

ORDINANCE NUMBER 3492

An ordinance of the Missoula City Council generally amending Missoula Municipal Code Titles 1 through 20 to change the composition of the Public Works Department and to change references to personnel throughout Municipal Code to reflect the reassignment of certain duties and functions formerly performed in the Public Works Department to Development Services beginning January 1, 2013.

Be it ordained by the Missoula City Council that Titles 1 through 20 be amended as follows:

2.10.010 Composition. The public works department of the city shall consist of a public works director, assistant public works director, and various divisions consisting of the streets division, sewer facilities division, vehicle maintenance division, and other divisions as determined by the city council.

2.10.020 Director of public works--Duties generally.

A. The director of public works shall manage and have charge of repair and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts, and other public highways; of watercourses; of boulevards, squares and other public places and grounds belonging to the city or dedicated to public use, except parks and playgrounds and buildings not part of the department. The Director shall coordinate with the Development Services Director to implement construction and improvement projects and the making and preservation of all surveys, maps, plans, drawings, and estimates for Public Works and Development Services. The Public Works Director shall manage sewage collection and disposal facilities and all public utilities of the city. They shall have charge of the cleaning, sprinkling, and lighting of streets and public places; and the preservation of contracts, papers, plans, tools and appliances belonging to the city and pertaining to the department.

2.10.030 Repealed.

2.10.040 Repealed.[Codifier's note: In 2012, this section was repealed and recodified as Section 2.11.050

5.70.020 License--Generally.

- A. Any person desiring to obtain such a license shall make application to the City Treasurer and shall accompany such application with an acceptable bond in the sum of twenty-thousand dollars (\$20,000), which shall indemnify the City against damages to thoroughfares, and shall also submit a property damage and personal liability insurance policy containing the coverage and policy limits required for building contractors pursuant to this title..
- B. Upon presentation of such application, bond and policy or policies, the City Treasurer, in consultation with the Building Official, Public Works Director and City Engineer, shall examine the qualifications and equipment of the applicant and shall either approve, conditionally approve or disapprove the application. In the event the application is approved or conditionally approved, the City Treasurer shall issue the license. Any conditions to which the license may be subject shall be written to the license. In the event the application is disapproved, the City Treasurer shall not issue the license; provided, however, the applicant may within forty five days of the disapproval appeal to the City Council. The City Council may affirm the decision of the Building Official, Public Works Director and City Engineer or modify the decision in any manner.

5.80.070 Systems construction, street work and technical performance standards.

- A. Standards. Standards of cable communications system(s) design, construction, safety and operation will meet, but not be limited to, all applicable city, state and national/federal codes, rules, regulations and specifications referenced and/or set forth in this chapter and the franchise agreement, including those documents incorporated therein by reference.

B. Compatibility. All cable communications systems authorized to be constructed and/or operated pursuant to this chapter shall be, insofar as financially and technically feasible, compatible one with another.

C. General Construction.

1. The franchisee may perform all construction necessary for the operation of its cable system, subject to applicable regulations of the city. All construction and maintenance of any and all facilities within the streets and public ways incident to the franchisee's cable system shall, regardless of who performs the construction, be and remain the franchisee's responsibility.
2. Failure on the part of the franchisee to commence and diligently pursue each of the system construction, extension and/or upgrade requirements, and to complete each of such matters as set forth in the franchisee's franchise agreement, except as otherwise provided for in said franchise agreement, shall be grounds for termination of such franchise. By resolution and order, the council shall extend the time for the commencement and completion of construction, extension and/or upgrade for additional periods in the event the franchisee, acting in good faith, experiences delays by reason of circumstances beyond his control.
3. The franchisee shall utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different or additional poles, conduits or other facilities whether on public property or on privately owned property unless and until first securing the written approval of the city's Director of Development Services.
4. In all sections of the city where wires, cables and other system appurtenances are mounted above ground, every reasonable effort shall be made to minimize obstruction of the view of residents and every reasonable effort shall be made to preclude an unsightly system installation.

D. Conditions on Street Occupancy.

1. In accordance with subsection E of this section, any pavements, sidewalks, curbing or other paved area taken up or any excavations made by a franchisee shall be done under permits issued for the work by proper officials of the city, and under their supervision and direction, and shall be done in such a manner as to give the least inconvenience to the inhabitants of the city. The franchisee shall, at its own cost and expense, and in a manner approved by the city's director of Development Services, replace and restore any such pavements, sidewalks, curbing or other paved areas in as good a condition as before the work involving such disturbance was done, and shall also make and keep full and complete plats, maps and records, as set forth in subsection L of this section, showing the exact locations of its facilities located within the public streets, ways and easements of the city. These maps shall be available for inspection at any time during normal business hours by city officials.
2. Upon any failure of the franchisee to commence, pursue or complete any work required of it by law or by the provisions of a franchise to be done in any street, the city council, at its option and according to law, after reasonable notice from the city to the franchisee, may cause such work to be done and the franchisee shall pay to the city the cost thereof in the itemized amounts reported by the council to the franchisee, within thirty days after receipt of such itemized report.
3. In the event that any part of such system has been installed in any street or other area without complying with the requirements hereof and/or the franchise agreement; or the use of any part of the system of the franchisee is discontinued for any reason for a continuous period of thirty days, without prior written notice to and approval by the city; or any franchise shall be terminated, canceled or shall expire, then the franchisee shall, at the option of the city, and at the expense of the franchisee and at no expense to the city, upon demand of the city, promptly remove from any streets or other area all property of the franchisee and the franchisee shall

promptly restore the street or other area from which such property has been removed to such condition as the city director of Development Services shall approve.

4. The franchisee shall, on the request of any person holding a building moving permit issued by the city, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting same, and the franchisee shall have the authority to require such payment in advance. The franchisee shall be given not less than ten calendar days advance written notice of any requested arrangement for such temporary wire changes.
 5. Whenever in the judgment of the city it is deemed impracticable to permit erection of poles or construction of underground conduit system by any utility which may at the time have authority to construct or maintain a conduit or poles in street area, the city may require the franchisee to afford to such utility the right to use such poles or facilities of the franchisee as the city finds practicable in common with the franchisee, both as they may agree upon, so long as the use of such poles or facilities do not interfere with the franchisee's present and future use of such poles or facilities.
- E. Permits. The franchisee shall apply for and obtain all permits necessary or construction or installation of any facilities, and for excavating and laying any facilities, within the streets and public ways, and shall pay all applicable fees upon issuance of the requisite construction permits by the city to the franchisee. In the event that emergency repairs are necessary, the franchisee shall immediately notify the city of the need for such repairs. The franchisee may initiate such emergency repairs, and shall apply for appropriate permits within forty-eight hours after discovery of the emergency. The franchisee shall comply with all applicable city regulations relating to such excavations or construction, including the payment of permit or license fees.
- F. Excavations.
1. The franchisee may make excavations in the streets and public ways for any facility needed for the maintenance or extension of the franchisee's cable system. The franchisee's cable system shall be constructed and maintained in such manner as not to interfere with sewers, water pipes or any other property of the city, or with any other pipes, wires, conduits, structures or other facilities that may have been laid in the streets by or under the city's authority. Prior to doing such work, the franchisee shall apply for, and obtain, appropriate permits from the city and give appropriate notices to any other franchisees, licensees or permittees of the city, or departments of the city, or other units of government owning or maintaining pipes, wires, conduits or other facilities which may be affected by the proposed excavation. Within forty-eight hours after any city department or any city franchisee, licensee or permittee notifies the franchisee of a proposed street excavation, the franchisee shall: mark all of its locatable underground facilities within the area of proposed excavation; notify the excavator of any locatable underground facilities in the area of the proposed excavation; or, notify the excavator that the franchisee does not have any underground facilities in the vicinity of the proposed excavation. All of the franchisee's work under this section shall be done in strict compliance with all rules, regulations and ordinances of the city, including the proper safeguarding of excavations for the prevention of accidents.
 2. Nothing in the franchise shall prevent the city from constructing sewers; grading, paving, repairing and/or altering any street or public way; laying down, repairing or removing water mains; or, constructing or establishing any other public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of the franchisee's cable system. However, if any of the franchisee's system interferes with the construction or repair of any street or public improvement, including construction, repair or removal of a sewer or water main, the franchisee's system shall be removed or replaced in accordance with the provisions of subsection I of this section.
- G. Underground Facilities.

1. Unless otherwise authorized by council, in those areas and portions of the city where the transmission and/or distribution facilities of the public utility providing telephone service, and those of the utility providing electric service, are underground or hereafter are placed underground, or are to be placed underground by a builder, developer or subdivider as part of a development or subdivision, then the franchisee shall likewise construct, operate and maintain all its transmission and distribution facilities underground to the maximum extent that existing technology permits the franchisee to do so.
 2. Underground cable will be enclosed in conduit when installed under the pavement of the street, under the sidewalk, or other paved areas; and, when installed in the nature strip, normally a minimum of six feet from the curb away from the street. Variations from this procedure must be approved by the city's director of Development Services prior to initiation, and on a case by case basis.
 3. In any new developments or subdivisions, the franchisee shall install required equipment to provide future service. The developer shall be required to give the franchisee reasonable notice of any construction or development, including a copy of any final plan, and of the particular date in which open trenching or other facilities shall be available for franchisee's installation of conduit or cable. Trench costs shall be borne by the developer, who shall be responsible for the opening and closing of such trenches. The franchisee will provide cable and active equipment. Upon request, the franchisee shall also provide specifications to the developer as needed for trenching or other technical data that may be required. The franchisee will be responsible for the conduct of the engineering and labor to put the cable conduit in the trench. If technical equipment, such as pre-wiring or the distribution system is installed by the developer, it is the developer's responsibility that such equipment meets FCC standards. The franchisee will be responsible for pulling in the cable, and providing the plant electronics and drops to individual dwelling units, after occupancy.
 4. In those areas and portions of the city where utility service and/or cable communications facilities are currently located underground, the franchisee shall be responsible for the undergrounding of its cable facilities including the performance of all necessary trenching and backfilling of main line and service trenches and furnishing of any imported backfill material required.
 5. Previously installed aerial cable shall be undergrounded in concert, and on a cost-sharing basis, with utilities pursuant to the general ordinances of the city or applicable state law, or in event such action shall be taken by all utilities on a voluntary basis.
 6. Incidental appurtenances such as amplifier boxes and pedestal-mounted terminal boxes may be placed above ground, but shall be of such size and design and shall be so located as not to be unsightly or hazardous to the public.
- H. Street Restoration. Whenever the franchisee disturbs the surface of any street for any purpose, the franchisee shall promptly restore the street to at least its prior condition. When any opening is made by the franchisee in a hard surface pavement in any street, the franchisee shall promptly refill the opening and restore the surface to a condition satisfactory to the Development Services Director. If the franchisee fails, after reasonable notice by the city, to properly restore a street, the city may have the street repaired, with the cost of such work and repairs paid by the franchisee, including costs of inspection and supervision.
- I. Relocation. The city shall have the right to require the franchisee to change the location of any of the franchisee's cable system within the streets when the public convenience requires such change, and the expense thereof shall be paid by the franchisee. Should the franchisee fail to remove or relocate any such facilities by the date established by the city, the city may effect such removal or relocation, and the expense thereof shall be paid by the franchisee, including all costs

and expenses incurred by the city due to the franchisee's delay. If the city requires the franchisee to relocate its facilities located within the streets, the city shall make a reasonable effort to provide the franchisee with an alternate location within the streets. The franchisee shall indemnify the city for any damages, claims, additional costs or expenses against or payable by the city arising out of or resulting, directly or indirectly, from the franchisee's failure to remove, adjust or relocate any of its facilities in the streets in a timely manner in accordance with a relocation schedule furnished the franchisee by the Development Services Director in writing, unless the franchisee's failure arises directly from the city's negligence or willful misconduct.

J. System Extension.

1. It is the city's general policy that all dwelling units in the franchisee's service areas should have equivalent service availability from the franchisee's cable system(s) under nondiscriminatory rates and reasonable terms and conditions. The franchisee shall not arbitrarily refuse to provide cable service to any person within its franchise area.
2. The franchisee shall extend residential and institutional service (the latter as set forth in the franchise award ordinance) to individual dwelling units and into every new subdivision and/or development. The capacity to provide cable communications service shall be available to newly constructed structures on the date of first occupancy. Actual installation of service may be delayed up to sixty days from first occupancy or until after final grading, whichever is first. Those new areas having more dwelling units per strand mile of plant than the number stipulated in the franchise agreement, shall receive residential service for the normal installation fee. In those areas where the number of dwelling units per strand mile is less than the number stipulated in the franchise agreement, the franchisee will provide residential cable service on a pro-rata basis, sharing the costs with the potential subscriber(s) as determined by a formulation set forth in the franchise award ordinance.

