couple of years to be able to fund a project. There is a specific use for these funds and cannot be used for anything else.

Kurt stated he would check with Dave and Debi from Billings on the specifics. He went off the resolution for tonight's meeting. Billings passed its resolution in 2004 and has worked well. The example was given of the road going to Walmart. There is heavy semi traffic on that road. A fee of about \$35 dollars would ensure a good road going to Walmart. East Railroad also has heavy traffic. The County-owned half the street, they did an overlay and gifted it to the City. This road will degrade over time.

It was questioned how long it took this process to go from discussions to being passed by Billings City Council. It will take as long as needed to place the ads and pass the ordinance. Will need to set the definition for an arterial. There needs to be flexibility as the community changes. Will be assessed on taxes to accumulate funds. It will take approximately a year or two to be able to bond, need to show the revenue stream. Billings looked at bonding against their fee to build the interbelt loop. County Commissioner Pitman stated he just texted Billings' Mayor and will look into it. If your

house faces an arterial, you will pay the same as if you lived on a residential street. The difference would be paid by the arterial fee. Every resident pays the fee based on zoning and does include vacant lots. There is still travel to vacant lots; it may just be less frequent. This is taken into consideration in determining the assessed value.

Council President Eaton stated that she would like to see a resolution come before Council stating that Council would like to use the Urban funds that are in reserve for the improvement of West Railroad. She further stated she does not want the intent lost and would like this Council's intention to be preserved, so future Councils and future Staff know what is trying to be done. It will take time, as this is a time-consuming project.

Mayor Nelson stated he would speak with the City Attorney and see if something like this can be put together. Council will discuss bridging the funding above the Urban Route funds. Will also have answers from Bond Counsel if the City were to pursue the arterial route assessment.

Public Works Director Markegard asked if Council would want to look into the costs associated with just doing 1<sup>st</sup> to 5<sup>th</sup>. In order to get an answer on if this would be more feasible, the Council would need to identify the project. This would be a logical option. Both the City and the County would have to agree on shortening the project.

Various Council Members expressed reluctance to only address the first five blocks as this road has heavy truck traffic. While getting the first five blocks done would be a start, it could also end up costing more money in the long road and put a bigger strain on the last three blocks. It was clarified that the DOT would take at least three to four years to design this project.

It was questioned if we know the State is going to take up to five years to design the project; can we commit to this project knowing that by the time the State gets around to doing this project, we will have the funds available. It was clarified that the City would enter into a construction agreement with the DOT to start design work. They would take the 4 million from Urban Route Funds and start design. They will select an engineering firm to get working on the project. When the bills are due the City will cover the costs.

It was questioned how will the resolution spoken about tonight differs from the joint resolution the City and County both passed. The resolution passed was presented to the State, saying this is what we want to do. It was further questioned how they would be different. It was clarified the Mayor would follow up.

It was stated that it seems like the Transportation plan needs to be updated to move forward with the arterial fee option. Is that something Council would need to vote on, or is that something the Mayor can direct Staff to begin working on. Mayor Nelson clarified he could direct Staff to be working on this and bring forward to Council and updated Transportation Plan.

It was questioned if Council needs to review the documentation for the arterial fee and have further discussion in two weeks on the next steps.

Public Works Director Markegard asked if Council was interested in reducing the project to 1<sup>st</sup> to 5<sup>th</sup>. If so, he would need to approach the County and get that change approved for the State to be able to give an estimate on the cost of the project. Various Council members were opposed to that idea. They felt that there would be a burden on the section of unimproved road. That it was in the best interest to complete the entire project, even if the project was delayed due to funding. The Council can explore various funding opportunities to make up the gap funding. Council expressed an interest in exploring the arterial fee option.

Mayor Nelson stated he would follow up with Sam to see if another resolution would be needed for this project.

### **Other Items**

Mayor Nelson stated that this is a contract with the new Prosecutor. The Mayor brought the Council's attention to the cost for the month of February. The pay is less because the City Civil Attorney will work with the new Prosecutor. The new Prosecutor will tail them and see where the City Attorney is leaving off on cases and where she will need to pick them up. It will also give a chance to introduce her to Court Staff and the Police Chief. She has agreed to the pay reduction for February.

It was questioned if the Prosecuting Attorney will stay on after 2022. It is only a two-year contract because this attorney does not intend to stay past this date? It was clarified that the contract would be renegotiated at that time. These contracts have expiration dates.

It was noted that the end date for the contract was listed as June 31, 2022. There are only 30 days in June; this typo will be fixed.

It was stated that the language should be changed as it infers that the person is going to leave in June of 2022. Mayor Nelson stated that he would speak with the City's Civil Attorney and ask for clarification.

It was questioned where the figures came from and did Council to these figures, or is it something that is being proposed. It was clarified that this is what is being proposed. Past Prosecutors stated that this does not pay enough for the work that has to be done. Without the increase in pay, it will continue to be a revolving door.

### **Review of Draft Council Agendas**

5. Review Draft Council Agenda for February 11, 2020.

Mayor Nelson stated the Prosecutor's contract would be added to next week's agenda.

### **Attendance at Upcoming Council Meeting**

Council Member McGee will be absent.

**Announcements**

Council thanked Yellowstone County Commissioner Denis Pitman for attending tonight's meeting and for the discussion on West Railroad Street.

Council thanked Public Works Director Markegard for his work on West Railroad.

Council stated they are looking forward to the meetings between the City and County to start up again.

Public Works Committee has been moved to February 19, 2020, due to the holiday.

Park Board's next meeting is Thursday, February 6, 2020, at 5:30 p.m.

The council workshop adjourned at 8:00 p.m.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Brittney Moorman", with a long horizontal flourish extending to the right.

Brittney Moorman  
Administrative Assistant

**NOTE: This meeting is open to the public. This meeting is for information and discussion of the Council for the listed workshop agenda items.**

CITY HALL  
115 W. 1<sup>ST</sup> ST.  
PLANNING: 628-4796  
WATER OFC.: 628-7431  
COURT: 628-1964  
FAX 628-2241

# City Of Laurel

P.O. Box 10  
Laurel, Montana 59044



Office of the City Planner

January 17, 2020

Regarding the Recommendation of Riverside Park for Inclusion on the National Registry of Historic Places

Mr. Mayor,

After reviewing the federal guidelines, resources, and information available regarding inclusion on the National Registry of Historic Places I am in support of placing Riverside Park on the National Registry of Historic Places (NRHP). There have been many concerns about the NRHP designation previously raised regarding:

- Floodplain regulations,
- Design and improvement constraints, and
- Federal oversight of local efforts.

The National Floodplain Insurance Program (NFIP) has specific regulations for structures regarding substantial improvement for both upgrades and repairing damage. Historic structures do not have to meet floodplain management requirements so long as they maintain their historic structure designation (44 CFR 49.1). The NFIP provides exemptions and variances for historic structures that localities can implement for their jurisdictions. The NFIP recommends considering improved construction and mitigation measures during rehabilitation despite their exemption from floodplain management requirements. The Laurel Floodplain Hazard Management Regulations updated in 2018 presents a basic variance process for historically designated structures which matches the NFIP program. This is described in Section 12.4.2.2.

Inclusion on the National Register of Historic Places does not overlay restrictions on a property owner nor does it mandate the preservation of that property in the future. Activities such as demolition, structural upgrades, replacement of features, and rehabilitation are all allowable by the building or site owner.

Communities have the option of choosing to adopt provisions for addressing the unique needs of "historic structures" and their improvement and alternation. Unless Federal funding is secured to improve/upgrade the site, direct oversight of activities will remain low. Inclusion of a site in the NHRP does not place undue burdens upon the owner in regards to color, removal and replacement of features, and site improvements unless federal licenses, funding, and permits are involved which would elicit review and compliance through Section 106 of the National Historic Preservation Act.

I support the inclusion of Riverside Park on the National Register of Historic Places. I have provided some documentation that supports my position on the matter. Please review the attached and annotated FEMA and Code of Federal Regulations documents for further information. Please let me know if you have any questions or comments on this item. Thank you for your time and consideration.

Respectfully,

A handwritten signature in black ink, appearing to read 'Nick Altonaga', with a long horizontal flourish extending to the right.

