

The City of
White Sulphur Springs
General Municipal Code

PREFACE

The ordinance provisions are divided into titles, chapters and sections.

The code is organized under an expandable decimal numbering system in order that it can be kept up to date by regular supplements without the necessity of a recodification.

ORDINANCE #336

AN ORDINANCE FOR REVISING, CODIFYING AND COMPILING THE GENERAL ORDINANCE OF THE CITY OF WHITE SULPHUR SPRINGS, MONTANA: PROVIDING FOR PERPETUAL CODIFICATION AND REPEALING ALLERGIES: ORDINANCES IN CONFLICT HEREWITH:

BE IT ORDAINEDBY THE CITY COUNCIL OF THE CITY OF WHITE SULPHUR SPRINGS, MONTANA:

Section 1: That all ordinances of a general nature in force in the City of White Sulphur Springs, Montana, as revised, codified and compiled and hereinafter set forth, be and they are hereby adopted, passed, published and declared to be the compiled ordinance of the City of White Sulphur Springs, Montana, and that said compiled ordinances of the City of White Sulphur Springs, Montana, and that said compiled ordinances shall be referred to and cited as the "City Code of White Sulphur Springs, 1985".

Section 2: There is hereby adopted as a method of perpetual codification, the loose leaf type of binding, together with a continuous supplemental service, whereby each newly adopted ordinance of a general nature amending, altering, adding to or deleting provisions of the Municipal Code, is identified by the proper catch-line and is inserted in the proper place in each of the official copies. Each such insertion shall be made within thirty (30) days following the date of adoption by the council.

Section 3: That at least one (1) official copy of said official Municipal Code of the City of White Sulphur Springs, Montana, shall be at all times on file and available for inspection in the office of the City Clerk.

Section 4: All ordinance in conflict herewith are hereby repealed an as set forth in Title 1, City Code of White Sulphur Springs, 1985, herein.

Section 5: That this ordinance and all said ordinances of a general nature compiled and codified as above stated, shall be in full force and effect thirty (30) days after the passage and approval of this ordinance.

PASSED by the City Council of White Sulphur Springs on first reading on the 4th day of February, 1985.

PASSED, ADOPTED AND APPROVED on the second reading on the 4th day of March, 1985.

THE CITY OF WHITE SULPHUR SPRINGS

By: Kenneth G. Hilten, Mayor

ATTEST: Florence McAfee, City Clerk

PROCEDURE FOR PASSING ORDINANCES AFTER THE CODE IS ADOPTED

This code has been designed to permit logical expansion without requiring recodification or renumbering. To preserve the code's continuity and usefulness, we recommend that the procedure set forth below be followed before a new ordinance is adopted.

FIRST, before drafting the ordinance, determine whether the same or similar provisions are presently in the code. The index should be useful in making this determination.

SECOND, compare any similar code provision with those considered for the new ordinance and determine whether the present code provision is sufficient, needs to be amended or is to be repealed.

THIRD, if the exiting code section need only be amended, the ordinance should simply expressly amend the code sections as follows:

“Section 5.10.032 is hereby amended to read as follows:”

or

“Sections 5.10.032 and 7.08.040 are hereby amended to read as follows:”

“Sections 5.10.032 ...” “Section 7.08.040 ...”

Chapters and Titles may be amended in a similar manner.

IMPORTANT: Do not use the words, “Chapter X is hereby repealed and re-enacted as follows,” unless the intent is to simply repeal the material and use the chapter number again for entirely new material. When such words are used, the City Clerk will rewrite the history note eliminating any reference to the old ordinance.

FOURTH, if the prior code provision is to be totally replaced by the new ordinance, the new ordinance should specifically repeal the prior code section by simply stating, “Section 5.10.032 is hereby repealed.”

FIFTH, if new sections are to be added to the code, determine whether such sections would best fit within an existing chapter and title or whether they should be codified as a new title or chapter, in each case, the expandable decimal numbering system used in this volume reserves title, chapter and section numbers for expansion. If there is any question as to the proper placement of a new provision, no reference to code section number should be made. The City Clerk will place the ordinance when the next supplement is prepared. The following language is sufficient to locate the new ordinance in the code:

“There is hereby added to the Municipal Code of ____, Section 5.32.033 which is to read as follows:”

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TITLE 1 - GENERAL PROVISIONS

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CHAPTER 1.00 - OFFICIAL CODE

Sections:

- 1.00.010 Municipal Code of the City of White Sulphur Springs
- 1.00.020 Effect of Repealing Ordinances
- 1.00.030 Rules for Construction

1.00.010 Municipal Code of the City of White Sulphur Springs.

This compilation, revision and codification of the General Ordinances of the City of White Sulphur Springs is hereby declared to be and shall hereafter constitute the Official Code of General Ordinances of the City of White Sulphur Springs.

Said code shall hereafter be known and cited as the "Official Code of the City of White Sulphur Springs," and a copy or copies of such code in printed form shall be received without further proof as the ordinances of permanent and general effect of the city, in all courts and administrative tribunals of this state.

Any ordinance amending this code shall set forth in full the section or sections of the code being amended, and this shall constitute a sufficient compliance with any statutory requirement that no ordinance or any section thereof shall be revised or amended unless the new ordinance sets forth the revised ordinance or amended section in full.

Any and all ordinances of a general nature hereinafter enacted shall comply with the provisions of the Montana Code Annotated, and shall be integrated with this code by appropriate title, chapter and section numbering. In all cases other than those excepted for operation of the 30-day limit imposed by Section 7-5-4203, M.C.A., all ordinances enacted after the adoption of this code shall be posted in three public places in the city for a period of not less than 20 days prior to the effective date thereof.

1.00.020 Effect of Repealing Ordinances

The repeal of ordinances as provided shall not affect any right which has accrued, any duty imposed, any penalty incurred, or any action or proceedings as commenced under or by virtue of the ordinances repealed, or the tenure of office of any person holding office at the time when such ordinances take effect; nor shall the repeal of any ordinance thereby have the effect of reviving any ordinance therefor repealed or superseded.

1.00.030 Rules for Construction.

In the construction of the Official Code and all ordinances amendatory thereof or supplementary thereto, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the legislative body or repugnant to the context.

Intent to Defraud: Whenever, by any of the provisions of the Official Code, an intent to defraud is required in order to constitute an offense, it is sufficient if an intent appears to defraud any person, association, or body politic, or any combination of person.

Liability of Employers and Agents: When the provisions herein contained prohibit the commission or omission of an act, not only the person actually doing the prohibited thing or omitting the directed act, but also the employer and all other persons concerned or aiding or abetting the person shall be guilty of the offense described and liable to the penalty set forth.

Title of Sections and Subsections: The title of any section or subsection of this Office Code shall be deemed in no wise to restrict, qualify, or to limit the effect of the provisions set forth and contained in such section or subsection.

Constitutionality; Effect of: Should any portion of this Official Code be declared by any court of competent jurisdiction to be unconstitutional or void, such adjudication shall in no way affect the remaining portion of this code.

Definitions:

The singular number includes the plural. Words used in the present include the future. Words used in the masculine gender comprehend, as well, the feminine and neuter. The word "person" includes bodies politic and corporate, partnerships, associations and corporations.

The word "writing includes printing, writing and typewriting.

The word "signature" includes any name, mark, or sign written with the intent to authenticate any instrument of writing.

The word "oath" includes "affirmation" and the word "swear" includes the word "affirm". Every mode of oral statement under oath or affirmation is embraced in the term "testify" and every written one in the term "depose".

The word "official time" whenever used shall mean Standard Time or Daylight Saving Time as may be in current use within the city.

The word “day” shall be any twenty-four (24) hour period from midnight to midnight; and the word “month” shall mean a calendar month unless otherwise expressed; and the word “quarter” shall mean any three-month period, ending with the last day of March, June, September and December; the word “year” shall mean any one calendar year unless otherwise expressed.

The word “shall” is mandatory, “may” is discretionary.

The word “property” includes both real and personal property.

The terms “land”, “real estate” and “real property” include lands, tenements, hereditaments, water rights, possessory rights and claims.

The term “personal property” includes every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged, or diminished and every right or interest therein.

The words “public thoroughfare” shall include streets, alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.

The word “owner” applied to a building or land shall include any part owner, joint owner, tenant in common, joint tenant, or lessee of the whole or of a part of such building or land.

The word “tenant” or “occupant” applied to a building or land shall include any person who occupies the whole or any part of such building or land whether alone or with others.

Words prohibiting anything being done, except in accordance with a license or permit or authority from a board or officers, shall be construed as giving such board or officer power to license or permit or authorize such thing to be done.

The word “officer” shall include officers and boards in charge of departments and the members of such boards, and such reference or use of the word “municipality” or “city” shall mean this city. “Clerk” or “treasurer” and others shall mean the city clerk-treasurer.

The term “willfully” when applied to the intent, with which an act is done or omitted, implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law or to injure another or to acquire an advantage.

The terms “neglect”, “negligence”, “negligent”, and “negligently” impart a want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concern.

The term “knowingly” imparts only a knowledge that the facts exist which bring the act or omission within the provisions of these chapters. It does not require any knowledge of the unlawfulness of such act or omission.

Whenever in this Code it is provided that anything must be done, to the approval of or subject to the direction of the enforcing officer, this shall be construed to give such officer only the power to determine whether the rules and regulations established in this Code have been complied with and shall not be construed as giving such officer discretionary powers.

The term “chief of police” shall mean the chief law enforcement officer for the city.

(Ords. 24-26; 12-2-68)

CHAPTER 1.02 - ORDER CREATING MUNICIPALITY

Sections:

1.02.010 Order Creating Municipality

1.02.010 Order Creating Municipality.

The returns of the election held at White Sulphur Springs on April 14, 1888, by vote upon the question of the incorporation of the town of White Sulphur Springs as a city of the second class, was examined and the ballots counted. The result was as follows: 55 persons voting—48 ballots for incorporation—7 ballots against incorporation.

It was accordingly resolved that the territory embraced in the petition of John Potter and others, filed March 5, 1888, be and the same is hereby declared a city of the second class under the name of White Sulphur Springs and embracing the S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 12, the NE $\frac{1}{4}$ Section 13 T 9 N R 6 E, Lot 4 and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 7 and the NW $\frac{1}{4}$ Section 18, T 9 N R 7 E, to be divided into two wards.

All that portion of said territory, north of a line running from the west line of said territory easterly through the center of the Main Street according to the association plat, to the west line of the Jonas Higgins plat, thence north to the center of Main Street according to the Jonas Higgins plat, thence easterly through the Main Street according to the Jonas Higgins plat to the east line of said territory to be known as the First Ward, or Ward Number One.

All that portion of said territory south of said line to be known as the Second Ward, or Ward Number Two. (Commissioners Journal Book 4, Page 604).

RESOLUTION

A resolution of the town of White Sulphur Springs, Montana, declaring that the town of White Sulphur Springs, Meagher County, Montana, be advanced to a city of the third class effective immediately.

Whereas, White Sulphur Springs, Montana, is now organized as a town, pursuant to the provisions of Section 11-201 of the Revised Codes of the State of Montana for 1947, to wit: as a municipal corporation having a population of 300 but less than 1,000; and whereas, it now appears by the Certificate of Hannah M. Brady, Clerk and Recorder of Meagher County, dated the eighth day of October, 1957, the census of 1950, it manifestly appears to the council of said corporation that it has the requisite population to entitle it to be classified as a city of the third class, pursuant to the provisions of said Section 11-201, R.C.M., 1947; be it therefore

resolved and by this resolution declared that the Town of White Sulphur Springs, Meagher County, Montana, be and it hereby is advanced to a city of the third class, effective immediately.

(Ord. 27; 12-2-68; 11-4-1957)

CHAPTER 1.04 - OFFICIAL MAP

Sections:

- 1.04.010 Official Map
- 1.04.020 Numbering of Houses
- 1.04.030 Method of Numbering
- 1.04.040 Method of Naming Alleys
- 1.04.050 Block numbers
- 1.04.060 Size and Placement of Numbers
- 1.04.070 Addressing Requests
- 1.04.080 Fee for Addressing Requests

1.04.010 Official Map

The map of the city is on file in the office of the city clerk and is hereby declared to be the official map of the city.

State of Montana Cadastral Map

<http://svc.mt.gov/msl/mtcadastral/>

Google Map of White Sulphur Springs

<https://maps.google.com/maps/place?q=white+sulphur+springs,+montana&hl=en&ftid=0x5344642fe37b0125:0x7eabcc7bb5637961>

<http://goo.gl/maps/Azxyd>

(Ord. 28; 12-2-68)

1.04.020 Numbering of Houses

All buildings, residential and commercial, having an entrance from any street or alley of this city shall be assigned a number by an officer authorized by the city council. All owners or agents of commercial and residential buildings that have been assigned a number shall display said number within thirty days after notice to do so by the officer authorized by the city council.

(Amd. Res. 485; 2005)

1.04.030 Method of Numbering

West and North sides of the roads and streets always have odd addresses and the East and South sides of roads and streets always have even addresses.

Each street running North and South in White Sulphur Springs is designated an Avenue. Each street running East and West is designated as a street.

Each street running on the West side of Central Avenue has a prefix of West, and each on the East side of Central Avenue has a prefix of East.

Every avenue running East and West in White Sulphur Springs is designated an avenue and shall have four different suffixes as follows:

If the avenue is North of Main Street and East of Central Avenue, it has a suffix of NORTH EAST.

If the avenue is South of Main Street and East and Central Avenue, it has a suffix of SOUTH EAST.

If the avenue is North of Main Street and West of Central Avenue, it has a suffix of NORTH WEST.

If the avenue is South of Main Street and West of Central Avenue, it has a suffix of SOUTH WEST.

Every street follows the same addressing scheme. First block starts at 1-30, the second block is 100-130, third block is 200-230, and so on. Each entrance for a residence or place of business shall have a separate number, and each staircase from a street shall have a number. Where necessary, a one-half number, such as "108 ½" may be used in a structure with two dwellings. If a structure has more than two dwellings, each dwelling shall be assigned a letter such as 108A, 108B, 108C, 108D, etc. (Amd. Res. 485; 9-5-05)

1.04.040 Method of Naming Alleys

Every alley running east and west shall take the name of the street south of it; and every alley running north and south shall take the name of the street west of it. All alleys shall take the same numbers as the streets from which they are named, being numbered by the same method as streets. (Amd. Res. 485; 9-5-05)

1.04.050 Block numbers

To each block shall be assigned the numbers marked on the same, on the map of the city, now on file in the office of the director of operations, entitled "Map Showing Official House Numbers of the City of White Sulphur Springs. (Amd. Res. 485; 9-5-05)

1.04.060 Size and Placement of Numbers

All numbers shall be at least three inches tall and three inches wide and shall be placed in a conspicuous place where they can be easily seen from the middle of the street or alley upon which the building fronts. The numbers shall be made of a durable and clearly visible material of a contrasting color from the background on which they are mounted.

(Amd. 485; 9-5-05)

1.04.070 Addressing Requests

Requests of the official address for any real property located within the City of White Sulphur Springs may be made to the City Clerk on the form prescribed by the City Council, if any. (Amd. Res. 519; 6-1-9)

1.04.080 Fee for Addressing Requests

There shall be a fee of \$25.00 assessed to the owner of any real property within the city limits of the City of White Sulphur Springs:

Who obtains a building permit for a residential structure requiring an address under Chapter 15.04 of the City of White Sulphur Springs Ordinances or

Who submits an addressing request for his or her real property; or

For which an addressing request is submitting to the City Clerk from the U.S. Postal Service, any utility, title company, or other vendor acting on behalf of the owner.

Twenty Dollars (\$20.00) of each fee collected shall be for updating the City's addressing data base. The of the fee shall remain in the City's general fund for administration associated therewith.

(New; Res. 519; 6-1-09)

CHAPTER 1.06 - WARDS

Sections:

1.06.010 Designation of Wards

1.06.010 Designation of Wards

The city shall be divided into two wards, which wards shall be designated Ward Number One and Ward Number Two and shall be described and defined as follows:

Ward Number One shall comprise all of that portion of the Higgins and Parberry Townsite the city of White Sulphur Springs, Meagher County, Montana, lying south of Main Street, as said Main Street is extended through said Townsite by the amended survey thereof, and including in addition thereto the Mayn, Murray Hill and Kumpe Additions to said Townsite.

Ward Number Two shall comprise all of that part of the Higgins and Parberry Townsite of the city of White Sulphur Springs, Meagher County, Montana, lying north of Main Street, as said Main Street is extended through said Townsite by the amended survey thereof, and including in addition thereto, the Woodson and Wellman Additions to said Townsite.

(Ord. 34; 12-2-68)

CHAPTER 1.08 - ELECTIONS

Sections:

1.08.010 Elections in Accordance with State Statutes

1.08.020 Qualification of Electors

1.08.010 Elections in Accordance with State Statutes

All primary and general elections will be held in accordance with statutes of the state of Montana.

1.08.020 Qualification of Electors

Any person shall be qualified to vote in any and all elections provided they are a resident of the city or an area which has been annexed and certified as such by the Clerk and Recorder of Meagher County.

CHAPTER 1.10 - CORPORATE SEAL

Sections:

1.10.010 Corporate Seal; Design

1.10.010 Corporate Seal; Design

The corporate seal of the city shall be circular in form with inner and outer circles. The outer circle shall be of milled design and one and thirteen-sixteenths of an inch (1 13/16") in diameter. The inner circle shall be of dot design and one and three sixteenths of an inch (1 3/16") in diameter. It shall bear upon the space between the two circles the words, "WHITE SULPHUR SPRINGS, MONTANA" and upon the space within the inner circle the words and date, "CORPORATE SEAL, 1888".

A copy of said described seal follows:



(Ord. 29; 12-2-68)

CHAPTER 1.12 - OFFICIAL NEWSPAPER

Sections:

1.12.010 Official Newspaper

1.12.010 Official Newspaper

The Meagher County News, a newspaper published weekly, is hereby designated as the official newspaper for the city.

(Ord. 30; 12-2-68)

CHAPTER 1.14 - DEPOSITORY

Sections:

1.14.010 Depository Designated

1.14.010 Depository Designated

The First National Bank, White Sulphur Springs, Montana is hereby designated as the official depository for municipal funds.

(Ord. 31; 12-2-68)

CHAPTER 1.16 - GENERAL PENALTY

Sections:

1.16.010 General Penalty

1.16.010 General Penalty

Whenever in any provision of this Code or other ordinance of the city any act is prohibited or is made or declared to be unlawful, a misdemeanor, or an offense, or whenever in any such provision or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided therefor, any person upon conviction for the violation of any such provision of this Code or ordinances shall be punished by a fine not exceeding \$500.00 or by imprisonment not to exceed six months, or by both such fine and imprisonment, for each such offense. Each day any violation of any provision of any ordinance shall continue shall constitute a separate offense.

In the construction and interpretation of this section, the revocation of a license or permit shall not be considered as a recovery or penalty so as to bar any other penalty being enforced.

1.16.020 Execution of a Fine

If the judgment is for a fine alone, execution may issue thereon as a judgment in a civil case;

If the judgment is for a fine and imprisonment until fine be paid, the defendant must be committed to custody of the proper officer, and by him detained until the judgment is complied with. The imprisonment must not exceed one day for every \$10.00 of the fine.

TITLE 2 - ADMINISTRATION AND PERSONEL

Contents:

CHAPTER 2.02	Policy on Overtime
CHAPTER 2.04	Salaries and Bonds
Resolution #558	Policy for the Use of City Personnel and Equipment for Emergency Purposes
CHAPTER 2.06	Mayor
CHAPTER 2.08	City Council
CHAPTER 2.10	Clerk Treasurer
CHAPTER 2.12	City Court
Montana Code Annotated Notes	
CHAPTER 2.14	City Attorney
CHAPTER 2.18	Publics Works Superintendent
CHAPTER 2.20	Health Officer
CHAPTER 2.24	Volunteer Fire Department
CHAPTER 2.26	Board of Health
CHAPTER 2.32	Retirement System

Chapter 2.02 - POLICY ON OVERTIME

Sections:

2.02.010 Policy on Overtime

2.02.010 Policy on Overtime

It is the policy of the City of White Sulphur Springs that none of its salaried employees shall perform any work which results in overtime or compensation time without the prior approval of the Mayor. The exceptions to this policy under which no approval from the Mayor is required are as follows.

The city superintendent and any employee in his department need not seek the Mayor's prior approval when there is a substantial emergency with regard to the water system, for example a break in a water main.

One City employee, either the city superintendent or an employee in his department, may check the water reservoir, chlorination facility or water well once on Saturdays and once on Sundays without the Mayor's prior approval.

A copy of this policy shall be distributed to all salaried employees of the City. Failure of any salaried employee to follow the terms of this policy may, at the option of the City, result in immediate dismissal from employment without prior warning or reprimand.

CHAPTER 2.04 - SALARIES AND BONDS

Sections:

- 2.04.010 Salaries
- 2.04.020 Bonding of Officers
- 2.04.030 Continuing Education

2.04.010 Salaries

The salaries of the officers and employees of the city shall be set annually by resolution or ordinance of the city council.

2.04.020 Bonding of Officers

All city officers shall be included in a blanket bond for the faithful performance of their duties; said bond to be executed by a duly authorized surety company, the premiums there on to be paid by the city.

2.04.030 Continuing Education

All duly elected council members and mayor shall attend no less than four (4) hours per year of continuing education seminars on subjects pertinent to local government issues including but not limited to the following as they may relate to city government administration, revenue, finance, bonding, insurance, personnel, employee/employer relations, infrastructure, water, sewer, streets, traffic, parks, recreation, buildings and building codes, fire protection, business licensing, ethics and law enforcement.

(Amd. Res. 557; 12-3-12)

RESOLUTION #558

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITE SULPHUR SPRINGS ESTABLISHING A POLICY FOR THE USE OF CITY PERSONNEL AND EQUIPMENT FOR EMERGENCY PURPOSES.

WHEREAS, the residents of the City of White Sulphur Springs, Montana, have a significant investment in the City's assets which requires protection and use by authorized personnel; and

WHEREAS, the City Council of White Sulphur Springs finds it necessary to establish a policy for the use of the City's assets in certain emergency situations.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of White Sulphur Springs, Montana resolves as follows:

Section 1:

It shall be the policy of the City of White Sulphur Springs that no equipment shall be used for private purposes except in emergency situations which resolution of the situation is needed for the protection of public safety and private or public property.

In such emergency situations where it is unfeasible or inadvisable for a private landowner to hire a private contractor who may perform the required work quickly for the protection of the public health and safety and private or public property, due to the time constraints, weather conditions, or other critical conditions, upon approval by the Mayor or the President of the Council, City personnel may use City equipment to assist a private property owner with addressing a situation concerning private property or private infrastructure, in which event, the private property owner shall reimburse the City for all costs associated with the employee including hourly wages and overtime as well as the prorated hourly cost of all payroll taxes, health insurance and workers compensation coverage and any other employee benefits.

In the event damage occurs to any City equipment during any period such equipment is being transported to or used on private property at the request of the property owner, such owner shall also reimburse the City for any and all repairs needed to restore the damaged equipment to as good or better condition at the time when the equipment departed the City shop (or its last location of use by City personnel for City purposes) en route to the location of use on private property.

No City equipment shall at any time be operated by anyone other than City personnel. The private property owner shall also reimburse the City for use of any equipment used for the private purpose at the following rates:

Back Hoe	\$75.00 per hour
Loader	\$85.00 per hour
Grader	\$ 120.00 per hour
Trucks	\$ 85.00 per hour
Auto packer	\$ 280.00 per 9 hour day
Jetter	\$ 70.00 per hour
Small loader	\$ 40.00 per hour
Mower Tractor	\$ 50.00 per hour
Truck and Sander	\$ 90.00 per hour
Trencher box	\$ 50.00 per day
Hand packer	\$ 20.00 per hour
Portable pumps	\$ 15.00 per hour
Portable air compressor	\$ 20.00 per hour
Portable welder generator	\$ 90.00 per hour
Steamer	\$ 25.00 per day

(New; Res. 558; 12-3-12)

Section 2: Repealer.

All resolutions, ordinances, and sections of the White Sulphur Springs Municipal Code and parts thereof in conflict herewith are hereby repealed.

Section 3: Severability.

If any provisions of this ordinance or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable.

Section 4: Effective Date.

This ordinance shall be in full force and effect on December 3, 2012.

PASSED by the City Council and the City of White Sulphur Springs, Montana, on the first reading at regular session thereof held on the 5th day of November, 2012.

JULIAN THERIAULT, Mayor
ATTEST: MICHELLE STIDHAM, City Clerk

PASSED, ADIPTED, AND APPRIVED by the City Council of White Sulphur Springs,
Montana, on second reading at a regular session thereof held on the 3rd day of
December, 2012.

JULIAN THERIAULT, Mayor
ATTEST: MICHELLE STIDHAM, City Clerk
APPROVED AS FORM: CINDY E. YOUNKIN, City Attorney

CHAPTER 2.06 - MAYOR

Sections:

- 2.06.010 Qualifications
- 2.06.020 Mayor to be Chief Executive Officer
- 2.06.030 Powers
- 2.06.040 Mayor to Act as President of Council
- 2.06.050 In the Absence of the Mayor
- 2.06.060 Mayor to Appoint Officers

2.06.010 Qualifications

No person shall be eligible for the office of mayor unless such person be a citizen of the United States, a resident of the State for at least three years, a resident of the city or an area which has been annexed by the city for a period of two years next preceding his election, and at least 21 years of age. He shall reside in the city during his term of office.

2.06.020 Mayor to be Chief Executive Officer

The mayor shall be the chief executive officer of the city and shall see that all ordinances of the city are duly respected, observed and enforced within the city limits.

2.06.030 Powers

The mayor shall have power:

To nominate and appoint all non-elective officers or other employees of the city, unless otherwise provided in this title, except that the appointments of all non-elective officers are subject to the consent of the council. (Amd. Ord. 344; 6-4-87)

To suspend or remove with concurrence of Council any non-elective officer or other employee of the City, stating in the suspension or removal the cause thereof. (Ord. 347; no date, Ord. 344; 6-4-87)

To cause the ordinances of the city to be executed and to supervise the discharge of official duty by all subordinate officers.

To communicate to the council at the beginning of every session and oftener, if deemed necessary, a statement of the affairs of the city with such recommendations as he may deem proper.

To recommend to the council such measures connected with the public health, cleanliness and ornament of the city and the improvement of the government and finances as he deems expedient.

To approve all ordinances and resolutions of the council adopted by it and in case the same do not meet his approbation, to return the same to the next regular meeting of the council with his objections in writing, and no ordinance or resolution so vetoed by the mayor shall go into effect unless the same be afterwards passed by a two-thirds vote of the whole number of members of the council.

To veto any objectionable part of a resolution or ordinance and approve the other parts. If the mayor fails to return any resolution or ordinance as aforesaid, the same takes effect without further action.

To call special meetings of the council and when so called he must state by message the object of the meeting and the business of the meeting must be restricted to the object stated.

To cause to be presented annually a full and complete statement of the financial condition of the city.

To bid in for the City any property sold at a tax or judicial sale where the City is a party or interested, the amount of such bid to be approved by a majority of the City Council. (Ord. 347; no date)

To procure and have in his custody the seal of the city.

To take and administer oaths.

To call on every citizen of the city over the age of eighteen years and under the age of fifty years to aid in the enforcement of the laws and ordinances in case of riots. Any person who does not obey such call forfeits to the city a fine not exceeding \$25.00.

To require of any of the officers of the city an exhibit of their books and papers.

To grant pardons and remit fines and forfeitures for offenses against city ordinances when in his judgment public justice would be thereby sub-served; but he must report all pardons granted, with the reasons therefor, to the next council.

To perform such other duties as may be prescribed by law or by resolution or ordinance of the council.

2.06.040 Mayor to Act as President of Council

He shall be present at the meetings of the council and shall act as the president thereof, and when there is a tie upon any question before the council he shall give the casting vote; he shall have the power to veto any resolution or ordinance or any part thereof; he shall sign all warrants on the city treasury and all permits or permissions granted by the council, and all contracts made by and on behalf of the city with any other party.

2.06.050 In the Absence of the Mayor

In the absence of the mayor from the city or from his inability from any cause to discharge the duties of his office, the president of the council shall exercise all the powers and discharge all the duties of the mayor. In case of absence or inability of the mayor and president of the council the council may appoint one of its number to act in his place. The president or member of the council while performing the duties of the mayor shall be styled the acting mayor. Any acting mayor performing the duties of the mayor shall be entitled to the salary of the mayor.

2.06.060 Mayor to Appoint Officers

He shall at the first meeting of the council after the election each year, and from time to time thereafter, appoint, subject to confirmation of the council, all necessary officers of the city and he shall in like manner appoint any other officers whose offices are created by ordinance.

Chapter 2.08 - CITY COUNCIL

Sections:

2.08.010	Time of Meetings
2.08.020	Standing Committees
2.08.030	Special Committees
2.08.040	Duties of Committees
2.08.050	Quorum
2.08.060	President of the Council
2.08.070	Meeting Called to Order
2.08.080	Order of Business
2.08.090	Voting; Majority Elects
2.08.100	Rules of Order
2.08.110	Effective Date of Resolutions

2.08.010 Time of Meetings

The council shall hold its regular meetings for the transaction of city business on the first Monday in each month, and such other meetings to which the council may be adjourned or which may be called. Special meetings may be called by the mayor, or at the request of three member of the council, at any time by the clerk on request, after giving reasonable notice thereof in writing to all members of the council present in the city. All meetings shall be held in a place provided therefor by the council.

2.08.020 Standing Committees

At the first regular meeting of the council after the first Monday in January in each year, the mayor shall appoint committee members of the council for the ensuing year as follows:

Committee on Finance

Committee on Streets and Alleys

2.08.030 Special Committees

The mayor may appoint such special committees as deemed necessary for the efficient operation of the city.

2.08.040 Duties of Committees

To the Committee on Finance shall be referred all matters relating to the general condition, revenues and expenditures of the city, and said committee shall audit all books of account of all the city officers and shall investigate and report on the financial condition, revenues and expenditures of the city, from time to time and as directed by the council.

To the Committee on Streets and Alleys shall be referred all matters relating to the streets and alleys of the city and it shall investigate and report on the condition of the same from time to time and as directed by the council.

2.08.050 Quorum

A majority of the member of the council constitutes a quorum for the transaction of business, but less number may meet and adjourn at any time stated and may compel the attendance of absent members under such rules and penalties as the council may prescribe.

2.08.060 President of the Council

At the first meeting succeeding the annual election, the council shall elect one of its members as president of the council who, in the absence of the mayor, is the presiding officer and may perform the duties of the mayor, and in the absence of the president, the council may appoint one of its members to act in his place.

2.08.070 Meeting Called to Order

The council shall convene and be called to order by the mayor, or in his absence, by the president of the council, and in the absence of both the mayor and president of the council, by the clerk at 7:00 p.m. on the days designated for said meeting and the clerk shall proceed to call the roll and record in the minutes the names of all members present and announce whether or not a quorum is present.

2.08.080 Order of Business

At all meetings of the council, the order of business shall be as follows:

Minutes, reading an correcting, if necessary, and approving minutes of last regular meeting and minutes of special or intervening meetings.

Reports of Officers.

Reports of Standing Committees.

Reports of Special Committees.

Presentation of Petitions, Communications and Bills.

Unfinished Business.

New Business.

For good cause the mayor may, upon motion and majority vote, change the order of business.

2.08.090 Voting; Majority Elects. The Ayes and Nays must be called and recorded on the final passage of any ordinance, bill or resolution, or making of any contract and the voting on the election or appointment of an officer must be viva voce and the majority of the whole number of members elected is requisite to appoint or elect an officer and such vote must be recorded.

2.08.100 Rules of Order. The proceedings of the council shall in all cases be governed by Robert's Rules of Order so far as the same are applicable.
(Ords. 53-61; 12-2-68)

2.08.110 Effective Date of Resolutions. Any and all resolutions passed and approved by the city council, pursuant to provisions of the law, shall be submitted and adopted at a single meeting of said council and shall become immediately effective, unless a delayed effective date is specified. (Ord. 331; 4-2-84)

Chapter 2.10 - CLERK-TREASURER

Sections:

2.010.010 Appointment

2.010.020 Duties

2.10.010 Appointment

The mayor shall, subject to the advice and consent of the council, appoint a clerk-treasurer who shall hold office for the duration of his appointment or until his successor is appointed and qualified.

2.10.020 Duties

It shall be the duty of the clerk-treasurer:

To receive all moneys that come to the city, either from taxation or otherwise and to pay the same out on the warrant of the mayor, countersigned by the clerk, drawn in accordance with law.

To perform such duties in the collection of taxes, license fees, or assessments as are or may be prescribed by law or ordinance.

To present at the regular meeting of each month to the council, a full and detailed statement of the amounts of money belonging to the city, received by him and by him disbursed during the preceding month and the state of each particular fund, which statement must be verified by his oath.

To keep the books and accounts of the town in such manner as to correctly present the condition of the finances thereof which must always be open to the inspection of the mayor, council, or any member thereof.

To keep a separate account of each fund or appropriation and the debits and credits thereof.

To give every person paying to him money as city clerk, a receipt therefor, specifying the date of payment, the amount and for what paid.

To render at any time an account to the council, showing the money on hand and the condition of the treasury.

To keep a register of all warrants paid, which must show the date, amount and number and the person to whom and the fund from which the same was paid.

To annually make out and submit to the council at its last meeting prior to May first, a detailed account of all receipts and expenditures during the past fiscal year and an abstract thereof must be published in the official newspaper.

To pay out, in the order which they are registered, all warrants presented for payment when there are funds in the treasury to pay the same.

To deposit all public moneys in his possession and under his control, excepting such as may be required for current business, in any solvent bank or banks located in such city, subject to national supervision or state examination, as the council shall designate, and no other.

To attend all meetings of the council, to record and sign the proceedings thereof and all ordinances, bylaws, resolutions and contracts passed, adopted, or entered into, and to sign, number and keep a record of all licenses, commissions, or permits granted to authorized by the council.

To record all ordinances, resolutions and bylaws passed and adopted by the council.

To enter in a book kept for that purpose the date, amount, the person in whose favor and for what purpose the warrants are drawn upon the city treasury.

To countersign and cause to be published or posted, as provided by law, all ordinances, bylaws, or resolutions passed and adopted by the council.

To file and keep all records, books, papers or property belonging to the city and to deliver the same to his successor when qualified.

To prepare and process financial statements as required by Montana law.

To take and administer oaths, but must not charge or receive any fees therefor.

To perform such other duties as the council may prescribe, or as may be prescribed by Montana law.

City clerk to be "treasurer." Any reference to the city treasurer in this code shall mean the city clerk.

Chapter 2.12 - CITY COURT

Sections:

2.12.010	City Court Established
2.12.020	City Judge
2.12.030	Qualifications
2.12.040	Term of Office
2.12.050	Salary and Expenses
Montana Code Annotated Notes	
200.403	Election/Appointment
200.404	Official Bond
200.405	Training and Certification

2.12.010 City Court Established

There is established a city court or White Sulphur Springs. The justice court of Meagher County, Montana may be designated to act as the city court of White Sulphur Springs, subject to any approval or agreement required by law or ordinance in the alternative, the city council may by majority vote, choose to have a separate city court which is operated separately from the justice court of Meagher County. (Ord. 343; 5-4-87, Amd. Res. 479; 12-6-99)

2.12.020 City Judge

The duly elected, appointed or acting justice of the peace of Meagher County may be designated and appointed as city judge of White Sulphur Springs in the alternative, if the city council has, by majority vote, chosen to have a separate city court, the city council may then appoint a city judge, or authorize the election of a city judge. The justice of the peace or the duly elected or appointed city judge shall have all power, duty and authority to act as city judge to the full extent permitted by law or ordinance. (Ord. 343; 5-4-87, Amd. Res. 479; 12-6-99)

2.12.030 Qualifications

The city judge shall possess those qualifications for the office required by law or ordinance for a justice of the peace. (Ord. 343; 5-4-87)

2.12.040 Term of Office

The term of office for the city judge is coextensive with the term of office of the justice of the peace, including the remainder of a term filled by appointment. (Ord. 343; 5-4-87)

2.12.050 Salary and Expenses

The monthly salary of the city judge shall be the sum of \$25.00. The city council shall enter into an agreement with Meagher County to pay for a proportionate share of the training, travel, or other expenses of the justice of the peace. (Ord. 343; 5-4-87)

Ord. 341; 5-4-87)

MONTANA CODE ANNOTATED - NOTES

The annual salary and compensation of city judges must be fixed by ordinance or resolution.