K. Interconnection. The franchisee may be required to provide interconnection to other cable systems serving business and residential areas within the city. This and other possible system interconnections will be provided by franchisee as set forth in the franchise agreement.

L. Schedule and As-Builts. Prior to beginning any construction, the franchisee shall provide the city with a construction schedule for work in the streets and/or public ways. When the franchisee's construction of facilities in the streets and public ways is completed, the franchisee shall provide the city, upon request therefrom, with a map showing the location of the installed facility in the streets and public ways, as built.

M. Changes Required by Public Improvement. The franchisee at his expense shall protect, support, temporarily disconnect, relocate or remove any property of the franchisee when required by the council by reason of traffic conditions, public safety, street vacation, freeway or street construction; change or establishment of street grade, installation of sewers, drains, water pipes, power lines, structure or improvements by governmental agencies whether acting in a governmental or proprietary capacity, or any other structure of public improvement, including but not limited to movement of buildings, urban renewal and redevelopment, and any general program under which the city shall undertake to cause all such properties to be located beneath the surface of the ground; provided that the franchisee shall in all cases have the privileges and be under the obligations as to the abandonment of franchise property in place which are provided in subsection N of this section.

N. Removal or Abandonment of Franchisee Property.

1. In the event the use of any of the franchisee's property is permanently discontinued, or no franchise has been obtained therefor, upon expiration of or within twelve months after any termination of a franchise, and subject to applicable federal or state law, the franchisee

shall promptly remove from the streets all property involved, other than the council may, at its sole option, permit to be abandoned in place.

2. A permit to abandon in place must be obtained from the city's director of Development Services. Nothing hereunder shall be deemed as taking of the property of the franchisee, and the franchisee shall be entitled to no surcharge by reason of anything hereunder.
3. Any property of the franchisee remaining in place one hundred and twenty days after termination or expiration of the franchise shall be considered permanently abandoned. The city's director Development Services may extend such time in thirty-day increments not to exceed two such extensions, or a total of one hundred and eighty days.
4. The franchisee's property to be abandoned in place shall be abandoned in such a manner as the council shall prescribe. Upon abandonment of any franchise property in place, the franchisee shall submit to the council an instrument, satisfactory to the city attorney, transferring to the city the ownership of such property.

5.80.200 Records and reports.

- A. A. Records. The franchisee shall manage all of its operations within the city in accordance with a policy of keeping its records open and accessible to the city. The city shall have the right to inspect all records of the franchisee and affiliated entities at any time during normal business hours and upon reasonable notice. The franchisee shall not deny the city access to the franchisee's records on the basis that the franchisee's records are under the control of an affiliated entity or a third party, rather than the franchisee.
- B. Annual Reports. The franchisee shall provide annually, with the fourth quarter franchise fee payment, a listing of:
 1. Annual gross revenues by category, such as basic, pay, pay per view, advertising, installation, digital music, data transmission, home shopping and other miscellaneous revenues;
 2. The mid year and year end numbers of subscribers by tier of service, including pay services by service, and number of subscribers for other categories of services. Franchisee shall also provide the total number of subscribers in the city limits as well as those outside the city limits served by the franchisee's Missoula division;
 3. Year end cable services provided on the cable system;
 4. Year end service rates and fees; and
 5. Year end total system(s) plant millage and homes passed, within the city.
- C. Reports of Regulatory Violations. The franchisee shall promptly provide copies to the city of all communications to and from any regulatory agency having jurisdiction over the franchisee pertaining to any alleged, apparent or acknowledged violation by the franchisee of any applicable rule, regulation or law of such agency regarding the franchisee's provision of cable services under the franchise.
- D. Other Reports. The franchisee shall prepare and furnish to the city clerk at the times and in the form prescribed by said officer, such reports with respect to its operations, affairs, transactions or property, as may be reasonably necessary or appropriate to the performance of any of the rights, functions or duties of the city or any of its officers in connection with the franchise.

- E. Material Petitions, Applications and Communications. Copies of petitions, applications and communications, material to a franchise issued hereunder, submitted by the franchisee to the FCC, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting the franchisee's cable communications operations, shall also be expeditiously submitted to the city clerk for information purposes.
- F. Proprietary and Confidential Material. Except as may be authorized by federal or state laws, regulations or rules, the franchisee shall not be required to disclose any record or material that is reasonably deemed to be proprietary or confidential in nature, nor shall the franchisee be required to disclose any information which would violate subscriber privacy.
- G. System Maps. The franchisee shall at all times make and keep in the city full and complete plans and records showing the exact location of all cable communications system equipment installed or in use in the streets and other public places in the city. The franchisee shall file with the city's director of Development Services, on or before the last day of June of each year, a current map or set of maps drawn to scale, showing all cable communications system equipment installed and in place in streets and other public places in the city.
- H. Examination of Property. Notwithstanding subsection F of this section, at all reasonable times, the franchisee shall permit any duly authorized representative of the city to examine all property of the franchisee, together with any appurtenant property of the franchisee situated within or without the city, where such property is directly related with the operation or maintenance of a cable system under a franchise granted pursuant to this chapter, and to examine and transcribe any and all maps and other records kept or maintained by the franchisee or under its control which deal with the operations, affairs, transactions or property of the franchisee with respect to its franchise. If any maps or records are not kept in the city, or upon reasonable request not made available in the city, and if the council shall determine that an examination thereof is necessary or appropriate, then travel and maintenance expense necessarily incurred in making such examination shall be paid by the franchisee. Any such examination, or examinations, is herein authorized only where such examination, or examinations, is necessary for the administration or enforcement of the provisions of this chapter or a franchise award ordinance.

8.40.020 Hazardous Vegetation cutting, removal or extermination--Property owner's duty--By City.

- A. The owner, his representative, contract purchaser or any occupant of real property within the city shall cut hazardous vegetation growing on their real property including one-half of any street, road or alley lying next to their property or public boulevard abutting their property,
- B. The owner, his representative, contract purchaser or any occupant of real property within the City shall remove or exterminate hazardous vegetation that poses a fire hazard as determined by the City Fire Department.
- C. In case of their failure to do so, they shall be subject to the punishment provided in Section 8.40.050. In the case of hazardous vegetation, the City may cause the vegetation to be cut 12 calendar days from the date the notice of non-compliance is sent and the expense incurred shall be charged against the property. In the case of accumulation of hazardous vegetation as determined by the City Fire Department, the City Fire Department may cause the accumulated hazardous vegetation to be removed or exterminated and the expense incurred may be charged against the property or against the owner as provided by law. It shall be the duty of such persons to maintain their property so that it shall not be considered a fire hazard, a public safety visibility hazard at street or alley intersections, a public health hazard or a public or a private nuisance.
- D. In lieu of cutting all weeds and grasses on the total parcel, the property owner is permitted to mow or cut a twenty-five foot (25') swath on the property along the border of any adjacent rights-of-way or any

adjacent developed property with buildings, and is required to cut a twenty-five foot (25') swath next to any structures located on the parcel itself.

In situations involving parcels of land that are maintained and designated or designed as natural parks/gardens, the owners may request exemption from the Director of Development Services or designated representative. The exemption will be in the form of a Managed Natural Garden/Park Agreement. The purpose is to recognize that private owners may have managed naturalized, less water intensive gardens and lawns. It shall be the duty of such persons to maintain their property so that it shall not be considered a fire hazard, a public safety visibility hazard at street or alley intersections, a public health hazard or a public/private nuisance. Parcels of land designated or designed as natural parks/gardens may lose the designation of exempt, under this ordinance, if the property is not managed as stated in the management agreement.

- E. In situations involving parcels of land used for agricultural purposes such as growing crops, that are fully irrigated, the owners may request exemption from the Director of Development Services or designated representative. The exemption will be in the form of an Agricultural Property Management Agreement. It shall be the duty of such persons to maintain their property so that it shall not be considered a fire hazard, a public safety visibility hazard at street or alley intersections, a public health hazard or a public or a private nuisance. Parcels of land used for agricultural purposes may lose the designation of exempt, under this ordinance, if the property is not managed as stated in the management agreement.
- F. It shall be unlawful for a property owner or their tenant or designated property manager to violate any of the duties set forth in the provisions of this section.

8.62.050 Enforcement.

- A. For the purpose of carrying out the provisions of this chapter, the Health Officer, Police, Parks Director, Public Works Director, or Development Services Director, or respective designee may enter upon any public or private land in a reasonable and lawful manner during reasonable business hours for the purposes of inspection and observation. The Mayor's office will determine the most appropriate primary enforcement agency and shall consult to determine the amount of funds necessary to provide education and enforcement of this regulation. The primary enforcement agency shall be provided additional funds to carry out these services.
- B. If denied access to any land, or building, the enforcing agency may apply to the municipal court for a search warrant or other appropriate court order.

8.40.020 Hazardous Vegetation cutting, removal or extermination--Property owner's duty--By City.

- A. The owner, his representative, contract purchaser or any occupant of real property within the city shall cut hazardous vegetation growing on their real property including one-half of any street, road or alley lying next to their property or public boulevard abutting their property,
- B. The owner, his representative, contract purchaser or any occupant of real property within the City shall remove or exterminate hazardous vegetation that poses a fire hazard as determined by the City Fire Department.
- C. In case of their failure to do so, they shall be subject to the punishment provided in Section 8.40.050. In the case of hazardous vegetation, the City may cause the vegetation to be cut 12 calendar days from the date the notice of non-compliance is sent and the expense incurred shall be charged against the property. In the case of accumulation of hazardous vegetation as determined by the City Fire Department, the City Fire Department may cause the accumulated hazardous vegetation to be removed or exterminated and the expense incurred may be charged against the property or against the owner as provided by law. It shall be the duty of such persons to maintain their property so that it shall not be considered a fire hazard, a public safety visibility hazard at street or alley intersections, a public health hazard or a public or a private nuisance.

- D. In lieu of cutting all weeds and grasses on the total parcel, the property owner is permitted to mow or cut a twenty-five foot (25') swath on the property along the border of any adjacent rights-of-way or any adjacent developed property with buildings, and is required to cut a twenty-five foot (25') swath next to any structures located on the parcel itself.

In situations involving parcels of land that are maintained and designated or designed as natural parks/gardens, the owners may request exemption from the Director of Development Services or designated representative. The exemption will be in the form of a Managed Natural Garden/Park Agreement. The purpose is to recognize that private owners may have managed naturalized, less water intensive gardens and lawns. It shall be the duty of such persons to maintain their property so that it shall not be considered a fire hazard, a public safety visibility hazard at street or alley intersections, a public health hazard or a public/private nuisance. Parcels of land designated or designed as natural parks/gardens may lose the designation of exempt, under this ordinance, if the property is not managed as stated in the management agreement.

- E. In situations involving parcels of land used for agricultural purposes such as growing crops, that are fully irrigated, the owners may request exemption from the Director of Development Services or designated representative. The exemption will be in the form of an Agricultural Property Management Agreement. It shall be the duty of such persons to maintain their property so that it shall not be considered a fire hazard, a public safety visibility hazard at street or alley intersections, a public health hazard or a public or a private nuisance. Parcels of land used for agricultural purposes may lose the designation of exempt, under this ordinance, if the property is not managed as stated in the management agreement.
- F. It shall be unlawful for a property owner or their tenant or designated property manager to violate any of the duties set forth in the provisions of this section.

8.62.050 Enforcement.

- A. For the purpose of carrying out the provisions of this chapter, the Health Officer, Police, Parks Director, Public Works Director, Development Services Director, or respective designee may enter upon any public or private land in a reasonable and lawful manner during reasonable business hours for the purposes of inspection and observation. The Mayor's office will determine the most appropriate primary enforcement agency and shall consult to determine the amount of funds necessary to provide education and enforcement of this regulation. The primary enforcement agency shall be provided additional funds to carry out these services.
- B.
- C. If denied access to any land, or building, the enforcing agency may apply to the municipal court for a search warrant or other appropriate court order.

9.26.020 Unlawful within city limits. Public drinking and public display and exhibition of beer, wine or liquor as defined in this chapter are prohibited, and it is unlawful for any person to engage in public drinking, public display or exhibition of beer or liquor within the city limits. Any organization desiring to serve beer, wine or liquor upon a public place as defined in this chapter as part of a promotion celebration or other organized activity may obtain a permit from the mayor's office to use the public place for one day. Issuance of this permit shall occur only after the use of the public place has been approved by the fire chief, police chief, and whichever of the following is affected: Development Services Director, parking commission or owner or lessee of any parking lot open to the public. Any applicant for a permit shall post a damage and litter deposit or bond pursuant to Chapter 12.42 of this code which will be refundable if after the use has occurred all litter associated with the permitted use has been picked up and there has been no damage to the public place as a result of the permitted use.