Nick Altonaga  
Planning Director





National Flood Insurance Program (NFIP)

# Floodplain Management Bulletin **Historic Structures**

FEMA P-467-2

May 2008



**FEMA**



## National Flood Insurance Program

# Floodplain Management Bulletin Historic Structures

This Floodplain Management Bulletin addresses how the National Flood Insurance Program (NFIP) treats historic structures. This bulletin also identifies mitigation measures that can be taken to protect historic structures from floods. The bulletin addresses the following topics:

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## Introduction

The National Flood Insurance Program (NFIP) gives special consideration to the unique value of one of our Nation's most significant resources – its historic buildings, landmarks, and sites. It does so in two ways.

First, the NFIP floodplain management regulations provide significant relief to historic structures. Historic structures do not have to meet the floodplain management requirements of the program as long as they maintain their historic structure designation. They do not have to meet the new construction, substantial improvement, or substantial damage requirements of the program. This exclusion from these requirements serves as an incentive for property owners to maintain the historic character of the designated structure (44 CFR §60.3). It may also serve as an incentive for an owner to obtain historic designation of a structure.

Secondly, a designated historic structure can obtain the benefit of subsidized flood insurance through the NFIP even if it has been substantially improved or substantially damaged so long as the building maintains its historic designation. The amount of insurance premium charged the historic structure may be considerably less than what the NFIP would charge a new non-elevated structure built at the same level. Congress requires that the NFIP charge actuarial rates for all new construction and substantially improved structures (National Flood Insurance Act of 1968, 42 U.S.C. 4015).

Although the NFIP provides relief to historic structures from having to comply with NFIP floodplain management requirements for new construction, communities and owners of historic structures should give consideration to mitigation measures that can reduce the impacts of flooding on historic structures located in Special Flood Hazard Areas (44 CFR §60.3). Mitigation measures to minimize future flood damages should be considered when historic structures are rehabilitated or are repaired following a flood or other hazard event. Qualified professionals such as architects, historic architects, and engineers who have experience in flood mitigation techniques can help identify measures that can be taken to minimize the impacts of flooding on a historic structure while maintaining the structure's historic designation.

The purpose of this floodplain management bulletin is to explain how the NFIP defines historic structure and how it gives relief to historic structures from NFIP floodplain management requirements (44 CFR §60.3). This bulletin also provides guidance on mitigation measures that can be taken to minimize the devastating effects of flooding to historic structures.

## Background on the NFIP

Congress created the NFIP in 1968 to provide federally supported flood insurance coverage, which generally was not available from private companies. The NFIP is based on a mutual agreement with communities that have been identified as having Special Flood Hazard Areas. The Federal Emergency Management Agency (FEMA) will make flood insurance coverage available in a

community provided that it adopts and enforces floodplain management regulations that meet or exceed the minimum requirements of the NFIP (44 CFR §60.3). This is accomplished through local floodplain management regulations.

The NFIP minimum building and development regulations that communities must adopt require that new and substantially improved and substantially damaged residential buildings be elevated so that the lowest floor is at or above the Base Flood Elevation (BFE) determined for the site. Non-residential buildings have the option of elevation or dry floodproofing to the BFE [44 CFR §60.3(c)(2), (c)(3), and (e)(4)]. Dry floodproofing means making a building watertight, substantially impermeable to floodwaters to the BFE.

Substantial improvement means *“any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed.”*

Substantial improvement also includes the repair of buildings that have been substantially damaged. Substantial damage means *“damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.”*

In summary, structures that are “substantially improved” and “substantially damaged” must be brought into compliance with the community’s floodplain management requirements [44 CFR §60.3(c)(2), (c)(3), and (e)(4)].

## The NFIP and Historic Structures

This section provides information on the NFIP definition of “historic structure” and the floodplain management requirements that will be included in community floodplain management ordinances.

### Definition of “Historic Structures”

The definition section of the NFIP [Code of Federal Regulations (CFR) 44 Part 59], defines “historic structure” as *“any structure that is:*

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (This includes structures that are determined to be eligible for listing by the Secretary of the Interior as a historic structure. A determination of “eligibility” is a decision by the Department of the Interior that a district, site, building, structure or object meets the National Register criteria for evaluation although the property is not formally listed in the National Register.)*

- (2) *Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;*
- (3) *Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or*
- (4) *Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:*
  - (a) *By an approved state program as determined by the Secretary of the Interior or*
  - (b) *Directly by the Secretary of the Interior in States without approved programs."*

This definition was coordinated with the Department of Interior when it was added to the NFIP Regulations in 1989.

The purpose of this definition is to provide NFIP communities with criteria to distinguish between "historic structures" and the other existing buildings which remain subject to NFIP floodplain management requirements (44 CFR §60.3). While it is important to preserve historic structures and other cultural resources, it is also critical to ensure that other existing flood-prone structures are protected from flood damage when they are substantially improved or substantially damaged.

## **Floodplain Management Requirements that Provide Relief for Historic Structures**

The NFIP floodplain management requirements contain two provisions that are intended to provide relief for "historic structures" located in Special Flood Hazard Areas:

- (1) The definition of "substantial improvement" at 44 CFR 59.1 includes the following exclusion for historic structures,

*"Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as an "historic structure".*

The same exemption also applies to "historic structures" that have been "substantially damaged".

This provision exempts historic structures from the substantial improvement and substantial damage requirements of the NFIP.

- (2) The other provision of the NFIP floodplain management regulations that provides relief for "historic structures" is the variance criteria at 44 CFR 60.6(a). This provision states:

*"Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure."*

Under the variance criteria, communities can place conditions to make the building more flood resistant and minimize flood damages, but such conditions should not affect the historic



character and design of the building. *See* the section on Minimizing the Impacts of Flooding on Historic Structures for ideas on conditions that could be established to make the building more flood resistant and to minimize flood damages.

Communities have the option of using either provision for addressing the unique needs of “historic structures”. Communities should adopt only one option to address “historic structures.” Some communities have chosen to adopt an ordinance that requires variances for improvements or repairs to “historic structures” and do not exclude such improvements from the substantial improvement definition in their ordinance. Other communities include the “historic structures” exemption as part of their “substantial improvement” definition. In either case, “historic structures” can be excluded from the NFIP elevation and floodproofing requirements. Whether a community exempts a “historic structure” under the substantial improvement definition or through the variance process, the exemption of the “historic structure” from the NFIP floodplain management requirements should be documented and maintained in the community permit files.

However, if plans to substantially improve a “historic structure” or repair a substantially damaged “historic structure” would result in loss of its designation as an “historic structure”, the structure no longer qualifies for the exemption and would be required to meet the NFIP floodplain management regulations (44 CFR §60.3). This determination needs to be made in advance of issuing a permit. This provides an incentive to the property owner to maintain the structure’s historic designation rather than altering the structure in such a way that it loses its designation as a “historic structure”.

Even if a “historic structure” is exempted from the substantial improvement and substantial damage requirements, consideration should be given to mitigation measures that can reduce the impacts of future flooding. There are mitigation measures that can reduce flood damages to historic structures without affecting the structure’s historic designation. *See* the section on Minimizing the Impacts of Flooding on Historic Structures.

Historic buildings may also be subject to the local building codes. Many States and communities use the International Codes as the basis for their buildings codes. The International Codes contain provisions for addressing historic buildings in a manner consistent with the NFIP.

## Historic Structures in the Floodway

The NFIP floodplain management requirements could apply to an addition to a “historic structure”, if the structure or addition is located in a floodway. The floodway includes the channel of the river and the adjacent floodplain that must be reserved in an unobstructed condition in order to discharge the base flood without increasing flood levels by more than one foot (44 CFR § 59.1, “regulatory floodway”). All structures and improvements to structures, including additions to “historic structures”, must comply with the floodway encroachment provisions of 44 CFR § 60.3(c)(10) and (d)(3) of the NFIP Regulations.