Each city judge shall receive his actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, incurred in the performance of his official duties.

200.403 Election/Appointment.

In a city of first class, MCA 7-4-4101 provides that one city judge shall be elected. In a city of second class, MCA 7-4-4102 provides that one city judge shall be elected. MCA 7-4-4102 also allows a city of third class to determine, by ordinance, whether the city judge shall be appointed or elected or may appoint a justice of the peace or a city judge of another city judge or the position may be filled by election or the governing body may appoint a justice of the peace or a city of another city to act as city judge as provided in 3-11-205. The offices of city judge and justice of the peace may be combined if a justice of the peace is authorized in a city pursuant to 3-10-101.

200.404 Official Bond.

MCA 7-4-4109. Official bond. Each officer of a city or town who is required to give a bond shall file the same, duly approved, within 10 days after receiving notice of his election or appointment or, if no notice be received, then on or before the date fixed for the assumption by him of the duties of the office to which he may have been elected or appointed.

200.405 Training and Certification.

MCA 3-11-204. Training sessions for judges. (1) There shall be two mandatory annual training sessions supervised by the Supreme Court for all elected and appointed city judges. One of the training sessions may be held in conjunction with the Montana magistrates' association convention. (2) Each city judge shall attend the training sessions.

MCA 3-1-1502. Training and certification of judges. Except as provided in 3-1-1503, no judge selected for a term of office may assume the functions of his office unless he has filed with the county clerk and recorder in his jurisdiction a certificate of completion of a course of education and training prescribed by the commission.

Chapter 2.14 - CITY ATTORNEY

Sections:

- 2.14.010 Appointment
- 2.14.020 Qualification; Term of Office
- 2.14.030 Duties
- 2.12.040 Term of Office
- 2.12.050 Salary and Expenses

2.14.010 Appointment

The mayor, subject to the consent and approval of the council, shall appoint a city attorney who shall hold office for the duration of his appointment or until his successor is appointed and qualified.

2.14.020 Qualification; Term of Office

In order to be appointed city attorney, the person shall be a person who has been licensed to practice as an attorney in this state.

The attorney shall hold office for two years, unless suspended or removed as provided by this chapter.

2.14.030 Duties

It shall be the duty of the city attorney to attend before the city court and other courts of the city and the district court and prosecute on behalf of the city. He shall, when required, draw, for the use of the council, contracts and ordinances for the government of the city and, when required, give to the mayor or city council written opinions on questions pertaining to the duties and rights, liabilities and powers of the city. He shall perform such other duties as pertain to the functions of the city council or as the city council may prescribe by resolution.

For such services, the attorney shall receive a salary and fees as may be fixed by the Council by ordinance or resolution. (Amd. Ord. 339; 9-5-85) Nothing herein shall be taken or construed as preventing the council from employing other and additional counsel in special cases and providing for the payment of such services. (Ord. 337; 9-3-85)

The city attorney may be suspended or removed from office by the city council for neglect, violation, or disregard of his official duties.
(Ords. 71-73; 12-2-68, Ord. 337; 9-3-85)

Chapter 2.18 - PUBLIC WORKS SUPERINTENDENT

Sections:

2.18.010 Appointment

2.18.020 Duties

2.18.010 Appointment

The mayor may appoint, with the approval of the council, a public works superintendent who shall hold office for the duration of his appointment or until such time as he shall be removed by the mayor.

2.18.020 Duties

The public works superintendent shall have charge of all city works as follows:

Streets and alleys: He shall supervise the grading, surfacing, repair and maintenance of all streets and alleys.

Sewer: He shall supervise the installation and maintenance of all sewer lines in the city, except the installation of sewer projects which are accomplished by contract.

Water: He shall supervise the installation and maintenance of all water mains and water services, except the installation of water mains so accomplished by contract.

He shall supervise the repair and maintenance of all city electrical work.

Equipment: He shall have charge of and supervise the repair and upkeep of all public works equipment.

Employment and Supervision: He may employ with prior consent of the Mayor and the Council such help as is needed to carry on the work of the City such help to be directly under his supervision. (Ord. 343; 6-4-87, Ord. 345; 6-4-87, Ord. 347; no date)

The superintendent shall be ex officio sewer and drainage commissioner.

The superintendent shall present to the council at its regular meeting each month, a written report of the public work accomplished the preceding month and also, as far as can be foreseen, public work planned for the current month.

(Ords. 90-92; 12-2-68, Ord. 343; 6-4-87)

Chapter 2.20 - HEALTH OFFICER

Sections:

2.20.010 Appointment

2.20.020 City Not Liable

2.20.010 Appointment

The mayor, with the consent of the council, shall appoint a health officer who shall have the duty of enforcing all applicable health and sanitary laws, and shall perform such other duties as may be required by the appointing authority.

2.20.020 City Not Liable

The city shall not be liable for any expenses connected with the quarantine or care of any person having any contagious, infectious, or other disease, and neither the health officer nor any person shall have authority to bind the city on account of anything that may be required to be done in relation to any person having any contagious, infectious, or any other disease.

(Ord. 96-97; 12-2-68)

Chapter 2.24 - VOLUNTEER FIRE DEPARTMENT

Sections:

- 2.24.010 Membership
- 2.24.020 Officers
- 2.24.030 Secretary
- 2.24.040 Treasurer
- 2.24.050 Duties of Members
- 2.24.060 Meetings
- 2.24.070 Order of Business
- 2.24.080 Amendments to the Constitution and Bylaws

2.24.010 Membership

The following rules shall govern all members of the volunteer fire department and shall be known as the Constitution and Bylaws of the department.

Any person of good character and standing who is qualified voter of the city, and who shall have passed the necessary physical examination, shall be eligible for membership in the department.

Any member entering military service shall be considered on indefinite leave for the duration of his enlistment or conscription and for three months thereafter.

The active membership of the department shall not exceed 28 members in addition to the chief.

Any member shall have the privilege of presenting the name or names of candidates for election and upon the favorable report of the examination committee; he shall be balloted for and shall be elected if no more than two votes have been cast against such membership.

2.24.020 Officers

The officers of the fire department shall consist of a chief, assistant chief, secretary, treasurer and board of trustees to be composed of three members of the department. The office of secretary and treasurer may be held by one and the same person if the department so desires.

All officers shall be elected by secret ballot at the annual meeting of the members of the department, and, with the exception of the board of trustees, each shall serve for a term of one year. At each annual meeting one trustee shall be elected to hold office for a period of three years. All officers, including trustee shall hold office until their successors are duly elected and qualified.

2.24.030 Secretary

It shall be the duty of the secretary to keep a record of all proceedings of the department; to call the roll, to record all absences; to keep books and preserve the records of the department; to give each member at least one day's notice of any special meeting; to keep the roll of attendance at any and all fires; to collect all fines, dues and other moneys due the department, giving receipts therefor; to notify all members of their election and to furnish them with a copy of the Constitution and Bylaws of the fire department; to do all necessary correspondence; to file the complete membership list with the county clerk and recorder on the first Monday in December, March, June and September as required by state law.

2.24.040 Treasurer

It shall be the duty of the treasurer to receive all moneys collected by the secretary; to keep a regular account of all moneys received and to disburse the same on the order of the department; to give a monthly account to the department; to make an annual itemized report of the sums received and disbursed by his office; to submit books with such annual report to the membership or to a financial committee appointed therefrom for auditing.

2.24.050 Duties of Members

It shall be the duty of all members of the fire department to obey all commands of the officers while on duty.

On the alarm of fire, it shall be the duty of every member to report to the engine house without delay and assist in conveying the engine and apparatus to the fire. When answering an alarm no engine shall leave the engine house unless manned by a driver and two other members of the department.

Every member shall be required to answer all fire alarms. Any member who absents himself from forty percent of the fires without valid excuse shall automatically lose his membership in the department. This question shall be considered on a yearly basis at the annual meeting in December. An excuse for failure to attend sixty percent of the fires shall be considered valid only if due to one of the following circumstances:

Illness of the member or of his immediate family.

Member absent from the city.

Conflicting hours of employment that result in the member being unable to attend.

2.24.060 Meetings

The fire department shall hold monthly meetings on the first Friday of each month at the hour of 7:30 p.m. in the city hall and at such other times as may be called by the written direction to the chief by five members of the department, such request stating the object of the call.

The annual meeting of the department shall be held on the first Monday in December of each year.

Seven members shall constitute a quorum for the transaction of business.

2.24.070 Order of Business

The order of business at a regular or special meeting of the department shall be as follows:

Roll call.

Reading of minutes of previous meeting.

Reports of committees.

Reports of officers.

Application of candidates for membership.

Balloting for candidates.

Hearing excuses of delinquent members.

Communications.

Bills.

Unfinished business.

New business.

Nomination of officers.

Election of officers.

Adjournment.

2.24.080 Amendments to the Constitution and Bylaws

No alterations or amendments shall be made to the volunteer fire department's Constitution and Bylaws unless proposed in writing at a regular meeting of the

department and shall not be acted upon until the next regular meeting, when three-fourths of the members present may adopt the same.

(Ords. 113-119; 1-6-69)

Chapter 2.26 - BOARD OF HEALTH

Sections:

- 2.26.010 Creation
- 2.26.020 Powers
- 2.26.030 Duty of every Physician
- 2.26.040 Treasurer
- 2.26.050 Duty of Health Officer

2.26.010 Creation

A board of health is hereby created, the same to consist of the mayor and the city council. The health officer shall be ex officio secretary of said board.

2.26.020 Powers

The board of health shall have power to make and enforce rules governing the city health department and perform all other acts essential in carrying out the provisions of this chapter.

2.26.030 Duty of Every Physician

It shall be the duty of every physician or person practicing medicine within the city limits to report in writing to the health officer within 12 hours after the same shall have come under his care or treatment, every case of contagious disease. It shall also be the duty of any other person having care of a patient suffering from any such disease to report the same as above provided.

2.26.040 Duty of Health Officer

It shall be the duty of the health officer, on being notified of the existence of any contagious disease, to use due caution to prevent the spread of the disease.

(Ords. 101-104; 1-6-69)

Chapter 2.32 - RETIREMENT SYSTEM

Sections:

- 2.232.010 Authorization of Officers
- 2.32.020 Deduction from Salaries
- 2.32.030 Appropriation of Funds

2.32.010 Authorization of Officers

The mayor and city clerk-treasurer are hereby authorized for and on behalf of the city to make and enter into an appropriate agreement with the State Board of Equalization of the State of Montana; and to execute and deliver to the State Board of Equalization such plan or agreement required under Section 3 of Chapter 44 of the Social Security Act to extend coverage to employees and officers of the city and to do all other things necessary to effectuate coverage of employees under the Old Age and Survivors' Insurance System of the Social Security Act.

2.32.020 Deduction from Salaries

The clerk is hereby authorized to establish a system of payroll deductions to be matched by payments of the city to be made into the contribution fund of the Social Security Act through the State Board of Equalization, and to make charges of this contribution to the fund, or funds, from which wages or salary payments are issued to the employees of the city. Such payments are to be in accordance with the provisions of Section 1400 of the Federal Insurance Contribution Act on all services which constitute employment with the meaning of the Act. Payments are made to the State Board of Equalization shall be due and payable on or before the 18th day of the month immediately following the completed calendar quarter, and such payment which are delinquent shall bear interest at the rate of one-half of one percent per month until such time as payments are made.

2.32.030 Appropriation of Funds

Appropriation is hereby authorized for the proper fund or funds of the city in the necessary amount to pay into the contribution fund as provided in Section 5 of the enabling Act, Chapter 44 referred to, and in accordance with the plan or plans and agreement; such agreement contemplated by this chapter shall in all respects comply with the terms and provisions of said Chapter 44 and with paragraph 218 of the Social Security Act.

(Ord. 98-100; 12-2-68)

TITLE 3 - REVENUE AND FINANCE

Contents:

CHAPTER 3.04 Municipal Funds

RESOULTION #555 Municipal Budget for 2012/2013

Chapter 3.04 - MUNICIPAL FUNDS

Sections:

3.04.010 Transfer of Funds

3.04.020 Capital Improvement Program Fund

RESOLUTION #555 Municipal Budget for 2012/2013

3.04.010 Transfer of Funds

No money shall be transferred from one fund to another except by ordinance or resolution of the council. (Ord. 70; 12-2-68)

3.04.020 Capital Improvement Program Fund

There is hereby created a separate fund, pursuant to Section 7-6-4134, M.C.A., which shall be known as the "Capital Improvement Program Fund". Any transfer of moneys to said fund which is allowed by state law may be made. Any appropriation of moneys from said fund which is allowed by state law and which is in furtherance of capital improvements designated by the city council may be made.

(Ord. 340; 11-6-85)

RESOLUTION #555

WHEREAS, the completed budget determined by the provisions of the municipal budget laws, together with tabulations of cash amounts raised by taxation and mill levy which will be required in order to raise such amounts has been prepared and presented to the Council; be it therefore RESOLVED, that the said budget be the same budget of the City of White Sulphur Springs, Montana for the fiscal year commencing on the 1st day of July 2012 and ending on the 30th day of June 2013:

The council herewith makes and records the following summary of said budget:

145.56 + 5 mill for Bond Series + 5 mill for Library Fund @ 987.81 – With General Mills Levied @ 111.56.

GENERAL	
SALARIES	
Council	5,500
City Clerk	16,500
City Clerk Employer Contributions	2,000
City Judge	9,000
City Judge Employer Contributions	900
City Attorney	16,300
Superintendent of Public Works	17,000
Extra Help – Roads & Streets	32,000
Road & Street Employer Contributions	12,000
Parks	9,000
Parks Employer Contributions	1,500
Animal Control	3,700
Animal Control Employer Contributions	1,000
EXPENSES	
City Office – Supplies	4,300
City Office – Purchased Services	2,650
City Clerk – Travel & Training	3,000
City Clerk – Relief	5,000
Surety Bond & Fees	100
Audit	6,000
Montana League of Towns & Cities	500
Dues	
Election Expenses	2,000
Council – Supplies	100
Council – Purchased Services	100
Council – Travel	800
City Judge – Extra Help	400

City Judge – Supplies	900
City Judge – Purchased Services & Community Service	485
City Judge –Membership Dues & Registration	1,000
City Judge – Telephone, Internet and ½ Fax	1,200
City Judge – Travel	1,500
City Hall – Supplies	2,500
City Hall – Repair & Maintenance Supplies	4,000
City Hall – Purchased Services	1,400
City Hall – Repair & Maintenance Services	6,000
City Hall – Telephone, Fax and Internet	1,800
City Hall – Miscellaneous	1,000
Sheriff Dispatch	2,500
Law Enforcement –Sheriff Vehicle	12,500
Law Enforcement – 911	6,000
Law Enforcement	7,500
Prison Board	5,00
Road & Street – Repair/Supplies	15,000
Road & Street – Gas/Tires/Oil	13,000
Road & Street – Purchased Services	10,400
Road & Street – Machinery/Equipment	30,000
Street Lighting – Power	20,000
City Propane	11,000
City Garbage & Repair Services	5,000
Weed Control	650
Animal Control – Supplies	1,250
Animal Control – Gas/Tires/Oil	600
Animal Control – Purchased Services	1,000
Animal Control – Travel/Training	950
Animal Control – Machinery/Equipment	1,000
Parks – Supplies	1,200
Parks – Repair & Maintenance Supplies	3,500
Parks – Gas/Tires/Oil	2,000
Parks – Purchased Services	2,250
Parks – Machinery/Equipment	1,000
Reserve	\$45,455
TOTAL:	\$332,335
RESERVE:	\$45,455
=	\$377,790

General: 11.56

Airport: 1.5

Liability and Comp Insurance: 9

Library: 4.5

Library: 5

Volunteer Fire Department: 4

Public Employees Retirement System: 7

Group Insurance: 8

Bond Series: 5

Resolution #555 passed and adopted on the 7th Day of September 2012 to comply with state regulations on budget rules.

BY:

Julian A. Theriault, Mayor

ATTEST:

Michelle Stidham, Clerk/Treasurer

TITLE 4 - SEWER AND WATER

Contents:

CHAPTER 4.02	Regulation of Sewer Use
CHAPTER 4.06	Wastewater System Charges
CHAPTER 4.08	Water Regulations
CHAPTER 4.10	Water Well Regulations
CHAPTER 4.12	Wastewater Haulers
Resolution #535	Intent to Increase Water Rates & Charges
Resolution #536	Resolve to Increase Water Rates & Charges
Resolution #527	Increase Water Rates
Resolution #528	Increase Sewer Rates
Resolution #549	Authorizing
Water & Sewer Installation for Contractors	
Miscellaneous Notes – Helena Code	

Chapter 4.02 - REGULATION OF SEWER USE

Sections:

4.02.010	Definitions
4.02.020	Use of Public Sewers Required
4.02.030	Private Wastewater Disposal
4.02.040	Sanitary Sewers, Building Sewers and Connections
4.02.050	Use of Public Sewers
4.02.060	Disorderly Conduct
4.02.070	Powers and Authority of Inspectors
4.02.080	Hearing Board
4.02.090	Penalties

4.02.010 Definitions:

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

“Biochemical oxygen demand” (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Centigrade, expressed in milligrams per liter.

“Building drain” shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside walls of the buildings and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

“Building sewer” shall mean the extension from the building drain to the public sewer or other place of disposal, also called the house connection.

“City” shall mean the city of White Sulphur Springs, Montana.

“Combined sewer” shall mean sewer intended to receive both wastewater and storm or surface water.

“Easement” shall mean an acquired legal right for the specific use of land owned by others.

“Floatable oil” is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

“Garbage” shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

“Industrial wastes” shall mean the wastewater from industrial processes, trades, or businesses as distinct from domestic or sanitary wastes.

“Natural outlet” shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

“May” is permissive.

“Person” shall mean any individual, firm, company, association, society, corporation, or group.

“pH” shall mean the logarithm of the reciprocal of the hydrogen ion concentration.

The concentration weight of hydrogen ions in grams per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 10^{-7} .

“Properly shredded garbage” shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

“Public sewer” shall mean a common sewer controlled by the governmental agency or public utility.

“Sanitary sewer” shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

“Sewage” is the spent water of a community. The preferred term is “wastewater.”

“Sewer” shall mean a pipe or conduit that carries wastewater or drainage water.

“Shall” is mandatory.

“Slug” shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24 hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

“Storm drain” (sometimes termed “storm sewer”) shall mean a drain or sewer for conveying water, ground-water, subsurface water, or unpolluted water from any source.

“Superintendent” shall mean the superintendent of the wastewater facilities of the city, or his authorized deputy, agent, or representative.

“Suspended solids” shall mean total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in “Standard Methods for Examination of Water and Wastewater” and referred to as non-filterable residue.

“Unpolluted water” is water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

“Wastewater” shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.

“Wastewater facilities” shall mean the structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

“Wastewater treatment works” shall mean an arrangement of devices and structures for testing waste-water, industrial wastes, and sludge. Sometimes used as synonymous with “waste treatment plant” or “wastewater treatment plant” or “water pollution control plant”.

“Watercourse” shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

“Hearing board” shall mean that the board appointed according to provisions of Section 4.02.070.

“Individual Dwelling Unit” means a dwelling or portion of a dwelling used by one household for residential purposes.
(Amd. Res. 514; 1-7-08)

“Household” means a person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities:

Any number of people related by blood, marriage, adoption, guardianship, or other duly-authorized custodial relationship.

Not more than four unrelated people, including persons enrolled in an institution of higher learning.

Two unrelated people and any children relate to either of them; or

Not more than four people who are:

Residents of a “Community Residential Facility” as defined in §76-2-411 et seq., MCA, and this title or

“Handicapped” as defined in the Fair Housing Act, 42 USC §3602(h). This definition does not include those persons currently illegally using or addicted to a “controlled substance” as defined in the Controlled Substances Act, 21 USC §802(6).
(Amd. Res. 514; 1-7-08)

“Household” does not include:

Any society, club, fraternity, sorority, association, lodge, combine, federation, coterie, cooperative housing, or like organization;

Any group of individuals whose association is temporary or seasonal in nature; or

Any group of individuals who are in a group living arrangement as a result of criminal offenses.

“Commercial or multiple use facility” means a business establishment open to the public which may or may not provide multiple water and sewer facilities for use by more than one customer. A multiple use facility includes, but shall not be limited to campgrounds, hotels/motels, and hospitals and any facility included in (31) above.
(Amd. Res. 514; 1-7-08)

4.02.020 Use of Public Sewers Required.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of said city, any human or animal excrement, garbage, or other objectionable waste.

It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of said city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

The owner(s) of all houses, buildings, mobile home parks or courts, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer is hereby required at the owner's expense to install suitable toilet facilities therein for each commercial or multiple use facility and for individual dwelling unit and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within 30 days after the date of official notice to do so, provided that said public sewer is within 150 feet of the property line. (Amd. Res. 514; 1-7-08)

4.02.030 Private Wastewater Disposal.

Where a public sanitary and combined sewer is not available under the provisions of Section 4.02.020 (4), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as is deemed necessary by the superintendent. A permit and inspection fee of \$60.00 shall be paid to the city clerk at the time the application is filed.

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. The superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for the final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of receipt of the notification by the superintendent.

The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations of the Department of Health of the State of Montana. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than

2,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

At such time as public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 4.02.030 (4), as direct connection shall be made to the public sewer within 60 days in compliance with this chapter, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city.

No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the health officer.

4.02.040 Sanitary Sewers, Building Sewers and Connections.

No unauthorized person shall uncover, make connections with, or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.

There shall be two classes of building sewer permits:

For residential and commercial service; and
For service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee of \$60.00 for a residential or commercial building sewer permit and \$60.00 for an industrial building sewer permit shall be paid to the city clerk at the time the application is filed.

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer; but the city does not and will no assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this chapter.

The size, slope, alignment, materials of construction of all sanitary sewers, including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city. In the absence of suitable code provisions, the appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff, or groundwater to building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer, unless such connection is approved by the superintendent for purposes of disposal of polluted surface drainage.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9. All Such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection an testing shall be made under the supervision of the superintendent or his representative.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

4.02.050 Use of Public Sewers.

No person shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage, or cooling water to any sewer, except storm water runoff from limited areas, which

storm water may be polluted at times, may be discharged to the sanitary sewer by permission of the superintendent.

Storm water, other than that exempted under Section 4.02.050 (1), and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the superintendent and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the superintendent, to a storm sewer, combined sewer, or natural outlet.

No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:

Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.

Any waters containing toxic or poisonous solids, liquids, gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal system, to injury or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in, or have an adverse effect on the waters receiving any discharge from the treatment works.

Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.

Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities, such as but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

The following described substances, materials, waters, or wastes shall be limited in discharge to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process, or equipment, will not have an adverse effect on the receiving stream, or will no otherwise endanger lives, limbs, public property, or constitute a nuisance. The superintendent may set limitations lower than the limitations established in the regulations below if, in his opinion, such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewer, materials of construction of the sewers, the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant and other pertinent factors. The limitations or restrictions on materials or characteristics of

waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the superintendent are as follows:

Wastewater having a temperature higher than 150° Fahrenheit (65° Celsius).

Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, or products of mineral oil origin.

Wastewater from industrial plants containing floatable oils, fats, or grease.

Any garbage that has not been properly shredded (see Section 4.02.010 (13)). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.

Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the superintendent for such materials.

Any waters or wastes containing odor-producing substances exceeding limits which may be established by the superintendent.

Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

Quantities of flow, concentrations, or both which constitute a “slug” as defined herein.

Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

Any water or waste which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4.02.050 (4), and which in the judgment of the superintendent may have a deleterious effect upon the wastewater facilities,

processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

Reject the wastes;

Require pretreatment to an acceptable condition for discharge to the public sewers;

Require control over the quantities and rates of discharge, and/or

Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 4.02.050 (10).

When considering the above alternatives, the superintendent shall give consideration to the economic impact of each alternative on the discharger.

If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent.

Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in Section 4.02.050 (4)(c), or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates and means of disposal, which are subject to review by the superintendent. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by currently licensed waste disposal firms.

Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operations by the owner at his expense.

When required by the superintendent, the owner of any property serviced by the building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurements of the wastes. Such structures, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the superintendent. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

The superintendent may require a user of sewer services to provide information needed to determine compliance with this chapter. These requirements may include:

Wastewaters discharge peak rate and volume over a specified time period.

Chemical analyses of wastewaters.

Information on raw materials, processes and products affecting wastewater volume and quality.

Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.

A plot plan of sewers on the user's property showing sewer and pretreatment facility location.

Details of wastewater pretreatment facilities.

Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

All measurements, testes and analyses of the characteristics of water and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association. Sampling methods, locations, time, durations and frequencies are to be determined on an individual basis subject to approval by the superintendent.

No statement contained in this section shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment.

4.02.060 Disorderly Conduct.

It shall be unlawful for any person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities. Any person violating the provisions of this chapter shall be subject to immediate arrest under a charge of disorderly conduct.

4.02.070 Powers and Authority of Inspectors.

The superintendent and other duly authorized employees of the city, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the community system, in accordance with the provisions of this chapter.

The superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry may establish that the revelation to the public of the information in question might result in an advantage to competitors.

While performing the necessary work on private properties referred to in Section 4.02.070 (1), the superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by the city employees and against liability claims and demands for personal injury or property damage asserted against the company growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 4.02.050 (8).

The superintendent and other duly authorized employees of the city, bearing proper credentials and identification, shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with terms of the duly negotiated easement pertaining to the private property involved.

4.02.080 Hearing Board.

A hearing board shall be appointed as needed for arbitration of differences between the superintendent and sewer users on matters concerning interpretation and execution of the provisions of this chapter by the superintendent. The cost of the arbitration will be divided equally between the city and the sewer user.

One member of the board shall be a registered professional engineer; one member shall be a practicing sanitary engineer; one member shall be a representative of industry or manufacturing enterprise; one member shall be a lawyer; and one member shall be selected at large for his interest in accomplishing the objectives of this chapter.

4.02.090 Penalties.

Any person found to be violating any provision of this chapter, except Section 4.02.060, shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Any person who shall continue any violation beyond the time limit provided for in Section 4.02.090 (1) shall be guilty of a misdemeanor and upon conviction thereof shall be fined in the amount no exceeding \$300.00 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.

(Ord. 322; 12-18-79)

Chapter 4.06 - WASTEWATER SYSTEM SERVICE CHARGES

Sections:

- 4.06.010 Purpose
- 4.06.020 Determining Total Annual Costs of Operation and Maintenance
- 4.06.030 Determining Each User's Wastewater Contribution Percentage
- 4.06.040 Determining Surcharge System for Users with Excess BOD & SS
- 4.06.050 Determining Each User's Wastewater Service Charge
- 4.06.060 Payment of User's Wastewater Service Charge and Penalties
- 4.06.070 Review of Each User's Wastewater Service Charge
- 4.06.080 Notification
- 4.06.090 Wastes Prohibited from Being Discharged to the Wastewater
- 4.06.110 Proper Design and Construction of New Sewers and Connections

4.06.010 Purpose

The purpose of this chapter is to generate sufficient revenue to pay all costs for the operation and maintenance of the complete wastewater system. The costs shall be distributed to all users of the wastewater system in proportion to each user's contribution to the total loading of the treatment works. Factors such as strength (BOD and SS), volume and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation and maintenance costs to each user class.

4.06.020 Determining Total Annual Costs of Operation and Maintenance

The city or its city engineer shall determine the total annual costs of operation and maintenance of the wastewater system which are necessary to maintain the capacity and performance, during the service life of the treatment works, for which such works were designed and constructed. The total annual cost of operation and maintenance shall include but need not be limited to labor, repairs, equipment replacement, maintenance, necessary modifications, power, sampling, laboratory tests and reasonable contingency fund.

4.06.030 Determining Each User's Wastewater Contribution Percentage

The city or its city engineer shall determine each user's average daily volume of wastewater, which has been discharged to the wastewater system, which shall then

be divided by the average daily volume of all wastewater discharged to the wastewater system, to determine each user's Volume Contribution Percentage. The amount used as the total average daily volume of wastewater shall exclude infiltration and inflow. The city or its city engineer shall determine each user's average daily poundage of five-day 20 degree Centigrade Biochemical Oxygen Demand (BOD), which has been discharged to the wastewater system, which shall then be divided by the average daily poundage of all five-day BOD discharged to the wastewater system to determine each user's BOD Contribution Percentage.

The city or its engineer shall determine each user's average Suspended Solids (SS) poundage which has been discharged to the wastewater system which shall then be divided by the average daily poundage of all Suspended Solids discharged to the wastewater system to determine the user's Suspended Solids Percentage. Each user's Volume Contribution Percentage, BOD Contribution Percentage and Suspended Solids Contribution Percentage shall be multiplied by the annual operation and maintenance costs for wastewater treatment of the total volume flow of the total five-day 20 degree Centigrade BOD and of the Suspended Solids, respectively.

4.06.040 Determining Surcharge System for Users with Excess BOD & SS

The city or its city engineer will determine the average Suspended Solids (SS) and Biochemical Oxygen Demand (BOD) daily loadings for the average residential user. The city or its city engineer will assess a surcharge rate for all nonresidential users discharging wastes with BOD and SS strengths greater than the average residential user. Such users will be assessed a surcharge sufficient to cover the costs of treating such users' above-normal strength wastes. Normal strength wastes are considered to be p.p.m. BOD and p.p.m. SS. The surcharge rate structure for such above-normal strength waste dischargers is as shown on file in the office of the city clerk.

4.06.050 Determining Each User's Wastewater Service Charge

Each nonresidential user's wastewater treatment cost contributions as determined in Section 4.06.030 and 4.06.040 shall be added together to determine such user's annual wastewater service charges. Residential users may be considered to be one class of user and an equitable service charge may be determined for each user based upon an estimate of the total wastewater contribution of this class of user. The governing body may classify industrial, commercial and other nonresidential establishments as a residential user; provided that the wastes from these establishments are equivalent to the wastes from the average residential user with respect to volume, suspended solids and BOD. Each user's wastewater treatment cost contribution will be assessed in accordance with the rate schedule on file in the office of the city clerk.

4.06.060 Payment of User's Wastewater Service Charge and Penalties

The city shall submit an annual statement to the user for the user's annual wastewater service charge or one-twelfth of the user's annual wastewater service charge may be included with the monthly water and/or wastewater utility billing. The city shall add a penalty of percent per month if the payment is not received by the city within 15 days. Should any user fail to pay the user wastewater service charge and penalty within three months of the due date, the city may stop the wastewater service to the property.

4.06.070 Review of Each User's Wastewater Service Charge

The city shall review the total annual cost of operation and maintenance as well as each user's Wastewater Contribution Percentage not less often than every two years and will revise the system as necessary to assure equity of the service charge system established herein and to assure that sufficient funds are obtained to adequately operate and maintain the wastewater treatment works. If a significant user, such as an industry has completed in-plant modifications which would change that user's Wastewater Contribution Percentage, the user can present at regularly scheduled meeting of the governing body, such factual information and the city shall then determine if the user's Wastewater Contribution Percentage is to be changed. The city shall notify the user of its findings as soon as possible.

4.06.080 Notification

Each user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

4.06.090 Wastes Prohibited from Being Discharged to the Wastewater Treatment System

The discharge of any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in or have an adverse effect on the waters receiving any discharge from the treatment works is hereby prohibited.

4.06.100 Prohibition of Clear Water Connections

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

4.06.110 Proper Design and Construction of New Sewers and Connections

The size, slope, alignment, materials of construction of all sanitary sewers and sewer connections, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the building and plumbing coded or other applicable rules and regulations of the city and the state of Montana. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(Ord. 323; 12-18-79)

Chapter 4.08 - WATER REGULATIONS

Sections:

- 4.08.010 Rules Established
- 4.08.020 Application and Fee for Taps to Mains
- 4.08.030 Sizing and Furnishing of Materials
- 4.08.040 Discontinuance; Notice Filed
- 4.08.050 Rates Paid Monthly; Delinquencies
- 4.08.060 Separate Line Required (Repealed in its entirety)
- 4.08.070 Stop and Waste Cock Required
- 4.08.080 Location of Stop Boxes and Cutoffs
- 4.08.090 Copper Pipe Required
- 4.08.100 Public Hydrant Requirements
- 4.08.110 City Not Responsible
- 4.08.120 Fire Restrictions
- 4.08.130 Accessibility
- 4.08.140 City May Make Repairs
- 4.08.150 Contractors or Builders Desiring Water
- 4.08.160 Charge for Turning Water On
- 4.08.170 Unlawful Acts
- 4.08.180 Water Rates Charged to Owner
- 4.08.190 Taps Prohibited
- 4.08.200 Inspections Authorized **
- 4.08.210 Persons Permitted to do Work**
- 4.08.220 Monthly Water Rates
- 4.08.230 Water Mains and Sewer Lines in Special Improvement District
- 4.08.240 Application; Necessary Fees
- 4.08.250 Amount Paid Credited to Special Improvement District Fund
- 4.08.260 Additional Charge
- 4.08.270 Payable in Installments; Approval

- 4.08.280 Apartments, Mobile Homes and Commercial or Multiple Use Facilities
- 4.08.290 Mayor May Enact Regulations
- 4.08.300 Enactment and Notification of Regulations
- 4.08.310 Penalty

4.08.010 Rules Established

The following rules and regulations are hereby established for the management, control and protection of the city waterworks. Said rules shall be considered a part of the contract with every person who takes water supplied by the city from the city waterworks, and every person taking water shall be considered as having expressed consent to be bound thereby.

4.08.020 Application and Fee for Taps to Mains

Applications for the use of water must be made to the office of the superintendent or the city clerk on printed forms furnished for that purpose. The application must be made by the agent or owner of the property to be benefitted, describing the lot, block and street where water is desired, and shall state fully all the purposes for which the water may be required; and the applicant or his duly authorized agent, upon making the application, shall pay to the city treasurer or city clerk a minimum fee of \$1000.00 plus the cost of a city approved water flow meter and shall pay the expense of the city in making connection with the main. In cases where the applicant desires a larger line than three-quarters of an inch, the applicant shall first obtain city approval of line size and shall agree in said contract to pay to the city, upon demand, the difference in cost to the city between the three-quarter inch line and the large line requested by the applicant, in addition to the minimum \$1000.00 fee set forth above. No taps will be made to the mains until the applicant for whom such connection is to be made has signed the contract mentioned herein, a plumber's permit has been issued authorizing the plumber to lay such pipes and make such connections as will conform to the application, and the applicant has paid all required fees. (Ord. 340; 5-4-87, Amd. Ord. 342; no date, Amd. Res. 517; 8-4-08, Amd. Res. 551; 8-6-12)

4.08.030 Size and Furnishing of Materials

The city shall provide the mains saddle and corporation stop, and may provide, at cost, the service line to the curb stop, and curb box and water meter, in addition to the minimum \$1000.00 fee provided for in 4.08.020. All other materials are to be furnished by the applicant. The size and service lines, valves, meters and other fittings fixtures, or appurtenances necessary shall be determined by the city. If contractor provided, the curb stop, curb stop box, meter pit, if any, and meter shall

conform, in respect to design and materials, to city standards. (Ord. 340; 5-4-87, Amd. Ord. 342; no date, Amd. Res. 551; 8-6-12)

4.08.040 Discontinuance; Notice Filed

Should it be desired to discontinue the use of water, or if any residence or commercial property to which City water is supplied shall be vacant of a period of 60 days or more, written notice thereof shall be filed in the office of the city clerk by the property owner and all arrears paid, and rates shall be charged until such notice is given. Within 72 hours of receipt of such notice, the city superintendent shall shut off water service to the residence or commercial property for which there is a fee of \$50.00. (Ord. 340; 5-4-87, Amd. Ord. 342; no date, Amd. Res. 516; 9-2-08)

4.08.050 Rates Paid Monthly; Delinquencies

Water bills must be paid monthly either at the office of the city clerk or by electronic means such as through a bill pay service with a bank. Payments are due on the first day of each month for water services provided in the preceding month. When paying in person, the customer shall present to the city clerk, together with the correct payment, a current bill indicating the amount of water used and the balance due. If a water bill is not paid by the 10th of the month for services provided in the preceding month, then it becomes delinquent, and shall result in a \$10.00 late charge for each month past due and the city clerk will then give 3 days' written notice to the customer that on the 14th of the month (or the business day closest to the 14th) his or her water shall be turned off unless the entire outstanding balance is paid in full before the 14th of the month. A turn on fee of \$50.00 shall be assessed against a delinquent customer and this fee, as well as any unpaid amount or balance due for water service must be paid in full before resumption of service.