10.04.010 City traffic engineer--Office established--duties.

- A. The office of city traffic engineer is established. The city engineer or their designee shall serve as city traffic engineer in addition to their other duties. The City Traffic Engineer shall coordinate with the Public Works Department in the administration of applicable laws.
- B. It shall be the general duty of the city traffic engineer to determine the installation and proper timing and maintenance of traffic-control devices, to conduct engineering analyses of traffic accidents and to devise remedial measures, to conduct engineering investigation of traffic conditions, to plan the operation of traffic on the streets and highways of this city, and to cooperate with other city officials in the development of ways and means to improve traffic conditions and to carry out the additional powers and duties imposed by ordinances of this city.

10.06.060 Accident--Reports. The traffic division shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location. The reports shall be available for the use and information of the city traffic engineer and the Public Works Department.

10.16.010 Installation authority. The Public Works Department in coordination with the city traffic engineer shall place and maintain traffic-control signs, signals and devices when and as required under this title and other traffic ordinances of this city to make effective the provisions of such laws, and may place and maintain such additional traffic-control devices as he may deem necessary to regulate traffic under this title and other traffic ordinances of this city or under state law or to guide or warn traffic.

10.16.070 No-turn signs--Establishment authority. The city traffic engineer is 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.

10.16.120 Lane markings on street pavements

- A. The Public Works Department in coordination with the City Traffic Engineer is authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.
- B. Where traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep the vehicle within the boundaries of any lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

10.20.170 No passing zones. The city traffic engineer is authorized to determine those portions of any street where overtaking and passing or driving to the left of the street would be especially hazardous and may by appropriate signs and markings on the street indicate the beginning and end of such zones and when such signs or markings are in place and clearing visible to an ordinarily observant person every driver of a vehicle shall obey the directions thereof.

10.22.040 Marking no-parking zones. Whenever curbs or curbing are painted yellow in color by the Public Works Department in coordination with the city engineer pursuant to the Uniform Traffic Manual, federal or state laws or regulations or an ordinance of the city council or regulations of the parking commission no person shall at any time stop, stand or park; or wherever signs are erected by the Public Works Department in coordination with the city engineer pursuant to an ordinance or resolution of the city council or to regulations of the parking commission which prohibit parking, establish limited time parking zones or in any way limit or restrict parking, no person shall stop, stand or park in violation of the provisions indicated on such signs.

10.22.110 Angle parking.

- A. The city engineer in coordination with the Public Works Department shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets, but such angle parking shall not be indicated upon any federal aid or state highway within the city unless the state highway commission

has determined by resolution or has ordered entered into its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

B. Angle parking shall not be indicated or permitted at any place where passing traffic would be caused or required to drive-upon the left side of the street.

C. Upon those streets which have been signed or marked by the Public Works Department for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway indicated by such signs or markings, and with the front of the vehicle to the curb unless signed or marked to permit back-in parking.

10.22.140 Parking on narrow streets.

A. A. The city engineer in coordination with the Public Works Department is authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed twenty feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed thirty feet.

B. When official signs prohibiting parking are erected upon narrow streets as authorized in this section, no person shall park a vehicle upon any such street in violation of any such sign.

10.22.150 Parking adjacent to schools.

A. The city engineer in coordination with the Public Works Department is authorized to erect signs indicating no parking upon that side of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.

B. When official signs are erected indicating no parking upon that side of a street adjacent to any school property, no person shall park a vehicle in any such designated place.

10.22.170 Parking near hazardous or congested places.

A. The city engineer is authorized to determine and designate by proper signs places not exceeding one hundred feet in length in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

B. When official signs are erected at hazardous or congested places as authorized in this section, no person shall stop, stand or park a vehicle in any such designated place.

10.22.250 Procedure for the establishment of a residential on-street parking permit regulation program.

A. Pursuant to the powers granted to local governments pursuant to Montana state law to regulate the standing or parking of vehicles on public streets, the city council may, after holding a public hearing on any residential parking permit proposal, create pursuant to ordinance areas of the city to be designated as residential parking permit areas during specified times of the day and week if the city council finds that the residential area under consideration for such a designation is experiencing some of the following conditions:

1. Predominately residential in character near a nonresidential use that attracts significant volume motor vehicle commuter traffic;
2. An area the streets of which, without motor vehicle regulation, are regularly congested with hazardous traffic conditions, with vehicles blocking pedestrian crosswalk areas, driveways and alleys as well as obstructing visibility of pedestrians and motorists at intersections;

3. An area in which a significant number of residential dwelling units structures in the area lack sufficient off street parking spaces to adequately serve the motor vehicle parking needs of the residents of many of the residential dwelling units structures in the residential area who without the motor vehicle parking regulation may have unreasonable burdens in gaining access to their residences.
 4. An area where limiting the parking of vehicles along the public streets in the residential area to vehicles registered or controlled and exclusively used by persons residing in the residential area is necessary in order to preserve the safety of children and other pedestrians, improve traffic safety, reduce hazardous traffic conditions and better provide adequate motor vehicle parking for residents of the area as well as improve the peace, good order, comfort, convenience and welfare of the inhabitants and preserve the character of their residential district through control and reduction of litter, noise and air pollution.
- B. Any ordinance designating an area of the city as a residential permit parking area shall describe:
1. The designated public street area along which parking will be limited to vehicles registered to or controlled and exclusively used by persons residing in the area;
 2. Hours of each day and days of each week that the residential parking permit regulations shall be in effect;
 3. How the regulation will primarily be enforced;
 4. The number of street parking signs to be installed on each side of the street in each block to give notice to the vehicle motoring public of the existence of a residential parking permit regulation during certain hours of each day on certain days of the week;
 5. The basis that will be used to determine the annual cost for purchasing a permit and the date by which a permit must be renewed each year;
 6. The individuals eligible to purchase a permit;
 7. Any special provisions or exceptions applicable to schools, churches, businesses, public park use, etc. within the residential area; and
 8. Visitor permit or special gathering provisions for the residential area.
- C. Upon adoption of any ordinance by the city council designating an area for residential parking permit only, the city public works department in coordination with the City Engineer shall cause appropriate signs to be erected along the streets identified in the ordinance prior to any enforcement of the residential parking permit regulation. The street signs erected shall give notice of the nature of the parking limitation and shall indicate the hours and days when such parking limitations shall be in effect.

10.24.020 Marking of spaces--Manner of parking – The Public Works Department in coordination with the city traffic engineer shall place lines or marks on the curb or on the street alongside of each parking meter to designate the parking space for which the meter is to be used, and each vehicle parked alongside of any parking meter shall park within the lines or markings so established. No person shall park any vehicle in such a way that the same shall not be within the area so designated by such lines or markings. The bumper of any vehicle parked in a parallel parking space shall be alongside of or next to the parking meter.

10.28.040 Application for city enforcement--Requirements for administrative approval.

- A. Prior to the presentation of any application to the city council, the application must first receive the written approval of the Development Services Department, and the chief of police and the parking commission director. The approval of the Director of Development Service Department shall be given providing the application shows that the applicants have complied with the following requirements with respect to off-street parking facility:

1. All off-street parking space shall be at least nine feet in width and at least eighteen and one-half feet in length exclusive of access drives or yard area. Such spaces shall have a minimum vertical clearance of at least eight feet.
2. All off-street parking areas and access drives shall be paved or made of concrete. No such surfaces shall be permitted between the curb and the property line except for access drives.
3. Adequate drainage structures shall be provided within the off-street parking area to handle surface water. If a storm drain system does not exist, concrete drainage sumps shall be provided. An estimated quantity of one sump per ten thousand square feet shall be used or a minimum of one. The minimum of one may be waived by the Development Services Director if they determine that surrounding drainage is adequate.
4. No lighting used to illuminate a parking area or its sign shall face or have its source directly visible from any residential district and shall not be a nuisance or hazard to passing traffic.
5. All traffic-control devices, such as parking stripes designating vehicle stalls, directional arrows or signs, pin-down curbs, curbing and other developments shall be installed and completed as shown on the approved plan.
6. Where exclusive pedestrian walks are used in the parking lots, they shall be protected by a physical barrier such as raised or pin-down curbs.
7. All traffic signs shall conform to the Manual on Uniform Traffic-Control Devices.
8. Parking spaces to be reserved for specific persons, purposes or vehicles shall be marked with an approved sign and vehicles using reserved spaces shall visibly display an approved reserve parking sticker in the driver's side rear window. Reserve parking stickers and signing systems for reserved parking shall be approved by the police chief.
9. Parking spaces with timed parking restrictions shall have approved parking meters.

B. The approval of the chief of police shall be given upon certification by the chief of police of the following facts:

1. That there is not presently existing an adequate and legal means of enforcing off-street parking regulations in the applicant's facilities; and
2. That the city police department or requesting agency has adequate personnel and equipment to enforce such regulations, as are proposed.

10.28.050 Application for city enforcement--Presentation to city council. Upon approval of the application by the Development Services Director and the chief of police and the parking commission director, the application may be presented to the city council for approval. If the Development Services Director or the chief of police or the parking commission director shall disapprove the application, the applicant may appeal such disapproval to the city council, whose decision shall be binding and final.

10.30.020 Loading zones--Passenger loading zones--Designated. The city engineer in coordination with the Public Works Department is authorized to determine and to designate loading zones and passenger loading zones as follows:

- A. At any place in the business district, for the purpose of loading and unloading.
- B. Elsewhere in front of the entrance to any place of business or in front of any hall or place used for the purpose of public assembly.

10.44.010 Designation and maintenance of crosswalks and safety zones. The city traffic engineer in coordination with the Public Works Department is authorized:

- A. To designate and maintain, by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary;
- B. To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

12.08.040 Contractor license--Suspension--Grounds. The City Engineer may suspend the license of any contractor who shall construct any sidewalk or curb upon or along any grade or line other than those established by the City Engineer, or who shall deviate from the specifications set forth in this title, or who shall build or construct any sidewalk or curb without first obtaining from the City Engineer the proper grade therefore and location thereof, or who shall fail, neglect or refuse to comply with any of the other provisions in this chapter. It shall be unlawful for any such contractor to engage in the business of building, constructing or repairing sidewalks or curbs while such certificate shall remain suspended.

12.08.050 Contractor license--Suspension--Report to City Council. Upon the license of any bonded sidewalk and curb contractor being suspended by the Development Service Director, the Director must report the same in writing to the City Council at its next regular meeting, together with the reasons for suspension. The City Council may either revoke the license or withdraw the suspension, and if such license shall be revoked by the City Council it shall thereafter be unlawful for such person to engage in the business of building, constructing or repairing sidewalks or curbs under such revoked license..

12.12.020 Right-of-Way Permit--Required--Construction to be performed by licensed and bonded contractor. Only licensed and bonded sidewalk and curb contractors can remove, alter or construct any curb, gutter, sidewalk, driveway approach, alley approach, pavement or other improvements in any public street, alley or other property owned by or dedicated to or used by this City and over which it has jurisdiction to regulate the matters covered by this chapter, after first obtaining a permit from Development Services and paying the necessary fees. Fees for the installation of curb, gutter, sidewalks, driveway approaches, alley approaches, and pavement are set forth in Section 12.12.100.

12.12.030 Right-of-Way Permit--Application. Application for permits to construct such improvements specified in Section 12.12.020 shall be made to the Development Services on forms provided for that purpose. These permits shall expire after 180 days unless an extension is granted by the Director.

12.12.040 Right-of-Way Permit--Application—Approval by Development Services Before approving the improvements and issuing the permit required by Section 12.12.020, the Director of Development Services shall determine that the proposed improvement is in conformance with the provisions and standards set forth in this chapter.

12.12.080 Inspection by Development Services All work must be inspected by the City Engineer, or a designated agent, and must be done to the entire satisfaction of the City Engineer, or such inspector. The contractor must give the Engineer advanced notice to inspect the forms a minimum of four working hours prior to placing concrete. The City Engineer, or such inspector, shall at all times have direct supervision over the construction and repairing of all sidewalks, curbs and alley approaches, and may at any time, when sidewalks, curbs, or alley approaches are not being constructed or repaired in accordance with this chapter, have authority to order the contractor constructing or repairing such sidewalks, curbs, or alley approaches to suspend work thereon until such construction or repairing thereon shall be made to conform in all respects with the specifications set forth in this chapter and must be done to the entire satisfaction of the City Engineer.