44 CFR § 60.3(c)(10) applies to rivers and streams where FEMA has established BFEs, but has not provided the community with the data necessary to designate a floodway:

*Require until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM [Flood Insurance Rate Map], unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.*

§ 60.3(d)(3) applies to rivers and streams where FEMA has provided both established BFEs and provided the community with the data necessary to designate a floodway:

*Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.*

As an example, an addition, or any portion thereof, to a “historic structure” that expands the square footage of the structure beyond its footprint into the floodway must comply with the regulatory floodway criteria [44 CFR §60.3(c)(10) and (d)(3)]. These additions can obstruct flood flows and increase flood stages. Under 44 CFR § 60.3(d)(3), such an addition would be prohibited if any rise in the flood level would result from the addition. FEMA defines “any” as meaning a zero increase.

## New Construction and Non-contributing Structures in Historic Districts

Generally, registered historic districts contain a mix of buildings. In addition to structures that contribute to the historic significance of the district, there will generally be structures in historic districts that have no historical significance and which do not contribute to the historic significance of a registered historic district (called “non-contributing” structures). In addition, there may be sites in these districts that are undeveloped or vacant land. Whole districts cannot be exempt from floodplain management regulations and a blanket variance cannot be issued for all land within these districts. The non-contributing structures and vacant lots in historic districts remain subject to all of the floodplain management requirements that apply to new construction and substantial improvements (44 CFR §60.3).

Some communities have argued that they should be allowed to grant variances for new buildings or for substantial improvements to non-contributing buildings in historic districts. They claim that requiring that the new structures or substantially improved structures be elevated to BFE could be harmful to the historic significance of the district. FEMA maintains that this would be contrary to the purposes of the NFIP and could result in greatly increased flood damages and, in some instance,

even result in loss of life. There are ways to elevate or floodproof new structures and substantially improve non-contributing structures so that they comply with the NFIP regulations, but that are still in harmony with the historic nature of the district. While the NFIP requires protection to the BFE, it does not specify the means (44 CFR §60.3). An architect should be able to design a new building that is both compliant with NFIP floodplain management requirements and compatible with the historic nature of the district. For example, the protection does not have to be achieved by unsightly mounds of dirt or bare pilings or other elevated foundations. The structure could be elevated on pilings or other foundation elements and the lower area then covered by an architecturally pleasing façade that will not impair the aesthetics of a historic district. The foundation could be camouflaged with landscaping, porches, or staircases (*See* the examples in latter sections of this bulletin).

The NFIP was specifically established by Congress to reduce threats to lives and the potential for damages to new construction in flood hazard areas in exchange for providing flood insurance. Exempting new construction from the NFIP elevation requirements in historic districts would be contrary to the National Flood Insurance Act of 1968, as amended, and it would create a significant flood risk to structures and to the health and safety of the population. Potentially thousands of buildings would be placed in harms way, if new or non-contributing structures are not protected.

## Substantial Improvements to Existing Structures in Historic Districts

Some property owners have wanted to substantially improve a non-contributing structure in a historic district, so that it can become a contributing structure to the historical significance of the registered historic district. For example, this type of improvement could involve removal of modern additions to the building, replacement of modern siding or roofing materials with historic materials, and other actions to restore the historic nature of the structure. If the improvement is a substantial improvement to a non-contributing structure, the structure still could qualify for relief from the NFIP floodplain management requirements in the following ways (44 CFR §60.3):

- The property owner could apply through their State Historic Preservation Officer or Tribal Historic Preservation Officer for contributing status for the structure as is, prior to any improvements. If the building qualifies as “contributing to the historical significance of a registered historic district”, the community can grant a variance or exclude the improvements from the NFIP substantial improvement requirement depending on which provision the community has adopted [44 CFR §60.3(c)(2), (c)(3), and (e)(4)].
- The property owner could undertake the minimum work necessary to make the building a contributing structure, as long as the work is less than a substantial improvement. Once the structure is designated as “contributing”, any additional improvements including a substantial improvement could qualify for relief from the NFIP floodplain management requirements, so long as those improvements do not interfere with the designation as “contributing to the historical significance of a registered historic district” (44 CFR §60.3).
- If the property owner chooses to undertake a substantial improvement of the building all at once or the owner needs to undertake the substantial improvement in order for the building



to qualify as “contributing to the historical significance of a registered historic district”, the owner should contact the community for guidance on how they might qualify for relief from the NFIP substantial improvement requirement [44 CFR §60.3(c)(2), (c)(3), and (e)(4)]. In this situation, the community would have to issue a variance from the floodplain management ordinance. The community should obtain documentation for assurance that the improvements being proposed would qualify the building for “contributing” status before signing off on permits that would grant them relief under the NFIP. The owner should seek guidance from their State Historic Preservation Officer or Tribal Historic Preservation Officer on proposed improvements and on what documentation is needed to obtain preliminary approval. This information should be shared with the community.

In all cases, the property owner should discuss their proposed plans with the community and seek guidance from the State Historic Preservation Officer or Tribal Historic Preservation Officer before undertaking any improvements to make sure the proposed work would qualify the building for the designation as a contributing structure. For any of the options described above, the community should also encourage the property owner to undertake flood damage reduction measures as part of the improvement, as long as measures do not interfere with its designation as a “historic structure”.

## Flood Insurance for Historic Structures

In addition to the relief from the NFIP floodplain management requirements described above, owners of “historic structures” can obtain and maintain flood insurance at subsidized rates. Flood insurance coverage is required for most mortgage loans and for obtaining Federal grants and other financial assistance. The ability to obtain flood insurance coverage is also important to ensuring that historic structures can be repaired and restored after a flood event.

The National Flood Insurance Act of 1968, as amended, requires that FEMA charge actuarial rates reflecting the flood risk to buildings built or substantially improved on or after the effective date of the initial Flood Insurance Rate Map (FIRM) for the community or after December 31, 1974, whichever is later. Actuarial rating assures that the risks associated with buildings in flood prone areas are borne by those located in such areas and not by the taxpayers at large. These buildings are referred to as Post-FIRM. The NFIP flood insurance rates are based on the degree of the flood risk. The flood insurance premium calculations take into account a number of factors including the flood risk zone shown on the FIRM, elevation of the lowest floor above or below the BFE, the type of building, the number of floors, and the existence of a basement or an enclosure. The NFIP floodplain management requirements not only are designed to protect buildings constructed in floodplains from flood damages; they also help keep flood insurance premiums affordable (44 CFR §60.3). Buildings not properly elevated will be charged a much higher flood insurance premium due to the increased flood risk. If substantially improved historic structures were not elevated and made subject to these rates, the annual insurance premiums could be many thousands of dollars a year. Allowing historic structures to continue to be insured at subsidized rates, even when they are substantially improved or substantially damaged, represents a significant financial benefit to these building owners.



Flood insurance at subsidized rates is available whether the “historic structure” is exempt from the NFIP substantial improvement requirement or is granted a variance under the variance provision. “Historic structures” are considered Pre-FIRM under the NFIP and are charged subsidized rates similar to existing structures. As long as a historic structure meets the definition of “historic structure” under the NFIP, it will not be actuarially rated (44 CFR §59.1).

If a “historic structure” is substantially improved such that it loses its historic designation without meeting the elevation requirements of the NFIP, it will be actuarially rated as a Post-FIRM structure. This can be significantly higher than the subsidized rate on a “historic structure.” Thus, the subsidized flood insurance rate on “historic structures” also serves as an incentive to maintain the historic designation of the structure.

Property owners of historic structures are encouraged to purchase NFIP flood insurance. Flood losses are not covered by homeowner’s insurance. Disaster assistance will not take care of all the financial needs, if the historic structure is damaged by flood. Even if disaster assistance is available, it is often in the form of a low-interest loan which has to be repaid, and it is only available if the President formally declares a disaster. Flood insurance compensates for all covered losses and is the best form of financial protection against the devastating effects of floods. Flood insurance policies purchased by individual property owners help them recover from flooding more quickly.

Increased Cost of Compliance (ICC) coverage is not available to a historic structure that is exempt from the floodplain management requirements if a historic structure is substantially damaged (44 CFR §60.3). ICC coverage provides for the payment of a claim for the cost to comply with State or community floodplain management laws or ordinances after a direct physical loss by floods. When a building covered by a State or community declares the building to be substantially or repetitively damaged, ICC will help pay up to \$30,000 for the cost to elevate, floodproof, demolish, or relocate the building. However, if an exemption is granted administratively through the community’s variance process, and conditions are placed in the variance requiring one of the mitigation measures that meet the local floodplain management criteria, ICC will be available if the structure is declared substantially damaged or repetitively damaged.