Should the occupant of the premises turn on the water, or suffer or cause the water to be turned on, after it has been shut off at the curb stop, it may be turned off at the main and a charge equal to that of establishing a new service in addition to any delinquent charges shall be assessed and paid before the resumption of water service. Further, the city may pursue redress under the state laws pertaining to "theft of services" if water is used without payment therefor. The landowner of the property to which service is provided is ultimately responsible for all charges for service provided, including those incurred by a tenant or lessee of the property. If a customer whose water has been shut off either at the curb stop or the main requests that it be turned on again during an evening or weekend, then any charge set forth in this section shall be double the standard fee. (Ord. 340; 5-4-87, Amd. Ord. 342; no date, Amd. Res. 459; 1-6-97, Amd. Res. 551; 8-6-12, Amd. Res. 556; 12-3-12)

4.08.060 Separate Line Required

(Repealed in its entirety. Amd. Res. 514; 1-7-08)

4.08.070 Stop and Waste Cock Required

Every service pipe must be furnished with a stop and waste cock placed within one foot after the pipe enters the cellar wall. Said stop must have a handle or wrench attached to turn same and should be turned off and on at least once a month to keep same in working order so that water can be readily shut off and drained from pipes, and for the protection of the premises in case of leaks.

4.08.080 Location of Stop Boxes and Cutoffs

All stop boxes and cut-offs for controlling the supply of water to consumers shall be placed within the street line in the location described by the city superintendent. The top of all stop boxes shall conform to the surface of the sidewalk and shall not be covered with any substance. (Ord. 340; 5-4-87; Amd. Ord. 342; no date)

4.08.090 Copper Pipe Required

Consumers shall be required to use, in making connections with the city water mains within the street lines, K-copper pipe only, of the best quality. (Ord. 340; 5-4-87, Amd. Ord. 342; no date)

4.08.100 Public Hydrant Requirements

No private hydrants shall be located on the sidewalk or any place of easy access to the public unless metered and then only by special permit.

4.08.110 City Not Responsible

The city shall not be responsible for pipes, appurtenances, and fixtures. All owners, at their expense, must keep service pipes from city mains and all their apparatus, their appurtenances, and fixtures in good working order and properly protected from frost and other dangers. No claim shall be made against the city on account of any freezing, breaking of or other environmental damage to any service pipe, water meter or other apparatus, or for accidental failure to supply water. No reduction from the regular rates shall be made for any time that service pipes, water meters or fixtures may be frozen. (Ord. 340; 5-4-87, Amd. Ord. 342; no date; Amd. Res. 551; 8-6-12)

4.08.120 Fire Restrictions

During all alarms of fire, the use of hoses, yard fountains, hydraulic motors, elevators and all outlets where a constant flow of water is maintained is positively forbidden. This rule will be enforced and if violated will subject the offender to the punishment prescribed by this code.

4.08.130 Accessibility

All property owners shall, when acquiring water service, ensure that the curb stop, water meter and shut offs on both sides of the water meter and accessible to city

water personnel, and that they are maintained in a condition that access does not endanger the health or safety of city employees. In cases where accessibility is considered not feasible or reasonable, an external meter pit, of appropriate design, shall be installed and maintained by the owner. (Ord. 340; 5-4-87, New Res. 551; 8-6-12)

4.08.140 City May Make Repairs

The city reserves the right at any time to shut off its mains for the purpose of making repairs or extensions or any other purpose, and no claim shall be made against the city by reason of the breaking of any service pipe or service cock or from any other damage that may result from shutting off water for repairing, laying, or relaying of mains, hydrants, or other connections.

4.08.150 Contractors or Builders Desiring Water

Contractors, builders, or others desiring water for building purposes must make application to the superintendent of the waterworks, who will issue a permit therefor. The amount to be paid shall be based upon the actual cost to the city for providing water service. (Ord. 340; 5-4-87, Amd. Ord. 342; no date)

4.08.160 Charge for Turning Water On

A fee of \$50.00 shall be charged for turning on water, except in cases where water has been turned off because of a break in the service connection or pipes, or if for a first time connection to a new residence or commercial property in which case the fee is set forth in 4.08.020, or if the water has been shut off as a result of delinquency in paying the water bill in which case the fee(s) are set forth in 4.08.050, or if the water was turned off at the owner's request for a regular seasonal absence, and with a city water loan in effect; the charge shall be \$50.00 plus any due water loan payments. The owner or his/her authorized agent shall be present when the water is turned on. If a customer whose water has been shut off requests that it be turned again during an evening or weekend, turned on again during an evening or weekend, then any charge set forth in this section shall be double the standard fee. (Ord. 340; 5-4-87, Amd. Ord. 342; no date, Amd. Res. 516; 9-2-08, Amd. Res. 551; 8-6-12)

4.08.170 Unlawful Acts

Whoever shall by himself or by any other person acting under his authority use or take water from any part of the waterworks aforesaid without a license or a permit, or who shall without authority from said water department open, dig out, curb over, or remove any fire plug or hydrant, stop, cock, valve, valve box, water meter, or any other fixture appertaining to said waterworks, or shall let on or shut off water into or from any water pipe wherever situated, shall be deemed guilty of a violation of this chapter. (Ord. 340; 5-4-87, Amd. Ord. 342; no date)

4.08.180 Water Rates Charged to Owner

The water rates shall be charged the owner of the property and, if from any cause, any sums owing therefor become delinquent, the water shall be shut off and in no case shall it be turned on to the same property until the said delinquencies and any turn on or other fee have been paid in full, provided that the city may establish by ordinance or resolution. (Ord. 340; 5-4-87, Amd. Ord. 342; no date)

4.08.190 Taps Prohibited

No person except an authorized employee of the waterworks department shall make any tap or connection with any main or distributing pipe of the waterworks system.

4.08.200 (Amended) Inspection Authorized

The superintendent of the city waterworks or other officer or employee of the waterworks shall be permitted at all times to enter the premises or buildings of consumers to examine the water pipes, water meters and fixtures and the manner in which the water is used. (Amd. 342; no date, Ord. 340; 5-4-87)**

4.08.210 (Amended) Persons Permitted to do Work

No person except a regularly licensed plumber will be permitted to do any work on any pipes or connection made with the mains of water supply of the city waterworks. Plumbers failing to perform their work according to the established rules and regulations therefor or executing it unskillfully or to the detriment of the waterworks may be debarred from making connections with the city mains. The city, in its discretion, may appoint or authorize other qualified persons to install meters in the water system. (Amd. 342; no date, Ord. 340; 5-4-87)**

4.08.220 Monthly Water Rates

Water rates will be charged at the rates established from time to time and on file in the office of the city clerk.

4.08.230 Water Mains and Sewer Lines in Special Improvement District

All persons or property owners residing without the limits of any special improvement district heretofore created, or which may be hereafter created, for the installation of water mains or sewer lines, who shall desire to connect their property or improvements with the water mains or sewer lines existing in said special improvement district shall make application to the city clerk for permission to do so.

4.08.240 Application; Necessary Fees

The application for permission to make such connection shall require the applicant to pay to the city the necessary fees therefor, which shall be determined by the clerk, who shall figure the area of the property owned by the applicant and use the

assessment levied against the property of said special improvement district to which connection is desired upon the same basis as used to assess property within the district at the time of its creation, and this amount must be paid at the time of such application.

4.08.250 Amount Paid Credited to Special Improvement District Fund

In the event that the permit shall be issued by the clerk, the amount paid shall be credited to the special improvement district fund to which the connection is to be made until all indebtedness of such district shall have been paid and thereafter all such amounts shall be credited to the general fund.

4.08.260 Additional Charge

The amount above set forth shall be in addition to all existing charges made by the city for connection to the lines or mains as required by existing laws now in effect.

4.08.270 Payable in Installments; Approval

Any property owner, whether his property be within or without a special improvement district, may apply to make connections as aforesaid, and in case his property shall be subject to special taxes levied against it by the city, and he shall desire to pay such special taxes and the sum required to make connections as aforesaid in installments, he shall submit to the council for approval an application to do so. Upon approval by the council of such application, a contract in writing shall be made between a taxpayer and the council, fixing the amount to be paid, amounts of installments, dates of payment, rate of interest upon deferred payments and manner of payment of interest. No such contract shall extend the time for payment over a period in excess of ten years. Upon its execution, such contract shall constitute a lien upon the real property therein described until paid.

4.08.280 Apartments, Mobile Homes and Commercial or Multiple Use Facilities

Each individual dwelling unit and each commercial or multiple use facility connected with city sewer and water shall have an appropriate water meter and service lines and shall conform in all respects to the ordinances established for other residence or similar commercial facilities.

Existing mobile home parks shall, as each lot or park owned mobile home becomes vacant, refit the lot utilities (water and sewer) to the current standards and shall not re-let said lot or home until such refit is complete. The landowner of the property to which service is provided is ultimately responsible for all charges for services provided, including those incurred by a tenant or lessee of the property. (Amd. Res. 514; 1-7-08, Amd. Res. 551; 8-6-12)

4.08.290 Mayor May Enact Regulations

The mayor and the Superintendent of Public Works shall have the power to enact regulations or restrictions on the amount or purpose of water use by Municipal Water Users. This power shall include, but is not limited to, restrictions on time, place or amount of water use for lawn or other irrigation. The City Clerk shall be notified immediately of the enactment of any such regulations and/or restrictions. (Ord. 374; 9-8-87)

4.08.300 Enactment and Notification of Regulations

The mayor may enact regulations or restrictions on water use, when necessary for the public health, safety or welfare, without the approval of the city council and without the prior holding of a public hearing. The mayor shall also determine an appropriate means for informing water users of such regulations or restrictions which may include, but is not limited to, notification in a newspaper published in Meagher County. (Ord. 374; 9-8-87)

4.08.310 Penalty

A person violating any watering regulation or restriction enacted by the mayor is guilty of a misdemeanor and upon a first conviction shall be punished by a fine not exceeding \$100.00. Upon a second or subsequent conviction, a person shall be punished by a fine of not less than \$50.00, nor more than \$250.00. (Ords. 121-148; 1-6-69, Ord. 340; 5-4-87, Ord. 374; 9-8-87)

Chapter 4.10 - WATER WELL REGULATIONS

Sections:

4.10.010	Definitions
4.10.020	Application, Investigation, and Permit
4.10.030	Responsibility for Permit
4.10.040	Permit Fee
4.10.050	Review
4.10.060	Control Valves
4.10.070	Marking and Inspection
4.10.080	Cross Connections
4.10.090	Penalty

4.10.010 Definitions

As used in this chapter, unless the context otherwise requires:

“Person” shall mean any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

“Water well” or “well” shall mean any digging, drilling, or excavation, by hand or by the use of machinery or equipment, whereby water is obtained from under the surface of the ground to be used on or above the ground surface for any purpose.

“Cross connection” shall mean a physical arrangement whereby a public water supply system is connected with another water supply system, either public or private, or with any wastewater or sewer line, in such a manner that a flow of water into the public water supply system from such other source of water, waste, or sewage is possible. (Ord. 350; 1-4-88)

4.10.020 Application, Investigation, and Permit

Any person desiring to drill, dig, or excavate for a water well within the corporate limits of the city must first apply to the city superintendent for a permit therefor and must advise the city of the exact location of the proposed water well. The application for such permit must contain:

A plan whereby a reduced pressure backflow preventer will be installed on the applicant's distribution line (which must be the equivalent of a Watts 9-D backflow preventer);

An agreement by the permittee that he will submit a water sample to the State Department of Health and Environmental Sciences for the purpose of determining the potability of the water, and pay any applicable fee to the State of Montana for the test; That if the water is certified as not potable by the State Department of Health and Environmental Sciences, the permittee must post a sign at the well indicating that the water is not potable;

If water from the well is to be used for human consumption, an agreement by the permittee that he submit an annual water sample to the State Department of Health and Environmental Sciences and that he pay any applicable fee to the State of Montana for the test;

That the permittee must submit to inspection of the well by the city superintendent or other city employee at any reasonable time, upon prior notice, except that the provisions concerning time and notice are waived in the event of an emergency.

That before it is put into operation, the city superintendent will inspect the well to determine that the backflow preventer has been properly installed.

(Ord. 350; 1-4-88)

4.10.030 Responsibility for Permit

The permit required by this chapter must be obtained by either the person who is actually drilling the well or by the landowner on whose land the well is to be drilled. Both the landowner and the well driller are subject to the penalty set forth in this chapter for failure to obtain the required permit. (Ord. 350; 1-4-88)

4.10.040 Permit Fee

Upon the city superintendent's review and approval that the permit application conforms with the plans submitted and the requirements of this chapter, the applicant shall pay to the city a fee of \$20.00 for the permit. (Ord. 350; 1-4-88)

4.10.050 Review

The refusal of the city superintendent to grant approval of any application or to issue a permit for a water well is subject to review by the city council. (Ord. 350; 1-4-88)

4.10.060 Control Valves

Any water well drilled, dug, or excavated pursuant to a permit granted under this chapter must be equipped with adequate shut-off valves or control valves for the purpose of controlling the flow of water from the water well and for the protection of the city water system in the event of pollution or other hazards. Any backflow preventer must meet the requirements set forth in this chapter. (Ord. 350; 1-4-88)

4.10.070 Marking and Inspection

The issuance of a water well permit may be conditioned on marking the water well in a manner to be designated by the city superintendent for the purposes of identification or location, or for inspection at such times as may be reasonably required. All water wells within the city may be inspected by the city superintendent or other city employee at any reasonable time, upon prior notice, except that the provisions concerning time and notice are waived in the event of an emergency. (Ord. 350; 1-4-88)

4.10.080 Cross Connections

No water well may be maintained within the city which has any cross connection with the public water supply system unless equipped with a reduced pressure backflow preventer which is in conformity with the requirements of this chapter. (Ord. 350; 1-4-88)

4.10.090 Penalty

Any person, whether as principal, agent, employee, or otherwise who violates any of the provisions of this chapter shall be subject to a fine not to exceed \$500.00 and a term of imprisonment not to exceed six months. (Ord. 348; 1-4-88)

CHAPTER 4.12 - WASTEWATER HAULERS

Sections:

- 4.12.010 Wastewater License Required
- 4.12.020 Vehicle Must Be Capable of Hauling Wastewater
- 4.12.030 Authorized Deposit of Wastewater Loads at the City
Wastewater Treatment Plan
- 4.12.040 Prohibited Wastewater Discharges
- 4.12.050 Wastewater Hauler to Identify Source and Content of
Wastewater
- 4.12.060 Authority to Require Laboratory Analysis of Wastewater Prior
to Discharge
- 4.12.070 Wastewater Discharge Equipment
- 4.12.080 Wastewater Hauler Discharge Fee Prior to Any Wastewater
Discharge
- 4.12.090 Wastewater Hauler Liability Insurance
- 4.12.100 City Wastewater Superintendent or His Designee is Authorized
to Permit City Wastewater Treatment to Accept Nondomestic Industrial
Waste in Special Circumstances
- 4.12.110 Violation Penalty
- Resolution #535 Intent to Increase Water Rates & Charges
- Resolution #536 Resolve to Increase Water Rates & Charges
- Resolution #527 Increase Water Rates
- Resolution #528 Increase Sewer Rates
- Resolution #549 Authorizing
Water & Sewer Installation for Contractors
- Miscellaneous Notes – Helena Code

4.12.010 Wastewater License Required

No person or entity shall engage in or conduct the business of wastewater hauling within the city for septic tank waste, carwash holding tanks, wastes collected from

print shops, laundries, dry cleaners or by the use of oil/sand interceptors at automotive shops and other facilities generating wastewater either within or outside of the City of White Sulphur Springs without an annual city business license issued by the city clerk's office as provided in Chapter 5.22 of this code, pursuant to license application forms provided by the city clerk's office in consultation with the wastewater division of the city public works department.

4.12.020 Vehicle Must Be Capable of Hauling Wastewater

No person or entity shall be allowed to utilize city streets or alleys or transport wastewater loads to city wastewater treatment facilities without first having furnished the superintendent of the city wastewater treatment facility or the superintendent's designee with satisfactory evidence that the vehicle to be utilized for hauling wastewater is satisfactorily capable of both hauling and unloading wastewater without leakage, spills or other public health concerns about transportation of wastewater in the vehicle.

4.12.030 Authorized Deposit of Wastewater Loads at the City Wastewater Treatment Plant

Any discharge or deposit of a wastewater load for treatment by the city wastewater treatment facility must be authorized by personnel of the city wastewater treatment plant prior to discharge and must be performed pursuant to the procedures and controls established by the city wastewater treatment facility administration.

The city wastewater treatment facility is not required to accept wastewater loads and the wastewater treatment facility has the authority to decline to accept wastewater loads if the city determines that the wastewater treatment facility is not able to adequately or properly treat the wastes or the wastewater load contains toxic or hazardous waste materials or substances, any other item that is potentially dangerous or potentially could adversely affect or be detrimental to the operation of the city wastewater treatment facility. The city wastewater treatment facility controls with respect to wastewater hauler loads brought to a city wastewater treatment facility may include but are not limited to controls such as limiting the day of delivery, time of day, source of the wastewater, content of the wastewater, and number and size of wastewater loads a hauler may discharge at the city facility in a specific time period.

The city wastewater treatment facility may refuse or decline to accept wastewater from any wastewater hauler it determines to have been or is operating in violation of the provisions of this chapter.

4.12.040 Prohibited Wastewater Discharges

No person or entity hauling wastewater shall discharge or cause to be discharged any wastewater described as follows:

Pollutants that will create a fire or explosion hazard;

Pollutants that will cause corrosive structural damage, but in no case discharges with a pH lower than 5.0;

Solid or viscous pollutants in amounts that will cause obstruction to flow except in the case of carwash facility pumpings with sand for which the city has room to deposit the discharge in wastewater treatment facility drying beds;

Oxygen demanding pollutants discharged at a concentration that will cause interference with city wastewater treatment facility operations;

Heat in amounts that will inhibit biological activity; in no case should discharge cause wastewater treatment facility effluent to fluctuate more than plus or minus five degrees Fahrenheit;

Any other type of was that may be untreatable by the wastewater treatment facility, or will interfere with the operation of the wastewater treatment facility;

Any wastewater that is not capable of being treated in accordance with federal, state or local pretreatment regulations.

4.12.050 Wastewater Hauler to Identify Source and Content of Wastewater

No person or entity transporting wastewater to the city wastewater treatment facility shall be allowed to discharge wastewater into the municipal sanitary sewer system or the city wastewater treatment facility without first identifying the source of the wastewater as well as the contents of the wastewater and receive permission to discharge prior to actually discharging wastewater. The city may require that a wastewater hauler certify that the sources of wastewater being transported are regulated by federal, state or city wastewater pretreatment standards.

4.12.060 Authority to Require Laboratory Analysis of Wastewater Prior to Discharge

Prior to granting wastewater discharge approval for a specific wastewater discharge, the city wastewater treatment facility superintendent or the superintendent's designee is empowered to require wastewater haulers to provide a laboratory analysis of the wastewater, which laboratory analysis shall be performed by a laboratory independent of the source of the wastewater and independent of the wastewater hauler, which laboratory must be acceptable to the city wastewater treatment facility superintendent. The cost of any laboratory analysis requested pursuant to this section shall be paid for by either the generator of the wastewater or the wastewater hauler. The city wastewater treatment facility staff may also take samples for laboratory test purposes either before or after the wastewater is discharged.

4.12.070 Wastewater Discharge Equipment

Any necessary equipment, mechanical devices, tube, pip, or hose connections required to unload or discharge a load of wastewater at the city wastewater facility shall be provided by the waste hauler. Each wastewater hauler must maintain the discharge unloading equipment and facilities in a clean, safe condition or else be prohibited from discharging wastewater at the city wastewater treatment facility.

4.12.080 Wastewater Hauler Discharge Fee Prior to Any Wastewater Discharge

Any wastewater hauler desiring to discharge wastewater at the city wastewater treatment facility shall pay a wastewater discharge fee of Twenty Dollars (\$20.00) for a domestic wastewater discharge up to five hundred (500) gallons, and Forty Dollars (\$40.00) for a domestic wastewater discharge in excess of five hundred (500) gallons, but less than one thousand (1,000) gallons, and Sixty Dollars (\$60.00) for a domestic wastewater discharge in excess of one thousand (1,000) gallons and less than one thousand five hundred (1,500) gallons.

4.12.090 Wastewater Hauler Liability Insurance

A wastewater hauler shall have liability insurance for their vehicle and business operation in at least the amount of Three Hundred Thousand Dollars (\$300,000.00) per occurrence. A wastewater hauler shall present proof of the existence of the required liability insurance to the city clerk prior to the city clerk issuing an annual business license.

4.12.100 City Wastewater Superintendent or His Designee is Authorized to Permit City Wastewater Treatment Facility to Accept Nondomestic Industrial Waste in Special Exceptional Circumstances

The wastewater superintendent or his designee may in special exceptional circumstances in the general public interest authorize acceptance of nondomestic waste if the superintendent finds that:

The industrial user is located in an area where proper treatment of its generated waste is not available or economically feasible;

Acceptance of the nondomestic waste is determined to be the best alternative to minimize or prevent an adverse impact on the surface or groundwater in the area;
or

A situation arise where a one-time acceptance is needed in order to provide an adequate alternative for treatment of a nondomestic waste.

Acceptance of such nondomestic waste must comply with all federal, state and local pretreatment regulations and any guidelines set forth by the wastewater treatment facility.

4.12.110 Violation Penalty

The penalty for a violation of any provision of this chapter shall be a fine up to five hundred dollars or imprisonment up to six months or both for each offense. The city council may also revoke a wastewater hauler's annual city business license pursuant to Chapter 5.22 of this code.

RESOLUTION #535

RESOLUTION OF INTENTION OF THE CITY OF WHITE SULPHUR SPRINGS TO INCREASE RATES AND CHARGES FOR THE USERS OF THE CITY'S WATER SYSTEM AND TO CHANGE THE METHOD OF CHARGING FOR MONTHLY WATER USAGE.

RECITALS

WHEREAS, the White Sulphur Springs, in Meagher County, Montana (the "City") owns a water system (the "System") that is in need of improvement; and

WHEREAS, the City hired Great West Engineering to design and assist in constructing improvements to the System consisting of construction of a new 500,000 gallon concrete water storage tank, replacing the existing tank; and replacing certain transmission and water mains (the "Project"); and

WHEREAS, the City engineer estimates the improvements to the City's water system and the estimated cost of design, construction and financing of the Project is \$2,073,000; and

WHEREAS, the City has received commitments for loans from Montana Department of Natural Resources and Conservation consisting of \$2,073,000 of which \$500,000 may be forgiven upon completion of program requirements and \$1,573,000 for the Project payable over 20 years at 3.75%; and

WHEREAS, it is necessary to increase the rates and charges and change the method of charging for the services provided by the System in order to collect sufficient revenues to repay the loans, establish reserves and meet rate covenants and pay costs associated with the operation and maintenance of the System; and

WHEREAS, the City is required to provide notice and a public hearing prior to the passage or enactment of an ordinance or resolution imposing, establishing, changing or increasing rates, fees, or charges for water services or facilities.

NOW, THEREFORE, BE IT RESOLVED by the City Council (the "Council") of the City as follows:

Section 1. Reasons for Proposed Change and Increase in Water User Charges.

It is the intent of the City Council to implement a rate increase and other charges for users of the System as set forth herein. The reason for the proposed increase in rates and other charges is that the City will need to borrow \$2,073,000 consisting of a \$500,000 loan that may be forgiven upon completion of the program requirements and a \$1,573,000 loan payable over 20 years at 3.75% for costs of the Project. The City has no existing Water System debt. The debt service coverage requirements for such loan is that net revenues (gross revenues minus operation and maintenance

costs) must be at least equal to the maximum annual debt service on the loan (estimated to at \$112,950) times 1.25 which will be approximately \$141,188 per year. The operation and maintenance costs of the System, not including any Project expenses, are estimated at \$196,893 per year. Payment of the operation and maintenance expense plus the new load requirements will require an increase of water rates of \$21.87 per month for each user of the System in addition to increasing the existing base rate of \$15.25 to \$16.00 and the waterline replacement charge of \$5.00 plus a change in the use rate to a charge of \$1.734 per 1,000 gallons per month used according to the user's meter (and if no meter is installed, then the flat monthly rate for such user will be \$42.87,)

Section 2. Existing Monthly Charge.

The City currently imposes a base monthly rate on all connections to the System (the "Existing Monthly Rates" as follows:

The base rate, whether flat rate or metered, is \$15.25 per month, plus a \$5.00 per month charge for waterline replacement. The current base rate includes the first 3,000 gallons used per month. The existing use rate is charged for users above 3,000 gallons per month at \$1.50 per each additional 1,000 gallons per month used and prorated per 100 gallons on the amount used.

Section 3. Proposed New Rates.

The City hereby proposes to establish a new rate structure for the water users of the City based on the following:

The New Base Rate will be \$42.87 per month (\$21.87 for debt service and coverage requirements plus \$16.00 for operation and maintenance and the \$5.00 per month waterline replacement charge.)

The New Flat Rate charge for those without meters will be \$42.87 per month.

Section 4. Effective Date of New Rates.

The proposed new rates would go into effect January 1, 2012. Subsequent adjustments to the rates will be made by resolution of the Council and duly adopted after a public hearing with notice thereof given as provided by law.

Section 5. Public Hearing.

A public hearing on the proposed rate increase will be held on December 5, 2011, commencing at 7 PM at the City Offices.

Section 6. Notice.

The Clerk is hereby authorized and directed to publish or cause to be published a notice of the passage of this resolution in the Meagher County News, a newspaper of general circulation in the City, on the dates of November 10, November 17 and November 24, 2011, in the form and manner prescribed by Section 69-7-1 11(3) MCA, and to mail or cause to be mailed a copy of said notice to all customers of the System at least 7 days and not more than 30 days prior to the public hearing.

Passed and approved this 7th day of November, 2011.

JULIAN THERIAULT, MAYOR

ATTEST: Michelle Stidham, City Clerk

RESOLUTION #536

A RESOLUTION OF THE CITY OF WHITE SULPHUR SPRINGS, MONTANA, PROVIDING FOR INCREASED RATES AND CHARGES FOR THE USERS OF THE CITY'S WATER SYSTEM.

WHEREAS, on November 7, 2011, the City of White Sulphur Springs (the "City") passed its Resolution No. 535 which was a Resolution on Intention to Increase Rates and Charges for the City's Water System (the "System") and called for a public hearing on December 6, 2011; and

WHEREAS, the City Clerk caused a notice to be published in the Meagher County News once a week for three weeks prior to the hearing; and

WHEREAS, a hearing was held at the City Office to consider the above mentioned increase on December 6, 2011; and

WHEREAS, the City Council considered all protests received concerning the proposed rate increase and has addressed the comments as indicated in the Minutes of the Public Hearing.

NOW, THEREFORE BE IT RESOLVED BY THE CITY OF WHITE SULPHUR SPRINGS, MONTANA as follows:

Section 1. The Base Rate. The new monthly Base Rate will be \$42.87 per month (\$21.87 for debt service and coverage requirements plus \$16.00 for operation and maintenance and the \$5.00 per month waterline replacement charge.)

Section 2. Use Rate. The new monthly Use Rate will be \$1.734 per 1,000 gallons of water used per month. The New Use Rate will be charged for all water used (no water will be included in the New Base Rate).

Section 3. Flat Rate. The New Flat Rate charge for those without meters will be \$42.87 per month.

Section 4. Effective Date of New Rate and Future Changes. The proposed new rates go into effect January 1, 2012. Subsequent adjustments to the rates will be made by resolution of the Council duly adopted after a public hearing with notice thereof given as provided by law.

PASSED by the City Council and approved by the Mayor, this 6th day of December, 2011.

JULIAN TERIAULT, Mayor
ATTEST: Michelle Stidham, City Clerk

The Resolution was moved for passage by Council member Otto Olson seconded by members Sara Dreimeyer and Heith Stidham. The Council voted as follows:

FOR – Otto Olson, Sara Dreimeyer, Heith Stidham, George Kirkwood

AGAINST – (None)

ABSTAIN – (None)

RESOLUTION #527

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITE SULPHUR SPRINGS INCREASING WATER AND SEWER RATES.

WHEREAS, the City Council of White Sulphur Springs finds it necessary to increase its water and sewer rates in order to pay for necessary on-going and future maintenance, replacement and improvements to its water and sewer infrastructure.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of White Sulphur Springs, Montana resolves as follows:

That the White Sulphur Springs water and sewer rates are increased to reflect the following rate structure:

Sewer rates shall be increased by \$5.00 per month per customer to a new rate of \$12.00 per month.

The basic monthly water rate shall be increased \$0.75 per month to a new rate of \$15.25 per month for usage up to 3,000 gallons per month.

The incremental water rate shall be increased \$0.25 per 1,000 gallons to a new rate of \$1.50 per 1,000 gallons for usage over 3,000 gallons per month.

Repealer.

All resolutions, ordinances, and sections of the White Sulphur Springs Municipal Code and parts thereof in conflict herewith are hereby repealed.

Severability.

If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable.

Effective Date.

The ordinance shall be in full force and effect on October 1, 2010.

PASSED by the City Council and the City of White Sulphur Springs, Montana, on the first reading at a regular session thereof held on the 2nd day of August, 2010.

JULIAN THERIAULT, Mayor

ATTEST: Michelle Stidham, City Clerk

APPROVED AS TO FORM: Cindy E. Younkin, City Attorney

RESOLUTION #528

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITE SULPHUR SPRINGS PROVIDING INCREASE IN SEWER RATES.

WHEREAS, the City of White Sulphur Springs, Montana, finds it necessary to amend its sewer rates as follows:

NOW, THEREFORE, BE IT ORDAINED by the City Council of the White Sulphur Springs, Montana that this increase in sewer rates.

Monthly sewer rates shall be increased 71.4% for commercial users, which will go into effect on November 1, 2010, the first billing for which will be November 25, 2010. Note: Residential sewer rates were increased by the same percentage by Resolution #527, dated September 7, 2010.

These rates were agreed upon by the City Council of White Sulphur Springs at its regular council meeting on November 1, 2010, and at a special meeting on November 15th, 2010, after being public noticed in the Meagher County News.

PASSED by the City Council and the City of White Sulphur Springs, Montana, on first reading at a regular session on November 1, 2010, and on a second reading at a special meeting thereof on November 15, 2010.

Dated this 15th day of November, 2010.

JULIAN THERIAULT, Mayor

ATTEST: MICHELLE STIDHAM, City Clerk

APPROVED AS T FORM: Cindy E. Younkin, City Attorney

RESOLUTION #549

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITE SULPHUR SPRINGS
AUTHORIZING

WHEREAS, the residents and property owners of the City of White Sulphur Springs, Montana, on occasion to install or replace various amenities related to water and sewer facilities to their properties; and

WHEREAS, the City Council of White Sulphur Springs finds it necessary to clarify and specify what the City requires of any property owner or contractor installing any water and sewer facilities to be connected to the City's water or sewer infrastructure; and

NOW, THEREFORE, BET IT ORDAINED by the City Council of the City of White Sulphur Springs, Montana resolves as follows:

Section 1.

Any property owner or contractor installing any water or sewer facilities within the City of White Sulphur Springs to be connected to the City's water or sewer infrastructure shall adhere to the standards and specifications attached hereto, which by this reference are fully incorporated herein.

Section 2. Repealer.

All resolutions, ordinances, and sections of the White Sulphur Springs Municipal Code and parts thereof in conflict are hereby repealed.

Section 3. Severability.

If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable.

Section 4. Effective Date.

This ordinance shall be in full force and effect on _____ 2012.

JULIAN THERIAULT, Mayor
ATTEST: Michelle Stidham, City Clerk

PASSED, ADOPTED, AND APPROVED by the City Council of the City of White Sulphur Springs, Montana, on second reading at a regular session thereof held on the 4th day of June, 2012.

JULIAN THERIAULT, Mayor

ATTEST: Michelle Stidham, City Clerk

APPROVED AS FORM: Cindy E. Younkin, City Attorney

WATER AND SEWER INSTALLATION FOR CONTRACTORS

All water and sewer lines must be bedded 3".

All water and sewer lines must have 1 foot of cover.

Cover and bedding material can be sand or small gravel 3/8" or less.

All sewer and water lines must be compacted every two feet.

Pit run may be used for fill after 1 foot of cover.

All water and sewer lines must be inspected by city before filling ditch.

Wet clay or material that cannot be compacted may not be used for fill.

All pipe, valves and parts must be approved by the city.

Building permits must be filled out and returned to the city office before it can be approved.

Construction may not start until approved.

Contacting Electric and Phone companies is up to the contractor.

All repair or new water and sewer lines in city streets must be completed before contractor moves to another job or takes time off.

Streets and alleys cannot be closed without city approval.

Sheriff's Office must be told of all street and alley closures.

Contractor is responsible for bedding and back-fill materials.

Contractor must clean up all spills.

Contractor must have its own traffic control equipment.

Fence all open or unsafe construction.

Follow all safety rules.

Pay for all asphalt removal.

Damage to any electric, phone, fiber optic, TV, sewer or water line is the responsibility of the contractor.

To get inspected by city employees is the contractor's responsibility.

Miscellaneous Notes – Helena Code

8-3-5 EXTENSION TO AREA NOT NOW SERVED: Upon application to extend sewers to areas not now served (other than SID), the Sewer Commissioner shall determine the size pipe to be used in the extension so as to most advantageously serve others as well as the applicant. The entire cost of the extension shall be borne by the applicant. The construction of the mains and services shall be under the direction of the Sewer Department. The costs of such construction, exclusive of service lines, shall be kept on record in the Treasurer's office, and a record kept in the Sewer Department on a map showing mains, services, length, kind and sizes of pipe, together with supporting data and date of completion. The City shall then own all mains of any extension and shall maintain them.

8-3-6 FORMULA FOR COMPUTATION: The following formula shall be used for arriving at the total consumer's cost to applicant for extension of main service:

The initial installation cost shall be borne by the initial applicant.

In addition to the fee under 8-3-2, subsequent applicants to use the extension for their service shall pay to the city a sum to be determined by the Sewer Commissioner with the approval of the City Council; which sum shall be an apportioned share of the original amount paid for the extension. The Sewer Commissioner shall conservatively determine the number of potential services which might use the extension, in determining the portion each shall pay. The city will refund to the original applicant the share so collected.

No user who paid for the original extension shall receive more total refund than his original cost.

After 10 years from the date of the original extension no refund will be made to any user who made the extension.

Refunds will be made only to the original owner in continuous ownership.

TITLE 5 - BUSINESS LICENSES AND REGULATIONS

Contents:

CHAPTER 5.04	Gambling Licenses
CHAPTER 5.06	Itinerant Vendors
CHAPTER 5.08	Alcoholic Beverages
CHAPTER 5.16	Cable Television Franchise
CHAPTER 5.18	Advertising and Bill Posting
CHAPTER 5.20	Contractors' Bond
CHAPTER 5.22	Medical Marijuana

CHAPTER 5.04 - GAMBLING LICENSES

Sections:

5.04.010	Policy
5.04.020	Application
5.04.030	Definitions
5.04.040	License Required
5.04.050	Qualification for License
5.04.060	License Application
5.04.070	Licensing Fee
5.04.080	Revocation of License

5.04.010 Policy

It is hereby declared to be the policy of the city to require a license for the operation of a gambling device on premises licensed for the sale of liquor, beer, food, cigarettes, or any other consumable products for the purpose of the protection of the public health, welfare and safety of the citizens of the city.