12.12.090 Entrances to areaways--Outside stairways to basements. All facilities located within the City sidewalk, including but not limited to: stairways, trap doors, elevated ramps, and utility meters, shall be subject to the approval of the Development Services prior to construction.

12.12.100 Bonds, fees and charges prerequisite to construction.

A. No person shall remove, alter, or construct any curb, sidewalk, driveway approach, new parking lot, gutter or any combination thereof, upon first complying with the requirements of Section 12.08.030, nor shall such person remove, alter, or construct sidewalk, curb, driveway approach, or gutter without the payment to the city of the fees and charges provided in this section and without obtaining a permit from Development Services.

B. The fee to inspect curb and gutter construction shall be:

	Fee
1. ROW curb permit: 0-30 lineal feet	\$184.00
2. ROW curb permit: 31-250 lineal feet	\$513.00
3. ROW curb permit: 251-1,000 lineal feet	\$776.00
4. ROW curb permit: greater than 1,000 lineal feet	\$776.00
plus \$0.15 per lineal foot	\$0.15

C. The fee to inspect sidewalk and driveway approach construction shall be:

	Fee
1. ROW sidewalk permit: 0-150 square feet	\$168.00
2. ROW sidewalk permit: 151-500 square feet	\$450.00
3. ROW sidewalk permit: 501-1,000 square feet	\$567.00
4. ROW sidewalk permit: greater than 1,000 square feet	\$567.00
plus \$0.15 per square foot	\$0.15

D. The fee to design and stake curb and gutter shall be three hundred seventy-six dollars (\$376.00) and an additional fee of three (\$3) dollars per lineal foot shall be charged for curb and gutter construction exceeding a length of fifty feet.

E. The fee to inspect, design and stake curb, gutter and sidewalk work that is contracted by the city shall be nineteen percent (19%) of the total dollar amount of the curb, gutter and sidewalk contract.

F. The costs and permit fees to inspect areas of paving work shall be as follows:

	Fee
1. Single-family residential:	\$115.00
2. Multi-family/commercial <2,000 square feet:	\$327.00
3. Paving permit 2,000 to 50,000 square feet:	\$341.00
4. Paving permit >50,000 square feet:	\$341.00
plus \$0.01 per square foot	

G. The fee for engineering review of building construction site plans for compliance with applicable codes shall be collected prior to the issuance of the building permit and the fee shall be:

	Fee
1. Miscellaneous small structure plan check (<i>sheds, shops, pole barns, sign bases taking 30 minutes or less:</i>)	\$50.00
2. Single-family residential plan check:	\$109.00
3. Hillside single-family residential plan check:	\$172.00
4. Multi-family residential plan check 2-4 units:	\$123.00
5. Multi-family residential plan check 5-20 units:	\$187.00
6. Multi-family residential plan check 21-50 units:	\$279.00
7. Multi-family residential plan check greater than 50 units:	\$379.00
8. Commercial/industrial plan check 0-20,000 square feet:	\$187.00
9. Commercial/industrial plan check 20,001-100,000 square feet:	\$233.00
10. Commercial/industrial plan check greater than 100,000 square feet:	\$357.00

H. The fee for engineering review of subdivision plan submittals for compliance with applicable codes shall be collected when the subdivision plan is submitted and the fee shall be:

	Fee
1. Subdivision - Engineering review major:	\$790.00
2. Subdivision - Engineering review minor:	\$366.00

12.12.130 Right-of-Way Improvements Required.

A. Sidewalks, curbs and gutters on the public right-of-way shall be required for all new construction of multifamily, (duplex and larger) commercial and industrial structures. Sidewalks, curbs and gutters on the public right-of-way shall be required for all new construction of residential structures when filling in missing links of curbs and sidewalks, or existing patterns of curbs and sidewalks are established on the street. Where additions to existing structures are made, such that the land use housed within the structure is increased in its intensity so as to cause an additional parking requirement, or where construction, reconstruction, changes or additions to parking lots and access drives are made, sidewalks, curbs and gutters shall be installed where no sidewalks, curbs and gutters exist.

B. This requirement shall be enforced by Development Services staff who shall require sidewalks, curbs and gutters to be shown on all site plans required for the issuance of a building permit or zoning compliance permit; and further, shall require sidewalks, curbs and gutters to be installed prior to the issuance of a permanent certificate of occupancy.

C. The location and construction specifications of sidewalks, curbs and gutters, driveway approaches and alley approaches shall be approved by the City Engineer, who shall also be responsible for monitoring the installation of all sidewalks, curbs and gutters, driveway approaches and alley approaches constructed on City Rights-of-Way.

D. Property owners may finance the costs of sidewalks, curbs and gutters, driveway approaches and alley approaches constructed pursuant to this chapter by special improvement assessment payable in installments extending over a period of eight years, twelve years, or twenty years as provided by Sections 12.12.310 through 12.12.340. Owners may specify the period of years to pay assessments. If the property owner does not specify the number of years, the default option shall be twenty years.

12.12.140 Variance--Deferment of requirements.

A. The Development Services Director may issue a variance for postponement of the requirement for curbs and sidewalks when any one of the following criteria is met, and the installation of the curb and sidewalk would result in a substantial design or construction burden for the property owner and the City:

1. The ultimate alignment and grade of the road has not been established. Properties with large frontage, high pedestrian need, drainage concerns, or parking and access control problems may be required to establish ultimate road alignment.
2. Where adverse conditions, including lack of right-of-way, adverse topography, major utility conflicts, or irrigation ditches exist. Existing landscaping, fences, or lack of existing curbs and sidewalks are not considered adverse conditions.
3. A city curb and sidewalk construction project is scheduled and will be completed within one year.
4. Construction of a sidewalk is not warranted because pedestrian generators or destinations do not exist in the area, or other pedestrian facilities, such as trails or adjacent sidewalks are preexisting.

B. The City Council may defer the sidewalk requirement based on its judgment and review of the specific request. The City Council does not give up its rights to cause sidewalks to be installed in the future when in the City Council's judgment the conditions have changed.

C. The variance request shall be made in writing providing reasons requested for the variance.

D. The need for temporary pedestrian facilities shall be reviewed by the Development Services staff if the conditions from section 12.12.130 (A) have resulted in a postponement of sidewalks. Landscaping and grading in the right-of-way shall be constructed so as to permit the installation of future curbs and sidewalks with a minimum of disruption to right-of-way. The plans for temporary pedestrian facilities, landscaping and grading in the right-of-way shall be approved by the Development Services staff prior to construction.

12.12.150 Condemnation by City Engineer. All sidewalks, driveway approaches, curbs or alley approaches which, by reason of natural deterioration or decay, or by reason of unevenness, steps, rapid slopes, or from any cause whatsoever, become dangerous to the public safety, may be condemned by the City Engineer, and may be immediately removed, remodeled or repaired, as determined to be most expedient, and the cost thereof shall be assessed against and collected as a special improvement tax lien upon the lot or lots abutting upon such sidewalks, driveway approaches, curbs or alley approaches.

12.12.170 Prohibited locations. Driveway approaches are prohibited in the following locations:

- A. Along the street no driveway approach will be allowed unless a permanent asphalt, concrete or impervious material driveway previously existed or where building plans have been finalized to build a permanent parking structure, pad, carport or parking pad conforming to zoning regulations. Driveways shall be located at the discretion of and by the approval by Development Services, so as to result in no undue interference with or hazard to free movement of normal traffic or interference with the placement and proper function of highway signs, signals, lighting or other devices that affect traffic operation.
- B. Where barriers exist which do not allow a driveway grade to be ten percent or less, no driveway approach will be allowed.
- C. Driveway approach shall not be allowed within twenty feet of a crosswalk in a residential zone, or of the point of curvature for a curb radius, or within fifteen feet of a crosswalk in a commercial zone, whichever is greater.
- D. Where demonstrated hardships can be shown, the City Engineer may issue variances allowing individual driveway approaches or curb cuts in prohibited locations.

12.12.180 Driveway approach apron widths. The width of driveway approach aprons measured at the curb line or edge of roadway asphalt, but not including the width of a “wing” or “flare” transition on each side of the approach apron, shall not exceed the following dimensions:

- A. For residential driveways, twelve feet for single driveways and twenty feet for double driveways. Where duplexes or larger multi-family units are built, up to twenty six feet will be allowed. Residential driveway approaches exceeding 20 feet width may be approved by the City Engineer. Single family residential shall be limited to one driveway approach unless approved by the City Engineer.
- B. For commercial driveways, when one or more driveway approaches serve a given property frontage, no single apron shall exceed thirty feet in width. Total driveway width shall not exceed 30 percent of property frontage. Commercial driveways exceeding 30 feet in width may be approved by the City Engineer.
- C. Property frontage referred to in this section includes the approach area directly in front of property owner or under the control of the applicant and such area, as may be opposite adjoining property, which is used for approach purposes by right of easement, or agreement with the adjoining property owner.
- D. Whenever the use of any existing or future driveway approach shall be discontinued by reason of a change in the use or design of the private property, the owner of the property shall remove the driveway approach and shall restore the sidewalk and curbing affected by the driveway approach to their normal levels, all under the direction required by the City Engineer. If the owner of the property fails to restore the sidewalk or curbing the City Council may order the restoration and the cost thereof be assessed against the property.

12.12.190 City rights-of-way--Vehicles to be parked within private property lines. City rights-of-way may not be used for private or commercial purposes unless such use is specifically authorized by this code or a use permit is issued by the Development Services staff. A permit for the construction of driveway

approaches shall not be issued unless vehicles to be served or serviced can be parked entirely within the private property lines.

12.12.200 Temporary Sidewalk and Construction Traffic Control.

- A. All persons engaged in the construction or repairing of sidewalks, curbs, driveway approaches or alley approaches shall, when ordered so to do by the Development Services staff, construct and maintain a temporary sidewalk. The temporary sidewalk shall be constructed to the standard drawings with a hard, durable, non-slip all-weather surface and not less than four feet in width extending from sidewalk to sidewalk, around such sections of sidewalk or alley approach in the course of construction or repair. All temporary sidewalks must conform to standards contained in the Americans with Disabilities Act. Such temporary sidewalk must be constructed before any work whatsoever is commenced on the permanent sidewalk or alley approach and must not be removed until the permanent sidewalk or alley approach is open to traffic. Where a traffic hazard exists, the Development Services staff may require additional protective structures be placed adjacent to the temporary sidewalk.
- B. Where overhead hazards exist the Development Services staff may require protective structures be placed over the temporary sidewalk. These structures must be approved by the Development Services staff prior to opening the temporary sidewalk.
- C. Traffic Control. Prior to the issuance of a permit the contractor shall provide a traffic control plan or reference a Traffic Control Plan Number from the *City of Missoula Guidelines for Traffic Control*, if applicable, and gain approval of the traffic control plan from the Development Services Director, or a designated agent. The contractor shall be responsible for maintaining safe travel corridors for all vehicle, bicycle and pedestrian traffic as part of the approved traffic control plan. Traffic control devices shall be installed in accordance with the approved traffic control plan before construction operations, and shall be properly maintained and operated during the time such special conditions exist. They shall remain in place only so long as they are needed and shall be immediately removed thereafter. Where operations are performed in stages, there shall be in place only those devices that apply to the conditions present. Devices or signs that do not apply to existing conditions shall be removed, covered or turned so as to not be readable by oncoming traffic. Barricade and sign supports shall be constructed and erected in a proper manner. Weeds, tree shrubbery, construction materials, equipment, spoil piles, etc., shall not obscure any traffic control device or present a site visibility obstruction as defined in 12.28.110. Excavated material that is stockpiled on City Right-of-Way shall be safeguarded by means of flashing barricades, flares and proper traffic regulatory signing. All safeguarding of excavation projects must conform to the Manual on Uniform Traffic Control Devices for Streets and Highways, U.S. Department of Transportation Federal Highway Administration.

12.12.270 Notice--Filing of copies to be conclusive proof of service. Copies of all notices mailed with the registry or certified mail receipts attached thereto, and copies of all notices published with the publisher's affidavit of publication attached thereto shall be filed by the City Engineer in his/her office and shall be conclusive proof of the service thereof.