## Minimizing the Impacts of Flooding on Historic Structures

### Protection Measures for Historic Structures

The primary damage to historic buildings in a flood disaster is from immersion of building materials in floodwaters and the moving force of floodwaters that can cause structural collapse. Storm and sanitary sewer backup during flooding is also a major cause of flood damage to buildings. In addition, floods may cause a fire due to ruptured utility lines; result in the growth of mold and mildew; and lead to swelling, warping, and disintegration of materials due to prolonged presence of moisture.

- 12.4.1.4 Any enclosure including a crawl space must meet the requirements of Section 10.2.14, Wet Flood Proofing if the enclosure interior grade is at or below the Base Flood Elevation;
- 12.4.1.5 Granting of a variance will not result in increased flood heights to existing buildings, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances;
- 12.4.1.6 The proposed use is adequately flood proofed;
- 12.4.1.7 The variance is the minimum necessary, considering the flood hazard, to afford relief;
- 12.4.1.8 Reasonable alternative locations are not available;
- 12.4.1.9 An encroachment does not cause an increase to the Base Flood Elevation that is beyond that allowed in these regulations; and
- 12.4.1.10 All other criteria for a Floodplain permit besides the specific development standard requested by variance are met.

12.4.2 An exception to the variance criteria may be allowed as follows:

- 12.4.2.1 For either new construction of a structure outside of the Floodway only or for substantial improvements or an alteration of a structure, on a lot of one-half acres or less that is contiguous to and surrounded by lots with existing structures constructed below the Base Flood Elevation; or
- 12.4.2.2 For Historic Structures – variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum relief necessary to preserve the historic character and design of the structure. The historic nature of the building must be designated as a preliminary or historic structure by U.S. Secretary of Interior or an approved state or local government historic preservation program.

## 12.5 **DECISION**

12.5.1 The City Council shall:

- 12.5.1.1 Evaluate the Floodplain permit application and Variance application using the criteria in Section 12.4, and the application requirements and minimum development standards in Section 9 and 10;



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be made payable to: *National Park Services*. A certification decision will not be issued on an application until the appropriate remittance is received. Fees are nonrefundable.

(c) The fee for review of proposed or ongoing rehabilitation projects for projects over \$20,000 is \$250. The fees for review of completed rehabilitation projects are based on the dollar amount of the costs attributed solely to the rehabilitation of the certified historic structure as provided by the owner in the Historic Preservation Certification Application, Request for Certification of Completed Work (NPS Form 10-168c), as follows:

Fee	Size of rehabilitation
\$500	\$20,000 to \$99,999
\$800	\$100,000 to \$499,999
\$1,500	\$500,000 to \$999,999
\$2,500	\$1,000,000 or more

If review of a proposed or ongoing rehabilitation project had been undertaken by the Secretary prior to submission of Request for Certification of Completed Work, the initial fee of \$250 will be deducted from these fees. No fee will be charged for rehabilitations under \$20,000.

(d) In general, each rehabilitation of a separate certified historic structure will be considered a separate project for purposes of computing the size of the fee.

(1) In the case of a rehabilitation project which includes more than one certified historic structure where the structures are judged by the Secretary to have been functionally related historically to serve an overall purpose, the fee for preliminary review is \$250 and the fee for final review is computed on the basis of the total rehabilitation costs.

(2) In the case of multiple building projects where there is no historic functional relationship among the structures and which are under the same ownership; are located in the same historic district; are adjacent or contiguous; are of the same architectural type (e.g., rowhouses, loft buildings, commercial buildings); and are submitted by the owner for review at the same time, the fee for preliminary review is \$250 per structure to a maximum of \$2,500 and the fee for final re-

view is computed on the basis of the total rehabilitation costs of the entire multiple building project to a maximum of \$2,500. If the \$2,500 maximum fee was paid at the time of review of the proposed or ongoing rehabilitation project, no further fee will be charged for review of a Request for Certification of Completed Work.

**PART 68—THE SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES**

Sec.

68.1 Intent.

68.2 Definitions.

68.3 Standards.

**AUTHORITY:** The National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*); sec. 2124 of the Tax Reform Act of 1976, 90 Stat. 1918; EO 11593, 3 CFR part 75 (1971); sec. 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

**SOURCE:** 60 FR 35843, July 12, 1995, unless otherwise noted.

**§ 68.1 Intent.**

The intent of this part is to set forth standards for the treatment of historic properties containing standards for preservation, rehabilitation, restoration and reconstruction. These standards apply to all proposed grant-in-aid development projects assisted through the National Historic Preservation Fund. 36 CFR part 67 focuses on "certified historic structures" as defined by the IRS Code of 1986. Those regulations are used in the Preservation Tax Incentives Program. 36 CFR part 67 should continue to be used when property owners are seeking certification for Federal tax benefits.

**§ 68.2 Definitions.**

The standards for the treatment of historic properties will be used by the National Park Service and State historic preservation officers and their staff members in planning, undertaking and supervising grant-assisted projects for preservation, rehabilitation, restoration and reconstruction. For the purposes of this part:

(a) *Preservation* means the act or process of applying measures necessary to sustain the existing form, integrity

and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

(b) *Rehabilitation* means the act or process of making possible an efficient compatible use for a property through repair, alterations and additions while preserving those portions or features that convey its historical, cultural or architectural values.

(c) *Restoration* means the act or process of accurately depicting the form, features and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

(d) *Reconstruction* means the act or process of depicting, by means of new construction, the form, features and detailing of a non-surviving site, landscape, building, structure or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

### § 68.3 Standards.

One set of standards—preservation, rehabilitation, restoration or reconstruction—will apply to a property undergoing treatment, depending upon the property's significance, existing physical condition, the extent of documentation available and interpretive goals, when applicable. The standards will be applied taking into consideration the economic and technical feasibility of each project.

(a) *Preservation*. (1) A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features,

spaces and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.

(2) The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.

(3) Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.

(4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.

(5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(6) The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color and texture.

(7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(8) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(b) *Rehabilitation*. (1) A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.

(2) The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.

(3) Each property will be recognized as a physical record of its time, place and use. Changes that create a false



sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

(4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.

(5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(6) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

(7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(8) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(9) New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

(10) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(c) *Restoration.* (1) A property will be used as it was historically or be given a new use that interprets the property and its restoration period.

(2) Materials and features from the restoration period will be retained and preserved. The removal of materials or alteration of features, spaces and spatial relationships that characterize the period will not be undertaken.

(3) Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.

(4) Materials, features, spaces and finishes that characterize other historical periods will be documented prior to their alteration or removal.

(5) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.

(6) Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials.

(7) Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.

(8) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(9) Archeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(10) Designs that were never executed historically will not be constructed.

(d) *Reconstruction.* (1) Reconstruction will be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture and such reconstruction is essential to the public understanding of the property.

(2) Reconstruction of a landscape, building, structure or object in its historic location will be preceded by a thorough archeological investigation

to identify and evaluate those features and artifacts that are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.

(3) Reconstruction will include measures to preserve any remaining historic materials, features, and spatial relationships.

(4) Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will re-create the appearance of the non-surviving historic property in materials, design, color and texture.

(5) A reconstruction will be clearly identified as a contemporary recreation.

(6) Designs that were never executed historically will not be constructed.

## PART 71—RECREATION FEES

### Sec.

- 71.1 Application.
- 71.2 Types of Federal recreation fees.
- 71.3 Designation.
- 71.4 Posting.
- 71.5 Golden Eagle Passport.
- 71.6 Golden Age Passport.
- 71.7 Entrance fees for single-visit permits.
- 71.8 Validation and display of entrance permits.
- 71.9 Establishment of recreation use fees.
- 71.10 Special recreation permits and special recreation permit fees.
- 71.11 Collection of Federal recreation fees.
- 71.12 Enforcement.
- 71.13 Exceptions, exclusions, and exemptions.
- 71.14 Public notification.
- 71.15 The Golden Eagle Insignia.