5.04.020 Application

This chapter shall apply to all operators of gambling devices operated on premises which have been licensed for the sale of liquor, beer, food, cigarettes, or any other consumable products within the city limits.

5.04.030 Definitions

The following words and phrases used in this chapter shall be defined as follows:

“Gambling Device” means any video draw poker machine, keno machine, poker or card table, bingo, keno or any other game or machine which pays out in cash and which may be licensed by municipalities under state laws.

“Video draw poker machine” means an electronic video game machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker and utilizes a video display or microprocessors in which, by the skill of the player or by chance, or both, the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, tokens, or anything else of value.

“Keno machine” means an electronic video game machine that, upon the insertion of cash, is available to play or simulate the play of the game or keno or bingo and utilizes a video display and microprocessors, in which by the skill of the player or by chance, or both, the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coin, cash, tokens or anything else of value.

“Poker or card table” means a card table at which poker or other card game authorized by state law is played.

“Bingo” or “keno” means a game in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random.

“Person” means any individual, corporation, or partnership.

All terms herein shall have the same connotation as they do in everyday common usage.

(Amd. Ord. 347; 8-3-87, Applicable 6-29-87)

5.04.040 License Required

It shall be unlawful for any person to own or operate a gambling device within the city limits without first having obtained a license.

5.04.050 Qualification for License

No license shall be issued or held by:

A person who has been convicted of being a keeper or keeping a house of prostitution;

A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality under the laws of the federal government or any state of the United States;

A person whose license issued under this ordinance or issued by the State of Montana has been revoked for cause (Amd. Ord. 347; 8-3-87)

A person who at the time of the application for renewal of any license issued hereunder would not be eligible for such license upon a first application;

A person who is not a citizen of the United States and who has not been a resident of the state of Montana for at least one year immediately preceding the filing of the application for license.

A person who is not the operator of the business upon which the gambling device is present.

No license shall be issued or held by a person who proposes to operate a gambling device at any place or location which is deemed to be unsuitable for its operation by the city council. The city council may deem a place or location unsuitable if it appears the operation of the gambling device at the place or location proposed would not serve to protect the public health, welfare and safety of the citizens of the city.

5.04.060 License Application

A person applying for a license to operate a gambling device shall submit a written application on a form to be provided by the city council. The application form shall specify:

The applicant's name and the names of any other persons financially interested in the operation of the gambling device or the premises upon which it shall be located.

A proposed location of the gambling device for which the license application is submitted, including street address.

Satisfactory evidence that the person submitting the application is currently licensed for the sale of liquor, beer, food, cigarettes, or any other consumable product, or who has applied for such license.

Any other information requested of the applicant by the city council necessary to protect the public welfare, health and safety of the citizens of the city.

5.04.070 Licensing Fee. Each applicant or licensee shall pay an annual license fee of \$100.00 for each video draw poker machine and each keno machine on his premises. Each applicant or licensee shall also pay an annual license fee of \$250.00 for the first gambling device on his premises other than a video draw poker machine or a keno machine and he shall pay an additional license fee of \$150.00 for a second or subsequent gambling device on his premises other than a video draw poker machine or keno machine. (Amd. Ord. 347; 8-3-87, Applicable 6-29-87)

5.04.080 Revocation of License. Any license is revocable privilege and no person holding such a license is deemed to have acquired any vested rights therein.

Any license issued pursuant to this chapter may be revoked for any violation of this chapter, or any violation of the qualifications set forth in section 5.04.050 of this chapter.

Upon receipt of the information establishing probable cause to believe a violation of this chapter has occurred requiring revocation of the license, the city council shall set a time and place for public hearing to determine if a violation of this chapter requiring revocation or suspension is required. The licensee shall receive written notice at least five days prior to the hearing and shall have an opportunity to appear and be heard on the alleged violation. The hearing shall be conducted in compliance with the model procedure set forth in the Montana Administrative Procedure Act. (Amd. Ord. 347; 8-3-87)

(Ord. 330; 3-15-83; Ord. 332; 4-2-84)

CHAPTER 5.06 - ITINERANT VENDORS

Sections:

- 5.06.010 Definitions
- 5.06.020 Prohibition Against Itinerant Vendors
- 5.06.030 License
- 5.06.040 Violation; Prosecution
- 5.06.050 Qualification for License

5.06.010 Definitions

The following terms shall have the meanings set forth:

“Itinerant Vendor”. Any person engaged or employed in the business of retailing to the consumers by going from consumer to consumer, without invitation, either on the street or to their place of residence or employment, and soliciting, selling, or offering to sell, or exhibiting for sale by sample, catalog or otherwise, or taking orders for future delivery of any goods, where the merchandise, or for services to be performed in the future.

“Consumer”. A consumer is one who uses and by using destroys the value of the article purchased.

5.06.020 Prohibition Against Itinerant Vendors

It shall be unlawful for any itinerant vendor, as defined in this chapter, to conduct any business in the city without first obtaining a license and paying the fees as set forth herein.

5.06.030 License

All itinerant vendors and transient merchants shall obtain a license at the city offices by paying a fee of \$30.00 which shall remain valid for 90 days from the date of issuance.

A local non-profit organization sponsoring an event within the city limits, at which more than one itinerant vendor is expected to sell its products, may obtain one umbrella license for \$50.00, under which license vendors may sell products at the site and location of the sponsored event.

(Amd. Res. 505; 9-11-06, Amd. Res. 515; 1-7-08)

5.06.040 Violation; Prosecution

Prosecutions for violation of this chapter shall be in Justice Court of Meagher County, Montana, upon written complaint and notice to appear signed by the Sheriff of Meagher County, State of Montana, and filed with the court.

5.06.050 Violation; Penalty

Every itinerant vendor, as herein defined, doing business within the city without a valid license shall be deemed guilty of the violation of this chapter. Upon conviction thereof in the Justice Court of the County of Meagher, he shall be fined not less than \$5.00 or more than \$200.00.

(Ord. 329; 3-15-83)

CHAPTER 5.08 - ALCOHOLIC BEVERAGES

Sections:

5.08.010	License Required
5.08.020	Fees
5.08.030	Prohibited Sales; Prosecution
5.08.040	Hours of Closing
5.08.050	Restrictions

5.08.010 License

Required. It shall be unlawful for any person to engage in the retail sale of alcoholic beverages without first having secured a license from the city to engage in such retail sale of alcoholic beverages within the city.

5.08.020 Fees

Any person who is now or hereafter becomes the holder of a license to sell beer, wine or other alcoholic beverages, duly issued by the Department of Revenue of the State of Montana, Liquor Division, shall before engaging in such retail sale, obtain a license from the city authorizing him so to do, and shall pay therefor to the city clerk treasurer a fee of \$160 per year.

All licenses are due and payable on July 1 of each year.

All licenses shall expire on July 1 of the year following issuance.

5.08.030 Prohibited Sales

It shall be unlawful for any licensee under this chapter to sell, deliver, or give away, or cause or permit to be sold, delivered, or given away, any alcoholic beverages to:

Any person of an age not sufficient to lawfully purchase or possess alcoholic beverages under state law.

Any intoxicated person, or any person actually, apparently, or obviously intoxicated.

An interdicted person.

5.08.040 Hours of Closing

All licensed establishments wherein alcoholic beverages are sold, offered for sale, or given away at retail shall be closed on any day between 2:00 a.m. and 8:00 a.m.

During such times it shall be unlawful to sell, offer for sale, or give away alcoholic beverages, and during such hours all persons except the owner and employees shall be excluded therefrom; provided, however, that when a licensed establishment is operated in conjunction with a hotel, restaurant, bus depot, railway, terminal, grocery store, or other lawful business other than that of the sale of alcoholic beverages, then such other lawful business need not be closed, but only the part thereof where such alcoholic beverages are sold.

5.08.050 Restrictions

The closing or locking of doors or the drawing of blinds while permitting customers to remain in the place of business after the closing hours herein provided shall not be considered as closing within the meaning of this chapter and shall constitute a violation of this code.

CHAPTER 5.16 - CABLE TELEVISION FRANCHISE

Sections:

5.16.010	Definition of Terms
5.16.020	Grant of Franchise
5.16.030	Standards of Service
5.16.040	Regulation by Franchising Authority
5.16.050	Compliance and Monitoring
5.16.060	Insurance, Indemnification and Bonds or Other Surety
5.16.070	Enforcement and Termination of Franchise
5.16.080	Unauthorized Reception
5.16.090	Miscellaneous Provisions

5.16.010 Definition of Terms

For the purpose of this chapter, the following terms, phrases, words and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular number, and words in the singular include the plural number.

“Affiliate” means an entity which owns or controls, is owned or controlled by, or is under common ownership with Grantee.

“Basic Cable” is the tier of service regularly provided to all subscribers that includes the retransmission of local broadcast television signals and the public, educational and governmental channels, if required by the terms thereof.

“Cable Act” means the Cable Communications Policy Act of 1984, as amended.

“Cable Service” means: the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

“Cable System” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment, or other communications equipment that is designed to provide cable service and other service to subscribers.

“FCC” means Federal Communications Commission or successor governmental entity thereto.

“Franchise” shall mean the initial authorization, or renewal thereof, issued by the franchising authority, whether such authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the cable system for the purpose of offering cable service or other service to subscribers.

“Franchising Authority” means the city of White Sulphur Springs or the lawful successor, transferee, or assignee thereof.

“Grantee” means WSS Cable TV, Inc., or the lawful successor, transferee, or assignee thereof.

“Gross Revenues” means the monthly cable service revenues, received by grantee from subscribers of the cable system; provided, however, that such phrase shall not include revenues received from any national advertising carried on the cable system, nor shall such phrase include any taxes on cable service which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency, and which are collected by the grantee or on behalf of such governmental unit or agency.

“Person” means an individual, partnership, association, joint stock company, trust corporation, or governmental entity.

“Public Way” shall mean the surface of and the space above and below any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, lane, public way, drive, circle, or other public right-of-way, including but not limited to public utility easements, dedicated utility strips or right-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the franchising authority in the service area which shall entitle the franchising authority and the grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the cable system. Public way shall also mean any easement now or hereafter held by the franchising authority within the service area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of way as shall within their proper use and meaning entitle the franchising authority and the grantee to the use thereof for the purposes of installing or transmitting grantee’s cable service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may ordinarily necessary and pertinent to the cable system.

“Service Area” means the present municipal boundaries of the franchising authority, and shall include any additions thereto by annexation or other legal means.

“Service Tier” means a category of cable service or other services, provided by grantee and for which a separate charge is made by grantee.

“Subscriber” means a person or user of the cable system who lawfully receives cable services or other service therefrom with grantee’s express permission.

“Video Programming” means programming provided by or generally considered comparable to programming provided by a television broadcast station.

5.16.020 Grant of Franchise

Grant. The city hereby grants to grantee a nonexclusive franchise which authorizes the grantee to construct and operate a cable system and offer cable service and other services in, along, among, upon, across, above, over, under, or in any manner connected with public ways, within the service area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any public way and all extensions thereof and additions thereto such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments and other related property or equipment as may be necessary or appurtenant to the cable system.

Term. The franchise granted pursuant to this chapter shall be for an initial term of 15 years from the effective day of the franchise as set forth in subsection 3, unless otherwise lawfully terminated in accordance with the terms of this chapter.

Acceptance; Effective Date Grantee shall file a written acceptance of the franchise granted pursuant hereto with the city clerk or other appropriate official or agency of the franchising authority within 60 days after the passage and final adoption of this chapter. The franchising authority shall notify grantee of the date that the chapter is finally passed and adopted, as well as the date by which a written acceptance is required to be filed. Subject to the filing of the written acceptance by grantee, the effective of this chapter shall be February 1, 1990.

Favored Nations. In the event the franchising authority enters into a franchise, permit, license, authorization, or other agreement of any kind with any other person or entity other than the grantee for the purpose of constructing or operating a cable system or providing cable service to any part of the franchise area which contains terms more favorable to such person or entity in any regard than similar provisions of this chapter, then this chapter shall be deemed amended as the effective date of the other franchise, permit, license, authorization, or other agreement so as to give the grantee the benefit of any such more favorable terms.

5.16.030 *Standards of Service*

Conditions of Street Occupancy. All transmission and distribution structures, poles, other lines and equipment installed or erected by the grantee pursuant to the terms hereof shall be so located so as to cause a minimum of interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any of said public ways.

Restoration of Public Ways. If during the course of grantee's construction, operation, or maintenance of the cable system there occurs a disturbance of any public way by grantee, it shall, at its expense, replace and restore such public way to a condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance.

Relocation at Request of Franchising Authority. Upon its receipt of reasonable notice, not to be less than 5 business days, the grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the public way, or remove from the public way any property of the grantee when lawfully required by franchising authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change of establishment or street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the franchising authority; but, the grantee shall in all cases have the right of abandonment of its property. If public funds are available to any company using such street, easement, or right-of-way for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to the grantee.

Relocation at Request of Third Party. The grantee shall, on the request of any person holding a building moving permit issued by the franchising authority, temporarily raise or lower its wires to permit the moving of such building, provided:

The expense of such temporary raising or lowering of wires is paid by said person, including if required by the grantee, making such payment in advance; and

The grantee is given no less than 10 business days advance written notice to arrange for such temporary wire changes.

Trimming of Trees and Shrubbery. The grantee shall have the authority to trim trees or other natural growth overhanging any of its cable system in the service area so as to prevent branches from coming in contact with the grantee's wires, cables, or other equipment. Grantee shall be permitted to charge persons who own or are responsible for such trees or natural growth for the cost of such trimming, provided that similar charges are assessed by and paid to the utilities or the franchising authority for tree trimming. The grantee shall reasonably compensate the franchising authority or property owner for any damages caused by such trimming, or shall, in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the system undertaken by

grantee. Such replacement shall satisfy any and all obligations grantee may have to the franchising authority or property owner pursuant to the terms of this section.

Use of Grantee's Equipment by Franchising Authority. Subject to any applicable state or federal regulations or tariffs, the franchising authority shall have the right to make additional use, for any public purpose, of any poles or conduits controlled or maintained exclusively by or for the grantee in any public way; provided that:

Such use by the franchising authority does not interfere with a current or future use by the grantee;

The franchising authority holds the grantee harmless against and from all claims, demands, costs, or liabilities of every kind and nature whatsoever arising out of such use of said poles or conduits, including but not limited to, reasonable attorney's fees and costs; and

At grantee's sole discretion, the franchising authority may be required either to pay a reasonable rental fee or otherwise reasonable rental fee or otherwise reasonably compensate grantee for the use of such poles, conduits, or equipment; provided, however, that grantee agrees that such compensation or charge shall not exceed those paid by it to public utilities pursuant to the applicable pole attachment agreement or other authorization relating to the service area.

Safety Requirements. Construction, installation and maintenance of the cable system shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable FCC or other federal, state and local regulations. The cable system shall not unreasonably endanger or interfere with the safety of persons or property in the service area.

Aerial and Underground Construction. In those areas of service area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the grantee likewise shall construct, operate and maintain all of its transmission and distribution facilities underground; provided, that such facilities are actually capable of receiving grantee's cable and other equipment without technical degradation of the cable system's signal quality. In those areas of service area where the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are both aerial and underground, grantee shall have the sole discretion to construct, operate and maintain all of its transmission and distribution facilities, or any part, thereof, aerially or underground. Nothing contained in this subsection shall require grantee to construct, operate or maintain underground and ground mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, system supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this subsection, in the event that all of the transmission or distribution facilities of the respective public utilities

providing telephone communications and electric services are placed underground after the effective date of this chapter, grantee shall be required to construct, operate and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public facilities at the time that such are placed underground.

Required Extensions of Service. The cable system as constructed as the date of the passage and final adoption of this chapter substantially complies with the material provisions hereof. Grantee is hereby authorized to extend the cable system as necessary, as desirable, or as required pursuant to the terms hereof, within the service area. Whenever grantee shall receive a request for service from at least 15 subscribers within 1320 cable bearing strand feed (one-quarter cable mile) of its trunk or distribution cable it shall extend its cable system to such subscribers at no cost to said subscribers for system extension, other than the usual connection fees for all subscribers; provided that such extension is technically feasible and if it will not adversely affect the operation, financial condition, or market development of the cable system, or as provided for under subsection 10 of this section.

Subscriber Charges for Extensions of Service. No subscriber shall be refused service arbitrarily. However, for unusual circumstances, such as a subscriber's request to locate his cable drop underground, existence of more than 150 feet of distance from distribution cable to connection of service to subscribers, or a density of less than 15 subscribers per 1320 cable bearing strand feet of trunk or distribution cable, cable service or other service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor and easements. For the purpose of determining the amount of capital contribution in aid of construction to be borne by grantee and subscribers in the area in which cable service may be expanded, grantee will contribute an amount equal to the construction and other costs per mile multiplied by a number whose numerator equals, the actual number of potential subscribers per 1320 cable bearing strand feet of its trunks or distribution cable, and whose denominator equals 15 subscribers. Potential subscribers will bear the remainder of the construction and other costs on a prorated basis. Grantee may require that the payment of the capital contribution in aid of construction borne by such potential subscribers be paid in advance.

Service to Public Buildings. The grantee shall provide without charge one outlet of basic service to the franchising authority's office building, fire station, police station and public school building that is passed by its cable system. The outlet of basic cable shall not be used to distribute or sell cable services in or throughout such buildings; nor shall such outlets be located in common or public areas open to the public. Users of such outlets shall hold grantee harmless from all liability or claims arising out of their use of such outlets, including but not limited to, those arising from copyright liability. Notwithstanding anything to the contrary set forth in this subsection, the grantee shall not be required to provide an outlet to such building where the drop line from the feeder cable to said an outlet to such building where

the drop line from the feeder cable to said buildings or premises exceeds 150 cable feet, unless it is technically feasible and if it will not adversely affect the operation, financial condition, or market development of the cable system to do so, or unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of 150 cable feet. In the event that additional outlets of basic service are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including but not limited to, labor and materials. Upon request of grantee, the building owner may also be required to pay the service fees associated with the provision of basic service and the additional outlets relating thereto.

Emergency Override. In the case of any emergency or disaster, the grantee shall, upon request of the franchising authority, make available its facilities for the franchising authority to provide emergency information and instructions during the emergency or disaster period. The franchising authority shall hold the grantee, its agents, employees, officers and assigns hereunder harmless from any claims arising out of the emergency use of its facilities by the franchising authority, including but not limited to reasonable attorney's fees and costs.

5.16.040 Regulation by Franchising Authority

Franchise Fee. Grantee shall pay to the franchising authority a franchise fee equal to five percent (5%) of gross revenues received by grantee from the operation of the cable system on an annual basis. For the purpose of this section, the 12-month period applicable under the franchise for the computation of the franchise fee shall be a calendar year, unless otherwise agreed to in writing by the franchising authority and grantee. The franchise fee payment shall be due 90 days after the close of the preceding calendar year. Each payment shall be accompanied by a brief report from a representative of grantee showing the basis for the computation. In no event shall the franchise fee payments required to be paid by the grantee exceed five percent (5%) of gross revenues received by grantee in any 12-month period.

Rates and Charges. The franchising authority may not regulate the rates for the provision of cable service and other service, including but not limited to, ancillary charges relating thereto, except as expressly provided herein and except as authorized pursuant to federal and state law, including but not limited to, the Cable Act and FCC rules and regulations relating thereto. The rates and charges by grantee for basic service are those set forth on Schedule 1 hereto which is incorporated herein by this reference. From time to time, and at any time, grantee has the right to modify such rates and charges, including but not limited to, the implementation of additional charges and rates; provided, however, that grantee shall give notice to the franchising authority of any such modifications or additional charges 30 days prior to the effective date thereof. For the purpose of this Section 5.16.040 (2), the parties agree that the rates and charges for the provision of basic service are not considered to be fixed. Notwithstanding anything to the contrary set forth herein, rates and charges for second outlets for basic service shall be deregulated.

In the event that basic service rate increases are subject to approval of the franchising authority, the grantee may, at its discretion and without consent of the franchising authority, increase rate relating to the provision of basic service by an amount which is at least equal to five percent (5%) per year or the amount of any identifiable increase in cost which is attributable to the provision of basic service.

Renewal of Franchise. The franchising authority and the grantee agree that any proceedings undertaken by the franchising authority that relate to the renewal of the grantee's franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act (as such existed as the effective date of the Cable Act), unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or state law.

In addition to the procedures set forth in said Section 626 (a), the franchising authority agrees to notify the grantee of its preliminary assessments regarding the identity of future cable related community needs and interests, as well as the past performance of grantee under the then current franchise term. The franchising authority further agrees that such a preliminary assessment shall be provided to the grantee prior to the time that the four-month period referred to in subsection (c) of Section 626 is considered to begin. Notwithstanding anything to the contrary set forth in this Section 5.16.040 (3), the grantee and franchising authority agree that at any time during the term of the then current franchise, while affording the public appropriate notice and opportunity to comment, the franchising authority and grantee may agree to undertake and finalize negotiations regarding renewal of the then current franchise and the franchising authority may grant a renewal thereof. The grantee and the franchising authority consider the terms set forth in this section to be consistent with the express provisions of Section 626 of the Cable Act. A reproduction of Section 626 of the Cable Act such as existed as of the effective date of the Cable Act is attached hereto as Schedule 2 and incorporated herein by this reference.

Condition of Sale. If renewal of grantee's franchise is denied and the franchising authority either lawfully acquires ownership of the cable system or by its actions lawfully effects a transfer of ownership of the cable system to another party, any such acquisition or transfer shall be at a fair market value, determined on the basis of the cable system valued as an ongoing concern, but with no value allocated to the franchise itself.

If grantee's franchise is lawfully revoked for cause and the franchising authority acquires ownership of the cable system or by its actions affects a transfer of ownership of the cable system to another person, any such acquisition or transfer shall be at an equitable price. Grantee and franchising authority agree that in the case of a revocation, at grantee's request, which shall be made in its sole discretion, grantee shall be given a reasonable opportunity to effectuate a transfer of its cable

system to a qualified third party at fair market value, determined on the basis of the cable system valued as an ongoing concern. The franchising authority further agrees that during such a period of time, it shall authorize the grantee to continue to operate pursuant to period of time, it shall authorize the grantee to continue to operate pursuant to the terms of its prior franchise; however, in no event shall such authorization exceed a period of time greater than six months from the effective date of such revocation. If at the end of that time grantee is unsuccessful in procuring a qualified transferee or assignee of its cable system, which is reasonably acceptable to the franchising authority, grantee and franchising authority may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that grantee's continued operation of its cable system during the six month period shall not be deemed to be a waiver or an extinguishment of any rights of either the franchising authority or the grantee. Notwithstanding anything to the contrary set forth in Section 5.16.040 (4), neither franchising authority nor grantee shall be required to violate federal or state law.

Transfer of Franchise. Grantee's right, title, or interest in the franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an affiliate, without the prior consent of the franchising authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust by mortgage, by other hypothecation, or any assignment of any rights, title, or interest of grantee in the franchise or cable system in order to secure indebtedness.

5.16.050 Compliance and Monitoring

Testing for Compliance. The franchising authority may perform technical tests of the cable system during reasonable times and in manner which does not unreasonably interfere with the normal business operations of the grantee or the cable system in order to determine whether or not the grantee is in compliance with the terms hereof and applicable state and federal laws. Except in emergency circumstances, such tests may be undertaken only giving grantee reasonable notice thereof, not to be less than two business days, and providing a representative of grantee an opportunity to be present during such tests. In the event that such testing demonstrates that the grantee has substantially failed to comply with a material requirement hereof, the reasonable costs of such tests shall be borne by the grantee. In the event that such testing demonstrates that grantee has substantially complied with such material provisions hereof, the cost of such testing shall be borne by the franchising authority. Except in emergency circumstances, the franchising authority agrees that such testing shall be undertaken no more than two times a year in the aggregate, and that the results thereof shall be made available to the grantee upon grantee's request.

Books and Records. The grantee agrees that the franchising authority may review such of its books and records, during normal business hours and on a non-disruptive basis, as are reasonably necessary to monitor compliance with the terms hereof. Such records shall include but shall not be limited to any public records

required to be kept by the grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The franchising authority agrees to treat any information disclosed by the grantee to it on a confidential basis, and only to disclose it to employees, representatives and agents thereof that have a need to know, or in order to enforce the provisions hereof.

5.16.060 Insurance, Indemnification and Bonds or Other Surety

Insurance Requirements. Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the franchise general comprehensive liability insurance in the amount of \$500,000 for bodily injuries (including accidental death) to any one person, and subject to the same limit for each person in an amount not less than \$300,000 on account of any one occurrence, and property damage liability insurance in an amount not less than \$500,000 resulting from any one occurrence. Said insurance shall designate the franchising authority as an additional named insured. Such insurance shall be non-cancellable except upon 30 days prior written notice to the franchising authority.

Indemnification. The grantee agrees to indemnify, save and hold harmless and defend the franchising authority, its officers, boards and employees from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death) which arise out of the grantee's construction, operation, or maintenance of its cable system, including but not limited to reasonable attorney's fees and costs.

Bonds and Other Surety. Except as expressly provided herein, grantee shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the franchise or continuing its existence. The franchising authority acknowledges that the legal, financial and technical qualifications of grantee are sufficient to afford compliance with the terms of the franchise and the enforcement thereof. Grantee and franchising authority recognize that the costs associated with bonds and other surety may ultimately be borne by the subscribers in the form of increased rates for cable services. In order to minimize such costs, the franchising authority agrees to require bonds and other surety only in such amounts during such times as there is a reasonably demonstrated need therefor. The franchising authority agrees that in no event, however, shall it require a bond or other related surety in an aggregate amount greater than \$10,000, conditioned upon the substantial performance of the material terms, covenants and conditions of the franchise. Initially, no bond or other surety will be required. In the event that one is required in the future, the franchising authority agrees to give grantee at least 60 days prior notice thereof stating the exact reason for the requirement. Such reasons must demonstrate a change in the grantee's legal, financial, or technical qualifications which would materially prohibit or impair its ability to comply with the terms of the franchise or afford compliance therewith.

5.16.070 Enforcement and Termination of Franchise

Notice of Violation. In the event the franchising authority believes that the grantee has not complied with the terms of the franchise, it shall notify grantee of the exact nature of the alleged noncompliance.

Grantee's Right to Cure or Respond. Grantee shall have 30 days from receipt of the notice described in Section 5.16.070 (1) to:

Respond to the franchising authority contesting the assertion of noncompliance, or

To cure such default or in the event that by the nature of default such default cannot be cured within the 30-day period, initiate reasonable steps to remedy such default and notify the franchising authority of the steps being taken and the projected date that they will be completed.

Public Hearing. In the event that grantee fails to respond to the notice described in Section 5.16.070 (1) pursuant to the procedures set forth in Section 5.16.070 (2), or in the event that the alleged default is not remedied within 60 days after the grantee is notified of the alleged default pursuant to 5.16.070 (1), the franchising authority shall schedule a public meeting to investigate the default. Such public meeting of the franchising authority which is scheduled at a time which is no less than five business days therefrom. The franchising authority shall notify the grantee of the time and place of such meeting and provide grantee with an opportunity to be heard.

Enforcement. Subject to applicable federal and state law, in the event the franchising authority, after such meeting, determines that grantee is in default of any provision of the franchise, the franchising authority may:

Foreclose on all or any part of any security provided under this franchise, if any, including without limitation any bonds or other surety; provided, however, the foreclosure shall only be in such a manner and in such amount as the franchising authority reasonably determines is necessary to remedy the default;

Commence an action at law for monetary damages or seek other equitable relief;

In the case of a substantial default of a material provision of the franchise, declare the franchise agreement to be revoked; or

Seek specific performance of any provision which reasonably lends itself to such remedy as an alternative to damages.

The grantee shall not be relieved of any of its obligations to comply promptly with any provision of the franchise by reason of any failure of the franchising authority to enforce prompt compliance.

Acts of God. The grantee shall not be held in default or noncompliance with the provisions of the franchise, or suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

5.16.080 Unauthorized Reception

Misdemeanor. In addition to those criminal and civil remedies provided by state and federal law, it shall be a misdemeanor for any person, firm, or corporation to create or make use of any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of the cable system without the express consent of the grantee. Further, without the express consent of the grantee, it shall be a misdemeanor for any person to tamper with, remove, or injure property, equipment, or parts of the cable system, or any means of receiving cable service or other services provided thereto. Subject to applicable federal and state law, the franchising authority shall incorporate into its criminal code, if not presently a part thereof, criminal misdemeanor law which will enforce the intent of this section.

5.16.090 Miscellaneous Provisions

Documents Incorporated and Made a Part Hereof. The following documents shall be incorporated herein by this reference and in the case of a conflict or ambiguity between them; the document of latest date shall govern:

Any enabling ordinance in existence as the date hereof; and

Any proposal submitted by grantee pursuant to a franchise renewal procedure, as amended and supplemented during the franchise renewal negotiation process;

Any franchise agreement between grantee and franchising authority reflecting the renewal of the franchise, if any.

Preemption. If the FCC or any federal or state body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of the franchise, then to the extent such jurisdiction shall preempt and supersede or preclude the exercise of the like jurisdiction by the franchising authority, the jurisdiction of the franchising authority shall cease and no longer exist.

Actions of Franchising Authority. In any action by the franchising authority or representative thereof mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

Notice. Unless expressly otherwise agreed between the parties, every notice or response to be served upon the franchising authority or grantee shall be in writing, and shall be in writing, and shall be deemed to have been duly given to the required party five business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a post office or branch thereof regularly maintained by the United States Postal Service.

Descriptive Headings. The captions or sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

Severability. If an section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional by any court of common jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term, or provision hereof, all of which will remain in full force and effect for the term of the franchise or any renewal or renewals thereof.

(Ord. 351; 1-2-89)

CHAPTER 5.18 - ADVERTISING AND BILL POSTING

Sections:

- 5.18.010 Bill Posting; License Required
- 5.18.020 License Application
- 5.18.030 Littering Streets and Alleys with Posters
- 5.18.040 Consent for Posting Required

5.18.010 Bill Posting; License Required

It shall be unlawful for any person to engage in the distribution or attaching of any signs, bills, pictures, or advertising matter unless the person shall first have been licensed by the city clerk.

5.18.020 License Application

Application for a license shall be made to the city clerk, together with all necessary information, including but not limited to the names of all owners and the business addresses of the same. Upon approval of said application by the city council, the city clerk shall issue a license for which a fee of \$15.00 shall be paid, per annum.

5.18.030 Littering Streets and Alleys with Posters

It shall be unlawful for any person to scatter or throw upon the public thoroughfares any handbills, posters, advertisements, or papers. Nothing herein shall be construed to authorize any person to obstruct the public thoroughfares or create any nuisance therein. These provisions shall not interfere with or prevent the posting of notices required by law to be posted.

5.18.040 Consent for Posting Required

It shall be unlawful for any person to post, paint, tack, or otherwise attach any notice or other advertising matter to any fence, wall, or building, or other property until first obtaining the consent of the owner of such property. No person shall post, paint, tack, or otherwise attaché any notices or advertising matter to any telegraph, telephone, electric, or other such poles.

(Ords. 156-159; 2-3-69)

Chapter 5.20 - CONTRACTORS' BOND

Sections:

5.20.010 Contractors' Bond Required

5.20.010 Contractors' Bond Required

All contractors and other parties who by contract provide materials and services to the city and who are required by law to post bond for such materials and services pursuant to the conditions and requirements of Section 18-2-201, M.C.A., shall post bond in the amount of twenty-five percent (25%) of the entire contract price. The bond shall be made payable to the city.

(Ord. 334; 8-8-84)

CHAPTER 5.22 - MEDICAL MARIJUANA

Sections:

- 5.22.010 Definitions
 - 5.22.020 Registration Required
 - 5.22.030 Fees
 - 5.22.040 Prohibited Sales and Distributions
 - 5.22.050 Existing Medical Marijuana Business
- Board of Medical Examiners Position Paper

5.22.010 Definitions

All definitions and provisions in Montana Code Annotated Title 50 Chapter 46 and Title 45 shall apply.

“Business” as used in this Chapter, includes a corporation, partnership, sole proprietorship, trust or foundation or any other individual or organization carrying on a business for the sale or barter of items or services, whether operated for profit or not for profit, including planting, growing, harvesting, curing, manufacturing, packaging, procuring, delivering or displaying any product, including paraphernalia (as defined in M.C.A. §46-10-101) for the use of medical marijuana, which has either a stated value or a value mutually determined by the seller/producer and the recipient and exchanged for the product or services from the recipient.

“Existing Medical Marijuana Business” is one which conducted any of the activities described in subsection (2) above within the city of White Sulphur Springs, Montana, prior to the effective date of this ordinance, whether or not the actual sale or barter for value thereof occurs within the City of White Sulphur Springs.

5.22.020 Registration Required

Except as provided in this Chapter, it shall be unlawful for any person to act as a caregiver, duly registered with the Montana Department of Public Health and Human Services (DPHHS), within the City of White Sulphur Springs until such person has first registered with the City, through the Meagher County Sheriff, to act as a caregiver within the City of White Sulphur Springs. Any registered caregiver seeking to register with the City shall, provide the Meagher County Sheriff a copy of his or her DPHHS registration and all addresses where any activities concerning his or her duties as a caregiver are administered. The City registration shall be on the premises where medicinal marijuana is cultivated, grown, or stored, or provided to

qualifying patients and shall be made immediately available to any law enforcement officer who so requests inspection of such license.

Each caregiver registered under this chapter must have a written plan to ensure the proper disposal of any marijuana in excess of the amount statutorily allowed under section 50-46-201 (2), M.C.A. This plan must be submitted to, and approved by the Meagher County Sheriff. A caregiver registered under this chapter must notify the Meagher County Sheriff prior to any disposal of marijuana, including marijuana stalks, roots, and seeds.

All marijuana plants must be grown in a location where the plants are not identifiable from anywhere on the premises. All information obtained by any City or Meagher County Sheriff's office personnel regarding the license and the caregiver to whom the license is issued shall remain confidential and shall remain under the purview of the Meagher County Sheriff who shall be strictly prohibited from disseminating any such information to anyone other than law enforcement officers acting in their official capacity, or to a party so requesting under subpoena duly issued by a court of competent jurisdiction.

Any person, including an employee or official of the Meagher County Sheriff's office or the City of White Sulphur Springs commits the offense of disclosure of confidential information relating to medical marijuana if the person knowingly or purposely discloses confidential information in violation of Montana Code Title 50 Chapter 46.

A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

Exceptions: Caregivers who are registered with the Montana Department of Public Health and Human Services (DPHHS) who reside in the city of White Sulphur Springs, and who do not provide medical marijuana as a business shall not be required to register with the City through the Meagher County Sheriff.

5.22.030 Fees:

Any person who is now or hereafter becomes registered as a medical marijuana caregiver within the City of White Sulphur Springs, and who is duly registered by the Montana Department of Public Health and Human Services, and who is not otherwise excepted from being registered with the City pursuant to 5.22.020 above, shall register with the City through the Meagher County Sheriff and shall pay therefor to the Meagher County Sheriff a fee of \$50.00 for each qualifying patient for whom the applicant is registered caregiver. One half of the fees collected shall be retained by the Meagher County Sheriff, and one half shall be disbursed by the Sheriff to the City of White Sulphur Springs.

All fees shall be paid upon registration and shall be paid annually on or before July 1 of each year. All registrations shall expire on June 30 following the registration or renewal thereof.

Distribution of medical marijuana by a caregiver without registering with the city through the Meagher County Sheriff under this code shall be punishable by a fine of not less than \$1,000.00 nor more than \$5,000.00 or be imprisoned in the county jail for a term not to exceed 1 year.

5.22.040 Prohibited Sales and Distributions:

After the effective date of this ordinance, and except as provided in this Chapter, it shall be unlawful to operate any business within the City of White Sulphur Springs for the purpose of providing, selling, trading or bartering for value, medical marijuana or any accessories or paraphernalia specifically for the use or cultivation of marijuana or activities for the procurement of customers to use controlled substances. The term “accessories” does not include products, equipment or tools used in the normal production of food or other agricultural commodities.