12.14.020 Right-of-Way Occupation Permit Required.

The occupation of any public right-of-way for the purpose of performing the following, including but not limited to: building maintenance, construction, or repairs etc.; tree removal or pruning, utility work, temporary placement of a dumpster for construction, or any other activity as determined by the Development Services staff that impedes the safe passage of vehicular or pedestrian traffic, requires a permit from Development Services and payment of the necessary fees. Fees for the occupation of any public right-of-way are set forth in Section 12.14.030.

Exceptions: The following items are exempt from this permit requirement:

Mail boxes, newspaper dispensers, public garbage receptacles, permitted sandwich-board signs, permanent public benches, bus stop shelters, bicycle racks, public utility structures, and other items which the Director may determine are not subject to this ordinance.

Permits will be required for the following:

- A. Closure of one or more lanes of traffic on a City street for a period of one (1) hour or more (Other than activities authorized by Missoula Municipal Code Chapter 12.58 Special Events Permits). Note: the guidelines from the Manual on Uniform Traffic Control Devices and the City of Missoula Standard traffic control plans must be followed for **any** lane closure.
- B. Closure of a City alley for one (1) hour or more.
- C. Closure of a parking lane or space(s) located on public right-of-way for four (4) hours or more. Permission from the Parking Commission must be obtained for occupancy of a metered parking space or signed loading zone.
- D. Closure of a City sidewalk in the Central Business District for a period of one hour (1) or more. Note: the guidelines from the Manual on Uniform Traffic Control Devices and the City of Missoula Standard traffic control plans must be followed for **any** sidewalk closure.
- E. Closure of all other City sidewalks for a period of four (4) hours or more. Note: the guidelines from the Manual on Uniform Traffic Control Devices and the City of Missoula Standard traffic control plans must be followed for **any** sidewalk closure.
- F. Placement of a dumpster in a street or parking lane for a period of four (4) hours or more.

12.14.030 Permit Application Fee.

- A. Any applicant wishing to occupy any right-of-way for a permit for the purposes set forth in Section 12.14.020 shall obtain the permit before proceeding with any occupation of the site. All applications must include an approved traffic and/or pedestrian control plan which conforms to the Manual on Uniform Traffic Control Devices as well as the City of Missoula specifications and policies for traffic control in work zones. All applications must include a schedule of work including dates and hours of occupancy. All applications are subject to approval by the Development Services Director or their designee.
- B. The fee for the permit for the purposes set forth in Section 12.14.020 shall be fifty-four dollars (\$54.00) for up to thirty days of occupancy or one hundred eight dollars (\$108.00) for up to ninety days of occupancy. After ninety days a new permit application and permit fee payment shall be required.
- C. Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for the work. The Director may order the site vacated until the investigation is completed and the required permit is issued. An investigation fee, in addition to the permit fee shall be collected prior to issuance of the permit. The investigation fee shall be equal to the permit fee required by this code. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law. If the investigated activity is found not to require a permit under the requirements of this code the investigation fee will be waived.

12.14.040 Inspection.

The Development Services staff shall inspect all traffic control and pedestrian safety devices. If the requirements set forth in the permit are not in compliance, then a correction notice in the form of a Stop Work Order will be issued and all work terminated until corrections are made and approved by the Development Services staff. In situations where a street is to be closed, Development Services may require advance notice to affected properties and that the traffic control, once in place, be approved before the permitted activity commences.

12.14.050 Revocation of Permit.

- A. All permits issued pursuant to this code are subject to revocation at any time by the Development Services Director whenever the public interest, welfare, or safety would be best served by revocation. Revocation of the permit shall require the permit holder to vacate the site immediately.
- B. The permit holder will be issued a notice of revocation in the form of a Stop Work Order stating the reasons, date, and time, that the permit was revoked. The permit holder shall have the right to appeal the revocation to the Director and to correct or modify the noted discrepancies to meet requirements set forth by the Director if such is deemed feasible.

12.14.060 Garbage Receptacles.

A. Permitted Locations: Garbage Cans, Dumpsters, Grease Receptacles, Recycling Containers and other waste receptacles used for the **regular** collection of garbage may be located in the public right-of-way if all of the following conditions are met. No permits will be required.

1. There is no reasonable location within the private property lines to place them.
2. If there is no reasonable location within the private property receptacles must be placed in the alley if available. All receptacles must be located on private property or in alleys within the Central Business District.
3. The receptacles are to be located adjacent to the user's property whenever possible. If the receptacle is to be located adjacent to a property other than the user's then permission must be granted by the owner of that property. If the user's property is located in the Central Business District but not adjacent to an alley they must use the alley nearest to their property.
4. The area around the receptacles must be kept neat and clean and grease receptacles must be emptied regularly and not present a health or order problem.

B. Prohibited Location: Except as permitted in Section A, Garbage Cans, Dumpsters, Grease Receptacles, Recycling Containers and other waste receptacles used for the regular collection of garbage may not be located in the following locations:

1. Within the public street right-of-way except on collection day.
2. In any location which would prevent safe movement of vehicles or pedestrians.
3. Other locations as determined by Development Services staff or other City of Missoula Municipal Codes.

12.16.025 Definitions. The following definitions shall apply in the interpretation and enforcement of this ordinance:

- A. "City" is the City of Missoula.
- B. "Director" is the Director of Development Services or his/her duly designated and acting representative.
- C. "Lot" or "parcel" means a parcel of land occupied or intended for occupancy by one main building together with its accessory buildings and which may include more than one platted lot.
- D. "Person" means any individual, business association, partnership, corporation or other legal entity, to include owner, tenant, occupant, lessee, or otherwise.

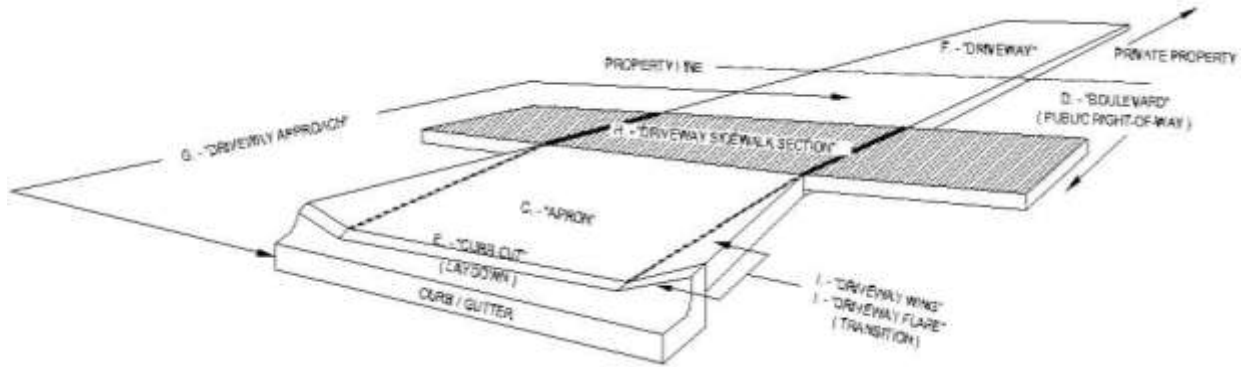
- E. "Roadway" means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel or parking, exclusive of the berm or shoulder.
- F. "Sidewalk" means a paved, concrete, or cement pathway intended for public pedestrian use and located parallel to a street or road, on either public right-of-way or a public use easement.

12.22.040 Definitions

- A. "Accessible Parking Space" means any parking space that meets Americans with Disabilities Act (ADA) parking requirements.
- B. "Access Aisle" means the area adjacent to an accessible parking space which allows for unobstructed ingress/ egress and access between the vehicle and the accessible route and upon which parking is prohibited.
- C. "Accessible Route" means a pedestrian walkway that connects accessible elements of developments with other elements, including but not limited to; accessible parking spaces to accessible entrances, accessible entrances to other accessible entrances, accessible entrances to public sidewalks.
- D. "Alley Approach" means any dedicated public alley right-of-way used to access private property from a public alley.
- E. "Alley Approach Improvements" means any asphalt or concrete improvements along the length of the alley between the connected avenue(s) and / or street(s).
- F. "Alterations to Primary Function Area/s" means an alteration that affects or could affect the usability of /or access to an area containing a primary function or activity.
- G. "Apron" means that portion of the "Driveway Approach" extending from the gutter flow line or curb cut to the property line and / or sidewalk.
- H. "Boulevard" means an area of public right-of-way between the curb / gutter or edge of the public street and the sidewalk and / or private property line. (may also be referred to as a "Parkway")
- I. "Commercial / Industrial Parcel" means, for the purpose of this ordinance;
 - 1. A parcel on which the principal use is related to the purchase or sale of, or other transaction involving the handling or disposition of any article, service or commodity is conducted.
 - 2. A parcel on which other facilities including but not limited to office buildings, offices, maintenance, recreational or amusement enterprises, churches, schools, are located on a parcel.
 - 3. A parcel on which the manufacture of any goods or products occurs.
- J. "Curb Cut" means the portion of curb / gutter at the "Driveway Approach" and street that is removed to permit the passage of vehicles. (may also be referred to as a "Laydown")
- K. "Driveway" means an area on private property where automobiles and / or other motorized and / or non-motorized vehicles are operated or permitted / required / allowed to be parked or stored. A "Driveway" shall be paved for its entire length with asphalt or concrete to reduce drag-on of debris to the street surface and / or airborne dust (fugitive particulate), as per Missoula City – County Air Pollution Control Program, Chapter 8 - Fugitive Particulate.
- L. "Driveway Approach" means an improved area of public right-of-way, between a public street and private property, which is intended and / or used to provide access for vehicles from a public street to an area of the private property used, designated and / or established as a parking area, a driveway, or to a

parking structure; garage, carport, etcetera, Component parts of a "Driveway Approach" includes and are referred to as the "Curb Cut" ("Laydown"), the "Apron" and the "Sidewalk Section".

M. "Driveway Sidewalk Section" means that portion of a "Driveway Approach" lying between the back edge of the sidewalk and the "Apron".



N. "Duplex or Duplex Parcel", for the purpose of this ordinance, means any single parcel that has two (2) living units whether connected or detached.

O. "Multi-family or Multi Dwelling Parcel", for the purpose of this ordinance, means any single parcel that has three (3) or more living units whether connected or detached.

P. "Parking lot, Parking Area, or Parking Facility" means an area where operable vehicles are parked for more than fifteen (15) days of a calendar year. This also includes other parking facilities such as; parking structures, carports and garages. For this ordinance this will be known as a parking facility.

Q. "Paved" means having a minimum of two inches (2") of hotmix asphalt or four inches (4") of M4000 Portland cement with the appropriate base for the existing soil type. Alternate hard surfaces may be used only with prior approval by the Development Services Director. The thicknesses noted above are minimums and the use, soil conditions, and specifications may require additional paving section.

R. "Parkway" means an area of public right-of-way between the curb / gutter or edge of the public street and the sidewalk and / or private property line. A "Parkway" may also be located in the center of a street between driving lanes. (may also referred to as a "Boulevard")

S. "Parcel" means a contiguous area of land that is designated by its owner as a site to be used, developed, or built upon as a unit, under single ownership or control.

T. "Paving Construction Work" includes public and / or private parking facility, driveway, driveway approach, apron, street and alley approach and refers to any asphaltic or cement concreting work, whether upon and / or within private property or public right-of-way, that is required to be performed as a result of the Building Permit process or Zoning Compliance Permit process or to comply with any other Federal, State or Local Law or Code. All such "Paving Construction Work" shall be performed only upon payment of the applicable required fees and acquisition of all required permit(s).

U. "Private Road" means a privately owned access that serves three (3) or more single-family residential parcels or a privately owned access that serves one (1) or more multi-family (duplex or larger / greater) parcel or a privately owned access that serves any non-residential parcel. All private roadway improvements, including pavement, curbs, sidewalks and drainage shall be in accordance with city street and road standards as reviewed and approved by Development Services staff.

V. "Property Frontage" means the boundary of a parcel that abuts public street or alley right-of-way..

W. "Public Road" means a road (street) constructed / located upon or within a dedicated public right-of-way or a public easement.

12.22.050 General Requirements

A. Driveways, private roads, and parking facilities shall be laid out, designed and constructed in accordance with Missoula Municipal Code requirements, City Fire Department and City Engineering standards and specifications.

B. No driveways from City streets shall be created in residential zoning districts for parcels with access to an alley except those approved by the Development Services Director.

C. Parking is prohibited on boulevards between the curb and property line, where curbing exists.

D. Accessible parking facilities shall be provided in accordance with current ADA regulations, Missoula Municipal Code requirements, and City Engineering Division standards and specifications

E. All parking facilities, driveways, and private roads on which improvements are required as set forth in Title 12 and Title 20 shall be paved prior to occupancy. These include but are not limited to the following:

1. Parking improvements required through a Zoning Compliance Permit.
2. Parking improvements required through a Building Permit.
3. Parking improvements required through a new or change of use per 20.60.010B.