**AUTHORITY:** Sec. 4, Land and Water Conservation Fund Act of 1965 (16 U.S.C.A. 4601-6a (Supp., 1974)), as amended by Pub. L. 93-303; and sec. 3, Act of July 11, 1972, 86 Stat. 461; sec. 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

**SOURCE:** 39 FR 33217, Sept. 16, 1974. Redesignated at 44 FR 7143, Feb. 6, 1979, and 46 FR 34329, July 1, 1981; correctly redesignated at 46 FR 43045, Aug. 26, 1981, unless otherwise noted.

### § 71.1 Application.

This part is promulgated pursuant to section 4, Land and Water Conservation Fund Act of 1965, 16 U.S.C.A. 4601-6a (Supp., 1974), and section 3, Act of July 11, 1972, 86 Stat. 461. Any Federal recreation fee charged by any bureau of the Department of the Interior shall be charged according to criteria set forth in this part.

### § 71.2 Types of Federal recreation fees.

There shall be three types of Federal recreation fees:

(a) Entrance fees, charged either on an annual or single-visit basis, for admission to any Designated Entrance Fee Area;

(b) Daily recreation use fees for the use of specialized sites, facilities, equipment or services furnished at Federal expense; and

(c) Special recreation permit fees for specialized recreation uses, such as, but not limited to, group activities, recreation events, and the use of motorized recreation vehicles.

### § 71.3 Designation.

(a) An area or closely related group of areas shall be designated as an area at which entrance fees shall be charged (hereinafter "Designated Entrance Fee Area") if the following conditions are found to exist concurrently:

(1) The area is a unit of the National Park System administered by the Department of the Interior;

(2) The area is administered primarily for scenic, scientific, historical, cultural, or recreation purposes;

(3) The area has recreation facilities or services provided at Federal expense; and

(4) The nature of the area is such that entrance fee collection is administratively and economically practical.

(b) Any specialized site, facility, equipment or service related to outdoor recreation (hereinafter "facility") shall be designated as a facility for which a recreation use fee shall be charged (hereinafter "Designated Recreation Use Facility") if:

(1) For each Designated Recreation Use Facility, at least one of the following criteria is satisfied:

(i) A substantial Federal investment has been made in the facility,



## FAQs about the National Register of Historic Places

*If the following questions and answers leave you still wondering, please feel free to call us at the Montana State Historic Preservation Office. We are always glad to talk with you on the phone or in person about the National Register if there is something you'd like clarified. Please write us or give us a call: 1301 E Lockett, P.O. Box 201202, Helena, MT 59620-1202, (406) 444-7715.*

### 1. What is the National Register of Historic Places?

The National Register is the official list of the Nation's historic buildings and archaeological sites that are considered to be worthy of preservation. The Register was established in 1966 to help property owners, communities and neighborhoods recognize their important historic properties, to offer realistic incentives for preservation, and to insure that Federal actions do not harm these properties without alternatives being considered. The National Register was not designed as a major regulatory program nor as just an honor roll. The Register was intended to be broad rather than exclusive and includes many different kinds of properties important to the Nation, the State, a region or a local community.

### 2. If I list my home or business in the National Register, what restrictions will be placed on my rights to modify or sell the property?

Listing in the National Register in of itself does not interfere with an owner's right to manage their property as they see fit. You may paint, remodel, administer, sell, or even demolish your property. You may alter your building at any time, unless you use Federal funds or the Federal tax incentives to rehabilitate it, in which case the alterations are reviewed by the agency in consultation with the State Historic Preservation Office (this is true not only for National Register properties but also for those eligible for listing—see Section 106 of the National Historic Preservation Act). Placing a property in the Register also does not obligate an owner to make any repairs or improvements. Moreover, the State or Federal government will not attach restrictive covenants to properties or seek to acquire them as a result of National Register-listing. Local governments may adopt, design, or review zoning ordinances affecting properties listed in the National Register of Historic Places. Please check with your local preservation office or planning office to see if your community has adopted such provisions.

### 3. Does Register listing mean that my property must be opened to the public on a regular basis?

As the owner of a property listed in the Register, you will not be required to open your house, place of business, or historic site for public visitation. Your private property rights are in no way changed by Register listing, unless, again, you have accepted Federal funds for rehabilitation, in which case the public must be allowed to visit the property for a few days each year.

### 4. Can I get money to fix up my historic building if it is listed in the Register?

National Register property owners may apply for Federal grants for buildings rehabilitation when Congress appropriates such funds. However, these funds are extremely limited and most property owners will not receive such funding. If you are a Community Cultural Organization, we encourage you to check with the Montana Arts Council (444-6430) to determine whether the project you are considering would qualify for Cultural and Aesthetic Grant monies appropriated biennially by the Montana Legislature.

### 5. Is there some kind of tax credit I can get if I plan to repair my historic building?

Yes. If a property is listed in the National Register, certain Federal tax provisions may apply. The Tax Reform Act of 1986 allows you to credit 20 per cent of the rehabilitation costs against your federal tax liability for the substantial rehabilitation of income-product properties such as commercial, farm, industrial, and residential rental buildings. Work must meet certain standards and be reviewed and approved by the State Historic Preservation Office and the National Park Service. Because tax provisions are complicated, individuals should consult their accountants for assistance in determining the tax consequences of the above provisions.

6. So what are the results of listing my property in the Register? Why should I consider doing so?

*Recognition*

Most of all, Register listing provided your property **recognition** for its historic value and rewards you for your efforts in preserving it. Listing of a building, site or district also afford it prestige that can enhance its value and raise community awareness and pride. While National Register properties do not have to be preserved, listing does insure that preservation is taken to be an important consideration whenever a building's or site's future is in question

*Technical Assistance*

Owners of Register properties are also able to seek advice from the Montana Historic Preservation Office on appropriate methods to maintain and rehabilitate older buildings or sites.

*Signs*

Owners of listed properties may apply for funds to obtain Montana's official National Register interpretive plaque to mount on a stand or hang on an outside wall of their building. The applicant pays only a \$35.00 shipping and handling fee or \$55.00, depending upon the type of sign, the balance coming from the Montana Historical Society.

*Government Agency Compliance Review*

The National Historic Preservation Act and the Montana State Antiquities Act require federal and state agencies to consider the impacts of all projects occurring on public lands, or with federal funding, that affect historic properties eligible for or listed in the National Register. In addition, the Surface Mining and Control Act of 1977 requires consideration of historic values in the decision to issue surface coal mining permits.

7. How do you decide whether something is significant enough to be listed in the National Register?

*The National Register carefully evaluates the quality of significance of each property being considered for listing. To be eligible for the Register designation, a property must meet one or more of the following criteria:*

- A. Be associated with events that have made a significant contribution to the broad patterns of our history; or
- B. Be associated with the lives of persons significant in our past; or
- C. Embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. Have yielded, or may likely to yield, information important in prehistory or history.

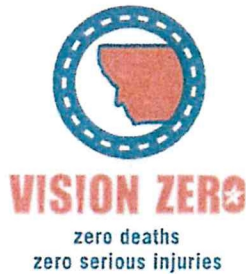
In addition, properties must possess a high degree of integrity to qualify for listing in the Register – in other words, they must be relatively unchanged in appearance from the historic period.

Generally speaking, a property must be at least 50 years old to be considered for the Register, unless it is of exceptional significance, or if it is an integral part of a historic district. Non-historic properties that are located within the boundaries of historic districts are also listed in the Register as “non-contributing” components of those historic districts.

## **Who can nominate properties to the Register?**

Anyone can prepare a nomination for listing a historic property on the National Register -- from private owners to local historians to public lands manager to historic preservation professionals. Important properties worthy of listing are identified by people across Montana, who frequently are most familiar with their local history and properties deserving recognition. Eligible properties may also be identified by federal and state lands agencies, which must routinely consider historic resources as a part of their permitting and project activities. The owner of a private property must concur in the nomination of a private property to be listed in the National Register of Historic Places. In the case of multiple owners and historic districts, the majority of private owners must object for an approved property not to be listed.