It shall further be unlawful for “assembly line doctors” or “cannabis caravans” or other such activities which allow a physician(s) to provide consultations to prospective medical marijuana users in a manner which is not within the generally accepted standards of care in any treatment process as outlined by the Montana Board of Medical Examiners in its Position Paper on Medical Marijuana dated 5-25-2010, which is attached hereto and by this reference is incorporated herein.

It shall be unlawful for any caregiver registered under this chapter to deliver or give away or cause permit to be delivered or given away, any marijuana to any person who is not registered as a qualifying patient with the Montana Department of Public Health and Human Services.

5.22.050 Existing Medical Marijuana Business

The following shall apply to any existing medical marijuana business located within the City of White Sulphur Springs.

License Required: It shall be unlawful for any existing medical marijuana business to engage in such business within the City of White Sulphur Springs unless an owner of such existing medical marijuana business is registered as a caregiver with the Montana Department of Public Health and Human Services (DPHHS). Any existing medical marijuana business shall, within 30 days of the final passage of this ordinance, apply for and secure a license from the City through the Meagher County Sheriff to engage in such business within the City of White Sulphur Springs. Any existing medical marijuana business seeking a license from the City shall, upon application, provide the Meagher County Sheriff a copy of his or her DPHHS registration and all addresses where the medical marijuana business is conducted. A

license so issued by the City through the Meagher County Sheriff shall be on the premises where the existing medicinal marijuana business is conducted and shall be made immediately available to any law enforcement officer who so requests inspection of such license.

In addition to the requirements of section (1) above, the application shall include the following:

The name of all owners/principals of the business as applicable and the name of all agents, contractors or employees, if any; and

A sworn statement signed by an owner/principal of the applicant verifying the number of qualifying cardholders which name the applicant and any other owner/principal of the applicant as the qualifying cardholders' caregiver. The number of qualifying cardholders to be included in the sworn statement shall include all cardholders who may be registered with a caregiver acting as an agent, contractor, employee or owner/principal of the applicant, whether or not the cardholder is a resident of the City of White Sulphur Springs; and

A statement addressing how the applicant will comply with the security requirements of 5.22.050 (6); and

Each applicant for a business license shall provide a detailed statement regarding the nature of the activities related to medical marijuana which the applicant is engaged in, whether any chemicals or fertilizers will be used and shall submit a copy of the Material Safety Data Sheet with the application which shall then be kept on applicant's premises at all times, the regular business hours and days of the week it is open for business and how the applicant intends to dispose of any unusable marijuana plant material.

An existing medical marijuana business shall not conduct its normal business activities after 10:00 p.m., nor before 6:00 a.m.

All information obtained by any City or Meagher County Sheriff's office personnel regarding the license for an existing medical marijuana to whom the license is issued shall remain confidential and shall remain under the purview of the Meagher County Sheriff who shall be strictly prohibited from disseminating any such information to anyone other than law enforcement officers acting in their official capacity, or to a party so requesting under subpoena duly issued by a court of competent jurisdiction.

Any person, including an employee or official of the Meagher County Sheriff or the City of White Sulphur Springs commits the offense of disclosure of confidential information relating to medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of this Chapter and Montana Code Title 50 Chapter 46.

A person convicted of disclosure of confidential information relating to medical use of marijuana shall be fined not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

Fees: An existing medical marijuana business which becomes the holder of a license to conduct such existing medical marijuana business within the City of White Sulphur Springs, and which is duly registered by the Montana Department of Public Health and Human Services, shall obtain a license from the city through the Meagher County Sheriff and shall pay therefor to the Meagher County Sheriff an application fee of \$1,000.00 and an annual fee of \$50.00 for each qualifying patient for whom the applicant is the registered caregiver. One half of the fees collected shall be retained by the Meagher County Sheriff, and one half shall be disbursed by the Sheriff to the City of White Sulphur Springs.

All license fees shall be paid upon application for such license and shall be paid annually on or before July 1 of each year. All licenses shall expire on June 30 following the issuance of the license or renewal thereof.

Operation of an existing medical marijuana business without a city license under this code, or a violation of any portion of this Chapter shall result in revocation of such license and shall be punishable by a fine of not less than \$1,000.00 nor more than \$5,000.00 or the owner thereof which is the caregiver registered with the Montana DPHHS shall be imprisoned in the county jail for a term not to exceed 1 year.

Inspection: As a condition of receiving a business license under this chapter, a city employee and any law enforcement officer, may without notice during normal business hours inspect any premise under license pursuant to this chapter to determine whether the licensee is in compliance with the Montana Medical Marijuana Act or any other state or local regulation, and may inspect the number of plants or amount of marijuana in any form on the premises or in control of the licensee to determine whether these amounts correspond to the amounts established by Title 50, Chapter 46, Montana Code Annotated, which the licensee is authorized to lawfully possess.

Security Requirements: Prior to issuance of a license under this chapter, an existing medical marijuana business where any amount of marijuana is stored or grown on the premises beyond normal business hours shall be secured at all times by a physical barrier with suitable locks and also by an electronic barrier or alarm that is designed to detect entry by unauthorized persons at any time. In addition, any usable marijuana stored on the premises after normal business hours shall be kept in a security safe incorporated into the building's structure or securely attached thereto.

Advertising: An existing medical marijuana business shall not attach any sign to a vehicle nor erect any sign advertising or otherwise noting its business on any structure which is not attached to the building where such business is allowed but shall not contain any lighting, shall not exceed 3 square feet and shall be attached to the walls or windows of the building which house the business, but shall not be elevated from the walls or windows.

Air Discharge Control: Any Medical Marijuana growing or processing operation that contains twenty-four (24) or more marijuana plants at any one time shall provide a forced air vent discharge point that is:

Located no closer than 30 feet from an adjacent property line or residence or

Provides a mechanical filtration system to control discharges of particulate matter and odors. The ventilation filtration system shall be designed by a mechanical engineer licensed to practice in the State of Montana such that odors and particulate matter may not be detected by unaided human observation at the property boundary and noise produced by the system shall be controlled and minimized.

No changes in business location or activities: A license issued to an existing medical marijuana business shall be utilized only at the location of the business noted in the original license and for no greater than the number of the qualifying cardholders which were provided by the existing medical marijuana business as noted upon its application as is required in section 5.22.050 (1)(a), nor may the business be expanded for activities beyond that in place at the time the license was issued as such activities were described by the existing medical marijuana business at the time of its application as required in section 5.22.050 (1)(a). Any changes in the existing medical marijuana business which are prohibited under this section shall result in the revocation of the license.

Each caregiver licensed under this chapter must have a written plan to ensure the proper disposal of any marijuana in excess of the amount statutorily allowed under section 50-46-201(2), M.C.A. This plan must be submitted to, and approved by, the Meagher County Sheriff prior to any disposal of marijuana, including marijuana stalks, roots, and seeds.

All marijuana plants must be grown in a location where the plants are not identifiable from anywhere off the premises.

MONTANA Department of Labor and Industry
Business Standards Division

MONTANA BOARD OF MEDICAL EXAMINERS

Physicians Written Certification for Medical Marijuana and the Bona Fide Physician-Patient Relationship

In 2004 Montana voters approved the use of medical marijuana through the passage of Initiative 148 which was codified as the Medical Marijuana Act (“The Act”) in Title 50, Chapter 46 (2005). The Act permits individual to grown, possess and use marijuana to treat certain chronic medical conditions, and permits other individuals, called caregivers, to grow, possess and transfer marijuana to designated clients who are certified to use marijuana for medical conditions. According to the Act, in order for a person to be permitted to use marijuana for a medical condition, a Montana-licensed doctor of medicine or osteopathy must conduct a proper medical evaluation and certify that the person has one of the conditions specified or the patient must present his or her medical record to the Department of Public Health and Human Services which enforces the Act.

The mission of the Board of Medical Examiners is to protect the public by ensuring that physicians are properly trained and provide medical services within their scope of competence. The Board of Medical Examiners takes no position on the general suitability of marijuana in the treatment of medical disorders, but does have an obligation to protect the public by ensuring that physicians provide medical services via a bona fide physician-patient relationship that meet the generally accepted standards of care.

The Board of Medical Examiners is concerned about reports of physicians who are certifying patients to use marijuana for medical conditions in a mass screening format and physicians who are conducting certifying evaluations exclusively through Internet consultations.

It is the Board of Medical Examiners’ position that the certification of an individual to use marijuana for a medical condition requires the same standard of care as required when any conventional medication is prescribed. The Medical Marijuana Act requires the physician to conduct a “full assessment” as part of “a bona fide physician-patient relationship.” (M.C.A. 50-46-210 (2005)). Therefore, a physician who certifies a patient for medical marijuana is held to the same generally accepted standards of care as apply to every other medical practice.

Generally accepted standards of care in any treatment process require the following in an amount adequate and appropriate to the patient, condition and treatment under consideration:

Taking a medical history

Performing a relevant physical examination
Reviewing prior treatment and treatment response
Obtaining and reviewing relevant diagnostic test results
Discussing advantages, disadvantages, alternatives, potential adverse effects and expected response to the treatment recommended, and ensuring that the patient understands them
Monitoring the response to treatment and possible adverse effects
Creating and maintaining patient records
Notifying the patient's primary care physician when appropriate

Consistent with 50-46-201(4) (2005), M.C.A., the Board of Medical Examiners will not apply a higher or special standard of care to the certification of individuals to use marijuana for medical conditions. Neither will the Board apply a lesser or special standard. If the physician fails to meet the generally accepted standards of practice when certifying a patient to use marijuana for a medical condition, the physician may be found to be practicing below the acceptable standard of care and subject to disciplinary action for unprofessional conduct.

The Board cautions physicians that a mass screening format or group evaluations, whether for student athletes or those desiring medical marijuana, inherently tend towards inadequate standards of care. A physician involved in mass screening settings or clinics offering group evaluations for medical marijuana certification must meet the standard of care which the people of Montana rightfully expect and deserve.

Similarly, a written certification provided after a patient evaluation conducted exclusively through currently available electronic methods or the Internet may be inadequate to evaluate the complex medical conditions for which marijuana is an approved therapy. The practice of telemedicine in Montana requires a Montana license and adherence to the same standards of care as required of all Montana-licensed physicians.

Adopted: May 21, 2010

Board of Medical Examiners Position Paper
Medical Marijuana 5/21/2010

TITLE 6 - RESERVED

TITLE 7 - HEALTH AND WELFARE

Contents:

CHAPTER 7.02 Nuisances

CHAPTER 7.04 Weeds

CHAPTER 7.08 Accumulation of Refuse and Stagnant Water Prohibited

Chapter 7.02 - NUISANCES

Sections:

- 7.02.010 Nuisance Defined
- 7.02.020 Liability
- 7.02.030 Property Owner to Abate
- 7.02.040 Sanitary Inspector to Abate
- 7.02.050 Destruction of Buildings

7.02.010 Nuisance Defined

Anything which is injurious to the health or morals, or indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property is a nuisance.

7.02.020 Liability

Any person who creates or maintains any nuisance, or causes the same to exist, or any person who knowingly permits a nuisance to be created, maintained, or to exist on premises owned by him or under his control, shall be liable.

7.02.030 Property Owner to Abate

It shall be the duty of the owner of any lot, building, or premises whereon any nuisance exists or the lessee, manager, or person in charge thereof to remove, abate, or destroy the same without delay.

7.02.040 Sanitary Inspector to Abate

Whenever any nuisance exists within the city limits for the abatement, creation, or removal of which no person can be found who is responsible therefor, it shall be the duty of the sanitary inspector to remove, abate, or destroy the same, or cause the same to be done at the expense of the city.

7.02.050 Destruction of Buildings

The city council has authority to declare any building to be a nuisance which in the opinion of the city council is so dilapidated or in such condition as to menace the public health or safety of persons or property; and to cause the destruction or removal of the same at the expense of the parties creating, causing, committing, or maintaining said buildings or property. The city may levy a special assessment on the land or premises whereon the nuisance is situated to defray the cost or to reimburse the city for the cost of abating the same. (Ords. 224-228; 2-3-69)

Chapter 7.04 - WEEDS

Sections:

- 7.04.010 Definitions
- 7.04.020 Cutting or Removing of Weeds Required
- 7.04.030 Failure to Comply with these Provisions

7.04.010 Definition

Weeds, within the meaning of this chapter, includes all vegetable growth that is unsightly, troublesome, useless, or noxious. It shall include all weeds and vegetable growth that has been declared noxious, destructive and detrimental to the agricultural interests.

7.04.020 Cutting or Removing of Weeds Required

All persons are hereby required to remove all weeds from said premises under their control and to the center of the street or alley along, in front of, or abutting on said premises and to keep the same free from weeds.

7.04.030 Failure to Comply with These Provisions

Whenever the growth of weeds shall become or attain such a condition as is prohibitive in this chapter, the owner or occupant shall be notified to remove same and in default of this being done, said city shall remove the same and may do any other work necessary to place said premises in a condition that shall comply with this chapter and the clerk shall certify the cost of same, which cost shall become a lien upon the property.

(Ords. 264-266; 3-3-69)

Chapter 7.06 - SANITATION

Sections:

- 7.06.010 Definitions
- 7.06.020 Containers and Disposal of Other Items
- 7.06.030 When Charges Due
- 7.06.040 Contract and Fee
- 7.06.050 Transportation of Garbage

7.06.010 Definitions

“Garbage” shall be interpreted to mean all putrescible wastes, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, but excluding recognizable industrial byproducts, and shall include all such substances from public and private establishments and from all residences.

“Refuse and Trash” shall include non-putrescible wastes.

7.06.020 Containers and Disposal of Other Items

No owner or occupant of any public or private premises shall permit to accumulate upon his premises any garbage or refuse except in covered containers approved by the superintendent of sanitation or other designated officer. Such containers shall be constructed of metal in such a manner as to be strong, not easily corrodible, rodent proof, with two handles, a capacity of not more than 30 gallons, with tight covers, which shall be in place at all times except when depositing or removing garbage therefrom. Such containers shall be maintained in a sanitary condition at all times and shall be kept in a rack or device as to prevent them from being overturned by animals. In the event that garbage and one or more types of refuse are disposed of separately, separate containers must be had if required by the superintendent of sanitation or by order of the city council. Boxes, papers, tree cuttings and all odd articles shall be crushed and/or bundled in lengths no to exceed five feet and not to exceed 50 pounds in weight, except articles taken in special hauls.

7.06.030 When Charges Due

All charges for the removal of garbage, refuse and trash by the city or its contractor shall be due and owing with the annual assessment of taxes and shall be assessed with the taxes in the manner provided by law. The charges for the removal of garbage shall be assessed against each residence, apartment house and trailer house within the city.

7.06.040 Contract and Fee

The council may license or authorize by contract one or more independent collectors of garbage, trash and refuse within the city. No license shall be issued to any applicant or contract let to any person for the hauling of garbage, trash and refuse, except in conveyances equipped with watertight, leak proof bodies provided with tight-fitting covers. All such licensees or contractor shall operate such conveyances with such covers or doors closed at all times except during the actual process of depositing garbage, trash and refuse into or out of the conveyance. All such conveyances shall be cleaned and disinfected at regular intervals of not less than once every week. No person shall operate any such conveyance in such a manner as to spill any of the contents upon the public thoroughfares. Failure to conform to the requirements of this section by any licensee or contractor shall be cause for revocation of the license or cancellation of the contract.

Licenses to operate and engage in the hauling of garbage, trash and refuse within the city shall be issued at the discretion of the council upon payment of a license fee of \$50.00 annually, and presentation of facts indicative of the applicant's ability properly to execute such collection. No person shall engage in the business of collecting garbage, trash and refuse unless licensed as herein provided.

There shall be once license granted permission to haul garbage in the city who shall be the contractor as contemplated by this statute. In addition to the singular privilege of contracting with the city for the removal and disposal of garbage and/or refuse originating from private residences, the contractor shall have the independent authority to contract with various businesses within the city on such basis as said contractor shall find equitable, and shall be solely responsible for the collection of fees from such businesses.

7.06.050 Transportation of Garbage

No person shall transport, transfer, or haul garbage of any type, except for rocks, concrete, bricks and similar solid material, or plaster, in any vehicle unless the garbage is placed or deposited in a container with a tight fitting cover, or is otherwise secured, so as to prevent such garbage from blowing, leaking, sifting, or otherwise leaving the vehicle during such transportation, transferal, or hauling.

Any person who violates this section is guilty of maintaining or permitting a public nuisance and is therefore guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this code.

(Ord. 355; 8-5-91)

**Chapter 7.08 - ACCUMULATION OF REFUSE AND STAGNANT WATER
PROHIBITED**

Sections:

7.08.010 Accumulations of Refuse and Stagnant Water Prohibited

MEMORANDUM – ASBESTOS MATERIALS

MT POLICY – ASBESTOS MATERIALS

MCA – EMISSIONS STANDARDS

ASBESTOS ANSWER SHEET

GOVERNMENT AGENCIES – ASBESTOS

7.08.010 Accumulations of Refuse and Stagnant Water Prohibited

It shall be unlawful for any person to permit or suffer to be in or accumulate in or upon any yard, lot, place, or premises, or upon any street or sidewalks adjacent to or abutting upon any lot, block, place, or premises, or in any building or shed owned or occupied by him or for which he may be agent within the city limits any stagnant water or impure water, refuse, vegetable decay or decaying substance, garbage, or filth of any kind, or suffer such yard, lot, place, building, or premises to be or to remain in such condition as to cause or create a nuisance or offensive smell, or to pollute or render unhealthful the atmosphere or the premises, or thereby to be, become, cause or create a public nuisance.

(Ord. 250; 3-3-69)

MEMORANDUM – ASBESTOS MATERIALS

Department of Health and Environmental Sciences

Cogswell Building
Helena, Montana 59620
Air Quality Bureau
Ted Schwinden, Governor
State of Montana
(406) 444-3454

June 24, 1988

MEMORANDUM

TO: City Building Inspectors

FROM: Warren Norton, Environmental Specialist

SUBJECT: Demolition of Buildings Containing Asbestos Materials

Both stated and federal laws require that notification be given to the Montana Department of Health and Environmental Sciences (MDHES) ten or twenty days prior to demolition of any building containing friable asbestos material. If the building contains more than 260 lineal feet of asbestos pipe insulation, or more than 160 square feet of area containing asbestos material, the law requires that the asbestos be removed prior to demolition. The intent of the regulations is to protect the general public from the hazards of breathing airborne asbestos fibers.

A copy of the notification form and an asbestos answer sheet is included for your information. If you need more information, please contact me at the Air Quality Bureau, Montana Department of Health and Environmental Sciences, Cogswell Building, Helena, MT 59620, or call 444-3454.

MT POLICY – ASBESTOS MATERIALS

Montana Policy for Non-Friable Asbestos Containing Materials: 6/21/88

Montana has adopted the federal NESHAP regulations exactly as written in the federal code, CFR part 61, subpart M. The intent of the regulation is to protect the general public from the hazards of breathing airborne asbestos fibers. The regulation requires that this office be notified of any demolition or renovation job involving friable asbestos material ten or twenty days prior to starting work. The notification must include the amount of friable asbestos involved, how it will be handled to prevent release of fibers into the air, and how and where it will be disposed of. A copy of our notification form and the state rule are enclosed for your information.

This office has not applied this regulation to asphalt roofing material, vinyl asbestos floor tile, or to hard asbestos siding materials because we feel this material is generally not friable. As long as the asphalt or the binder remains intact, the asbestos is not likely to become airborne. If, during the course of renovation or demolition, the non-friable asbestos-containing material is subject to any process which releases visible emission to the air, then we feel the NESHAP regulation is applicable to protect the general public from the hazards of airborne asbestos fibers. As long as the work practices do not allow visible emissions into the air when working with non-friable asbestos materials, we feel the NESHAP regulation does not apply.

Everyone should be aware, however, that the OSHA regulations do not address the friability of the asbestos material. The OSHA regulations apply to all asbestos materials regardless of friability.

Also, the landfills can require containment of non-friable material prior to disposal if they feel their local situation demands it. Anyone planning to dispose of asbestos material should first call the landfill operator to determine the disposal requirements at a particular location.

A list of phone numbers and contacts of government agencies involved with asbestos regulation is included for your information. If you have questions regarding a specific program, please contact the appropriate agency.

EMMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

For the purpose of this rule, the terms and associated definitions specified in 40 CFR § 61.02, July 1, 1987, shall apply.

The owner or operator of any existing or new stationary source, as defined and applied in 40 CFR Part 61, July 1, 1987, shall comply with the standards and provisions of 40 CFR Part 61, July 1, 1987.

For the purpose of this rule, the board hereby adopts and incorporates by reference 40 CFR Part 61, July 1, 1987, which pertains to emission standards for hazardous air pollutants. 40 CFR Part 61, July 1, 1987, is available for public inspection and copying at the Air Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, 1400 Broadway, Helena, Montana 59620; at EPA's Public Information Reference Unit, 401 M Street SW, Washington, D.C. 20460; and at the libraries of each of the ten EPA Regional Offices. Copies are also available as supplies permit from the U.S. Environmental Protection Agency, Research Triangle Park, NC 27771; and copies may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 2261. (History: Sec 75-2-111, 75-2-203, MCA; IMP, Sec. 75-2-203, MCA; NEW, Eff. 9/5/76; AMD, 1978 MAR p.1621, Eff. 12/15/78; AMD, 1982 MAR p.1744, Eff. 10/1/82; AMD, 1985 MAR. p. 1326, Eff. 9/13/85; Amd, 1987 MAR p. 744, Eff. 7/20/87; AMD, 1988 MAR. p. 500, Eff. 3/11/88.)

3/31/88—ADMINISTRATIVE RULES OF MONTANA

ASBESTOS ANSWER SHEET

GERALD RICH

When a person thinks he may have asbestos in a building, what does he do?

Does the material crumble under hand pressure? If it does not crumble, it is exempt material. If it does crumble, how much material is involved? It is exempt if – the material is less than 260 lin. Ft. of pipe insulation or less than 160 ft² of any other material. If it is less than these amounts, the local or state government (whoever has jurisdiction) needs written notification 20 days prior to demolition. Include name and address of owner or operator, address of location, and starting/completion dates. For renovation, notification can be any time before the work is begun.

If over 260/160, have a sample analyzed at an approved lab.

If friable asbestos content is greater than 1 percent, written notification must be provided to the government agency at least 10 days prior to, the demolition and as possible before renovation. Information required includes:

Name and owner or operator
Address of owner or operator
Description of facility involved, including:

Size
Age
Prior use
Appropriate amount of asbestos material present

Address or location of facility
Starting and completion dates of demolition or renovation
Nature and method of demolition or renovation
Procedures to be employed to meet asbestos removal requirements
Name and address of the waste disposal site where the asbestos material will be deposited
Name, title, and authority of the state/local government agency representative (if any) who ordered the demolition of a structure in danger of imminent collapse

Ten days after owner/operator has written to the government, asbestos material can be removed provided that the following procedures are adhered to:
Friable asbestos material shall be removed prior to any dismantling or wrecking of any portion of a structure which would break up or preclude access to such material.

All asbestos materials shall be thoroughly wetted prior to and during stripping and removal.

All asbestos material shall be packed in leak-proof containers and sealed for shipment to an approved asbestos disposal site.

There shall be no visible emissions to the outside air at any time during the collection, packaging, transportation or deposition of any asbestos material. For renovation operations, a local exhaust collection and ventilation system may be used when damage would result from wetting the asbestos material.

Disposal of asbestos materials: Disposal of leak proof containers of asbestos materials shall be made at a licensed landfill duly approved by the governing authority to accept wastes containing asbestos. The landfill shall be given ample advance notice in order to prepare a site for the disposal. The containers shall be identified with a label which states:

Caution – Containing Asbestos

Avoid Opening or Breaking Container Breathing Asbestos is Hazardous to Your Health

For further information, refer to The National Emission Standards for Hazardous Air Pollutants (NE-SHAP 40 CFR Part 61). Additional information on EPA's asbestos program is available from EPA Headquarters in Washington, D.C. 1-SOO-424-9055.

Editor's Note: Some state or local governments may be more stringent than the Federal regulations on asbestos removal during renovation or demolition.

Gerald Rich, P.E., is group leader of engineering services for a state regulatory agency and a regular contributing author to Pollution Engineering.

GOVERNMENT AGENCIES INVOLVED IN ASBESTOS CONTROL IN MONTANA

AGENCY	REGULATIONS TO PROTECT	CONTACT	PHONE
OSHA	Employees in Private Industry	Dave DiTommaso	1-800-332-7087
State Dept. of Labor & Industry	Employees in Public Sector	Ed Gatzemeier Safety Bureau	444-6401
State Dept. of Health & Env. Sciences	Employees in Public Sector	Bill Hopper Occ. Health Bureau	444-3671
EPA	General Public, TSCA	Tom Harris	449-5486
State Dept. of Health & Env. Sciences	General Public, NESHAP	Warren Norton Air Quality Bureau	444-3454
State Dept. of Health & Env. Sciences	Landfills	Jim Leiter Solid & Hazardous Waste Bureau	444-2821
State Dept. of Health & Env. Sciences	Schools-AHERA	Tom Ellerhoff Env. Sciences Div.	444-3948

TITLE 8 - ANIMALS

Contents:

CHAPTER 8.02 Dogs

Notes – Montana Animal Abuse Laws

CHAPTER 8.04 Animals and Fowls at Large

CHAPTER 8.06 Deer

Chapter 8.02 - DOGS

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- 8.02.010 Definitions
- 8.02.020 Vaccination Required
- 8.02.030 License and Registration
- 8.02.040 Barking Dogs
- 8.02.050 Dogs Running At Large on School Grounds
- 8.02.060 Dogs At Large
- 8.02.070 Impounded Dog – Records
- 8.02.080 Notice and Redemption
- 8.02.090 Disposition
- 8.02.100 Female Dogs
- 8.02.110 Confinement or Destruction of Certain Dogs
- 8.02.120 Releasing Impounded Dogs Prohibited
- 8.02.130 Interference with Dog Warden or Police Officer
- 8.02.140 Dangerous Dogs
- 8.02.150 Animals in Parks and Cleaning Up After Animals

Notes – Montana Animal Abuse Laws

8.02.010 Definitions

For the purposes of this chapter, certain terms used herein shall be interpreted, implied, or defined as follows:

“Dog” shall mean both male and female animals of the canine species, whether altered or not.

“Owner” shall mean any person owning, keeping, or harboring a dog.

“At Large” shall mean off the premises of the owner and not under control of the owner or any other person by leash, cord, chain, restrained in a motor vehicle, or otherwise.

“Pound” shall mean the place provided by the city for the impounding of dogs.

“Vaccination” shall mean the injection of an approved vaccine by a licensed veterinarian for the purpose of immunizing a dog against rabies or other communicable and harmful diseases.

“Dog Warden” shall mean any one or more of the employees of the city designated by the mayor, and deputized by the sheriff as dog wardens.

“Impound” shall mean the holding of an animal in the pound pending claim by its owner or other disposition.

“Cat” shall mean both male and female animals of the feline species which are domesticated.

(Ord. 339; 2-3-86)

8.02.020 Vaccination Required

All dogs or cats six months or older shall be vaccinated against rabies and other diseases which may be transmitted to human beings or which may pose a threat to public health. Dogs shall be vaccinated once every two years thereafter and cats shall be so vaccinated every year thereafter. The vaccination required by this section shall be made by any veterinarian licensed to practice veterinarian medicine in the State of Montana. A tag showing proper vaccination shall be worn by every dog when not confined and proof of vaccination shall be retained by every dog or cat owner. (Ord. 339; 2-3-86)

8.02.030 License and Registration

It is unlawful for any person to keep, maintain, or harbor in the city any dog over five months of age, unless the dog is fully registered and licensed as herein provided. Licenses shall be issued by the city clerk, or by a duly appointed license agent, upon proof that the dog has been vaccinated and upon payment of an annual license fee. Every person registering a male dog or spayed female dog shall pay a license fee of \$5.00; and every person registering an un-spayed female dog shall pay a license fee of \$10.00. Said owner shall keep on the neck of a dog so registered, a suitable metallic or leather collar, with a metallic check or tag to be furnished by the city, and the number and the year of registry shall be distinctly marked thereon. In case a dog tag is lost or destroyed, a duplicate will be issued by the city clerk upon presentation of a receipt showing the payment of the license fee for the current year, and the payment of a fee of \$1.00 for each duplicate. Any dog found running at large without the license tag shall be deemed unlicensed. (Ord. 335; 12-3-84)

Dog tags shall not be transferable from one dog to another, and no refunds shall be made on any dog license fee because of the death of the dog or the owner's leaving town before expiration of the license period.

The provisions of this section shall not apply to nonresidents having dogs under leash within the city less than 15 days or to such animals brought into the city for exhibitions.

Licenses for “guide dogs” shall be furnished without charge upon proof of vaccination, as herein provided.

Licenses shall not be issued to any person under the age of 18 years unless a parent or guardian signs the application as a co-owner.

8.02.040 Barking Dogs

Every person who shall keep, feed, harbor, or allow to stay about any premises occupied or controlled by him, any dog which by loud and continuous barking, howling, or yelping constitutes an annoyance or disturbance to the neighborhood or to any considerable number of persons is guilty of maintaining a public nuisance and is therefore guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.

8.02.050 Dogs Running at Large on School Grounds

Every person who owns, keeps, or harbors any dog and who allows such dog to run at large on any school grounds within the city is guilty of maintaining a public nuisance and is therefore guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.

Any officer or employee of the city, and any officer or employee of any school, or police officer within the city, is hereby authorized to take, chase, or drive any dog from any such school grounds using any reasonable means therefor, and the dog warden shall impound any dog found running at large on any such school grounds, as provided in section 8.02.060 of this Code. (Ord. 346; 8-3-87)

Guidelines for fines for violating this section shall be as set forth in 8.02.060 (3). (Amd. Res. 525; 6-17-10)

8.02.060 Dogs at Large

Every dog, unlicensed or licensed, found running at large in the streets, avenues, alleys, or other public places within the city, or on private property belonging to persons other than the owners or persons in control of such dogs, is hereby declared to be a public nuisance and may be taken and impounded in the city pound or elsewhere by the dog warden, any sheriff, or his deputy, or other persons designated by the mayor from time to time for such purposes. If a dog running at large has previously bitten a person, whether or not the bite took place on the owner’s private property, then upon impoundment that dog shall be destroyed in a humane manner under the supervision of the dog warden or the sheriff.

Every owner or other person in control of any dog who allows such dog to be at large, as defined in section 8.02.010 of this Code, is guilty of maintaining a public nuisance and is therefore guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code. (Ord. 346; 8-3-87)

Guidelines for fines for violating this section shall be up to \$50.00 for the first offense, up to \$100.00 for a second offense and up to \$500.00 a third or subsequent offense. Any dog owner who fails to pay all fines within 3 days after imposition thereof by the City Judge and any fees for impoundment of the animal pursuant to 8.02.080, shall result in abandonment of the animal, disposition of which shall be provided in 8.02.090. (Amd. Res. 525; 6-17-10)

8.02.070 Impounded Dog – Records

Immediately upon impounding any dog, the dog warden shall record in a book to be provided by the city and by him kept for that purpose, a description of such dog. Such record shall state the sex, color, breed, estimated age, distinguishing marks, if any, and the date and hour of impounding and upon final disposition of such dog, the record shall show such disposition.

8.02.080 Notice and Redemption

It is hereby declared the duty of every owner of any dog or other animal to know its whereabouts at all times. In the event that any dog or other animal is impounded, the owner shall redeem the same within 72 hours, or it shall be subject to disposal by the dog warden, as hereinafter provided.

In the event that any dog is reclaimed, on the first offense the owner shall pay a releasing fee of \$25.00, plus \$5.00 per day or part thereof for food and shelter and all reasonable transportation costs when the dog is sheltered outside the city limits; the releasing fee shall double on the second offense and triple on the third and all other offenses occurring within one year of the first offense or within one year of any subsequent offense. Also, if the owner is a resident within the city limits, he shall be required to obtain a license for the dog, if it does not already have one, at the time of the release of the dog.

It shall be the duty of the dog warden to remit immediately all sums of money collected by him under this section to the city treasurer. (Ord. 346; 8-3-87)

8.02.090 Disposition

Every dog impounded shall be held for a period of 72 hours after such impounding and if not claimed by the owner or by some person acting in the owner's behalf who pays the license and impounding fees, as provided in this chapter, the dog shall be put to death under the supervision of the dog ward in a medically approved and humane manner. Any dog or other animal suffering from an infectious disease shall

not be released, but must be put to death unless the county health officer or a licensed veterinarian shall otherwise request.

8.02.100 Female Dogs

Every person having under his control any female dog in heat (i.e., in the estrous period) shall confine such dog in a house, garage, or other building, and in such manner as to eliminate the congregation of other dogs in the immediate vicinity of the female. Any such female dog not so confined is a public nuisance, and the owner or other person in control of such dog is guilty of maintaining a public nuisance and is therefore guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.

The dog warden or any policeman shall immediately abate every such nuisance by impounding any such dog as provided in section 8.02.070 and section 8.02.080 of this Code.

8.02.110 Confinement or Destruction of Certain Dogs

Any dog which has bitten or which is suspected of having bitten a person or which is believed to have rabies or other diseases which may pose a threat to public health, or to have been exposed to the same, shall be confined upon order of the dog warden, any police officer, or the county health office or his agent. Any dog which has threatened or caused reasonable apprehension or bodily injury or bitten a person on other than the owner's private property, unless the bit was in response to an immediate threat of physical harm to the owner or his family, shall be destroyed in a humane manner under the supervision of the dog warden or the sheriff. (Ord. 346; 8-3-87, Amd. Res. 483; 7-3-00)

The cost of confinement, as provided for in this section, shall be charged to the owner of said dog.

8.02.120 Releasing Impounded Dogs Prohibited

It is unlawful and a misdemeanor for any person other than the dog warden, his representative, or a police officer to release or remove any impounded dog or other impounded animal from the city pound, or to either break open or in any way injure the pound, or either directly or indirectly aid or assist any other person in doing so.

Persons convicted of a violation of this section shall be guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.

8.02.130 Interference with Dog Warden or Police Officer

It is unlawful for any person to interfere with, molest, hinder, or obstruct the dog warden, his representative, or a police officer in the discharge of their official duties under sections 8.02.010 through section 8.02.120 of this Code.

Persons convicted of violation of this section shall be guilty of a misdemeanor and shall be punishable as provided in section 1.16.010 of this Code.

8.02.140 Dangerous Dogs

The owner of any pit bull, American Staffordshire Terrier, Staffordshire Bull Terrier, Doberman Pinscher, Rottweiler or any dog displaying a majority of the physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or the United Kennel Club for any of the above breeds, or any individual dog of any breeding which is known, at any time, to have been aggressive toward or bitten a human being without provocation on property other than the owner's property, whether a citation was issued or not, shall be required to have liability insurance in the amount of at least \$500,000.00 to cover any damage or injury which may be caused by such dog. Proof of insurance shall be required at the time of licensing and may be requested at any time by the animal control officer, city clerk, member of the city council or any law enforcement officer. Failure to provide proof of such liability insurance shall result in immediate impoundment of the animal. If the owner of the animal does not provide proof of insurance to the animal control officer or other person with authority to request such proof within 3 business days of impoundment, the animal shall be euthanized under the supervision of the animal control officer in a medically approved and humane manner. In the alternative if the animal has never bitten a person nor acted aggressively toward a human being the owner may be allowed to remove the animal from the city limits of White Sulphur Springs, after which the animal shall be permanently banished from ever being within the city limits of White Sulphur Springs. The owner of any dog impounded under this ordinance shall be required to pay all costs of impoundment which shall be no less than \$5.00 per day. (Amd. Res. 525; 6-17-10)

8.02.150 Animals in Parks and Cleaning Up After Animals:

Any person owning, keeping, possessing or harboring any dog, cat or other animal within the City limits, shall promptly remove and properly dispose of all feces left by the dog, cat or animal on any public sidewalk or in any public park or ball field and on any private property not owned or lawfully occupied by such person.