F. Any commercial / industrial property whose approach / access use adversely effects any public right-of-way infrastructure shall be required, as reviewed and approved by Development Services, to execute measures to prevent accelerated deterioration of said public right-of-way infrastructure, maintain current level of public access and use of the public right-of-way infrastructure and shall endeavor to mitigate the excessive commercial / industrial use.

G. Private driveway paving construction work shall be completed along the entire length of a private driveway starting at the existing adjacent intersecting public road. Private driveway paving construction work shall be reviewed and approved by Development Services and may include curb / gutter, minimum twelve (12') foot asphalt surface and drainage infrastructure. Private driveway paving construction work cannot exceed a maximum grade of eight (8%) percent. A maximum grade up to ten (10%) percent may be allowed for a length of up to fifty (50') feet if approved by the Development Services staff and the City Fire Marshall.

H. Private road paving construction work shall be completed along the entire length of a private road starting at the existing adjacent intersecting public road. Private road paving construction work shall be reviewed and approved by Development Services staff and may include curb / gutter, minimum twenty-four (24') foot asphalt surface and drainage infrastructure. Private road paving construction work cannot exceed a maximum grade of eight (8%) percent. A maximum grade up to ten (10%) percent may be allowed for a length of up to fifty (50') feet if approved by the Development Services staff and the City Fire Marshall.

I. Driveways and private roads shall substantially follow natural contours and not exceed a maximum grade of eight (8%) percent. A maximum grade up to ten (10%) percent may be allowed for a length of up to fifty (50') feet if approved by the Development Services staff and the City Fire Marshall. Where barriers exist which do not allow a driveway / parking lot / parking garage approach / apron grade to meet this requirement, no driveway / parking lot / parking garage approach / apron, improvements shall be permitted.

J. Access is prohibited to unpaved areas, including but not limited to; front, back or side yards, boulevards, secondary unpaved / unimproved areas, etcetera. Existing accesses to the above noted areas shall be removed if installed after September 16, 1994, (date of adoption of the Missoula City-County Air Pollution Program), and / or curb installation, and / or if modifications to the parcel results in additional

parking requirements. Exemptions: These must meet dust and carry-on abatement measures. Refer to the Missoula City-County Air Pollution Program Chapter 8 for specific restrictions and conditions.

1. Temporary roads and parking at active construction sites
2. Temporary parking if weather prevents paving before occupancy if approved by Development Services staff.
3. Roads solely used for agricultural purposes
4. Long-term parking for heavy equipment and semi trucks where vehicles will be parked for longer than forty-eight (48) hours and no other vehicular traffic is allowed. (This exemption does not apply to sales lots)
5. Long-term parking in commercial and industrial parking lots for vehicles that will be parked for extended periods of time, if no other vehicular traffic is allowed and if no more than fifteen (15) vehicles travel in or out of the area per day ,averaged over any three consecutive days. (This exemption does not apply to sales lots)
6. At licensed RV parks, accesses to parking spots must be paved, but parking spots for RVs need not be paved
7. Parking areas used exclusively for the sale and display of light tractors and other implements with no other vehicular use permitted.
8. Parking areas used exclusively for outdoor recreational/entertainment facilities including but not limited to; outdoor theaters, fairs or athletic fields.

K. Access is prohibited to any location that does not meet the requirements for sight distance, grade, proximity to intersection(s) or any other hazardous or unsafe traffic condition as determined by the Development Services staff.

L. Residential (single dwelling and multi-dwelling) parcel: driveways are prohibited within thirty (30') feet of a crosswalk, stop sign / stop bar or of the point of curvature (PC) and / or point of tangent (PT) of the curb / gutter radius, whichever is greater.

M. Commercial / Industrial driveways are prohibited within twenty (20') feet of a crosswalk, stop sign / stop bar or of the point of curvature (PC) and / or point of tangent (PT) of the curb / gutter radius, whichever is greater.

N. All driveway / parking lot / parking garage approach / apron improvements shall be constructed at ninety (90°) degrees or perpendicular to the adjacent street and / or alley.

O. Driveways and private roads exceeding one hundred-fifty (150') feet in length require approval from the City Fire Marshall.

P. Alleys may be used as back-around access to residential and / or commercial angle parking on private property if the following requirements are met.

- A. The parking spaces shall be of sufficient depth to allow for an unobstructed twenty-six (26') feet back-around space.

Additional commercial requirements include:

- B. The maximum number of parking spaces is ten (10) or less.
- C. For ninety (90°) degree parking, the alley shall be paved to the nearest intersecting avenue(s) and / or street(s) or as set forth in Title 12.22
- D. For less than ninety (90°) degree parking and parallel parking, the length of the entire alley shall be paved.

Q. Existing parking facilities shall not be altered to violate the requirements of this chapter.

R. The number of off-street parking spaces shall be provided in accordance with the off-street parking schedule in 20.60.020C.

12.22.060 Americans with Disabilities Act (ADA) Requirements

36 A. All parking facilities shall meet current / most recent ADA requirements as set forth by 28 CFR part

B. Minimum Accessible parking spaces required:

Total Number of Parking Spaces Provided in Parking Lot	Minimum Number of Required Accessible Parking Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of total
1001 and over	20, plus 1 for each 100, or fraction thereof, over 1000

1. Commercial parking facilities containing 4 or fewer parking spaces shall install an accessible parking space and all other required access, but are not required to reserve the parking space for exclusive ADA use.
2. The 1st space and every 6th space there after shall comply with ADA van accessible parking and access requirements.

C. All new commercial, industrial, and multi-dwelling units with 4 or more dwelling units shall comply with all ADA parking and access requirements.

D. Alterations to the primary function area shall result in the application of applicable ADA parking and access standards to the site.

E. All accessible parking spaces shall be constructed per City of Missoula Engineering Division specifications and standards.

F. Accessible parking spaces shall be located on the shortest route to the accessible entrance(s).

G. Accessible parking spaces that serve a particular building or facility shall be located on the shortest accessible route from parking to an entrance. Where parking serves more than one (1) accessible entrance, parking spaces shall be dispersed and located on the shortest accessible route to the accessible entrances. In parking facilities that do not serve a particular building or facility, accessible parking spaces shall be located on the shortest accessible route to an accessible pedestrian entrance of the parking facility.

H. At least one (1) accessible route shall be provided within the site from accessible parking spaces and accessible passenger loading zones; public streets and sidewalks; and public transportation stops to the accessible entrance(s). This accessible route shall be maintained clear of all obstructions including but not limited to; storage, display, signing, etc. which will reduce the pedestrian route to less than the minimum width specified in Titles 12 and 20

I. At least one (1) accessible route shall connect accessible buildings, accessible facilities, accessible elements, and accessible spaces that are on the same site. An accessible route shall be constructed to connect with adjacent parcels if required to meet cross connection requirements as determined by a comprehensive development plan, zoning compliance permits or Development Services staff.

J. Access aisles shall adjoin an accessible route. Two (2) parking spaces may share a common access aisle. Access routes shall connect parking spaces to accessible entrances. In parking facilities where the accessible route(s) shall cross vehicular traffic lanes, marked crossing(s) shall be installed. An accessible route shall not pass behind parked vehicles.

K. General requirements for accessible parking spaces; these are minimum guidelines and are further defined in City of Missoula Engineering standards and specifications.

1. Where parking spaces are marked with lines, width measurements shall be from the center of the line.
2. The maximum grade allowable in any direction for an accessible parking space and access aisle is 1:50 or two (2%) percent.
3. No portion of an access ramp shall extend into the accessible parking space or access aisle.
4. Covered ADA van accessible parking spaces shall have a minimum vertical clearance of ninety-eight (98") inches
5. Covered passenger loading zones shall have a minimum vertical clearance of one hundred fourteen (114") inches.

L. General Requirements for accessible routes; these are minimum guidelines and are further defined in City of Missoula Engineering standards and specifications.

1. Accessible routes shall meet all ADA guidelines for slope and grade.
2. Accessible routes next to paved areas shall be grade separated by a minimum of four (4") inches.
3. Accessible routes shall be a minimum of five (5') feet wide unless otherwise designated in Title 20. A reduction in width may be allowed by the Development Services Director if sufficient hardship can be proved, but shall not be less than ADA minimum requirements.
4. Accessible routes crossing driving lanes shall be delineated by a contrasting surface or by pavement markings.
5. Accessible routes shall be constructed of portland cement concrete except as noted above when crossing a driving lane. Alternative hard surfaces may be approved by the Development Services Director, prior to construction.

12.22.070 Paving Construction Work-Application, approval, and permit required

- A. Application for permit(s) for paving construction work improvements specified in this chapter shall be made to the Development Services on permit application form(s) provided for such permitting purposes.
- B. Prior to approval of paving construction work improvements and issuance of permit(s) required by this chapter, Development Services staff shall review and determine that the proposed improvement(s) is / are in conformance with the provisions and standards set forth in this chapter and elsewhere.
- C. Upon approval by the Development Services staff , a Right-of-Way Permit and / or a Paving Permit and / or an ADA (accessibility) Permit shall be required before paving construction work may begin.
- D. Paving construction work by any licensed contractor to install, remove, or replace and parking facility improvements on public right-of-way or private shall first obtain any required permit(s) from the

Development Services staff and pay all required fees prior to commencing any such paving construction work.

- E. Paving construction work performed upon or within the City of Missoula public right-of-way shall be performed by a right-of-way construction contractor who is currently and properly licensed by and bonded to the City of Missoula,.
- F. Paving construction work performed upon or within private property shall be performed by a current and properly licensed contractor.
- G. Paving construction work performed upon or within the City of Missoula public right-of-way and / or upon or within private property without required permit(s) shall be subject to an investigation fee which shall be equal to the fee amount for the required un-purchased permit(s) and in addition to the required permit(s) fee.
- H. Paving construction work performed for driveway approach / apron construction shall conform to this section and any deviation from this section shall be reviewed and approved by the Development Services staff prior to any paving construction work activities.

12.22.080 Paving Construction Work -- Standards compliance required.

A. All paving construction work for parking facilities, sidewalks, curb / gutter, driveway approaches and alley approaches, placed in the public right-of-way and private property shall be constructed in accordance with the most recent / current published versions of Montana Public Works Standard Specifications (MPWSS), City Engineering Standard Drawings and City of Missoula Administrative Rules.

B. All paving construction work for parking facilities, sidewalks, curb / gutter, driveway approaches and alley approaches, placed in the public right-of-way and private property shall be constructed in accordance with the most recent / current published versions of Americans with Disabilities Act (ADA), City Engineering Standard Drawings and City of Missoula Administrative Rules.

C. All paving construction work for parking facilities, sidewalks, curb / gutter, driveway approaches and alley approaches, placed in the public right-of-way and private property shall be constructed in accordance with the most recent / current published versions of Manual of Uniform Traffic Control Devices (MUTCD), City Engineering Standard Drawings and City of Missoula Administrative Rules.

D. All paving construction work for parking facilities, sidewalks, curb / gutter, driveway approaches and alley approaches, placed in the public right-of-way and private property shall be constructed in accordance with the most recent / current published versions of the Missoula City – County Air Pollution Control Program requirements, City Engineering Standard Drawings and City of Missoula Administrative Rules. Paving construction work contractors, Engineers, architects and designers shall specifically examine and closely observe the requirements of the Missoula City – County Air Pollution Control Program, Chapter 8 - Fugitive Particulate.

E. In the event of conflict or discrepancy between the MPWSS, ADA and / or MUTCD and any City Engineering standards, documentation and / or related specifications, the City Engineering standards documentation and / or related specifications shall prevail and govern.

12.22.090 Paving Construction Work -- Inspection by v.

A. All paving construction work on public right-of-way shall be inspected by Development Services staff prior to paving construction work and all paving construction work shall be executed and completed to the satisfaction of Development Services staff. A minimum four (4) working hours advanced notice to perform an inspection of the traffic control, the graded work site, concrete forms and / or any other required inspection(s) is required prior to executing the required paving construction work.

B. All paving construction work on private property shall be subject to final inspection by Development Services staff after completion of paving and all paving construction work shall be executed and completed to the satisfaction of Development Services staff.

C. An approved, stamped set of plans shall be made available at all construction sites prior to any inspections.

D. Whenever such paving construction work activities are not executed in accordance with this chapter, Development Services staff shall have authority to order the contractor executing the paving construction work to suspend said paving construction work activities thereon until such paving construction work therewith shall be made to conform in all respects with the standards and specifications set forth in this chapter.