Montana Department of Transportation

2701 Prospect  
PO Box 201001  
Helena MT 59620-1001

Steve Bullock, Governor  
Michael T. Tooley, Director

January 31, 2019

Thomas C. Nelson  
Mayor  
P.O. Box 10  
Laurel, Montana 59044

Subject: Laurel Urban Area Urban Highway System funding priority

Mayor Nelson,

The Montana Department of Transportation (MDT) received your request to program an urban funded project on West Railroad Street from South 1<sup>st</sup> Avenue to South 8<sup>th</sup> Avenue. The desired scope of work is full reconstruction to a three-lane road with a two way left turn lane (TWLTL), curb, gutter, and sidewalks.

MDT has developed a cost estimate for your requested project, detailed below:

Cost Estimate:	\$4,400,000 - \$6,200,000
FFY19 Urban Funding:	<u>\$3,673,000</u>
Shortfall:	(\$727,000) - (\$2,527,000)

On Tuesday, January 22, 2019, MDT Billings District and Planning staff met with the City of Laurel Public Works and Administration staff to discuss the project scope, cost estimates, and funding shortfall.

If the City of Laurel wishes to move forward, a complete funding package needs to be in place before the MT Transportation Commission will approve the use of federal funds. The City of Laurel will need to contribute local funds to address the funding shortfall, rescope the project (i.e. change design elements, shorten the project, etc), or delay this project until funding is available. The cost estimate was developed with the best information we have and is preliminary; as project development progresses this estimate will likely change and any shortfalls beyond what is known to date will be the responsibility of the City of Laurel.

Please work with your Public Works and Administration staff and both the City Council and County Commission to determine how you would like to move forward.

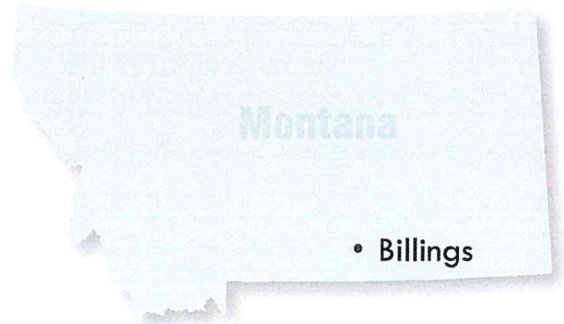
Carol Strizich  
Supervisor, Statewide and Urban Planning

copies: Rod Nelson, MDT Billings District Administrator, Acting  
Mike Taylor, MDT Billings Project Manager  
Kurt Markegard, City of Laurel Public Works Director  
Matt Lurker, City of Laurel Chief Administrative Officer  
Yellowstone County Commission  
file



### The Setting

The City of Billings (population 100,000) is located in Southeast Montana within Yellowstone County. Healthcare, energy, financial, engineering & technical services, and agriculture are the primary industries in Billings. Billings is also home to Montana State University-Billings and Rocky Mountain College. Recreational activities and three National Parks (Yellowstone, Teton, and Glacier) are in close proximity to Billings.



The City of Billings does not have impact fees to fund transportation system improvements; they rely primarily on grant money and traditional funding sources for transportation system improvements. The arterial construction fee formula levies a fee on all properties within the city limits and the resulting revenue (approximately \$3 million annually) is used specifically for constructing or reconstructing arterial roads within Billings. Assessments are based on parcel square footage and zoning to categorize properties with respect to their current or potential ability to contribute traffic to the arterial street system. For example, commercial and multi-family properties pay more because they generate more traffic. The square footage (and resulting arterial construction fee assessment) of residentially zoned properties is capped because the size of the residence does not generate additional trips. City staff used the Institute of Transportation Engineers (ITE) Trip Generation Handbook to develop trip generation rates

for each generic zoning classification in the City. This effort took 3 months to complete. Arterial construction fee revenues may be used to construct or reconstruct arterial roadways within the Billings city limits.



The City instituted the arterial construction fee program in 2004 as the result of a funding gap and complaints over the assessment fees being charged property owners in

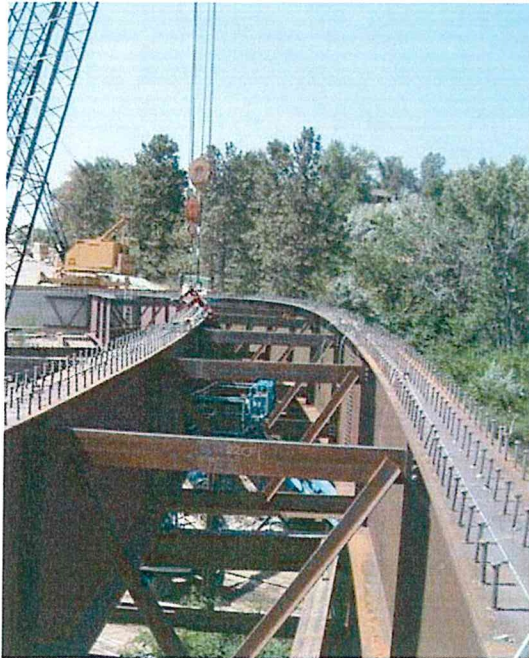
Special Improvement Districts (SID). At that time, the City's existing revenue sources were not sufficient to meet the community's arterial construction and reconstruction needs. The City decided to explore other approaches to generate revenue to fund improvements to the transportation system. This arterial construction fee assessment is unique in Montana and is an example of a funding mechanism used to finance the local transportation system.

### This case study relates to:

- Workshops;
- Resource and funding coordination;
- Urban Transportation District
- Transportation Utility Fee



# Billings Arterial Construction Fee



## Lessons Learned:

The success in developing the arterial construction fee in the City of Billings was the direct result of public outreach and stakeholder involvement from the beginning stages. These stakeholder groups easily could have been opponents of the arterial construction fee. Because these stakeholder groups were brought into the committee, they understood the situation and were empowered to help solve the funding problem. Their support of the process drove the development of the arterial construction fee as a mechanism for the City to effectively meet community transportation needs. The stakeholders presented and fully supported the arterial construction fee option before the City Council.

## The Project

The arterial construction fee addresses the construction or reconstruction of arterial roadways within the city limits as defined within the Transportation Plan. The fee is currently administered by the public works department. Arterial construction fees are annually assessed citywide regardless of the parcel's proximity to designated arterial roadways. The arterial construction fee is a community cost, borne by all city residents. Arterial construction fee assessment rates are set annually and the assessments are included on property tax statements. The arterial construction fee assessments are collected and credited to the municipal arterial construction system fund, which is maintained by the financial services manager as a separate and special fund.

## The Process

According to Montana Code Annotated, Title 7, Chapter 6, Part 16, as a self-governing entity, the City of Billings is enabled to establish impact fees to help pay for roads, water, sewer, storm water, parks, fire and police, library, and solid waste facilities.

The arterial construction fee is a financing tool that took about a year to develop. The public works department began discussing arterial construction funding constraints with the City Council. The City Council created an ad hoc committee to discuss options to address arterial construction funding constraints. The committee included City Council members, City staff, and representatives of various stakeholder groups (Home Builders Association, Billings Association of Realtors, local developers, etc.). City staff outlined arterial construction project needs, project costs, and the City's projected funding revenue. It became clear to the committee that existing arterial construction revenue sources were not sufficient to meet community needs. The committee discussed the pros and cons of implementing a citywide arterial construction fee assessment. The proposed ordinance language was developed and refined. Public meetings and service group presentations on the

# Billings Arterial Construction Fee

proposed arterial construction fee were conducted before the City Council held a public hearing and took action on the ordinance's adoption. The Billings City Council passed Ordinance 04-5300 adopting the arterial construction fees in 2004.

## Trying this at home

Arterial construction fees could possibly be implemented in other jurisdictions if their respective laws allow it (City Charter, municipal code, and state code).