Violation of this section shall be punishable by fine of up to \$50.00 for the first offense, up to \$100.00 for the second offense and up to \$500.00 for a third or subsequent offense. Any animal owner, who fails to pay all fines within 3 days after imposition thereof by the City Judge, may result in impoundment of the animal, and the cost of impoundment assessed to the owner thereof. Any animal impounded under this section may be destroyed after 3 days, if the fines and cost of the impoundment imposed hereunder remain unpaid.

(New. Res. 533; 7-7-11)

(Ord. 321; 2-5-79, Ord. 335; 12-3-84, Ord. 336; 8-5-85, Ord. 346; 8-7-87, Amd. Res. 525; 6-17-10, New. Res. 533; 7-7-11)

Notes – MONTANA ANIMAL ABUSE LAWS

Montana law defines cruelty to animals as “knowingly or negligently” subjecting an animal to mistreatment or neglect by:

Overworking, beating, tormenting, injuring or killing any animal.

Carrying or confining any animal in a cruel manner.

Failing to provide an animal with proper food, drink or shelter.

In cases of immediate, obvious, serious illness or injury, failing to provide licensed veterinary or other appropriate medical care.

Failing to do any of the above is grounds for conviction. The penalty for each count is a fine of up to \$500 and/or up to six months in jail. Perpetrators may also be required to forfeit their animals and/or repay all reasonable costs incurred in caring for the animals in question.

Chapter 8.04 - ANIMALS AND FOWLS AT LARGE

Sections:

- 8.02.010 Livestock and Fowls at Large Prohibited
- 8.04.020 Duty of Chief of Police: Impoundment
- 8.04.030 Claiming Ownership after Sale
- 8.04.040 Fees
- 8.04.050 Prohibiting Leaving of Livestock in Vehicles

8.04.010 Livestock and Fowls at Large Prohibited

It shall be unlawful for any person to allow or permit livestock or fowls to run at large and said person shall at all times keep the same within or upon his own premises, except when the same are necessarily passing through the city and using the public thoroughfares, at which time the same shall be attended by competent person to prevent their running at large or damaging property.

8.04.020 Duty of Chief of Police; Impoundment

It shall be the duty of the chief of police to take and impound in some suitable place provided for that purpose any animal that may be at large upon public thoroughfares or other public places, or that may be upon or about any private premises damaging or annoying the owner or occupant thereof; to give notice to the owner thereof, if known; if unknown to publish notice of such impounding for three weeks in the official newspaper of the city. In the event the owner fails to pay the charges accrued thereon, hereinafter specified, within five days after such notice or publication, the chief of police shall make complaint before the city judge setting forth the facts in relation thereto, who shall thereupon fix a time not less than four or more than ten days for the hearing of proof on said complaint and give notice thereof in the manner provided for service of summons in civil actions. At the appointed time, the city judge shall hear proof of the facts alleged in the complaint and if found satisfactory shall order a sale to be made of the same at a time not more than ten or less than five days from date of said hearing, of which sale notice shall be given by posting notice thereof in three public places in said city, said sale shall be for cash to the highest bidder, the proceeds to be paid by the chief of police to the treasurer.

8.04.030 Claiming Ownership after Sale

If any such sale shall claim to be the owner thereof, the city judge, upon satisfactory proof of his ownership, shall order the city treasurer to pay the proceeds of said sale

to such owner after first deducting the costs, charges and expenses incurred in connection therewith.

8.04.040 Fees

The fees to be charged for services in connection with the impounding and sale of animals shall be in accordance with the fees on file in the office of the city clerk, as established from time to time.

8.04.050 Prohibiting Leaving of Livestock in Vehicles

It shall be unlawful for any person to retain livestock overnight in any vehicle. If such stock is held for a longer period than five hours, it shall be removed from the vehicle and placed in appropriate pens or enclosures.

(Ords. 219-223; 2-3-69)

Chapter 8.06 - DEER

Sections:

- 8.06.010 Purpose and Scope
- 8.06.020 Goals
- 8.06.030 Deer Populations
- 8.06.040 Action Plan

8.06.010 Purpose and Scope

To reduce the negative impacts to people caused by deer in the City of White Sulphur Springs.

To work with adjacent landowners and the Montana Department of Fish Wildlife and Parks (DRWP) to manage deer populations near the City to reduce the potential of those deer from moving into the City and becoming year round resident deer within the City.

8.06.020 Goals

Eliminate individual deer within the City which threaten human safety.

To reduce the potential for human-deer interactions and conflicts by lowering resident deer numbers in the City if needed.

Respond to seasonal deer population increases within the City.

8.06.030 Deer Populations

The deer population has two components: Deer that are year round residents within the city limits and transient deer which generally inhabit land immediately adjacent to the City but move in and out of the town. These wile deer numbers increase during certain period of the year resulting in conflicts with human safety.

8.06.040 Action Plan

Aggressive deer that threaten human safety will be dispatched as soon as possible after verification there is an actual threat. Deer which are a nuisance but are not threatening public safety will be tranquilized and relocated if at all possible. City and Meagher County sheriff's officers and Montana DFWP officials are the only persons authorized to use firearms to dispatch animals within city limits. Complaints must be directed to City Hall at 406.547.3911 or the Meagher County Sheriff at 406.547.3397 or the Montana DFWP. All deer removed under this plan must be documented. A record must be maintained by the City and the Meagher County

Sheriff's department and reported directly to the Montana DFWP. An annual report will be prepared and provided to the DFWP documenting each event. The report will include the date of the complaint, the nature of the complaint, name of the sheriff's officer responding, the number of deer dispatched, method of removal (tranquilization and relocation or lethal control) and the disposition of the deer removed. Deer that must be tranquilized or killed will be removed in accordance with DFWP rules and statues. Deer that have been killed due to vehicle/deer collisions in city limits will be removed by the Meagher County Sheriff's department, the city public works crew or if available, a local DFWP game warden.

Citizens of White Sulphur Springs and resident adjacent to the City shall refrain from artificially feeding residents and wild deer pursuant to Montana Code Annotated §87-3-130. Artificial feeding of wildlife is a misdemeanor and encourages deer to habituate to the urban environment and creates human/deer conflict and human health and safety issues. Wild deer that enter the City are less likely to become resident deer and more likely to remain in town for a shorter period when artificial feed is not present.

(New. Res. 538; 1-3-12)

TITLE 9 - PUBLIC PEACE, SAFETY AND MORALS

Contents:

CHAPTER 9.02	General Offenses
CHAPTER 9.04	Open Containers of Alcoholic Beverages
CHAPTER 9.06	Fireworks
CHAPTER 9.08	Protection Against Fire
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Chapter 9.02 - GENERAL OFFENSES

Sections:

- 9.02.010 Abandoned Ice Boxes, etc.
- 9.02.020 Aid in Escape
- 9.02.030 Aid to an Offense
- 9.02.040 Alcoholic Beverages; Procuring or Selling to Minors
- 9.02.050 Assault or Battery
- 9.02.060 Barbed Wire and Electric Fences
- 9.02.070 Cruelty to Animals
- 9.02.080 Deposits of Injurious Material on Thoroughfares
- 9.02.090 Disorderly Conduct
- 9.02.100 Distribution of Obscene Literature
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- 9.02.190 General Offense
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- 9.02.260 Mufflers; Unnecessary Noise
- 9.02.270 Nuisances Defined
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- 9.02.290 Petit Larceny
- 9.02.300 Playing Ball on Streets Prohibited
- 9.02.310 Prostitution
- 9.02.320 Resisting an Officer
- 9.02.330 Riot
- 9.02.340 Swindling
- 9.02.350 Trespassing
- 9.02.360 Unlawful Assembly
- 9.02.370 Vagrancy
- 9.02.380 Water Flowing Upon Streets

9.02.010 Abandoned Ice Boxes, etc.

It shall be unlawful for any person to leave or permit to remain outside of any dwelling, building, or other structure, or within any unoccupied or abandoned, unattended, or discarded ice box, refrigerator, or other container which has a door or lid, snap-lock, or other locking device which may not be released from the inside, without first removing said door or lid, snap-lock, or other locking device, or by first fastening, bolting, or locking the same in such a manner that is impossible to open the same by the use of the hands.

9.02.020 Aid in Escape

It shall be unlawful for any person to aid or assist any person to escape from lawful confinement or to assist any person to escape from the custody of any peace officer.

9.02.030 Aid to an Offense

It shall be unlawful for any person, in any way or manner, to aid, abet, counsel, advise, or encourage any other person in the commission of any of the acts mentioned herein, or in any manner to encourage the commission of such offense hereby defined.

9.02.040 Alcoholic Beverages; Procuring or Selling to Minors

It shall be unlawful for any person to procure, sell, dispose of, or give away any alcoholic beverages to any person under 21 years of age, or for any person under 21 years of age to purchase, attempt to purchase, or otherwise procure, consume, or have in his possession any alcoholic beverages.

9.02.050 Assault or Battery

It shall be unlawful for any person to commit assault or battery.

9.02.060 *Barbed Wire and Electric Fences*

It shall be unlawful for any person to erect or maintain any electric fence or any fence constructed in whole or in part of barbed wire, or to use barbed wire as a guard to any parking lot or parcel of land.

9.02.070 *Cruelty to Animals*

It shall be unlawful for any person to torture or beat cruelly, starve, or otherwise ill-treat any animal in his care or charge, whether belonging to himself or any other person.

9.02.080 *Deposits of Injurious Material on Thoroughfares*

It shall be unlawful for any person to deposit, place, or allow to remain in or upon any public thoroughfare any material or substance injurious to person or property.

9.02.090 *Disorderly Conduct*

It shall be unlawful for any person to engage in any illegal or improper diversion, or to use insulting, indecent, or immoral language, or to be guilty of any indecent, insulting, or immoral conduct or behavior.

9.02.100 *Distribution of Obscene Literature*

It shall be unlawful for any person to exhibit, pass, give, or deliver to another any obscene or indecent book, pamphlet, picture, card, print, paper, writing, mold, cast, or figure, or to have the same in his possession.

9.02.110 *Disturbing the Peace*

It shall be unlawful for any person willfully, maliciously, intentionally, or unnecessarily to disturb the peace and quiet of another, or of any neighborhood or family religious congregation or other assembly, by loud or unusual noises or indecent behavior, or by offensive or unbecoming conduct, or for any person to threaten, quarrel, fight, or provoke an assault or battery, or curse or swear or utter any obscene or indecent language in the presence of another.

9.02.120 *Encouraging Delinquency*

It shall be unlawful for any person, by any act or neglect, to encourage, aid, or cause a minor to come within the purview of the juvenile authorities; and it shall likewise be unlawful for any person, after notice that a driver's license of any child has been suspended or revoked, to permit such minor to operate a motor vehicle during the period that such driver's license is suspended.

9.02.130 *Escapes*

It shall be unlawful for any person convicted of any offense or in lawful custody to escape or attempt to escape from custody.

9.02.140 *Expectorating on Sidewalks or in Public Buildings*

It shall be unlawful for any person to expectorate or spit upon any sidewalk or upon the floor of any public building or room used for public assemblies.

9.02.150 *False Pretenses*

It shall be unlawful for any person to obtain any food, drink, goods, wares, or merchandise under false pretenses, or to enter any public place and call for refreshments or other articles and receive and refuse to pay for same, or depart without paying for or satisfying the person from whom he received the food, goods, wares and merchandise.

9.02.160 *False Representation*

It shall be unlawful for any person to represent falsely himself-to be an officer of the city, or to attempt to impersonate any such officer, or to perform any official act therein on behalf of an officer without authority.

9.02.170 *Fraudulently Avoiding Payment of Admission Fees*

It shall be unlawful for any person fraudulently to enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert, or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

9.02.180 *Furnishing Weapons and Other Articles to Prisoners*

It shall be unlawful for any person to furnish or attempt to furnish, or take into jail, or deliver or attempt to deliver to any prisoner therein confined, or in the custody of any officer, any weapon, tool, alcoholic beverages, drugs, or other articles without the consent of the officer in charge.

9.02.190 *General Offense*

It shall be unlawful for any person to commit any act or fail to perform any requirement which is prohibited or required by state law, insofar as such laws are applicable to city government.

9.02.200 *Giving Assistance to Police Officers*

It shall be unlawful for any citizen over the age of 18 years to refuse or neglect to render assistance to any police officer when called upon for such assistance to aid in

the suppression of riot or other unlawful assemblage or in the arrest of any person who has committed an offense.

9.02.210 House of Prostitution

It shall be unlawful for any person to keep or assist in the keeping of a house of prostitution, or knowingly to reside therein, or knowingly to rent, lease, or permit any person to occupy any house or room owned, leased, or controlled by him for this purpose.

9.02.220 Indecent Exposure

It shall be unlawful for any person, for the purpose of arousing or gratifying sexual desire of himself or of any person other than his spouse, to expose his genitals under circumstances in which he knows his conduct is likely to cause affront or alarm.

9.02.230 Keeping of Junk Restricted

It shall be unlawful for any person to store or keep any old articles or materials which may be classified as junk, adjacent to or in close proximity to any school house, church, public park, public grounds, business buildings, or residences without first providing proper and tight buildings or a fence approved by the city council for the storage of the same.

9.02.240 Lug Wheels Prohibited

It shall be unlawful for tractors with wheels injurious to pavement to be permitted upon the public thoroughfares unless the operator of such vehicle shall first plank such streets.

9.02.250 Malicious Injury to Property

It shall be unlawful for any person willfully and maliciously to injure, deface, mutilate, remove, pull down, break, or in any manner interfere with or molest or secrete or destroy any real or personal property belonging to or under the control of any person.

9.02.260 Mufflers; Unnecessary Noise

It shall be unlawful for any person to operate a motor vehicle which shall not at all times be equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise and it shall be unlawful for any person operating any motor vehicle to use a cut-out, by-pass, or similar muffler elimination appliance.

9.02.270 Nuisances Defined

Anything which is injurious to the health or morals, or indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the

comfortable enjoyment of life or property is declared a nuisance and as such shall be abated.

9.02.280 Obscene Conduct

It shall be unlawful for any person to urinate or stool in any place open to the public view, or to be guilty of any indecent or obscene conduct, or to sing any indecent or obscene song, ballad, or other words in any public place, or any other place where other persons are present, or to indecently exhibit any animal.

9.02.290 Petit Larceny

It shall be unlawful for any person to commit petit larceny.

9.02.300 Playing Ball on Streets Prohibited

It shall be unlawful for any person to play ball, or throw any ball or similar articles to and fro upon any public thoroughfare within the city.

9.02.310 Prostitution

It shall be unlawful for any person to pursue or advertise in any manner his vocation as a prostitute, or for any person to advertise the profession of a prostitute, or to solicit for a prostitute.

9.02.320 Resisting an Officer

It shall be unlawful for any person to interfere willfully with, resist, delay, obstruct, molest, or threaten to molest any officer of the city in the exercise of his official duties.

9.02.330 Riot

It shall be unlawful for any person to fail or refuse immediately to disperse upon an order to do so by a police officer, when two or more persons are assembled for the purpose of disturbing the peace or for the purpose of committing any unlawful act.

9.02.340 Swindling

It shall be unlawful for any person, who by color, or aid of any trick or sleight of hand performance, or by fraud or by fraudulent scheme, cards, dice, or device, to win for himself or for another any money or property or a representative of either.

9.02.350 Trespassing

It shall be unlawful for any person to take down any fence, or to let down any bars, or to open any gate in or on the property of another without the consent of the owner, occupant, or person in charge thereof.

9.02.360 *Unlawful Assembly*

It shall be unlawful for two or more persons to assemble together for the purpose of disturbing the peace, or for the purpose of committing an unlawful act and not to disperse upon the command of an officer so to do.

9.02.370 *Vagrancy*

It shall be unlawful for any person to solicit alms as a business, or to sleep in any barn, shed, out building, or other place other than such as is kept for lodging purposes, without the permission of the owner or person entitled to the possession thereof; or to live in a house of prostitution, or to live with or upon the earnings of a prostitute; or for any person to practice prostitution.

9.02.380 *Water Flowing Upon Streets*

It shall be unlawful for any person to allow any water to flow into or upon any public thoroughfare.

(Ords. 170-209; 2-3-69)

Chapter 9.04 - OPEN CONTAINERS OF ALCHOLIC BEVERAGES

Sections:

- 9.04.010 Definitions
- 9.04.020 Possession of Open Containers Alcoholic Beverages
- 9.04.030 Consumption of Alcoholic Beverages Prohibited
- 9.04.040 Violations; Penalty

9.04.010 Definitions

The following words and phrases used in this chapter shall be defined as follows:

“Alcoholic Beverage” shall mean a compound produced and sold for human consumption as a drink which contains more than one-half of one percent of alcohol by volume includes any beer, wine or liquor.

“Open Container” shall mean any glass, cup, open bottle, or bottle having a broken seal, or can, or can having a broken seal, or other vessel capable of storing an alcoholic beverage.

9.04.020 Possession of Open Containers of Alcoholic Beverages Prohibited

It shall be unlawful and a misdemeanor for any person to be in the possession of any open container containing an alcoholic beverage while on the public streets, highways, alleys, or sidewalks in the city, or in or on a vehicle located on the public streets, highways, alleys, or public parking lots in the city.

9.04.030 Consumption of Alcoholic Beverages Prohibited

It shall be unlawful for any person to consume and alcoholic beverage from an open container while on the public streets, highways, alleys, or public parking lots in the city, or in or on a vehicle located on the public streets, highways alleys, or public parking lots in the city.

9.04.040 Violations; Penalty

Any person who violates the provisions of this chapter shall, upon conviction, be punishable by fine not to exceed \$50.00.

(Ord. 324; 6-1-81)

Chapter 9.06 - FIREWORKS

Sections:

- 9.06.010 Sale of Fireworks Prohibited
- 9.06.020 Discharge or Firing of Fireworks Prohibited
- 9.06.030 Exceptions; Permit

9.06.010 Sale of Fireworks Prohibited

The sale of fireworks, firecrackers, rockets, torpedoes, Roman candles, or other substances designed and intended for pyrotechnic display; all pistols, canes cannons, or other appliances using blank cartridges or caps at retail in the city limits is hereby declared to be a public nuisance.

9.06.020 Discharge or Firing of Fireworks Prohibited

The discharge, firing, or use of any fireworks, firecrackers, rockets, torpedoes, Roman candles, or other fireworks or substances designed and intended for pyrotechnic display; all pistols, canes, cannons, or other appliances using blank cartridges or caps within the city limits is hereby declared to be a public nuisance.

9.06.030 Exceptions; Permit

This chapter shall not affect pyrotechnic displays arranged by organizations for the general public in connection with public celebrations; provided, however, that any such organization shall first apply to the city council for a permit to conduct such display and shall present to the city council at the time of application, a certificate signed by the fire chief certifying that such display has been approved by him and that the same will be carried on under his direction and in accordance with his instructions, in order that the fire hazard may be eliminated. No permit shall be granted without such certificate first having been obtained. Any expense incurred by the fire chief and his department in the supervision of such display shall be borne by the applicant.

(Ords. 241-243; 2-3-69)

Chapter 9.08 - PROTECTION AGAINST FIRE

Sections:

- 9.08.010 Emptying Live Ashes Prohibited
- 9.08.020 Bonfires
- 9.08.030 Dangerous Conditions to be Remedied
- 9.08.040 Permits
- 9.08.050 Outside City Limits
- 9.08.060 Contract

9.08.010 Emptying Live Ashes Prohibited

It shall be unlawful for any person to empty live ashes within the city limits in any street or alley, or any vacant lot or piece of ground, or within close proximity to any buildings unless the same be put in a metal container, which shall be placed at least a distance of 20 feet from any and all buildings as will avoid all danger of fire therefrom.

9.08.020 Bonfires

It shall be the duty of any person lighting any bonfire within the city limits to remain constantly thereat until the same is either extinguished or burned out.

9.08.030 Dangerous Conditions to be Remedied

It shall be the duty of every person within the city, upon being notified by the chief of the fire department that any chimney, flue, fireplace, stovepipe, boiler, or other structure is dangerous, unsafe, or defective, at once to repair or remove the same, in order to remedy such unsafe or dangerous condition, and it shall be the duty of every person to obey the orders and directions of said fire chief in relation thereto.

9.08.040 Permits

Permits for the burning of dry grass, weeds and similar material are required by the city. Said permits shall be obtained from the chief of the fire department.

9.08.050 Outside City Limits

Owners and lessees of property outside the city limits but adjacent thereto, in event of casualty by fire to their properties, in which the firefighting facilities of the city are brought into use at the request of the owners and lessees, their agents or servants, or in which the use of such facilities is rendered necessary for the protection of adjacent property within the city limits, shall be liable to the city for a

minimum fee of \$50.00 for each response by the fire department to a call for assistance, or each intervention rendered necessary by circumstances endangering property within the city, and to such additional sums as may be necessary to reimburse the city for its expense incidental to such service.

9.08.060 Contract

The mayor, with the consent of the council, may enter into written contract, in the name of the city, with individuals or groups for extension of the city's firefighting services to properties outside the city limits, so as to render such services available for the protection of such properties to the same extent as to persons and properties within the city. Every such contract shall clearly identify the properties to which it is applicable, the persons contracting for fire protection and their interests therein, and before execution by the city shall be approved by the city attorney.

(Ords. 244-249; 2-3-69)

Chapter 9.10 - MINORS

Sections:

9.10.010	Definition
9.10.020	Curfew
9.10.030	Employment Prohibition
9.10.040	Other Prohibitions
9.10.050	Duty of the Chief of Police
9.10.060	Leaving Minors Unattended Prohibited
9.10.070	Duty of Police Officers
9.10.080	Liability

9.10.010 Definition

All male and female persons under 18 years of age are minors.

9.10.020 Curfew

Loitering of Minors Prohibited. It shall be unlawful for any person under the age of 18 years (a minor) to loiter, idle, wander, stroll, play, or drive, operate, or occupy a vehicle of any type or kind in or upon the public streets, highways, roads, alleys, parks, playgrounds, public grounds, or other public places and public buildings, cafes, theaters and places of amusement and entertainment, vacant lots, or other unsupervised places between the hours of 10:00 p.m. and 5:00 a.m. of the next day on Sunday, Monday, Tuesday, Wednesday, and Thursday of each and every week; and between the hours of 12:00 a.m. until 5:00 a.m. of the next day on Friday and Saturday of each week and during school vacation periods the hours will remain the same; provided, however, that the provisions of this section do not apply to a minor accompanied by his parent, guardian, or other adult person having the care and custody of such minor, or where the minor is upon an emergency errand or legitimate business directed by his parent, guardian, or adult person having the care and custody of the minor. The provisions of this section shall not apply to a minor while engaged in any gainful occupation or employment for his livelihood or part of his livelihood, or while going to and from such employment. Any minor under 18 years of age who is living with his parents, or one of them, or a guardian, or with any foster parent, who is absent from his home during the prohibited hours shall carry with him upon his person the written permission of his parent, guardian, or foster parent to be so absent from his home for some stated legitimate reason, except when the absence is due to gainful employment as above mentioned. Each violation of the provisions of all this section shall constitute a separate offense and the times

shall be Mountain Standard or Mountain Daylight Savings time, whichever is in effect at the time. (Ord. 352, 8-1-91)

Responsibility of Parents or Guardians. It shall be unlawful for any parent, guardian, or other adult person having the care and custody of any person under the age of 18 years (minor) to allow or permit such minor to violate the provisions of Section 9.10.020 (1). Each violation of the provisions of this section shall constitute a separate offense. In any prosecution under this section, it shall not constitute a defense thereto that the parent, guardian, or other adult person having the care and custody of such minor did not have knowledge that such minor was violating the provisions of Section 9.10.020 (1). (Ord. 353, 8-1-91)

Penalties. Any minor under 18 years of age violating the provision of this chapter shall be guilty of a misdemeanor and shall be punished in accordance with the laws of the state of Montana regarding crimes and offenses committed by juveniles.

Any parent, guardian, or other adult person having the care and custody of a minor violating Section 9.10.020 (1) of this chapter shall be guilty of a misdemeanor and shall be dealt with in the following manner:

For a first time offense the maximum penalty shall be \$50.00 and the minimum shall be \$25.00. On the occurrence of the second offense, the penalty shall be no less than \$50.00 and not more than \$500.00. On each consecutive offense thereafter, the penalty shall increase but shall not be more than \$500.00 or six months in jail or any combination of fine and imprisonment. These penalties are to be paid in monetary value or public services and are not to be suspended sentences or deferred sentences.

(Ord. 354; 8-1-91)

9.10.030 Employment Prohibition

It shall be unlawful for any minor to be employed in any billiard hall, pool hall, or bowling alley where alcoholic beverages are sold and dispensed to the public.

9.10.040 Other Prohibitions

It shall be unlawful for any person to allow or permit any minor to loiter in or around or to frequent any place of business where alcoholic beverages are sold for on-premises consumption during the hours in which such place of business does not sell cooked or prepared food, without the minor's parent or legal guardian being present.

It shall be unlawful for a minor to loiter in or around or to frequent any place of business where alcoholic beverages are sold for on-premises consumption during

the hours in which such place of business does not sell cooked or prepared food without the minor's parent or legal guardian being present.

(Amd. Res. 521; 5-4-09)

9.10.050 Duty of the Chief of Police

It is hereby made the duty of the chief of police to supervise the enforcement of this chapter and it shall be his policy to notify parents or those having charge of minors of violations of this chapter, with the request that the same be rectified immediately. Upon the failure of the minor, his parents, guardians, or those in whose custody and care he shall be, to rectify matters after notice, the chief of police will then report violations to the probation officer of the district court for proper attention by the juvenile authorities of said district court.

9.10.060 Leaving Minors Unattended Prohibited

It shall be unlawful for any person, parent, or guardian to leave any minor under 12 years of age unattended in any vehicle which is parked upon any public thoroughfare within the city for more than 30 minutes during warm weather or for any period if the weather is cold or after the hours of darkness.

9.10.080 Duty of Police Officers

If any minor under 12 years of age is so left in a vehicle unattended as set forth herein, and shall be discovered by any member of the police department, said police shall immediately remove such minor to the county hospital. Upon such removal, the police officer shall make all reasonable effort to inform the person, parent, or guardian who has left the minor unattended that the minor has been placed in the county hospital.

9.10.080 Liability

Any person violating the provisions of Section 9.10.060 shall be subject to the penalty provided in this code, plus payment of all costs of removal of the minor to the county hospital and all costs assessed by said hospital.

(Ords. 229-235; 2-3-69, Ords. 352; 8-1-91)

Chapter 9.14 - FIREARMS

Sections:

- 9.14.010 Definition
- 9.14.020 Concealed Weapons
- 9.14.030 Discharge of Firearms Prohibited
- 9.14.040 Exceptions – Permits

9.14.010 Definition

The term “firearms” shall mean any instrument used in the propulsion of shot, shell, or bullets, or other harmful objects by the action of gunpowder exploded within it, or by the action of compressed air within it, or by the power of springs and including what are commonly known as air rifles, B-B guns, slings, or flippers.

9.14.020 Concealed Weapons

It shall be unlawful for any person to carry concealed upon his person any brass knuckles, revolver, pistol, dagger, stiletto, or other deadly weapon.

9.14.030 Discharge of Firearms Prohibited

It shall be unlawful for any person to discharge firearms of any kind or description within the city limits; provided, however, that this shall not apply to police officers in the discharge of their duties.

9.14.040 Exceptions – Permits

Any time the city council may, upon application, grant permits to shooting galleries, gun clubs and others for shooting within the city limits in fixed localities and under fixed rules. Such permits shall be in writing attested by the clerk, conforming to such requirements as the city council shall demand and the permit thus issued shall be subject to revocation at any time by action of the city council.

(Ords. 236-239; 2-3-69)

Chapter 9.16 - SOCIAL HOST

Sections:

9.16.010	Definitions
9.16.020	Prohibited Acts
9.16.030	Penalties
9.16.040	Exceptions

9.16.010 Definitions

Alcohol or Alcoholic Beverage:

Montana Code Annotated §16-1-106, defines the following, as used in this title:

“Alcohol” means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl.

“Alcoholic beverage” means a compound is produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume.

“Beer” means a malt beverage containing not more than 7% of alcohol by weight.

“Table wine” means wine that contains not more than 16% alcohol by volume and includes cider.

“Wine” means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine.

“Emergency Responders” includes but is not limited to, law enforcement officers, firefighters, emergency medical service personnel and other persons having emergency response duties.

“Enforcement Services or Response Costs” includes the salaries and benefits of emergency responders for the amount of time actually spent responding to or remaining at an event, gathering or party and administrative costs attributable to

the incident; the actual costs for medical treatment for any injured emergency responder, and the costs of repairing any damage to emergency responder equipment or vehicles, and the cost of use of such equipment of the vehicle.

“Parent:” any person having legal custody of a juvenile natural parent, adoptive parent, step-parent; legal guardian; person to whom legal custody has been given by court order.

“Person” includes a corporation, company, partnership, association or society as well as a natural person.

“Premises:” any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, hall or meeting room, park or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented or used with or without permission or compensation.

“Social Host:” any person, who conducts, allows, organizes, supervises, controls, permits or aids another in conducting, allowing, organizing, supervising, controlling or permitting an event or gathering. The term includes, but is not limited to the following:

Any person or persons who own, rents, leases or otherwise control the premises where the event, gathering or party takes place;

The person or persons in charge of the premises;

The person or persons who organized the activity.

“Underage Person:” any person less than 21 years of age.

(New Res. 522; 10-20-09)

9.16.020 Prohibited Acts

It is a violation of this Chapter for a social host who knows or reasonably should know that an underage person has possessed or consumed alcohol at an event, gathering or party, to fail to take reasonable steps to prevent the underage consumption or possession by the underage person. The social host does not have to be present at the event, gathering or party at the time the prohibited act occurs.

(New Res. 522; 10-20-09)

9.16.030 *Penalties*

A person convicted of violating this chapter shall be guilty of a criminal misdemeanor and shall be punished by imprisonment for not more than 6 months and by a fine of not less than \$250 or more than \$500, plus court cost, except that if one or more underage persons found to have been in possession of or consumed an alcoholic beverage was 16 years of age or under, the person convicted of violating this chapter shall be punished by imprisonment of not less than 5 days, which may not be served on home arrest.

The imposition or execution of the first 2 days of any sentence of jail may not be suspended and the court may not defer imposition of sentence.

Notwithstanding the penalties listed above, a person convicted of violating this chapter shall be responsible for reimbursing the cost of enforcement services or response costs to agencies furnishing emergency responders. Any claim for restitution including, but not limited to those for enforcement services or response cost, must be filed with the Court within 90 days of a conviction under this chapter.

A prosecution for violation of this chapter may not be deferred.

(New Res. 522; 10-20-09)

9.16.040 *Exceptions*

The provisions of an alcoholic beverage in a non-intoxicating quantity to a person under 21 years of age by the person's parent or guardian, physician or dentist for medicinal purposes, a licensed pharmacist upon the prescription of a physician, or an ordained minister or priest in connection with a religious observance shall not constitute a violation of this Chapter. (See Montana Code Annotated 16-6-305).

(New Res. 522; 10-20-09)

TITLE 10 - VEHICLES AND TRAFFIC

Contents:

CHAPTER 10.02	Traffic Regulations
CHAPTER 10.04	Operation of Vehicles
CHAPTER 10.06	Parking Regulations
CHAPTER 10.08	Bicycles
CHAPTER 10.10	Snowmobiles
CHAPTER 10.12	Licenses and License Plates
RESOLUTION #529	Passenger Rail Service

Chapter 10.02 - TRAFFIC REGULATIONS

Sections:

- 10.02.010 Definitions
- 10.02.020 Enforcement and Obedience to Traffic Regulations
- 10.02.030 Traffic-control Devices
- 10.02.040 Turning Movements
- 10.02.050 One-way Streets and Alleys
- 10.02.060 Special Stops Required
- 10.02.070 Miscellaneous Driving Rules
- 10.02.080 Public Conveyances
- 10.02.090 Pedestrians' Rights and Duties
- 10.02.100 Methods of Parking
- 10.02.110 Stopping, Standing, or Parking Prohibited in Specified Places
- 10.02.120 Stopping for Loading or Unloading Only
- 10.02.130 Stopping, Standing, or Parking Restricted or Prohibited on
Certain Streets
- 10.02.140 Regulating Kinds and Classes on Traffic on Certain Streets
- 10.02.150 Removal of Parked Cars; Costs
- 10.02.160 Removal of Abandoned Motor Vehicles; Charges
- 10.02.170 Removal of Vehicles from Private Property
- 10.02.180 Enforcement of Lien on Properties Impounded
- 10.02.190 Proof of Ownership; Appeal; Redemption after Sale
- 10.02.200 Method of Advertisement and Sale

10.02.010 Definitions

The following words and phrases when used in this chapter shall have the meanings respectively ascribed to them.

“Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a thoroughfare, except devices moved by animal power or used exclusively upon stationary tracks or rails.

“Motor Vehicle” means every vehicle propelled by its own power and designed primarily to transport persons or property.

“Commercial Vehicle” means every vehicle designed, maintained, or used primarily for the transportation of property.

“Authorized Emergency Vehicle” means vehicles of the fire department, police vehicles and such ambulances and emergency vehicles as are designated or authorized by the commissioner of law enforcement or the chief of police.

“Bicycle” means:

Every vehicle propelled solely by human power upon which any person may ride, having two tandem wheels and a seat height of more than 25 inches from the ground when the seat is raised to its highest position, except scooters and similar devices; or

Every vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion and an independent power source providing a maximum of 2 brake horsepower.

“Motorcycle” means a motor vehicle having not more than three wheels in contact with the ground and a saddle on which the operator sits or a platform on which he stands and a driving wheel in contact with the ground in addition to the wheels of the vehicle itself, but excluding a tractor or bicycle.

“Railroad” means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

“Railroad Train” means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except streetcars.

“Traffic” means pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any public thoroughfare, for purposes of travel.

“Right-of-way” means the privilege of the immediate use of the public thoroughfare.

“Stop” means the complete cessation of movement.

“Stop, Stopping, or Standing”, when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, or traffic-control sign or signal.

“Park”, when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

“Official Time Standard” whenever certain hours are named herein, shall mean standard time or daylight saving time as may be in current use in the city.

“Driver” means every person who drives or is in actual physical control of a vehicle.

“Pedestrian” means any person afoot.

“Police Officer” means every officer of the city police department or any officer authorized to direct or regulate traffic or to make arrests for violation or traffic regulations.

“Traffic Division” means the traffic division of the city police department, or in the event a traffic division is not established, then said term whenever used herein shall be deemed to refer to the police department.

“Street or Highway” means the entire width between the boundary lines of every publicly maintained way when any part thereof is open to the use of the public for the purpose of vehicular travel.

“Private Road or Driveway” means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

“Roadway” means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term “roadway” as used herein shall refer to any such roadway separately but not to all such roadways collectively.

“Sidewalk” means that portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

“Alley” means that thoroughfare which intersects blocks of the city at the rear of the lots of said blocks or transverses blocks between regularly established streets.

“Laned Roadway” means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

“Through Highway” means every street or highway or portion thereof at the entrances to which vehicular traffic from intersecting streets or highways is required by law to stop before entering or crossing the same, provided that proper signs are erected as provided in this chapter.

“Controlled-access Highway” means every highway, street, or roadway in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway.

“Intersection” means:

The area embraced within the prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the roadway of the two highways which join one another at or approximately at right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by any intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highway shall be regarded as a separate intersection.

“Crosswalk” means:

That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway;

Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrians crossing by lines or other markings on the surface.

“Safety Zone” means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

“Curb Loading Zone” means a space adjacent to a curb reserved for the exclusive use of vehicles during loading or unloading of passengers.

“Passenger Loading Zone” means a place adjacent to a curb reserved for the exclusive use of vehicles during loading or unloading of passengers.

“Freight Curb Loading Zone” means a space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight.

“Official Traffic-Control Devices” means all signs, signals, markings and devices not inconsistent with this chapter, placed or erected by the authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

“Traffic-Control Signal” means any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and proceed.