12.22.100 Parking Facility requirements for Single Dwelling Parcels

A. All driveways shall meet the requirements of MMC 12.12

B. A residential single-dwelling parcel shall be permitted only one (1) access / approach to the public right-of-way in the following order of priority; alley, side street, fronting street – further defined and clarified as:

1. Mid-block parcel shall have access by;
 - a. Alley access.
 - b. Fronting street access.
2. Corner parcel shall have access / approach by;
 - a. Alley access / approach.
 - b. Side street or lowest traffic volume street access / approach.
 - c. Fronting street or highest traffic volume street access / approach.
3. Loop driveways and through-lot (street to alley) driveways are not permitted.

C. Parking is prohibited in front and street side setbacks for new construction except when located in front or street side setback in front of a garage, carport, or other parking space located outside the required building setbacks.

D. Curb cut / driveway approaches, for new construction, shall not be permitted where the garage doors are less than twenty (20') feet from the property line on street frontages.

E. No more than forty (40%) percent of the front yard area in an "R" district shall be paved or used for parking or vehicular use. On corner parcels, not more than twenty (20%) percent of the street side yard shall be paved or devoted to parking or other vehicle use.

F. Parking within the setbacks shall be removed when the adjacent parking spaces are removed from outside the required building setback. A curb cut and driveway approach, if existing, shall be removed and the previous parking area shall be landscaped. The driveway may be retained if it meets all the following conditions:

1. The driveway shall be a minimum of twenty (20') feet long as measured from the property line
2. The driveway and apron must be paved
3. The maximum width of the driveway within the setback cannot exceed twenty (20') feet

G. All existing and new parking shall comply with current standards when alterations / changes / modifications to structures located within the property including but not limited to; use, remodel, addition, etcetera, that results in two hundred (200 s.f.) square feet of increased area, or modification to, relocation of, addition to, and / or other changes or alterations to the existing parking.

H. When access to the parcel is from the alley the alley shall be paved to the extents of the property frontage along the alley. If the parcel is adjacent to a public or private roadway the alley paving shall extend to the paved surface of the adjacent roadway.

I. The following exceptions to 12.22.120 apply to townhouses:

1. Refer to Title 20 for additional standards.

2. When garages or carports are paired (abutting), the driveways shall be combined and centered per 20.40.140.E3d on the property line between dwelling units providing access to the garages or car ports. There shall be a minimum of thirty-three (33') feet of distance between single or paired driveways, measured along the front property line, unless otherwise approved by the Development Services staff .

12.22.120 Parking Construction requirements for Multi-dwelling parcels

A. Multi-dwelling parking facilities shall comply with the requirements of Title 12.

B. Multi-dwelling parking facilities shall comply with the requirements of Title 20.

C. Multi-dwelling paved parking facilities shall be separated from unpaved areas by poured-in-place concrete curbing and have adequate storm water management and other infrastructure as required by Development Services staff . Pin-down curbs are not permitted as a substitute for poured-in-place sidewalk and / or curb / gutter.

D. Multi-dwelling paved parking facilities shall be designed by a civil Engineer or licensed architect and stamped plans included with the building permit application.

E. Multi-dwelling paved parking facilities shall be designed so that vehicles accessing or egressing the public roadway/alley from/to a parking lot shall do so by driving forward except for parking spaces served directly off of an alley and meeting the requirements set forth in 12.22.050 R. Parking and access / approach locations shall comply with Title 20.

F. The entire alley, for multi-dwelling paved parking facilities accessed from the alley, shall be paved from intersecting street to intersecting street.

G. Multi-dwelling paved parking facilities serving three (3) dwelling units:

1. Curbing may not be required between paved and unpaved areas

2. The alley shall only be paved to the nearest paved public/private roadway

3. The parking facility may not need to be designed by a civil Engineer.

H. Where shared parking is permitted, the most restrictive ADA requirements shall apply.

I. Where off-site parking is permitted per 20.60.040 the following will apply

1. Off-site parking spaces shall meet existing construction requirements.

2. The pedestrian route between the offsite parking facilities and the on-site accessible routes shall meet all accessibility standards.

3. Accessible parking spaces must be on-site.

J. When a parking reduction is approved by the Zoning Officer per 20.60.080 the ADA parking requirement is unchanged. The pedestrian route between the transit stop and the on-site accessible routes shall comply with all accessibility standards.

K. Multi-dwelling units shall comply with the requirements set forth in 20.60.090 regarding bicycle parking.

L. For multi-dwelling paved parking facilities containing more than twenty (20) parking spaces, the number of required vehicle spaces may be reduced in exchange for motorcycle parking per 20.60.100.

12.22.130 Parking Construction requirements for Commercial and Industrial Parcels

- A. Commercial / Industrial parking facilities shall meet the requirements of Title 12.
- B. Commercial / Industrial parking facilities shall meet the requirements of Title 20.
- C. Commercial / Industrial paved parking facilities areas shall be separated from unpaved areas by poured-in-place concrete curbing and have adequate storm water management and other infrastructure as required by Development Services staff . Pin-down curbs are not permitted as a substitute for poured-in-place sidewalk and / or curb / gutter.
- D. Commercial / Industrial paved parking facilities shall be designed by a civil Engineer or licensed architect and stamped plans included with the building permit application.
- E. Commercial / Industrial paved parking facilities shall be designed so that vehicles accessing or egressing the public roadway/alley from/to a parking lot shall do so by driving forward except for parking spaces served directly off of an alley and meeting the requirements set forth in 12.22.050 R. Parking and access / approach locations shall comply with Title 20.
- F. Where commercial / Industrial paved parking facilities are accessed from an alley, the alley shall be paved from intersecting street to intersecting street.
- G. The following requirements for Commercial / Industrial paved parking facilities with four (4) or fewer required parking spaces:
 - 1. Curbing may not be required between paved and unpaved areas.
 - 2. The alley shall be paved to the nearest paved public / private roadway.
 - 3. The parking facility does not need to be designed by a civil Engineer.
- H. Where shared parking is permitted, the most restrictive ADA requirements shall apply.
- I. Where off-site parking is permitted per 20.60.040 the following will apply:
 - 1. the off-site parking spaces shall meet existing construction requirements.
 - 2. The pedestrian route between the offsite parking facilities and the on-site accessible routes shall meet all accessibility standards.
 - 3. Accessible parking spaces must be on-site.
- J. When a parking reduction is approved by the Zoning Officer per 20.60.080 the ADA parking requirement is unchanged. The pedestrian route between the transit stop and the on-site accessible routes shall comply with all accessibility standards.
- K. Commercial / Industrial shall comply with the requirements set forth in 20.60.090 regarding bicycle parking.
- L. Commercial / Industrial paved parking facilities containing more than twenty (20) parking spaces, the number of required vehicle spaces may be reduced in exchange for motorcycle parking per 20.60.100.
- M. Commercial / Industrial off-street vehicle (truck, tractor / trailer) loading and unloading shall not be accessed by backing into the private property from the public roadway. All maneuvering, backing and turning movements shall be limited to on-site areas only and comply with city Engineering standards and specifications.
- N. Stacking lane (queuing) standards shall comply with the requirements set forth in 20.60.110 and comply with city Engineering standards and specifications.

12.24.010 Permit--Required. It shall be unlawful for any person, firm or corporation to make an excavation without being a licensed and bonded excavator, and first obtaining an excavation permit from Development Services. Permits shall be required for the following:

A. Installing, maintaining, replacing, removing, repairing or investigating water or sewer lines that are to be connected to a public utility in the streets, alleys, public rights-of-way, easements, and private property.

B. Excavating in any street, alley, public utility easement or public right-of-way.

C. Installing, maintaining, replacing, removing, repairing or investigating water or sewer lines owned or operated by the City of Missoula. Exceptions:

1. Landscaping sprinklers and irrigation systems shall only require an excavation permit if the installation is in a State Route right-of-way. Repair of landscaping sprinkler and irrigation system does not require an excavation permit.

2. The installation, maintenance, removal, repair or replacement of utility poles shall only require an excavation permit if the owner of the pole does not have a written agreement with the City of Missoula for the relocation of their utility poles.

12.24.020 Permit--Application.

A. Application shall be made to Development Services by the excavator stating the purpose for which the excavation is to be made, including locations, depth, width, length and amount of time such excavation is to remain open or unfilled.

B. Applicant shall file, upon request, with Development Services for approval, one drawing of all proposed improvements before permit is issued.

C. Before issuance of a permit the excavator shall contact all underground facilities for their locations as stated in M.C.A. 69-4-502. The excavator shall have a location number from the Underground Location Center before a permit is issued. In addition to public utility lines, the excavator shall locate and protect private utility lines such as water and sewer services and private irrigation lines.

D. Before issuance of an excavation permit all fees, except the fees specified in Section 12.24.140 shall be paid. The fees to be paid may include but not limited to a: General Obligation Bond, contract for sewer, sewer development, Special Improvement District, and rebate fees.

E. Permits shall expire by limitation and become null and void if work authorized is not commenced within fifteen (15) calendar days after date of issuance. Also, permits shall expire by limitation and become null and void if work authorized by the permit is suspended by the excavator for more than fifteen calendar days. Before work is recommenced, a new permit shall be issued and a full permit fee paid. Extension of time on permits may be granted by the Development Services Director, or a designated agent.

F. Excavators shall give Development Services staff two hours notice of beginning excavation and two hours notice of commencing backfill.

G. No excavation shall extend over half the width of any traveled portion of the street right-of-way section at any time, except under written authorization of the Development Services Director, or a designated agent.

H. All excavators installing Septic Tank Effluent Pump (STEP) systems shall be required to be certified by the Development Services Director a designated agent to do work on STEP systems.

- I. Issuance of a permit will require that the excavator shall have a competent person, as defined by the Federal Occupational Safety and Health Administration (OSHA), on site during all work associated with this permit.

12.24.030 Permit--Application--Fee. Permit fees are based on the average direct and indirect costs to provide plan checking, permit administration, field inspection, record management, warranty inspection, and Development Services for excavations. The fee for obtaining an excavation permit shall be as follows:

A. Excavation Permits for Sanitary Sewer:

	Fee
1. New connection of a service line from the sewer main to the building:	\$357.00
2. New connection of a service line from the stub to the building:	\$310.00
3. New connection of a service stub from the sewer main to the property line:	\$357.00
4. New STEP connection from the sewer main to the building:	\$544.00
5. New STEP connection from the stub to the building:	\$505.00
6. New STEP connection of a service stub from the sewer main to the property line:	\$357.00
7. New STEP tank installation without connection to a sewer main:	\$426.00

B. Excavation Permits for Water:

	Fee
1. New connection of a service line from the water main to the building:	\$201.00
2. New connection of a service stub from the water main to the property line:	\$161.00
3. New connection of a service line from the stub to the building:	\$161.00

C. Excavation permits for Miscellaneous Excavations:

1. New utility mains including sewer, water, storm drain, gas, electric, phone, cable television are:	
	Fee
a. Utility main construction: 0-600 lineal feet:	\$2,026.00
b. Utility main construction: 601-2,400 lineal feet:	\$2,979.00
c. Utility main construction greater than 2,400 lineal feet:	\$2,979.00
plus \$0.38 per lineal foot	\$0.38
2. All other permits including repair permits:	\$187.00

Revenue from these fees shall be credited to the general fund.

12.24.035 Permit fee exceptions:

- A. Any excavator doing work for the City may be exempted from permit fees when authorized by the Development Services Director.
- B. Work performed by the City is exempt from permit fees.

12.24.045 Specifications for cutting of Portland cement concrete or asphalt.

- A. Concrete areaways, curbs, driveways, pavements, sidewalks and slabs shall be cut in a manner and the extent specified herein or as directed by Development Services staff . The outer edge of all cuts through

concrete items shall be sawn through to a depth of not less than thirty percent of the total thickness by means of a power-driven concrete saw. All cuts within the city right-of-way shall be in a straight line perpendicular or parallel to the center line of the excavation unless approved by Development Services staff. Concrete and asphalt items encountered when excavating shall be removed to a width of twelve inches greater than the width of the trench. Where the cut line is less than five feet from the edge of the existing pavement, remove and replace the entire pavement section between the trench and edge of pavement.

B. Asphaltic surface cutting shall be done with a jackhammer with a spade bit, power driven saw or cutting tool to the same requirements cited above. An excavator may use a backhoe bucket in removal of asphaltic surface; square cutting of asphaltic surface to follow backfill operation with area to be square cut marked by Development Services staff.