Additional information about Billings' arterial construction fee assessments are available at:  
<http://ci.billings.mt.us/DocumentView.aspx?DID=1018>

Or you may contact:  
Public Works Administration  
City of Billings  
(406) 657-8230  
[pubworks@ci.billings.mt.us](mailto:pubworks@ci.billings.mt.us)

Additional information about the arterial construction fee can be found in the Billings Montana City Code Sec. 22-1000 available online at: [http://library1.municode.com:80/1287/template.htm?view=browse&doc\\_action=setdoc&doc\\_keytype=tocid&doc\\_key=2c49d301b4e0c17af60f13005b16c0e9&infobase=10441](http://library1.municode.com:80/1287/template.htm?view=browse&doc_action=setdoc&doc_keytype=tocid&doc_key=2c49d301b4e0c17af60f13005b16c0e9&infobase=10441)

Information about the Transportation Plan is available at:  
<http://mt-billings.civicplus.com/index.aspx?NID=1466>

photo on p.1 from [http://commons.wikimedia.org/wiki/File:Billings\\_Pano.JPG](http://commons.wikimedia.org/wiki/File:Billings_Pano.JPG)  
photo on p.2 from <http://ci.billings.mt.us/photogallery.aspx>



## ARTICLE 22-1000. - ARTERIAL CONSTRUCTION FEE

### Sec. 22-1001. - Duties of city engineer.

The city engineer shall have full authority and control over the arterial roadway system of the city, subject to the supervisory control of the city administrator and pursuant to policies adopted by the city council.

(Ord. No. 04-5300, § 1, 9-13-04)

### Sec. 22-1002. - Duties of financial services manager.

The financial services manager shall have full responsibility for billings and collection of all arterial construction accounts in the manner provided in this article, and the financial services manager shall be deemed agent of the public works department.

(Ord. No. 04-5300, § 2, 9-13-04)

### Sec. 22-1003. - Rates for arterial construction.

- (a) For the purpose of paying the cost of construction and/or reconstruction of arterial roadways and depreciation and replacement of arterial roadways to provide safe facilities on which citizens and visitors may travel, including the principal and interest on all revenue bonds to be issued for that purpose, as authorized by MCA Title 7 Chapter 7 Part 44 or Title 7 Chapter 13 Part 43, as amended, an annual arterial construction fee is imposed and made applicable to all premises within the city limits. The financial services manager shall report to the city council when all revenue bonds issued for the construction or reconstruction of such arterial roadways, and bond refunding the same, have been fully paid and redeemed, and the city council shall then provide for the reduction of the charge to such amount as will be sufficient to pay the reasonable expense of the construction or reconstruction of arterial roadways. The charge shall be based on both the area of the parcel of land and its zone classification. Charges against properties zoned Residential-5000 (R-50), Residential-6000 (R-60), Residential 6,000 Restricted (R-60R), Residential-7000 (R-70), Residential 7,000 Restricted (R-70R), Residential-8000 (R-80), and Residential-9600 (R-96) shall be capped at a maximum of the applicable rate for that zoning classification times 9600 square feet per parcel. Other residential zoning classifications created in the future will be similarly treated, except that Residential Multi-Family (RMF), Residential Manufactured Home (RMH), Residential Professional (RP), and Residential Multi-Family-Restricted (RMF-R) will not be subject to any such maximum square footage cap. Planned Development (PD) zones will be charged based on their underlying zoning classifications and will be subject to the maximum 9600 square

footage cap for the underlying zoning classifications of R-50, R-60, R-60R, R-70, R-70R, R-80, and R-96. All other underlying zoning classifications will not be subject to any such maximum square footage cap. If the underlying zoning does not match any zoning classification listed in article 27-300, zoning districts and official maps, the parcel will be charged at the rate of the most reasonably comparable zoning classification. If there is no reasonably comparable zoning classification, the parcel will be charged at the Planned Development (PD) zoning rate. The city council may provide an exemption to commercially zoned and Residential Manufactured Home (RMH)-zoned properties that are currently owner-occupied as a single-family residence. The property owner must annually request the exemption through the public works department by August 31 of each year. The per square foot charges for each parcel shall be set by resolution and shall be made to the owner of the parcel as the same shall appear according to the tax code number or account number thereof in the office of the Department of Revenue, Yellowstone County, Montana:

The arterial construction assessment rates shall be established on an annual basis consistent with state law by resolution passed by a simple majority of the city council, but the assessment rates may only be changed through passage of a resolution by a super-majority of the city council consisting of at least two-thirds ( 2/3 ) of all council members present and voting. The zone classification shall be that which is on the official map on record at the city-county planning department.

- (b) The financial services manager shall, on or before the last day of October of each year, cause to be mailed by the county treasurer to every owner of a lot or parcel within the city, on the same date and in the same manner as are real property taxes, a separate statement of arterial construction charges setting forth the annual charge to be assessed on the lot or parcel for arterial roadway construction thereto. Such charge shall be due and payable on or before 5:00 p.m. on the thirtieth day of November of each year. Upon failure of the owner to pay the charge, the same will be in arrears and delinquent on December 31st of such year, and shall be collected by the financial services manager according to the provision and authority of MCA §§ 7-1-101 through 7-1-120, and the City Charter.
- (c) All arterial construction charges shall be collected as provided in this article and credited to a fund to be known as the "municipal arterial construction system fund", which fund shall be at all times segregated and maintained by financial services manager on the books of the city as a separate and special fund. Upon adoption by the city council of a resolution authorizing the issuance of revenue bonds of the city payable from arterial roadway construction charges or otherwise establishing a system of funds and accounts for such charges, all arterial construction charges shall be applied and accounted for in the manner provided in such resolution.
- (d) Any party who considers the charges applicable to his premises unfair, inequitable or unreasonable may apply to the public works director for adjustment thereof, stating the facts and grounds of complaint, and the public works director may notify the owner of any

premises as to which he considers the rates and charges to be inadequate. In either case, the public works director shall cause appropriate investigation and report to be made by himself or his duly authorized representative.

- (e) The public works director, or his duly authorized representative, shall consider each and all of such complaints and reports and communicate his findings with respect thereto to the city council. The city council shall have the right to order a public hearing as to any such matter and, if convinced that an adjustment of the charges for such premises is necessary to provide reasonable equality with those charged to others, it shall so provide, either by ordinance amendatory hereto, or by resolution fixing special charges for individual premises during the period of continuance of special circumstances which make the standard charges unfair, inequitable, unreasonable or inadequate.

(Ord. No. 04-5300, § 3, 9-13-04; Ord. No. 05-5322, § 1, 4-11-05; Ord. No. 08-5478, § 1, 9-22-08)



RESOLUTION 06 -18434

A RESOLUTION LEVYING AND ASSESSING ARTERIAL  
CONSTRUCTION FEES FOR PROPERTIES WITHIN THE  
CITY OF BILLINGS, PROVIDING FOR NOTICE, HEARING  
AND FINAL ADOPTION

WHEREAS, the Billings, Montana City Code did establish the rate table for Arterial  
Construction Fee assessments; and

WHEREAS, extension of these charges have been made on individual properties to  
be assessed annually.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY  
OF BILLINGS, MONTANA, AS FOLLOWS:

1. ANNUAL ARTERIAL CONSTRUCTION FEE FOR FISCAL YEAR 2007.

That for the purpose of paying the cost of construction and/or reconstruction of arterial  
roadways and depreciation and replacement of arterial roadways to provide safe facilities  
on which citizens and visitors may travel, including the principal and interest on all revenue  
bonds to be issued for that purpose, as authorized by MCA Title 7 Chapter 7 Part 44 or  
Title 7 Chapter 13 Part 43, as amended, an annual arterial construction fee assessment is  
imposed for the fiscal year 2007, upon all lots or portions of lots as identified in the city's  
property tax record files. Rates are hereby levied and assessed as listed and described on  
EXHIBIT "A" attached hereto and by this reference said exhibit is made a part hereof.

2. EXEMPTION. Arterial Construction Fee assessments shall not be paid  
by the City General Fund, Public Safety Fund, Library Fund, or MET Transit Fund.

3. DISPOSITIONS OF COLLECTIONS. Monies collected from taxes shall be  
paid into the Municipal Arterial Construction System Fund, of Billings, Montana.

4. NOTICE OF HEARING. On Monday, **June 12, 2006**, at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of City Hall, Billings, Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk published notice hereof twice, on June 1 and June 8, 2006, in the Billings Times.