“Business District” means the territory contiguous to and including a public thoroughfare when within 150 feet there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings.

“Residence District” means the territory contiguous to and including a public thoroughfare not comprising a business district when the property on such thoroughfare for a distance of 150 feet or more is in the main improved with residences or residences and buildings in use for business.

10.02.020 Enforcement and Obedience to Traffic Regulations

Authority of Police and Fire Department Officials. It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all street traffic laws of the state and the city.

Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand, or signal, provided that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officer of the police department may direct traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require.

Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

Required in Obedience to Traffic Regulations. It shall be unlawful for any person to do any act forbidden or fail to perform any act required herein.

Obedience to Police Fire Department Officials. It shall be unlawful for any person to willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

Persons Propelling Pushcarts or Riding Animals to Obey Traffic Regulation. Every person propelling any pushcart or driving any animal-drawn vehicle, or riding an animal upon a roadway shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions which by their very own nature can have no application.

Use of Coasters, Roller Skates and Similar Devices Restricted. It shall be unlawful for any person upon roller skates, or riding any coaster, toy vehicle, or similar device to go upon any roadway except while crossing a street on a crosswalk and when crossing such person shall be granted all the rights and shall be subject to all the

duties applicable to pedestrians. This section shall not apply upon any street set aside as a play street.

Public Employees to Obey Traffic Regulations. The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States Government, this state, county, or city and it shall be unlawful for any such driver to violate any of the provisions of this chapter, except as otherwise permitted.

Authorized Emergency Vehicles.

The driver of an authorized emergency vehicle when responding to an emergency call or when in the pursuit of an actual suspected violator of the law or when responding to, but not upon returning from, a fire alarm may exercise the privileges set forth in this section, but subject to the conditions herein stated.

The driver of an authorized emergency vehicle may:

Park or stand irrespective of the provisions of this chapter;

Proceed past a red or stop signal but only after slowing down as may be necessary for safe operation;

Exceed the prima facie speed limits so long as he does not endanger life or property;

Disregard regulations governing direction of movement or turning in specified directions.

The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion is making use of an audible or visual signal, or both, meeting the requirements of section 61-9-402, M.C.A.

The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequence of his reckless disregard for the safety of others.

Operation of Vehicles on Approach of Authorized Emergency Vehicles. Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

10.02.030 Traffic-control Devices

Authority to Install Traffic-control Devices. The chief of police shall place and maintain traffic-control signs, signals and devices when and as required under the traffic regulations of the city to make effective the provisions of said regulations, and may place and maintain such additional traffic-control devices as he may deem necessary.

Specifications for Traffic-control Devices. All traffic-control signs, signals and devices shall conform to the approved specifications. All signs and signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the city. All traffic-control devices so erected and not inconsistent with the provisions of this chapter shall be official traffic-control devices.

Obedience to Traffic-control Devices. The driver of any vehicle and the motorman of any bus shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the traffic regulations of the city, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle.

When Traffic-control Devices Required for Enforcement Purposes. No provisions of this chapter for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.

Traffic-control Signal Legend. Whenever traffic is controlled by traffic-control signals exhibiting the words "Go", "Caution", or "Stop", or exhibiting different colored lights successively one at a time or with arrows, the following colors only shall be used and said terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

Green alone or "Go":

Vehicular traffic facing the signal may proceed straight through or turn left or right unless a sign at such place prohibits either such turn. Vehicular traffic, including vehicles turning left or right, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection of an adjacent crosswalk at the time such signal is exhibited.

Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

Yellow alone or "Caution" when shown following the green or "Go" signal:

Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

Pedestrians facing such signals are thereby advised that there is insufficient time to cross the roadway and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

Red alone or "Stop":

Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone, until a right turn can safely be made, or until a left turn can safely be made from the far left lane if the turn is made from a one-way street onto another one-way street going left. In making such turn vehicular traffic must yield the right-of-way to pedestrians lawfully within the crosswalk and to other traffic lawfully using the intersection. If a traffic sign legend indicating that no right turn on red or no left turn on red may be made after a stop is posted at said intersection, such movement cannot be made until green or "Go" is shown alone.

No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

Red with green arrow:

Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within the crosswalk and to other traffic lawfully using the intersection.

No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their very nature can have no application.

Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made at the signal.

Pedestrian Control Signals. Whenever special pedestrian control signals exhibiting the words "Walk", "Wait", or "Don't Walk" are in place, such signals shall indicate as follows:

Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

Flashing Signals. Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

Flashing red (stop signal). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth herein.

Display of Unauthorized Signs, Signals, or Markings.

It shall be unlawful for any person to place, maintain, or display upon or in view of any highway any unauthorized signs, signals, markings, or devices which purport to be or are an imitation of, or resemble official traffic-control devices or railroad signs, or signals, or which attempt to direct the movement of traffic, or which hide from view or interfere with the effectiveness of any official traffic-control devices or any railroad signs or signals.

It shall be unlawful for any person to place or maintain, or for any public authority to permit upon any highway, any traffic sign or signal bearing thereon any commercial advertising.

This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

The prohibition of this section shall not apply to portable "Caution" signs placed in the vicinity of schools at those times during which school children are going to and coming from school.

Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice.

Interference with Official Traffic-control Devices or Railroad Signs or Signals. It shall be unlawful for any person, without lawful authority, to attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon or any part thereof.

Authority to Establish Play Streets. The chief of police shall have authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating the same.

Play Street. Whenever authorized signs are erected indicating any street or part thereof as a play street, it shall be unlawful for any person to drive a vehicle upon any such street or portion thereof, except drivers of vehicles having business or whose residences are within such closed area and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

Chief of Police to Designate Crosswalks and Establish Safety Zones. The chief of police is hereby authorized:

To designate and maintain crosswalks at intersections by appropriate devices, marks, or lines upon the surface of the roadway, where in his opinion there is particular danger to pedestrians crossing the roadway and at such other places as he may deem necessary.

To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

Traffic Lanes.

The chief of police is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.

Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

10.02.040 Turning Movements

Required Position and Method of Turning at Intersections. The driver of a vehicle intending to turn at an intersection shall do so as follows:

Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

Left turn on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection as nearly as practicable in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

A person making a turn under subsections (a), (b) , or (c) is entitled to the full use of the lane from which the turn may be legally made.

Bicycles making left turns. A person operating a bicycle who intends to turn left shall follow the course described in subsections (b) or (c), or such person shall approach the turn as close as practicable to the right curb or edge of the roadway. After proceeding across the intersecting roadway, the person shall make the turn as close as practicable to the curb or edge of the roadway on the far right side of the intersection. After turning, the person shall yield to through traffic and shall comply with any official traffic-control device or police officer regulating traffic on the roadway along which- he intends to proceed.

Authority to Place and Obedience to Turning Markers.

The chief of police is authorized to place markers, buttons, or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections and such course to be traveled as so indicated may conform to or be other than as prescribed by law.

When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, it shall be unlawful for a driver of a vehicle to disobey the directions of such indicators.

Authority to Place Restricted Turn Signs. The chief of police is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left, or U turn and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted.

Obedience to No-turn Signs. It shall be unlawful for any driver of any vehicle to turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

10.02.050 One-way Streets and Alleys

Authority to Sign One-way Streets and Alleys. Whenever any regulations of this city designate any one-way street or alley, the chief of police shall place and maintain signs giving notice thereof and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

Authority to Restrict Direction of Movement on Streets During Certain Periods.

The chief of police is hereby authorized to determine and designate streets, parts of streets, or specific lanes thereon upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers, or other devices to give notice thereof. The chief of police may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

It shall be unlawful for any person to operate any vehicle violating such markers, signs, barriers, or other devices so placed.

10.02.060 Special Stops Required

Authority to Erect Stop Signs. Whenever any of the laws of the city designate and describe a through street, it shall be the duty of the chief of police to place and maintain a stop sign on each and every street intersecting such through street or intersecting that portion thereof described and designated as such, unless traffic at any such intersection is controlled at all times by traffic-control signals; provided, however, that at the intersection of two such through streets or at the intersection

of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of said streets as may be determined by the chief of police upon the basis of an engineering and traffic survey.

Intersections Where Stop Required. The chief of police is hereby authorized to determine and designate intersections where particular hazards exist upon other than through streets and to determine whether vehicles shall stop at one or more entrances to any such intersection and shall erect a stop sign at every such place where a stop is required; provided said chief of police may, in his discretion, establish "yield right-of-way" signs at such intersections as deemed advisable. Such signs shall indicate that an intersection may be entered without stopping if no vehicles are approaching along the street whereon the yield right-of-way signs control entering traffic.

Signs to Bear the Word "Stop". Every stop sign erected shall bear the word "Stop" in letters not less than eight inches in height and such sign shall at night time be rendered luminous by steady or flashing internal illumination or by a fixed floodlight projected on the face of the sign or by efficient reflecting elements on the face of the sign. Every stop sign shall be located as near as practicable at the nearest line of the crosswalk on the near side of the intersection or at the nearest line of the roadway.

Vehicles to Stop at Stop Signs. When stop signs are erected as herein authorized at or near the entrance to any intersection, every driver of a vehicle shall stop before entering the crosswalk on the near side of the intersection or in the event there is no crosswalk shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection except when directed to proceed by a police officer or traffic-control signal.

Emerging from Alley, Driveway, or Building. The driver of a vehicle within a business or residence district emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway; yielding the right-of-way to any pedestrian as may be necessary to avoid collision and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

Stop When Traffic Obstructed. It shall be unlawful for any driver to enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

Obedience to Signal Indicating Approach of Railroad Train.

Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

a clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

a crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

a railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible from such distance and such train by reason of its speed or nearness to such crossing is an immediate hazard;

an approaching railroad train is plainly visible and is in hazardous proximity of such crossing.

It shall be unlawful for any person to drive any vehicle through, around, or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or is being opened or closed.

10.02.070 Miscellaneous Driving Rules

Following Fire Apparatus Prohibited. It shall be unlawful for any driver of any vehicle other than one on official business to follow any fire apparatus traveling in response to a fire alarm closer than 500 feet, or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

Crossing Fire hose. It shall be unlawful for any person to drive or permit any vehicle to be driven over any unprotected hose of the fire department when laid down on any street or private driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command.

Driving Through Funeral or Other Processions. It shall be unlawful for a driver of any vehicle to drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated.

Drivers in a Procession. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and shall follow the vehicle ahead as closely as is practical and safe.

Funeral Processions to be Identified. A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a

pennant or other identifying insignia or by such other method as may be determined and designated by the chief of police.

When Permits Required for Parades and Processions, It shall be unlawful for any funeral procession or parade containing persons or vehicles to occupy, march, or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth.

Driving on Sidewalks Prohibited. It shall be unlawful for the driver of a vehicle to drive within any sidewalk area except at a permanent or temporary driveway. No vehicle shall be parked within any sidewalk area.

Limitations on Backing. It shall be unlawful for any driver of a vehicle to back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

Riding on Motorcycles. A person operating a motorcycle shall ride only upon a permanent and regular seat attached thereto, and such operator shall not carry any other person, nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons or upon another seat firmly attached to the rear or side of the operator.

Clinging to Vehicles. It shall be unlawful for any person riding upon a bicycle, coaster, roller skates, sleds, or toy vehicles to attach the same or himself to any vehicle upon a roadway.

10.02.080 Public Conveyances

Boarding or Alighting from Vehicles. It shall be unlawful for any person to board or alight from any vehicle while such vehicle is in motion.

Unlawful Riding. It shall be unlawful for any person to ride any vehicle upon any portion thereof not designated or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise.

Railroad Trains Not to Block Streets.

It shall be unlawful for the directing officer or the operator of any railroad train to direct the operation of or to operate the same in such manner as to prevent the use of any street for purposes of travel for a period of time longer than 10 minutes except that this provision shall not apply to trains or cars in motion other than those engaged in switching.

It shall be unlawful for any vehicle to stop within an intersection or a crosswalk for the purpose of receiving or discharging passengers.

Bus Stops.

Authority is vested in the chief of police to designate bus stops at such locations and in such manner and number as may be necessary and of the greatest benefit and convenience to the public. Every such bus stop shall be designated by appropriate signs.

The operator of a bus shall not stop such bus at any place for the purpose of taking on or discharging passengers other than at a bus stop so designated except in case of emergency.

It shall be unlawful for any person to stop, stand, or park a vehicle at an authorized bus stop so designated or between the right curb and any such stop, except that the operator of a passenger vehicle may temporarily stop thereat for the purpose of and while actually engaged in the discharge or the pick-up of passengers then in readiness at the curb.

10.02.090 Pedestrians' Rights and Duties

Pedestrians Subject to Traffic-control Signals. Pedestrians shall be subject to traffic-control signals at intersections, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated herein.

Pedestrian's Right-of-way in Crosswalks.

When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. A pedestrian's right-of-way in a crosswalk is modified under the conditions and as stated herein.

Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

Crossing at Right Angles. It shall be unlawful for any pedestrian to cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb, except in a crosswalk.

Pedestrian's Right-of-way on Sidewalks. The driver of a vehicle crossing a sidewalk shall yield the right-of-way to any pedestrian and all other traffic on the sidewalk.

When Pedestrian Shall Yield.

Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

The foregoing rules have no application under the conditions stated herein when pedestrians are prohibited from crossing at certain designated places.

Prohibited Crossing. Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a crosswalk.

Obedience of Pedestrians to Railroad Signals. It shall be unlawful for a pedestrian to pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or is being opened or closed.

Pedestrians Walking Along Roadway.

Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

Where sidewalks are not provided, any pedestrian walking along or upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

Pedestrians Soliciting Rides or Business.

It shall be unlawful for any person to stand in a roadway for the purpose of soliciting a ride, employment, or business from the occupant of any vehicle.

It shall be unlawful for any person to stand on or in close proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

Drivers to Exercise Due Care. Notwithstanding the foregoing provisions, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

10.02.100 Methods of Parking

Standing or Parking Close to Curb. It shall be unlawful for any person to stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the curb-side wheels of the vehicle within 18 inches of the curb or edge of the roadway.

Permit for Loading or Unloading at Angle to Curb.

The chief of police is authorized to issue special permits for the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle.

It shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit.

Lights on Parked Vehicles.

Whenever a vehicle is lawfully parked at night-time upon any street within a business or residence district, no lights need be displayed upon such parked vehicle.

Whenever a vehicle is parked upon a street or highway outside of a business or residence district during the hours between one-half hour after sunset and one-half hour before sunrise, such vehicle shall be equipped with one or more lamps which shall exhibit a white light on the roadway side visible from a distance of 500 feet to the front of the vehicle and a red light visible from a distance of 500 feet to the rear.

Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.

10.02.110 Stopping, Standing, or Parking Prohibited in Specified Places

Stopping, Standing, or Parking Prohibited.

It shall be unlawful for any person to stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the direction of a police officer or traffic-control device in any of the following places:

on a sidewalk;

in front of a public or private driveway;

within an intersection;

within 15 feet of a fire hydrant;

on a crosswalk;

within 20 feet of a crosswalk at an intersection;

within 30 feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;

between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the chief of police has indicated a different length of a zone by signs or markings;

within 50 feet of the nearest rail of a railroad crossing;

within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly signposted;

alongside or opposite any street excavation when stopping, standing, or parking would obstruct traffic;

on the roadway side of any vehicle stopped or parked at the edge or curb of a street;

upon any bridge or other elevated structure upon a highway or within a highway tunnel;

at any place where official signs prohibit stopping.

It shall be unlawful for any person to move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

Parking Not to Obstruct Traffic. It shall be unlawful for any person to park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for free movement of vehicular traffic.

Parking in Alleys. It shall be unlawful for any person to park a vehicle within an alley in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for the free movement of vehicular traffic, and it shall be unlawful for a person to stop, stand, or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property.

All-night Parking Prohibited. It shall be unlawful for any person to park a vehicle within the business district for a period of time longer than 30 minutes between the hours of 2:00 a.m. and 5:00 a.m. of any day, except physicians on emergency calls.

Parking of Trucks Prohibited in Business District. The parking of trucks and/or truck-trailers is hereby prohibited within the business district.

Parking for Certain Purposes Prohibited. It shall be unlawful for any person to park a vehicle upon any roadway for the principal purpose of:

Displaying such vehicle for sale;

Washing, greasing, or repairing such vehicle, except repairs necessitated by an emergency.

Parking Adjacent to Schools.

The chief of police is hereby authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, it shall be unlawful for any person to park a vehicle in any such designated place.

Parking Prohibited on Narrow Streets.

The chief of police is hereby authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed 20 feet or upon one side of a street as indicated by such signs when the width of the roadway does not exceed 30 feet.

When official signs prohibiting parking are erected upon narrow streets as authorized herein, it shall be unlawful for any person to park a vehicle upon any such street in violation of any such signs.

Standing or Parking on One-way Streets. The chief of police is authorized to erect signs upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles and when such signs are in place, it shall be unlawful for any person to stand or park a vehicle upon such left-hand side of the street.

Standing or Parking on One-way Streets and Roadways. In the event a highway includes two or more separate roadways and traffic is restricted to one direction upon any such roadway, it shall be unlawful for any person to stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are erected to

permit such standing or parking. The chief of police is authorized to determine when standing or parking may be permitted upon the left-hand side of any such one-way roadway and to erect signs giving notice thereof.

No Stopping, Standing, or Parking Near Hazardous or Congested Places.

The chief of police is hereby authorized to determine and designate by proper signs, places not exceeding 100 feet in length in which the stopping, standing, or parking of vehicles would create an especially hazardous condition or would cause unusual delay in traffic.

When official signs are erected at hazardous or congested places as authorized herein, it shall be unlawful for any person to stop, stand, or park a vehicle in any such designated place.

10.02.120 Stopping for Loading or Unloading Only

Chief of Police to Designate Curb Loading Zones. The chief of police is hereby authorized to determine the location of passengers and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable.

Permits for Curb Loading Zones. The chief of police shall not hereafter designate or sign a curb loading zone upon special request of any person unless such person shall make application for a permit for such zone and for two signs to indicate the ends of each such zone. Said permit fee shall be as set and designated by the council.

Standing in Passenger Curb Loading Zone. It shall be unlawful for any person to stop, stand, or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective and then only for a period not to exceed three minutes.

Standing in Freight Curb Loading Zone. It shall be unlawful for any person to stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pick-up and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading or unloading of materials exceed 30 minutes.

Chief of Police to Designate Public Carrier Stop and Stands. The chief of police is hereby authorized and required to establish bus stops, bus stands, taxicab stands and stands for other passenger common-carrier motor vehicles on such public streets in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public, and every such bus stop, bus stand, taxicab stand, or other stand shall be designated by appropriate signs.

Stopping, Standing and Parking of Buses.

The operator of a bus shall not stand or park such vehicle upon any street at any place other than at a bus stand so designated.

The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand, or passenger loading zone so designated, except in case of an emergency.

The operator of a bus shall enter a bus stop, bus stand, or passenger loading zone on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not farther than 18 inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

Restricted Use of Bus Stands. It shall be unlawful for any person to stop, stand, or park a vehicle other than a bus in a bus stop, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus.

10.02.130 Stopping, Standing, or Parking Restricted or Prohibited on Certain Streets

Application of Section. The provisions of this section prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.

Regulations Not Exclusive. The provisions of this chapter imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing, or parking of vehicles in specified places or at specified times.

Parking Signs Required. Whenever any parking time limit is imposed or parking is prohibited on designated streets, it shall be the duty of the chief of police to erect appropriate signs giving notice thereof and such regulations shall not be effective unless said signs are erected and in place at the time of any alleged offense.

10.02.140 Regulating Kinds and Classes on Traffic on Certain Streets

Load Restrictions upon Vehicles Using Certain Streets. When signs are erected by the authority of the council giving notice thereof, it shall be unlawful for any person to operate any vehicle with a gross weight in excess of the amounts specified.

Restrictions upon Use of Streets by Certain Vehicles.

The chief of police is hereby authorized to determine and designate those heavily traveled streets upon which shall be prohibited the use of the roadway by motor-driven cycles, bicycles, horse-drawn vehicles, or other non-motorized traffic and shall erect appropriate signs giving notice thereof.

When signs are so erected giving notice thereof, it shall be unlawful for any person to disobey the restrictions stated on such signs.

10.02.150 Removal of Parked Cars; Costs. If at any time a vehicle is parked in a prohibited place or at a time when parking is prohibited and such vehicle is obstructing the free movement of traffic or is causing a traffic hazard or is directly interfering with the maintenance or care or emergency use of the streets and the person in charge cannot be immediately located, or if located, fails, neglects, or refuses to move said vehicle at once, or where a motor vehicle is parked in a parking meter area and is in violation for a period of one hour, the police department may in its discretion in addition to the penalty provided therefor remove or cause to be removed said vehicle, keeping it in its custody or under its control at such place as may be designated by the police department until the owner or his authorized agent applies for same and has paid a reasonable cost for removing and storing said vehicle, which costs shall be assessed and collected by the police department; and providing said vehicle is redeemed within five days, then said charges shall not exceed the sum of \$5.00. If the vehicle is not redeemed within five days, then said cost of redemption shall be the actual cost and expense of tow-in, plus 50¢ per day for storage and said costs and expenses shall be a lien of the city on said vehicle; provided, that when such motor vehicle is interfering with the maintenance or emergency use of the streets by a proper department of the city, but not otherwise violating this chapter, then the police department may remove said vehicle and care for the same, and may in its discretion deliver the same to the owner without any cost or charge for such removal or storage.

10.02.160 *Removal of Abandoned Motor Vehicles; Charges*

The police department is hereby authorized, in addition to any penalty that may be provided therefor, to remove an unidentified, stolen, wrecked, or abandoned motor vehicle, or other personal property as herein defined, found upon any public street or other property of the city and shall keep the same in its custody and control at such place as may be designated by said police department until redeemed by the owner. All such unidentified, stolen, wrecked, or abandoned motor vehicles or other personal property which now is in the possession of the police department shall be subject to the actual cost of removal or tow-in from the public place and a storage

charge of \$.50 per day as long as the same is in the possession and custody of said department.

"Unidentified Motor Vehicle or Other Personal Property" as used in this chapter is hereby defined to be such motor vehicles or other personal property where ownership thereof cannot be ascertained.

"Stolen Motor Vehicle or Other Personal Property" is hereby defined to be that property which the police department has reasonable grounds to believe to be stolen.

"Abandoned Motor Vehicle or Other Personal Property" is hereby defined to be a motor vehicle or personal property which remains upon the streets or other public property of the city for a period longer than five days, or upon the right-of-way of any public highway for a period longer than 48 hours, the owner of which cannot be located, or if the owner refuses to remove the same.

It shall be unlawful for any owner or any person in charge of a motor vehicle or other personal property to leave or abandon the same upon the streets or public places.

Within 72 hours after any motor vehicle is removed and held by or at the direction of the city police, they shall notify the sheriff of Meagher County that such vehicle was taken into custody and the place where the vehicle is being held. In addition, the city police shall furnish the sheriff a complete description of the vehicle to include year, make, model, serial number and license number if available, any costs incurred to that date in the removal, preservation and custody of the vehicle and any available information concerning ownership.

10.02.170 Removal of Vehicles from Private Property

If at any time a vehicle is parked upon private property without the consent of the owner of such property, the police department is hereby authorized to remove said vehicle therefrom and to cause the same to be stored, providing the owner of such private property has first signed a complaint against the owner or operator of said vehicle.

10.02.180 Enforcement of Lien on Properties Impounded

Any other personal property impounded by the police department and unredeemed by the owner thereof for a period of 60 days shall thereafter be subject to sale by the chief of police to the highest bidder for cash, as hereinafter provided, and the proceeds of said sale shall be applied first to all removal and storage charges accumulated against each article, which shall be deposited with the treasurer and credited with him and shall be kept in a separate fund for a period of one year from the date of receipt and if at the end of said year the former owner of said property

has not made satisfactory proof of claim as hereinafter provided, then the balance of said proceeds of sale shall be credited to the general fund of the city.

10.02.190 Proof of Ownership; Appeal; Redemption after Sale

Any person claiming to be the owner of any impounded personal property shall make written application therefor to the police department and shall furnish such additional proof as may be required to establish said ownership. If he shall present to said department the proof of his ownership of .said impounded property prior to the date of actual sale thereof pursuant to the provisions of this chapter, then the property itself shall be delivered to said owner, but if said property has been sold, then said department shall endorse its findings of ownership with a copy of the written application which application and findings shall be addressed to the clerk, and if presented within one year after said sale, then such balance of the proceeds of the sale after deductions shall be paid to said owner.

Any appeal from the removal, storage and publication costs, if any, assessed by the police department shall be in the same manner as provided by law.

10.02.200 Method of Advertisement and Sale

Whenever the chief of police shall in his discretion decide to offer impounded properties for sale, he shall make a complete and detailed list of said properties to be included in a publication notice of said sale. Said notice of publication of sale shall be published for at least 10 days in a newspaper published in the city. Said bids when received shall be accepted or rejected as to each separate item of property and only cash bids shall be acceptable to the chief of police.

(Ords. 283-302; 3-3-69)

Chapter 10.04 - OPERATION OF VEHICLES

Sections:

10.04.010 Driving Under the Influence Prohibited; Penalty

10.04.020 Reckless Driving; Penalty

10.04.010 Driving Under the Influence Prohibited; Penalty

It is unlawful and punishable as provided herein for any person who is under the influence of:

alcohol to drive or be in actual physical control of a motor vehicle upon the ways of the city open to the public;

a narcotic drug to drive or be in actual physical control of a motor vehicle within the city;

any other drug to a degree which renders him incapable of safely driving a motor vehicle to drive or be in actual physical control of a motor vehicle within the city; or

alcohol and any drug to a degree that renders him incapable of safely driving a motor vehicle to drive or be in actual physical control of a motor vehicle within the city.

The fact that any person charged with a violation of this section is or has been entitled to use alcohol or such a drug under the laws of this state does not constitute a defense against any charge of violating this section.

Any person convicted of a violation of this section shall be punished by imprisonment for not less than 24 consecutive hours or more than 60 days, and shall be punished by a fine of not less than \$100 or more than \$500. The jail sentence may not be suspended unless the judge finds that the imposition of the jail sentence will pose a risk to the defendant's physical or mental well-being.

On a second conviction, he shall be punished by a fine of not less than \$300 or more than \$500 and by imprisonment for not less than 7 days, at least 48 hours of which must be served consecutively, or more than 6 months. Three days of the jail sentence may not be suspended unless the judge finds that the imposition of the jail sentence will pose a risk to the defendant's physical or mental well-being.

On the third or subsequent conviction, he shall be punished by imprisonment for a term of not less than 30 days, at least 48 hours of which must be served consecu-

tively, or more than 1 year, to which may be added, in the discretion of the court, a fine of not less than \$500 or more than \$1,000. Notwithstanding any provision to the contrary providing for suspension of execution of a sentence imposed under this subsection, the imposition or execution of the first 10 days of the jail sentence imposed for a third or subsequent offense that occurred within 5 years of the first offense may not be deferred or suspended.

10.04.020 Reckless Driving; Penalty

It shall be unlawful for any person to:

operate any vehicle in willful or wanton disregard for the safety of persons or property; or

operate any vehicle in willful or wanton disregard for the safety of persons or property while fleeing or attempting to flee from or elude a peace officer who is lawfully in pursuit and whose vehicle is at the time in compliance with the requirements of section 61-9-402, M.C.A.

Any person convicted of a violation of subsection (1) (a) shall be punished upon a first conviction by imprisonment for a period of not more than 90 days or by a fine of not less than \$25 or more than \$300, or by both such fine and imprisonment; and on a second or subsequent conviction shall be punished by imprisonment for not less than 10 days or more than 6 months or by a fine of not less than \$50 or more than \$500, or by both such fine and imprisonment.

Any person convicted of a violation of subsection 1(b) shall be punished by imprisonment for not less than 10 days or more than 6 months to which may be added at the discretion of the court, a fine of not less than \$300 or more than \$500. On a second or subsequent conviction, he shall be punished by imprisonment for a term of not less than 30 days or more than 1 year, to which may be added at the discretion of the court, a fine of not less than \$500 or more than \$1,000.

Chapter 10.06 - PARKING REGULATIONS

Sections:

- 10.06.010 Parking District Designated
- 10.06.020 Time Limitations
- 10.06.030 Specific Vehicle Parking Restrictions
- 10.06.040 Alley Parking Restrictions
- 10.06.050 Parallel Parking
- 10.06.060 Double Parking Prohibited
- 10.06.070 School Zone Created
- 10.06.080 Speed Limit in School Zone
- 10.06.090 Stops Required in School Zone
- 10.06.100 No Parking Areas
- 10.06.100 No Parking Areas
- 10.06.110 Handicap Parking

10.06.010 Parking District Designated

The following shall be and is hereby declared to be an area or district of limited and restricted parking: Tenth Avenue Northwest and Tenth Avenue Southwest from the North boundary of Hampton Street to the South boundary of Houston Street; Hampton Street from Tenth Avenue Northwest to Fifth Avenue Northeast; Houston Street from Tenth Avenue Southwest to Fifth Avenue Southeast; Fifth Avenue Northeast and Fifth Avenue Southeast from the North boundary of Hampton Street to the South boundary of Houston Street.

10.06.020 Time Limitations

It shall be unlawful for any person to park any vehicle on the streets, alleys, or other public property within the limits of the parking district for a period longer than or for aggregate periods longer than 12 hours in any one day.

10.06.030 Specific Vehicle Parking Restrictions

It shall be unlawful for any person to park any vehicle or combination of vehicles attached together on the streets, alleys, or other public property within the limits of the parking district, if the vehicle or combination of vehicles attached together exceed or exceeds 20 feet in overall length, or if the vehicle is a truck which has a

manufacturer's rated capacity in excess of 1½ tons or 3,000 pounds in weight, except while actually loading or unloading passengers or cargo.

10.06.040 Alley Parking Restrictions

It shall be unlawful for any person to park any vehicle in any alleys of the parking district between the hours of 6:00 p.m. and 6:00 a.m. It shall be unlawful for any person to park any vehicle in any alleys of the parking district in such manner as to leave less than 10 feet of unoccupied space for passage of other vehicles.

10.06.050 Parallel Parking

Except when in obedience to traffic regulations or traffic signs or signals, it shall be unlawful to stop, stand, or park any vehicle in any public street or roadway other than parallel with the edge of the street or roadway, headed in the direction of traffic, and with the curb side wheels of the vehicle within 18 inches of the edge of the street or roadway or of the curbing.

10.06.060 Double Parking Prohibited

Double stopping, standing, or parking, except in obedience to traffic signs, traffic regulations, or signals is expressly prohibited and forbidden on all public streets and roadways within the city limits.

10.06.070 School Zone Created

The following portions of the streets of the city are hereby created as a "School Zone": That part of Central Avenue beginning at its intersection with Houston Street, continuing south and ending at its intersection with Crawford Street; the intersection of Crawford Street and Central Avenue; that part of Crawford Street beginning at its intersection with Central Avenue, continuing west and ending at its intersection with Second Avenue Southwest.

10.06.080 Speed Limit in School Zone

On school days, between 8:00 a.m. and 5:00 p.m., it shall be unlawful for any person to travel in a school zone at a speed greater than 15 miles per hour, whether driving a vehicle or otherwise, and School District No. 8 is hereby authorized to place and maintain traffic signs to that effect anywhere in the school zone.

10.06.090 Stops Required in School Zone

It shall be unlawful at all times for any person to drive any vehicle into the school zone without first bringing the vehicle to a complete stop immediately before reaching the school zone, excepting only that vehicles may be driven without stopping into the school zone at speeds not greater than 15 miles per hour where the zone intersects with Houston Street and where the zone intersects with Second Avenue Southwest; the city shall place stop signs at the places where streets

intersect with the school zone and stopping is required, but lack of stop signs at places where alleys intersect with the school zone or at other places shall not detract from the requirement that all vehicles must stop.

10.06.100 No Parking Areas

On school days between 8:00 a.m. and 5:00 p.m., it shall be unlawful for any person to park any vehicle on the west side of Central Avenue between Chilton Street and Crawford Street, or on the north side of Crawford Street between Central Avenue and First Avenue Southwest; either the city or said School District No. 8 may place "No Parking" signs in the school zone to that effect.

10.06.110 Handicap Parking

Definitions.

"Physically handicapped" means one who holds a valid driver's license and owns a motor vehicle, other than a commercial vehicle, and had a permanent physical disability that impairs their mobility when not in a motor vehicle; or regardless of whether they hold a driver's license or own a motor vehicle, have a permanent disability that impairs their driving ability and impairs their mobility when not in a motor vehicle to such an extent that they need to be driven by another person to a destination.

(Amd. Res. 503; 9-11-06)

"Handicapped Parking Stall" means one so designated by the use of the nationally recognized handicapped sign or symbol.

(Amd. Res. 503; 9-11-06)

Parking in designated handicapped stalls.

Pursuant to the provisions of Title 49, Part 3, M.C.A., it is unlawful for anyone to park, stop or stand at a designated handicapped parking stall as defined in this chapter, whether on the public right-of-way or in public parking lots, except those displaying a handicap symbol issued by the Division of Motor Vehicles or other competent jurisdiction.

(Amd. Res. 503; 9-11-06)

Display of handicapped symbol – Privileges.

Handicapped persons, as defined in this chapter, shall be granted the privilege of parking at the designated handicapped locations, as established by the City Council,

subject to all other limitations of this title such as time limit, parking close to the curb, etc., only when the handicapped symbol has been prominently displayed in the windshield of the vehicle.

Exception. The privilege shall not be extended to those persons not disabled, displaying the handicapped symbol while they are not engaged in transporting, delivering or picking up the handicapped.

(Amd. Res. 503; 9-11-06)

Duties of law enforcement.

It shall be the duty of law enforcement to enforce the provision of this chapter, issue citations for the violation thereof, and assist in the prosecution of those persons violating this chapter.

(Amd. Res. 503; 9-11-06)

Duties of other public employees.

The provisions of this chapter apply to the driver of any vehicle owned by or used in the service of the United States Government, the state, the county or the city, and it is unlawful for any driver to violate any of the provisions of this chapter, except those vehicles designated as emergency vehicles.

(Amd. Res. 503; 9-11-06)

Violation – Penalties. Any person violating the provision of this chapter shall upon conviction thereof be punished by a fine of not less than fifteen dollars or more than one hundred dollars.

Chapter 10.08 - BICYCLES

Sections:

- 10.08.010 Traffic Laws Apply to Persons Riding Bicycles
- 10.08.020 Obedience to Traffic Control Devices
- 10.08.030 Riding on Bicycles
- 10.08.040 Speed
- 10.08.050 Emerging from Alley or Driveway
- 10.08.060 Clinging to Vehicles
- 10.08.070 Carrying Articles
- 10.08.080 Parking
- 10.08.090 Lamps and Other Equipment

10.08.010 Traffic Laws Apply to Persons Riding Bicycles

On school days between 8:00 a.m. and 5:00 p.m., it shall be unlawful for any person to park any vehicle on the west side of Central Avenue between Chilton Street and Crawford Street, or on the north side of Crawford Street between Central Avenue and First Avenue Southwest; either the city or said School District No. 8 may place "No Parking" signs in the school zone to that effect.

10.08.020 Obedience to Traffic Control Devices

Any person operating a bicycle shall obey the instructions of official traffic-control signs, signals and other control devices applicable to vehicles, unless otherwise directed by a police officer.

Wherever authorized signs are erected indicating that no right, left, or U turn is permitted, it shall be unlawful for any person operating a bicycle to disobey the direction of any such sign, except when such person dismounts from the bicycle to make such turn in which event such person shall then obey the regulations applicable to pedestrians.

10.08.030 Riding on Bicycles

A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

Persons riding bicycles upon a roadway shall not ride more than two abreast, except on paths or parts of public thoroughfares set aside for the exclusive use of bicycles.

Whenever a usable path for bicycles has been provided adjacent to a public thoroughfare, bicycle riders shall use such path.

10.08.040 Speed

It shall be unlawful for any person to operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

10.08.050 Emerging from Alley or Driveway

The operator of a bicycle emerging from an alley, driveway, or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

10.08.060 Clinging to Vehicles

It shall be unlawful for any person riding upon any bicycle to attach the same or himself to any vehicle upon any public thoroughfare; however, a bicycle trailer or bicycle semitrailer may be attached to a bicycle if that trailer or semitrailer has been designed for such attachment.

10.08.070 Carrying Articles

It shall be unlawful for any person operating a bicycle to carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handle bars.

10.08.080 Parking

It shall be unlawful for any person to park a bicycle on a sidewalk or other such places in such manner as to impede normal and reasonable movement of pedestrians and other traffic.

10.08.090 Lamps and Other Equipment

Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to rear-facing reflectors required by this section.

Every bicycle when in use at nighttime shall be equipped with an essentially colorless front-facing reflector, essentially colorless or amber pedal reflectors, and a red rear-facing reflector. Pedal reflectors shall be mounted on the front and back of each pedal.

Every bicycle when in use at nighttime shall be equipped with either tires with retro-reflective side-walls or reflectors mounted on the spokes of each wheel. Spoke mounted reflectors shall be within 76 millimeters (3 inches) of the inside of the rim and shall be visible on each side of the wheel. The reflectors on the front wheel shall be essentially colorless or amber and the reflectors on the rear wheel shall be amber or red.

Reflectors required by this section shall be of a type approved by the state division of motor vehicles.

Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

Every bicycle is encouraged to be equipped with a flag clearly visible from the rear and suspended not less than 6 feet above the public thoroughfare when the bicycle is standing upright. The flag shall be fluorescent orange in color.

(Ords. 274-282; 3-3-69)

Chapter 10.10 - SNOWMOBILES

Sections:

10.10.010 Regulations of Snowmobiles

10.10.010 Regulation of Snowmobiles

All of Main Street and all of Third Avenue Southwest are closed to the operation of snowmobiles. Crossing of said two streets may occur at a ninety degree angle, but snowmobiles are not to be operated on said streets.

All operators of snowmobiles must possess a valid driver's license to operate snowmobiles on the city streets and alleys.

Operation of snowmobiles must conform to all city ordinances for the governing of traffic or vehicles in addition to the hereinafter set forth regulations.

Snowmobiles may be operated on the designated streets and alleys of the city from six o'clock a.m. to ten o'clock p.m.

In order to operate a vehicle on the city streets and alleys designated for their operation, snowmobiles must be equipped with a muffler and have no noise increasing device such as, but not specifically limited to, a megaphone or straight pipes.

A snowmobile in order to operate on the streets and alleys of the city or those places designated therein must be equipped with a five foot whip antenna and a colored flag of high visibility color.

In order to operate on the city streets and alleys, or those places designated therefor, a snowmobile must be equipped with a lighted headlight and taillight and such items must be employed and in use whenever the vehicle is operating on the streets or alleys in the city.

Said vehicle must be equipped with an operating brake before the same can be operated on the streets and alleys of the city.

No snowmobile may be operated on private property without the permission of the owner of said private property.

Snowmobiles may not be operated on sidewalks or posted areas in the city.

Snowmobiles may not be used for towing with the following exceptions: Any snowmobile can be used to tow an Object, person, or thing, provided said object, person, or thing is towed with a fixed, rigid towing bar of not more than six feet in length.

Snowmobiles may be operated by non-licensed drivers on the city ball park and other designated areas within the city limits, as approved by the school authorities or those other designated areas so approved. This, however, is not to infer that said non-licensed operators shall be allowed to transport said vehicles to their place of use in contradiction to the above-stated statutes to the effect that all drivers must be equipped with a valid driver's license.

(Ord. 318; 11-3-69)

Chapter 10.12 - LICENSES AND LICENSE PLATES

Sections:

10.12.010 Operator's Licenses

10.12.020 License Plates

10.12.010 Operator's Licenses

It shall be unlawful for any person to operate a motor vehicle upon the public thoroughfares of the city unless such person shall have first obtained and received a valid driver's or operator's license issued for the current year.

10.12.020 License Plates

It shall be unlawful for any person to operate a motor vehicle upon the public thoroughfares of the city without having attached to said vehicle a current license plate.

(Ords, 311, 312; 3-3-69)

RESOLUTION #529

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITE SULPHUR SPRINGS SUPPORTING THE PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2008 AND URGING FEDERAL SUPPORT FOR REESTABLISHING PASSENGER RAIL SERVICE THROUGH SOUTHERN MONTANA

WHEREAS, our airports and roadways are severely congested, we face a dwindling supply of oil, and trains are among the most energy efficient way to move people; and

WHEREAS, commercial airline service to many counties and communities in Montana is inadequate and at risk of further reductions and/or ending altogether; and

WHEREAS, we should to take every possible step towards reducing air pollution emissions into our endangered atmosphere; and

WHEREAS, Amtrak was created in 1971 from what remained of the private passenger railroads and has been starved of investment and direction by Congress and several White House administrations; and

WHEREAS, the Empire Builder is the number one long distance passenger train in the United States, with over ninety percent on-time performance, and is greatly needed for the citizens of Montana's Hi-Line who have limited public transportation options; and

WHEREAS, the North Coast Hiawatha ceased operation through southern Montana in 1979, and transportation to and from the major populations centers of southern Montana would be greatly enhanced by passenger rail service; and

WHEREAS, on October 30, 2007, the United States Senate passed S. 294 (cosponsored by Montana Senators Jon Tester and Max Baucus), and on June 11, 2008, the U.S. House of Representatives passed H.R. 6003 (cosponsored by Montana Representative Denny Rehberg)—bills that promote a balanced and environmentally sustainable transportation system that includes intercity passenger rail;

NOW, THEREFORE BE IT RESOLVED, the City Council of White Sulphur Springs, Montana, hereby urge the U.S. House of Representatives and the U.S. Senate to conference on S. 294 and H.R. 6003, bills that will provide common-sense reform to Amtrak and provide operational improvements, authorize Amtrak for fiscal years 2009 to 2013, provide for capital assistance to states as is done with federal highway assistance, provide for the development of state rail plans, and encourage a more cooperative relationship between freight railroads and passenger operations; and

THEREFORE BE IT FURTHER RESOLVED, the City Council of White Sulphur Springs, Montana, hereby urges the House-Senate conference committee to retain in the final version of the Passenger Rail Investment and Improvement Act of 2008 Senator Jon Tester's amendment (#3472) to S. 294 that directs Amtrak to study the feasibility of reestablishing a passenger rail route through southern Montana while retaining Empire Builder service along the Hi-Line; and THEREFORE BE IT FURTHER RESOLVED, the City Council of White Sulphur Springs, Montana hereby urges the President of the United States to sign into law the Passenger Rail Investment and Improvement Act of 2008.

Effective Date.

JULIAN THERIAULT, Mayor

ATTEST: MICHELLE STIDHAM, City Clerk

This resolution was PASSED by the City Council and the City of White Sulphur Springs, Montana, on first reading at a regular session thereof held on the 15th day of November, 2010, and on second reading at a special session thereof, after published notice, the 6th day of December.

JULIAN THERIAULT, Mayor

ATTEST: MICHELLE STIDHAM, City Clerk

APPROVED AS TO FORM:

CINDY E. YOUNKIN, City Attorney

TITLE 11 - FLOOD PLAIN REGULATIONS

Contents:

CHAPTER 11.06 Floodplain Management

Chapter 11.06 - FLOODPLAIN MANAGEMENT

Sections:

- 11.06.010 General Provisions
- 11.06.020 Permit Procedures
- 11.06.030 Administrative Requirements
- 11.06.040 Floodplain Boundary Interpretation
- 11.06.050 Standards
- 11.06.060 Administrative Requirements
- 11.06.070 Violations

11.06.010 General Provisions

Statutory Authorization. The Legislature of the state of Montana has in the Montana Code Annotated, Title 76, Chapters 1 through 5, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the city council of the city of White Sulphur Springs, Montana has adopted the following provisions.

Findings of Fact.

The flood hazard areas of the city of White Sulphur Springs are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and when inadequately protected from flood damage also contribute to the flood loss.

Statement of Purpose. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions. The chapter is designed for the wise planning and development of this community's floodplains to avoid conflict between its citizens need to develop the land and natures need to discharge flood waters. Provisions of this chapter are designed to: 1) protect human life and health, 2) minimize the need of public expenditure for flood control projects, 3) reduce the need for rescue and relief efforts, 4) lessen prolonged business interruptions, 5) minimize public utility and facility damages, 6) maintain a stable tax base, 7) insure potential buyers are

notified when property is in a flood hazard area, and 8) ensure residents of flood hazard areas are responsible for their actions.

Methods of Reducing Flood Losses. In order to limit flood damages in the city of White Sulphur Springs, this chapter has provisions for restricting, prohibiting, or guiding development activities that are subject to flood damage.

Disclaimer. This chapter shall not create liability on the part of any officer or employee thereof, or the Federal Emergency Management Agency for any flood damage that results from reliance on this chapter or any administrative decision lawfully made thereunder.

Definitions.

"Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations located within the area of special flood hazard.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

the overflow of waters, and/or

the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood hazard boundary map" or "flood insurance rate map" means the official map issued by the Federal Emergency Management Agency where areas of special flood hazard are designated as Zone A.

"Lowest floor" means the floor of the lowest enclosed area of a structure including the basement. This means any floor used for living purposes, storage, or recreation and includes any floor that could be converted to such a use.

"Manufactured home" means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. For floodplain management purposes it also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

"Manufactured Home Park or subdivision" means a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

"New construction" means structures for which the "start of construction" commenced on or after May 1, 1989.

"Structure" means a walled and roofed building, including mobile homes and gas or liquid storage tanks above ground.

"Substantial improvements" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

before the improvement or repair is started; or

if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Lands to Which this Chapter Applies. This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city of White Sulphur Springs as identified by the Federal Emergency Management Agency in its flood insurance rate map panel 01 for Community No. 300047 C, dated April 15, 1986. This map is adopted by reference and declared to be a part of this chapter. It is on file at the White Sulphur Springs city hall, P. O. Box 442, White Sulphur Springs, Montana 59645.

11.06.020 Permit Procedures

Permits. Permits shall be required for all proposed structures, placement of manufactured homes, and other development in the community within flood-prone areas. A permit shall also be required for any proposed watercourse alteration or development.

Appointment of Floodplain Administrator. The city council of the city of White Sulphur Springs hereby appoints the city clerk-treasurer to act as the floodplain administrator for the city.

Before construction or development begins within any area of special flood hazard, a permit shall be obtained from the flood-plain administrator.

Contents of the Permit. The permit application may contain the following information:

Plans in duplicate drawn to scale showing:

Location and dimensions of the development site.

Proposed structures: buildings, mobile homes, bridges, culverts, etc. (including existing structures where appropriate).

Placement, number and type of anchors for mobile homes.

Utility connection locations: sewer, water, gas and electric.

Bridge and culvert plans must include hydraulic computations by a registered engineer.

Fill location and dimensions.

Storage of materials,

Drainage facilities.

Watercourse alterations including plan drawings, cross sections and hydraulic computations.

Applicants may be asked to furnish additional information if deemed necessary by the floodplain administrator.

Permit Review. All permit applications shall be reviewed using the best available base flood elevation and floodway data from any federal, state, or other sources until such data have been provided by the Federal Emergency Management Agency: a) assure sites are reasonably safe from flooding; b) determine that all necessary permits have been obtained from those federal, state, or local agencies from which prior approval is required; and c) to determine if the proposed development adversely affects the flood-carrying capacity of a flood-prone area. For the purposes of this chapter, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

If it is determined that there is no adverse effect and the development is not a building, the permit shall be granted without further considerations.

If it is determined that there is an adverse effect, technical justification (i.e., a registered professional engineer) for the proposed development shall be required.

If the proposed development is a building, the provisions of Section 11.06.050 of this chapter shall apply.

Maintain for public inspection all records pertaining to the provisions of this chapter.

11.06.030 Administrative Requirements

Alteration of Watercourses. The floodplain administrator shall:

Notify adjacent communities and the Montana Flood-plain Management Section (DNRC) prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency; and

Require that the flood-carrying capacity is not diminished within the altered or relocated portion of said watercourse; and

Where the watercourse is filled, impounded, dredged, or diverted, or where levees or floodwalls are constructed require that the flood-carrying capacity not be diminished.

Encroachments. Encroachments, including fill, new construction, substantial improvements and other development shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments won't result in any increase in flood levels during occurrence of a base flood discharge.

11.06.040 Floodplain Boundary Interpretation

The floodplain administrator shall make interpretations where needed as to the exact location of the Zone A floodplain boundary when there is a conflict between a mapped boundary and actual field conditions.

11.06.050 Standards

General Standards. In all areas of special flood hazards, the following standards are required:

Anchoring.

All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.

All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

Construction Materials and Methods. All new construction and substantial improvements shall be constructed using methods, materials and utility equipment that resist or minimize flood damage.

Utilities.

All electrical, heating, ventilating, plumbing, air conditioning and other service facilities shall be designed and located to prevent water from entering or accumulating within the components during flooding conditions.

All new and replacement water supply systems and sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the system. Sanitary sewer systems shall be designed to minimize or eliminate discharge into floodwaters.

On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Subdivision Proposals.

All proposed subdivisions, manufactured home parks and subdivisions and other developments shall be consistent with the need to minimize flood damage.

All proposed subdivisions, manufactured home-parks and subdivisions and other developments shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

All proposed subdivisions, manufactured home parks and subdivisions and other developments shall have adequate drainage provided to reduce exposure to flood damage.

Base flood elevation data shall be provided for proposed subdivisions, manufactured home parks and subdivisions and other developments which contain at least 50 lots or 5 acres (whichever is less).

Specific Standards. Where base flood elevation and floodway data have been provided, the standards below are required. If data have not been provided, the

floodplain administrator must use judgment and be guided by the mapped 100-year flood boundaries, past flood accounts described in newspapers, photos, eyewitness accounts, or by high water marks on buildings, telephone poles, bridges, or other structures. The floodplain administrator, wherever possible, should designate the base flood elevations. If the base flood elevations can be established, the following standards would then be required:

Residential Construction.

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.

Manufactured homes shall be placed so that the lowest floor is at least to or above the base flood elevation.

Nonresidential Construction. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the base flood elevation or, together with attendant utility and sanitary facilities, shall:

be flood-proofed so that to or above the base flood elevation level the structure is watertight with walls substantially impermeable to the passage of water;

have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the responsible person as set forth in Section 11.06.060.

fully enclosed areas below the lowest floor subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet the following minimum criteria:

a minimum of two openings having a total net area of not less than one square foot of enclosed area subject to flooding shall be provided;

the bottom of all openings shall be no higher than one foot above grade;

openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

A registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and certify that the design and methods of construction are in accordance with accepted standards of practice. The engineer or architect shall also certify that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in Section 11.06.060 (1).

11.06.060 Administrative Requirements

Information to be Obtained and Maintained. The floodplain administrator shall:

Maintain for public inspection all records pertaining to the provisions of this chapter. Where the flood-plain administrator has utilized available base flood elevation data or determined base flood depths and applied the specific standards, the following is required:

For new or substantially improved residential structures and manufactured homes:

obtain and record the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures; and

record whether or not the structure contains a basement.

For all new or substantially improved nonresidential structures:

obtain and record the actual elevation (in relation to mean sea level) to which the structure has been flood-proofed; and

maintain the flood-proofing certifications required in Section 11.06.050 (2)(b)(iii) and (v).

11.06.070 Violations

Penalties for Violations.

Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be punished by a fine not exceeding \$100.00 or by imprisonment not to exceed 10 days or by both such fine and imprisonment for each such offense, and in addition shall pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the mayor from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 350; 5-1-89, Ord. 325; 7-13-81)

TITLE 12 - STREETS AND SIDEWALKS

Contents:

CHAPTER 12.02	Sidewalks
CHAPTER 12.04	Removal of Snow and/or Ice
CHAPTER 12.06	Sidewalk Obstructions

Chapter 12.02 - SIDEWALKS

Sections:

- 12.02.010 Supervision for Construction
- 12.02.020 Approval Required
- 12.02.030 Costs Borne by Property Owner
- 12.02.040 Procedure Prior to Construction
- 12.02.050 Conformance with Official Grade
- 12.02.060 Dimensions for Width
- 12.02.070 Resolution Adopting Standard Plans
- 12.02.080 Council to Approve Materials
- 12.02.090 Property Owner to Maintain

12.02.010 Supervision for Construction

All sidewalks, crosswalks and curb stones laid and constructed within the city limits shall be laid in accordance herewith and under the direction and supervision of such persons as the city council shall designate.

12.02.020 Approval Required

No sidewalks, crosswalks, or curb stones shall be laid except by direction or with the approval of the city council.

12.02.030 Costs Borne by Property Owner

The entire cost of such work shall be borne by the owner of the property adjoining, or the district assessed as by law provided, within which the work shall be located.

12.02.040 Procedure Prior to Construction

The procedure preliminary to the construction of any sidewalks, crosswalks, or curb stones shall be as follows:

A property owner may of his own volition proceed with the construction of sidewalks, crosswalks, or curb stones after having received permission therefor from the council.

The council may of its own initiative, or by petition from the property owner affected, order the construction of such sidewalks, crosswalks, or curb stones, as the public safety and convenience may require, proceeding therein in the manner prescribed by law.

The council of its own initiative or by petition from the property owner affected creates a special improvement district for the purpose of carrying out said construction, and proceeding therein in the manner prescribed by law.

12.02.050 Conformance with Official Grade

All sidewalks, crosswalks and curb stones shall be laid to conform with the official grade as established, or as to be established and recorded by resolution in the minutes of the council.

12.02.060 Dimensions for Width

The width dimensions of all sidewalks, crosswalks and curbs stones to be laid, as well as position relative to property lines and to each other, shall be fixed by resolution of the council and recorded in the minutes thereof.

12.02.070 Resolution Adopting Standard Plans

The council shall by resolution adopt certain plans to be designated as "Standard Plans", and certain specifications to be designated as "Standard Specifications", regulating and governing the construction of all work hereinafter mentioned, and to which all said work shall conform.

12.02.080 Council to Approve Materials

In ordering and directing the construction of any of the work herein mentioned, or in granting the petition of any property owner for the construction of his own work, the council shall designate the kind of materials to be used.

12.02.090 Property Owner to Maintain

All sidewalks and curb stones shall be maintained in a good condition at the expense of the property owner adjoining, and when in the opinion of the council the best interest of all concerned would be improved, they may order the removal of any old work and reconstruction with new as hereinbefore provided, and designating in said order the kind or kinds of material to be used.

(Ords. 255-263; 3-3-69)

Chapter 12.04 - REMOVAL OF SNOW AND/OR ICE

Sections:

12.04.010 Removal of Snow and/or Ice

12.04.020 Notice be Given

12.04.030 Removal by City

12.04.010 Removal of Snow and/or Ice

It shall be the duty of the owner or tenant of any premises abutting or adjoining any public sidewalk to remove all snow and /or ice from such sidewalk.

12.04.020 Notice be Given

It shall be the duty of the city to give notice to any owner or tenant of any such premises to remove snow and/or ice, which notice shall be sent by registered mail to the last known address of such owner, tenant, or occupant; the tenant or owner shall have not more than 24 hours from and after receipt of such notice within which to remove the snow and/or ice as set forth in said notice.

12.04.030 Removal by City

Upon failure of an owner or tenant to comply with the provisions of this chapter, the city shall have the right to remove such snow and/or ice and assess the cost thereof against the premises abutting the sidewalk. Such assessment is to be certified to the county assessor or other proper county official having charge of the making of the assessment roll and such charge shall be placed on the assessment roll and collected in the same manner as other city taxes are collected.

(Ords. 271-273; 3-3-69)

Chapter 12.06 - SIDEWALK OBSTRUCTIONS

Sections:

- 12.06.010 Obstructing Sidewalks Prohibited
- 12.06.020 Enforcement; Permits
- 12.06.030 Removal of Obstructions

12.06.010 Obstructing Sidewalks Prohibited

Except as provided in Chapter 10.06 of this code, and as otherwise hereinafter provided, it shall be unlawful to obstruct city streets, including sidewalk areas of streets, by the parking of vehicles or by placing therein any materials in order to store the same, or for any purpose not incidental to the transportation thereof. Sidewalk areas within the intent and meaning of this chapter are strips of land forming parts of city streets as established -by official plats and records, being six feet in width as measured from lot lines of lands abutting on streets toward the centerline of streets. Main Street is excepted from the foregoing definitions.

12.06.020 Enforcement; Permits

The Streets and Alleys Committee of the council shall have supervision of all streets, including sidewalk areas, and shall be charged with the enforcement of this chapter. The committee may, in the administration of this chapter, authorize uses of streets in industrial and business sections of the city which would otherwise be unlawful whenever, in the opinion of the committee, it is in the public interest to do so. Such authorization shall be given only by written permit, for business purposes deemed nonhazardous to public health and safety and shall, in every instance, be evidenced by a written permit to be issued under the authority of the committee, wherein shall be stated the name of the person to whom the permit is issued, the purpose for which it is given and the expiration date thereof.

12.06.030 Removal of Obstructions

Whenever it shall come to the attention of the Streets and Alleys Committee that there exists an obstruction of the public ways in violation of the provisions of this chapter, the committee shall cause written notice to be given to the owner or occupant of the abutting premises, describing the obstruction and demanding the removal of same within a reasonable time, to be stated in the notice. If the obstruction be not removed within the time limited by the notice, or in case the owner or occupant or other person responsible for creating the obstruction cannot be found, the committee may cause it to be removed to the city dump or impounded. Whenever, in the opinion of the committee, circumstances warrant, the creation or maintenance of an obstruction in violation of this chapter may be prosecuted.

(Ords. 93, 94, 95; 12-2-68)

TITLE 13 - RESERVED

TITLE 14 - PUBLIC WAYS AND PROPERTY

Contents:

CHAPTER 14.02 TREES

Chapter 14.02 - TREES

Sections:

- 14.02.010 Definitions
- 14.02.020 Duties and Responsibilities
- 14.02.030 Tree Species to be Planted
- 14.02.040 Spacing
- 14.02.050 Distance from Curb and Sidewalk
- 14.02.060 Distance from Street Corners and Fireplugs
- 14.02.070 Utilities
- 14.02.080 Public Tree Care
- 14.02.090 Pruning Standards
- 14.02.100 Tree Topping
- 14.02.110 Pruning and Corner Clearance
- 14.02.120 Dead or Diseased Tree Removal on Private Property
- 14.02.130 Removal of Stumps
- 14.02.140 Protection of Trees
- 14.02.150 Interference with City
- 14.02.160 Arborists License and Bond
- 14.02.170 Hedges and Shrubbery
- 14.02.180 Injury to Trees or Shrubbery
- 14.02.190 Review by City Council
- 14.02.200 Penalty

14.02.010 Definitions

Street Trees: Street trees are herein defined as trees, shrubs, bushes, and all other woody vegetation on public right-of-way lying between property lines on either side of all streets, avenues, or ways within the City.

Park Trees: Park trees are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

(New Res. 492; 2-3-03)

14.02.020 Duties and Responsibilities

It shall be the responsibility of the City Council to study, investigate, counsel, develop and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be reviewed annually by the City Council and upon approval shall constitute the official comprehensive city tree plan.

The City Council shall promote and supervise the establishment of a tree inventory for Street and Park Trees. The inventory shall be updated with the results of ground inspections every three years.

(New Res. 492; 2-3-03)

14.02.030 Tree Species to be Planted

The White Sulphur Springs City Council develops and maintains a list of desirable trees for planting along streets in three size classes based on mature height: small (under 20 feet), medium (20 to 40 feet) and large (over 40 feet). Efforts shall be made to ensure a sufficient diversity of tree species. Lists of trees not suitable for planting will also be created by the City Council.

(New Res. 492; 2-3-03)

14.02.040 Spacing

The spacing of street trees will be in accordance with the three species size classes listed in Section 14.02.030 of this ordinance, and no trees may be planted closer together than the following: small trees-15 feet; medium trees-25 feet; and large trees-35 feet; except in special plantings designed or approved by a landscape architect.

(New Res. 492; 2-3-03)

14.02.050 Distance from Curb and Sidewalk

The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed in Section 14.02.030 of this ordinance, and no trees may be planted closer than 2 feet for small trees and 3 feet for medium or large trees to any curb or sidewalk.

(New Res. 492; 2-3-03)

14.02.060 Distance from Street Corners and Fireplugs

No street tree shall be planted within 35 feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted within 10 feet of any fireplug.

(New Res. 492; 2-3-03)

14.02.070 Utilities

No street trees other than those species accepted as small trees by the City Council may be planted under, or within 10 feet of, any fireplug.

(New Res. 492; 2-3-03)

14.02.080 Public Tree Care. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The City Council may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect, or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with Sections 14.02.030 through 14.02.070 of this ordinance.

(New Res. 492; 2-3-03)

14.02.090 Pruning Standards

All tree pruning on public property shall conform to reasonable and customary standards for tree care operations.

(New Res. 492; 2-3-03)

14.02.100 Tree Topping

It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Crown reduction by a qualified arborist may be substituted, where appropriate. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the City Council.

(New Res. 492; 2-3-03)

14.02.110 Pruning and Corner Clearance

Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not severely obstruct the light from any street: lamp or obstruct the view of any street intersection and so that there shall be a clear space of thirteen feet (13') above street surface or eight feet (81) above the sidewalk surface. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on

private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign or sight triangle at intersections.

Tree limbs that grow near high voltage electrical conductors shall be maintained clear of such conductors by the electric utility company in compliance with any applicable franchise agreements. A utility tree trimming policy must be reviewed by the utility company and City Council prior to any trimming by the utility company. (Ords. 267-270; 3-3-69, New Res. 492; 2-3-03)

14.02.120 Dead or Diseased Tree Removal on Private Property

The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease, which constitute a potential threat to other trees within the city. The City Council will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice. (New Res. 492; 2-3-03)

14.02.130 Removal of Stumps

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (New Res. 492; 2-3-03)

14.02.140 Protection of Trees

In order to maintain the overall forest, reasonable efforts shall be made to replace trees that are removed and to protect quality trees that are endangered. Trees removed by decision of the City Council or by natural causes shall be replaced somewhere in the forest on a one-for-one basis within one year. The location and species of any replacement tree shall be determined by the City Council. Trees of desirable species and good health shall be protected as much as possible from damage during construction, sidewalk repair, utilities work above and below ground, and other similar activities. The zone of protection shall include the ground beneath the canopy of the tree. (New Res. 492; 2-3-03)

14.02.150 Interference with City

It shall be unlawful for any person to prevent, delay or interfere with the City Council, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this ordinance. (New Res. 492; 2-3-03)

14.02.160 Arborists License and Bond

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first applying for and procuring a license. The license fee shall be \$25 annually in advance; provided, however, that no license shall be required of any public service company including electric utilities and their agents and contractors or city employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$300,000 for bodily injury and \$100,000 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described. Insurance amounts may vary in different states.

(New Res. 492; 2-3-03)

14.02.170 Hedges and Shrubbery

Any owner or occupant of any real property shall maintain all hedges and shrubbery adjacent to public sidewalks so that no part of said hedges and/or shrubbery shall extend over any part of a public sidewalk in the city.

(Ords. 267-270; 3-3-69, New Res. 492; 2-3-03)

14.02.180 Injury to Trees or Shrubbery

It is hereby declared unlawful for any person, not the owner thereof, or without lawful authority so to do, to willfully injure, deface, disfigure, or destroy any tree or shrub, or to injure, destroy, cut, or pick any flower or plant located either on private ground or on any public place or thoroughfare.

(Ords. 267-270; 3-3-69, New Res. 492; 2-3-03)

14.02.190 Review by City Council

Any person may appeal any ruling or order concerning trees to the City Council, who may hear the matter and make final decisions.

(Ords. 267-270; 3-3-69, New Res. 492; 2-3-03)

14.02.200 Penalty

Any person violating any provision of this ordinance shall be, upon conviction or a plea of guilty, subject to a fine not to exceed \$1,000.

(New Res. 492; 2-3-03)

TITLE 15 - BUILDING AND CONSTRUCTION

Contents:

CHAPTER 15.02	Fire Limits
CHAPTER 15.04	Building Permits
CHAPTER 15.06	Special Improvements
CHAPTER 15.10	Uniform Fire Code

Chapter 15.02 - FIRE LIMITS

Sections:

15.02.010 Fire Limits

15.02.010 Fire Limits

The following shall be and are hereby declared to be the fire limits of the city:
Beginning at the northeasterly corner of Lot 19, Block 31 of the Higgins Addition to the City of White Sulphur Springs; thence running northerly along the easterly boundary of the City of White Sulphur Springs to the southwesterly corner of Lot 7, Block 23 of the Wellman Addition to the City of White Sulphur Springs; running thence westerly along the northerly boundary of Hampton Street to the southwesterly corner of Lot 3, Block 53 of the Parberry Townsite of the City of White Sulphur Springs; running thence southerly along the easterly boundary of Tenth Avenue Northwest and Tenth Avenue Southwest to the northwesterly corner of Lot 2 in Block 66 of said Parberry Townsite; running thence easterly along the southerly boundary of Houston Street to the point of beginning.
(Ord. 240; 2-3-69)

Chapter 15.04 - BUILDING PERMITS

Sections:

- 15.04.010 Applications
- 15.04.020 Disposition and Acceptance of Application
- 15.04.030 Fees and Penalty

15.04.010 Applications

Any person being the owner in fee simple of real property located within the city and subject to assessment for a payment of city taxes who desires to make an improvement thereto with the addition of a physical structure located thereon shall file in the office of the City Clerk an application in writing for a building permit stating as follows:

The full name of the applicant or applicants if more than one owner in fee simple of the real property upon which improvements in the form of structures are to be made which property shall be described with lot and block location within city limits.

If any liens or encumbrances are on the title of the subject real property (B) the nature and extent of the proposed improvement and the exact location upon the property which improvement is to be placed, the time construction is to commence, and the estimated time when construction is to be completed.

15.04.020 Disposition and Acceptance of Application

Each application for a building permit shall be referred to the City Council at the next regular meeting thereof or at such later meeting as the Council may direct. The Council shall either accept the application and grant a building permit or it may reject the same. (Acceptance shall require that any structural improvement to the property shall not encroach upon or be located within any city property, including but not limited to city streets, alleys, water lines, or sewer lines. In the event any such application reflects an encroachment of the above noted city facilities, the application shall be rejected until such time as the applicant can modify his or her plans to eliminate any encroachment upon a city facility.)

15.04.030 Fees and Penalty

Any person applying for a building permit to place a structure on his or her property located within the city limits of the City of White Sulphur Springs shall file the application for which there is no charge. Failure to apply and receive a building permit shall result in a fine consistent with Chapter 1.16 of this code.

Chapter 15.06 - SPECIAL IMPROVEMENTS

Sections:

- 15.06.010 Application
- 15.06.020 Disposition of Application
- 15.06.030 Acceptance

15.06.010 Application

Any person being the owner, in fee simple, of real property located within the city and subject to assessment for the payment of city taxes, who desires to make an improvement thereto for the purpose of securing a water supply, sewer facilities, or of any other nature falling within the classifications of improvements for which the organization of special improvement districts is authorized by statute, shall file in the office of the city clerk an application in writing which shall state the following:

The full name of the applicant and that he is the sole owner, in fee simple, of the real property to be benefitted by the proposed improvement, which property shall be described with the certainty required for recording title.

Liens and encumbrances, if any, upon the real property which is the subject of the application.

Nature and extent of the proposed special improvement, estimated total cost of same, proportion of total cost which applicant would pay the city, on or before commencement of the work, in case it is contemplated that the work shall be done by the city under superintendence of its employees; and in case it is contemplated that the work shall be done by the applicant's employees, including the necessary engineering service, subject to approval and acceptance by the city, then and in that event, the application shall state the name of the proposed engineer and the proportion of total cost which applicant would want the city to pay. In every application by the terms of which the city would be required to finance the improvement, either which payment would be deferred shall be stated.

In part consideration for the financing of the cost of said improvement by the city, either in whole or in part, applicant will enter into contract with the city, obligating himself to make promptly any and all deferred payments of expenses which may be incurred by the city in connection with such improvements, and agreeing that the city shall be entitled to a lien upon the real property to be benefitted by such improvements to secure such deferred payments.

(Ords. 149, 150, 151; 1-6-69)

15.06.020 Disposition of Application

Each such application shall be referred to the council, at the next regular meeting thereof, or at such later meeting as the council may direct, and the council shall either accept or reject the same. Acceptance may be qualified and conditional. The clerk shall forthwith notify the applicant, by letter, of the action taken by the council, and if acceptance of the application be qualified, shall require the applicant to return a written acceptance of the qualifications within a stated number of days. If applicant, in such case, shall not make written acceptance of the qualifications within the time stated in the notice, his application shall be deemed abandoned. (Ords. 149, 150, 151; 1-6-69)

15.06.030 Acceptance

Upon acceptance by the city of an application made as herein provided, a contract shall be made and entered into between the city and the applicant, in writing, to be executed on behalf of the city by the mayor, upon approval as to form by the city attorney, and to be executed and acknowledged by the applicant, which contract shall fully state the agreement of the parties relative to the special improvements to be made, and in event that there shall be a financing of expense by the city, the contract shall set out a schedule of deferred payments to be made, with interest from completion of the work, for which special assessments shall be levied against the property to be benefitted; and the contract shall be recorded in the office of the county clerk and recorder. (Ords. 149, 150, 151; 1-6-69)

Chapter 5.10 - UNIFORM FIRE CODE

Sections:

- 15.10.010 Adoption of Uniform Fire Code
- 15.10.020 Establishment of Limits of Districts in which Storage of Flammable or Combustible Liquids in Outside Aboveground Tanks Prohibited
- 15.10.030 Establishment of Limits in which Bulk Storage of Liquefied Petroleum Gas Restricted
- 15.10.040 Establishment of Limits of Districts in which Storage of Explosives and Blasting Agents Prohibited
- 15.10.050 Appeals
- 15.10.060 Penalties

5.10.010 Adoption of Uniform Fire Code

There is hereby adopted by the city that certain Code known as the Uniform Fire Code, recommended by the Western Fire Chiefs Association and the International Conference of Building Officials, being particularly the 1973 edition thereof and the whole thereof, of which Code not less than three copies have been and now are filed in the office of the city clerk, and at the same time are hereby adopted and incorporated as if fully set out at length herein; and from August 6, 1976 the provisions thereof shall be controlling within the limits of the city.
(Ord. 320; 8-2-76)

15.10.020 Establishment of Limits of Districts in which Storage of Flammable or Combustible Liquids in Outside Aboveground Tanks Prohibited.

The limits referred to in Section 15.201 of the Uniform Fire Code in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited are hereby established as the Fire Limits as set forth in section 15.02.010 of this Code.

The limits referred to in Section 15.601 of the Uniform Fire Code in which new plants for flammable or combustible liquids are prohibited are hereby established as the Fire Limits as set forth in section 15.02.010 of this Code.

(Ord. 320; 8-2-76)

15.10.030 Establishment of Limits in which Bulk Storage of Liquefied Petroleum Gas Restricted

The limits referred to in Section 20.105(a) of the Uniform Fire Code in which bulk storage of liquefied petroleum gas is restricted are hereby established as the Fire Limits set forth in section 15.02.010 of this Code.

(Ord. 320; 8-2-76)

15.10.040 Establishment of Limits of Districts in which Storage of Explosives and Blasting Agents Prohibited

The limits referred to in Section 11.106(b) of the Uniform Fire Code in which storage of explosives and blasting agents is prohibited are hereby established as the Fire Limits set forth in section 15.02.010 of this Code.

(Ord. 320; 8-2-76)

15.10.050 Appeals

Whenever the fire chief shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the Uniform Fire Code do not apply, or that the true intent and meaning of the Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief to the city council within 30 days from the date of the decision appealed.

(Ord. 320; 8-2-76)

15.10.060 Penalties

Any person who shall violate any of the provisions of the Uniform Fire Code hereby adopted, or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city council, or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively be guilty of a misdemeanor, punishable as set forth in section 1.16.010 of this Municipal Code. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

(Ord. 320; 8-2-76)