5. CERTIFICATION. The City Clerk is hereby directed upon final passage and approval of this resolution to certify a copy thereof to the City Administrator of the City of Billings, Montana, who shall certify a copy to the Yellowstone County Clerk and a copy to the Yellowstone County Assessor.

6. EFFECTIVE DATE. This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the 12<sup>th</sup> day of **June, 2006**

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Ron Tussing, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Marita Herold, CMC/AE CITY CLERK

*Exhibit A*

**Arterial Construction Fee**

<b>ZONE</b>	<b>RATE</b>	
<b>VACANT</b>	988.00	Cap
<b>AT RATE</b>	0.00125	
<b>P</b>	0.00212	
<b>R-96</b>	0.00371	
<b>R-80</b>	0.00404	
<b>R-70</b>	0.00425	
<b>R-70R</b>	0.00425	
<b>RMH</b>	0.00477	
<b>R-50</b>	0.00512	
<b>PD</b>	0.00585	
<b>R-60</b>	0.00638	
<b>R-60R</b>	0.00638	
<b>RP</b>	0.00692	
<b>RMF-R</b>	0.00721	
<b>RMF</b>	0.00748	
<b>NC</b>	0.00824	
<b>ELC</b>	0.00824	
<b>MCPZD</b>	0.00850	
<b>CC</b>	0.00879	
<b>EGC</b>	0.00902	
<b>PZD</b>	0.00892	
<b>HC</b>	0.00902	
<b>CI</b>	0.00960	
<b>HI</b>	0.01068	
<b>CBD</b>	0.01279	
<b>ELI</b>	0.00902	
<b>EMU</b>	0.00879	



# Yellowstone County, Montana

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## Detail Property Tax Information

**Disclaimer:** The tax information was updated on 2/4/2020. Please notify the Treasurer's Office of any inaccuracies. Online Tax Billing History is available from Tax Year 2000 forward. If you wish information for prior tax years contact the Treasurer's Office. [Pay Taxes Online](#)

Tax ID: B03167 Tax Year: 2019

### LAUREL URBAN RENEWA TAX I

Code	District	1st Half	2nd Half	Total
#113	#113 LAUREL SID	659.60 P	659.60	1,319.20
	LAUREL URBAN RENEWA TAX I (Levy District)	39,731.38 P	39,731.38	79,462.76
7TI1	WEST BANK URBAN RENEWAL A	37,040.70 P	37,040.70	74,081.40
LSM	LSM LAUREL STREET MAINT	800.00 P	800.00	1,600.00
NUDD	NUTTING DRAIN DISTRI	5.00 P	5.00	10.00
SOIL	SOIL SOIL CONSERVATION	51.69 P	51.69	103.38
TIDU	TIDU TID - UNIVERSITY MILLAGE	376.04 P	376.03	752.07
<b>Totals</b>		<b>78,664.41</b>	<b>78,664.40</b>	<b>157,328.81</b>

Date Paid 11/29/2019

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## Detail Property Tax Information

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Tax ID: A27826 Tax Year: 2019

### BILLINGS

Code	District	1st Half	2nd Half	Total
	BILLINGS (Levy District)	130,052.26 P	130,052.25	260,104.51
BACF	BACF BLGS ARTERIAL CONST FEE	5,511.69 P	5,511.69	11,023.38
BLSW	BLSW BILLINGS STORM SEWER	4,869.78 P	4,869.78	9,739.56
BS#2	BS#2 BLGS STREET MAINT #2	5,117.43 P	5,117.43	10,234.86
L235	0235 BLGS LIGHT MAINT	40.85 P	40.85	81.70
L257	0257 BLGS LIGHT MAINT	884.28 P	884.28	1,768.56
PD01	BILLINGS PARK DISTRICT	1,793.26 P	1,793.26	3,586.52
SOIL	SOIL SOIL CONSERVATION	74.23 P	74.23	148.46
<b>Totals</b>		<b>148,343.78</b>	<b>148,343.77</b>	<b>296,687.55</b>

Date Paid 11/29/2019

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**RESOLUTION NO. R20-\_\_**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A  
CONTRACT FOR THE CITY'S PROSECUTOR DUTIES BETWEEN THE  
CITY OF LAUREL AND LORE LAW FIRM PLLC.**

BE IT RESOLVED by the City Council of the City of Laurel, Montana:

Section 1: Approval. The contract negotiated between the City of Laurel and Lore Law Firm, P.L.L.C. for the City Prosecutor duties is accepted and hereby approved. A copy is attached hereto for convenience.

Section 2: Execution. The Mayor and City Clerk/Treasurer of the City of Laurel are hereby given authority to accept and execute said agreement on behalf of the City.

Section 3: Effective date. The effective date for the attached contract is hereby approved effective February 1, 2020.

Introduced at a regular meeting of the City Council on \_\_\_\_\_, 2020, by Council Member \_\_\_\_\_.

PASSED and APPROVED by the City Council of the City of Laurel, Montana, this \_\_ day of \_\_\_\_\_, 2020.

APPROVED by the Mayor this \_\_ day of \_\_\_\_\_, 2020.

CITY OF LAUREL

\_\_\_\_\_  
Thomas C. Nelson, Mayor

ATTEST:

\_\_\_\_\_  
Bethany Langve, City Clerk/Treasurer

Approved as to form:

\_\_\_\_\_  
Sam S. Painter, Civil City Attorney

**PROSECUTOR**  
**ATTORNEY CONTRACT**

THIS AGREEMENT, made and entered into by and between the City of Laurel, hereinafter referred to as Client, and Lore Law Firm, P.L.L.C. hereinafter referred to as "Attorney."

**ATTORNEY CLIENT RELATIONSHIP:** Client hereby employs Attorney to exercise and perform the criminal prosecutorial duties of the City Attorney for Client, which includes the provision of prosecution services for Client for matters assigned and directed by Client. Client's Mayor shall be the primary contact for Attorney and shall assign and direct the Attorneys' provision of criminal prosecution services in city court as well as all subsequent appeals. Attorney agrees to provide his/her own office, staff and equipment at no additional charge to Client. Client agrees to provide on-site workspace for Attorney immediately prior to and during any required court appearances. Client also agrees to provide copy paper upon request for services under this contract. Attorney agrees to spend a minimum of two (2) hours per week at Laurel City Hall in order to meet with pro se criminal defendants living in the Laurel area.

**FEES AND BILLING:** For services performed for Client by Attorney, Client agrees to pay Attorney as follows:

- For the time period February 1, 2020 through February 29, 2020 City shall pay Client \$2800.00;
- Commencing March 1, 2020 and each subsequent month thereafter, City shall pay client \$5600.00 per month.

In addition to the fees provided above, Client agrees to reimburse Attorneys for costs incurred during the course of representation. Attorney agrees to provide Client an invoice each and every month itemizing services rendered and costs incurred each and every month. Client agrees to pay Attorney each and every month for services rendered and costs incurred. Client understands that Attorney billing schedule is monthly.

**COSTS:** Costs are defined as all filing fees, court costs, subpoena costs, certified driving records for defendants, mail costs, copies of video-taped or DVD evidence, depositions, court report charges, expert witness fees, expert reports, witness statements, and travel expenses except as set forth herein, and any other disbursements or expenses incurred by Attorneys while representing Client. Photocopies shall be reimbursed at \$.05 per page. These costs may be billed monthly by Attorneys and, if unpaid, shall bear interest at the rate of one percent (1%) per month.

Travel costs beyond local travel shall be undertaken only upon Client's request. Client shall reimburse Attorney his/her actual costs of travel (other than local) and pay per diem at rates established by the State of Montana.



**DURATION:** This contract shall immediately commence on February 1, 2020 and continue until June 31, 2022. Attorney agrees to assist with the transition when a new Prosecutor is contracted.

**MODIFICATION AND TERMINATION:** This contract or any provision thereof may be modified at any time upon mutual consent expressed in a mutually signed writing. The contract may be terminated at any time by either party without cause.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF LAUREL

\_\_\_\_\_  
Thomas Nelson, Mayor

ATTEST.

\_\_\_\_\_  
Bethany Langve, Clerk/Treasurer

ATTORNEY:

\_\_\_\_\_  
Juliane E. Lore, Lore Law Firm P.L.L.C.