C. Whenever an excavator is required to remove curb or sidewalk when reinstalling, replacing, or repairing utility lines, they shall be allowed to, and required to reinstall such curbs and sidewalks as provided in this chapter:

1. The concrete curb and sidewalk work shall conform to all city regulations and concrete forms shall be inspected before placement of concrete.
2. The excavator shall indicate on the excavation permit application their intention to perform any concrete curb or sidewalk replacement in the public right-of-way.
3. The excavation permit shall serve as a permit to remove and replace concrete curb and sidewalk within the limits of the excavation work authorized by the excavation permit.

12.24.060 Contractor Responsibility and Public Safety.

A. Responsibility: The Excavator in accepting and acting under the excavation permit granted under the provisions hereof agrees to assume full responsibility for injury to persons or losses or damage to property incurred by reason of, or arising out of, any act or omission of such excavation or to properly barricade, guard, and warn the public of such excavation.

B. Traffic Control: Prior to the issuance of a permit the excavator shall provide a traffic control plan (as defined in the Manual on Uniform Traffic Control Devices Part VI of the U.S. Department of Transportation Federal Highway Administration, latest edition) or a traffic control plan number from the *City of Missoula Guidelines for Traffic Control* if applicable, and gain approval of the traffic control plan from Development Services staff. The excavator shall be responsible for maintaining safe travel corridors for all vehicle, bicycle and pedestrian traffic as part of the approved traffic control plan. Traffic control devices shall be installed in accordance with the approved traffic control plan before construction or maintenance operations, and shall be properly maintained and operated during the time such special conditions exist. They shall remain in place only as long as they are needed and shall be immediately removed thereafter. Where operations are performed in stages, there shall be in place only those devices that apply to the conditions present. Devices or signs that do not apply to existing conditions shall be removed, covered or turned so as to not be readable by oncoming traffic. Barricade and sign supports shall be constructed and erected in a proper manner. Weeds, trees shrubbery, construction materials, equipment, spoil piles etc., shall not obscure any traffic control device. Excavated material that is stockpiled on city right-of-way shall be safeguarded by means of flashing barricades and proper traffic regulatory signing. All safeguarding of excavation projects must conform to the Manual on Uniform Traffic Control Devices for Streets and Highways, U.S. Department of Transportation Federal Highway Administration.

C. Excavation Safety: All work covered in this ordinance shall meet current OSHA Safety and Health Standards. Failure to comply with OSHA rules may result in an immediate loss of the excavation permit. The excavator shall take all necessary precaution to prevent injury to workers and others, and to protect any and all adjacent private and public property. This shall include protecting sumps, storm

drains, sidewalks, curbs, sprinkler systems, traffic loops, traffic signals, etc. The excavator shall be required to have a competent person, as defined by OSHA, on site during all work associated with the Excavation Permit. The excavator shall be solely responsible for all safety related to the excavation.

12.24.080 Backfilling--Specifications of materials for top six inches of finish subgrade.

A. The top six inches of finished subgrade shall be filled with material meeting the following specifications compacted to ninety-five percent proctor density:

Passing Screen Size	Percent by Weight Passing
1 inch	100
No. 4	40-70
No. 10	25-55
200 Mesh	2-10

B. All materials, methods of backfill and compaction shall be approved by Development Services staff.

12.24.090 Resurfacing specifications for Public Roadways. Finished surfaces shall be free of ruts, defects and depressions exceeding 3/8-inch measured with a ten foot straightedge paralleling the center of the roadway, and must have a smooth riding quality. After bringing the compacted backfill to finished subgrade, the excavator shall employ the following methods where applicable:

A. Concrete Base or Surface. Where the base or surface is concrete, the permittee shall immediately after completion of backfill pour concrete meeting the current city requirements for concrete replacement. All concrete replacement depth shall be a minimum of eight inches, or as directed the Development Services staff. The new concrete shall be properly cured out before opening the patch to traffic loads.

B. Bituminous Surface on Improved Base. After bringing the compacted backfill to top of subgrade in a manner specified in this chapter, the excavator shall cause bituminous material, of a type and grade equal to the original, to be placed on the subgrade and rolled or otherwise compacted in such a way as to smoothly join the original material without noticeable rise or fall above or beneath the original grade of the adjoining material. Tack coat shall be applied to square cut edges to insure proper bonding to original surface material. The thickness of the replaced surfacing shall be as follows:

1. Residential streets shall be two inches.
2. Commercial streets shall be three inches.
3. Arterial and collector streets shall be four inches with two lifts required.
4. State primary routes shall be six inches with two lifts required.

C. Unimproved Surface. Where the excavation is on unimproved surfaces, the backfill shall be brought to finish grade by using the material, compaction methods and surface acceptance, as provided in Sections 12.24.070 and 12.24.080. When the trench is in natural soil, the top six inches shall be filled with a topsoil equal to the natural topsoil of the surrounding area. This shall then be graded and shaped to conform to the natural contours of the area.

D. Resurfacing Materials. Materials used in resurfacing shall be as follows:

1. Prime Coat. All square cut edges shall be primed with MC cutback oils before making a patch.
2. Plant Mix Asphaltic Types. Asphaltic mix shall be the type and grade specified by the Development Services staff.

3. Asphaltic Hot Mix and Cold Mix. Asphaltic plant hot mix shall be used from April 1st to October 31st of any year. Asphaltic plant cold mix shall be used from November 1st to March 31st of any year and shall thereafter be removed and replaced with hot mix. Adjustments may be made, as to dates and types of mix, upon written approval of Development Services staff .

E. Pavement Marking. All pavement marking removed or damaged by excavation work shall be replaced with the same type of material used in the original markings, or those approved by Development Services staff. The work must meet the installation and material specifications commensurate with the type of marking used. Thermoplastic pavement marking may be replaced with plastic inlay tape or an approved equal.

F. Warranty. The holder of the permit shall warrant the work in the public right-of-way to be free from backfill settlement and surface condition for two years following the completed, accepted work. Warranty starts on date project is accepted by Development Services staff .

12.24.100 Applicant to complete excavation and repair surface within fifteen days--Inspection and completion of repair by city.

A. An applicant for a permit to excavate any surface within public right-of-way of the city shall, within fifteen calendar days of completion of excavation operations, repair and complete the surface of the excavation. Extension of time may be granted by the Development Services Director upon showing of justifiable cause by the excavator; such extension when granted must be in writing.

B. If inspection of project, while under construction, finds construction methods being practiced not conforming to this chapter, a correction notice will be issued by Development Services staff listing items or procedures not meeting requirements of this chapter. If corrections listed on notice are not brought to conformity with this chapter, a stop work order for the project will be issued. Work on the project shall only resume after a meeting with the excavator, Development Services Director or designee, and the Development Services staff member who issued the stop work order. If the project is not brought into conformity with this chapter, the Development Services Director shall cause the excavation to be placed in a condition that does meet the requirements of this chapter. Costs shall be assessed to the excavator's bond under Section 12.24.120, with action against the excavator's city business license, under Section 5.08.120.

12.24.110 Business license and liability insurance requirement. At the time of making excavation business license application, the applicant shall file with the City Treasurer evidence of liability insurance as required by Section 5.08.150. The Development Services staff shall verify that the excavator has obtained a city business license prior to issuing a permit for the excavation.

12.24.120 Surety bond requirements.

A. An applicant for a permit must also file a surety bond as required in Section 5.08.140 in the principal amount of not less than the contract amount, but in no case, less than twenty thousand dollars. In addition to the requirements of Section 5.08.140, the bond shall also be conditioned upon the proper backfill of the excavation, proper installation of any utility service or main line and restoration of surface in accordance with the provision of this chapter. Such bond shall be required of all applicants for permits without exception.

B. Any evidence of settlement of backfill or deterioration or failure of excavator's patch applied to the surface in the public right-of-way within two years after completion and acceptance of the work shall be deemed conclusive evidence of defective backfill or surface restoration by the permittee, excavator and in such event, after three days' notice to the excavator and their bondsman, the Development Services Director or a designated agent may elect to re-excavate and backfill properly or to repair defective surface restorations, or both, in accordance with the provisions of this chapter, and the costs thereof shall be assessed against the bond provided for by this section and bond filed under this section must so recite the right of the city to do so.

12.24.130 Liability of city. The city shall assume no responsibility for excavator's surface patches or for any backfills. The Development Services Director's or his/her designee's report upon failure of any excavator's backfill substance or upon any surface failure shall be conclusive.

12.24.140 Assessments for damaging or opening pavement.

A. A charge separate from the excavation permit fee must be paid by the excavator for each square foot of pavement to be removed or damaged. Pavement may be considered damaged if it is gauged, scraped, cracked, or has wheel or tread marks as a result of excavation operations.

B. The asphalt cut assessment rate shall be determined per the following table:

AGE	ARTERIAL	COLLECTOR	LOCAL
2 years or less	\$20/SF*	\$15/SF*	\$10/SF*
More than 2 years to 5 years	\$15/SF	\$12/SF	\$8/SF
More than 5 years to 10 years	\$10/SF	\$8/SF	\$4/SF
Excellent condition >10 years	\$8/SF	\$4/SF	\$1/SF
Pavement < 10 years old and/or seal coat that is < 5 years old outside the asphalt patch that is damaged during excavation operations	\$3/SF	\$2/SF	\$1/SF
Seal Coat 5 years or less**	\$3/SF	\$2/SF	\$1/SF

- * asphalt cutting on streets 0-2 years old will not be allowed unless approved by the Development Services director or designee.
- ** the asphalt assessment and the chip and seal assessment shall both be assessed when applicable

C. The Development Services Director may, in their judgment, waive the assessment if the pavement is in poor condition. Monies obtained by these assessments shall be credited to the general fund and earmarked for street construction and repairs.

D. Exception: When the excavation is performed at the request of the City for street reconstruction that requires utility improvements, no pavement assessment will be required of the utility making the improvements.

12.24.150 Permit requirements for public utility and cable television companies.

A. License. Any public utility or cable television company owning or operating underground facilities shall annually apply for an excavation business license to cover all excavations to be made by or on behalf of such company during each fiscal year.

B. Bond. Public utility and cable television companies shall file a surety bond in the principal sum of fifty thousand dollars concerning all of the excavations made by or on behalf of the company. Such bond shall be filed with the City Treasurer prior to issuance of excavation business licenses.

C. Insurance. Public utility and cable television companies shall file with the City Treasurer evidence of public liability insurance that conforms to Section 12.24.110.

D. Public utility and cable television companies shall pay for permits as specified in Section 12.24.030.

E. Notice. Public utility and cable television companies shall give Development Services staff two hours'

advance notice of intent to begin backfill operations.

F. Comprehensive Development Plan. Each utility company operating within the city shall provide a comprehensive development plan for the use of the public rights-of-way or easements for public utilities. The utility company shall provide Development Services staff with a minimum of two copies of the plan. The plan shall be a five-year type plan plus information regarding long-range plans. Supplemental updates of the plan shall be provided each year prior to January 1 of each year. The plan and yearly supplements shall contain but shall not be limited to the following:

1. Master plan of the utility in the public rights-of-way or easements;
2. Reconstruction, extension or replacement plans;
3. Yearly program for construction planned;
4. Schedules of overall improvements;
5. Location of the proposed improvement within the public rights-of-way.

G. Utility Locations and Plan Review. Locations of utilities placed in public right-of-way and public utility easements shall be approved by the Development Services Director or designee. One set of construction plans shall be submitted to Development Services staff for review and approval for the installation or replacement of utilities within the public right-of-way and public utility easements. The construction plans shall be drawn to scale and include right-of-way boundaries, street names, location of existing infrastructure including curbs, sidewalks, edges of asphalt, and other utilities.

12.24.170 Cleaning up of excavation site. The excavator shall prevent all mud, rocks, or debris from being spilled or dragged onto rights-of-way outside the excavation site. Upon completion of excavation work, the entire area in all directions shall be cleared of all debris, boulders and all other excess materials from excavation, backfill and resurfacing operations to the satisfaction of the Development Services staff . This clean up requirement shall include private property, as well as public rights-of-way.

12.24.180 Requirements for special projects. The following shall apply to special projects as determined by the Development Services Director or a designated agent. Contractor and subcontractors performing excavations for special improvement districts shall conform to the specifications and contract documents for that special improvement district in lieu of the Engineering construction requirements of this chapter.

12.24.190 Violation--Penalty. It shall be unlawful for any person to fail to perform any of the conditions set out in this chapter. Upon conviction, a minimum fine of five hundred dollars will be levied. Any excavator convicted of a violation of this chapter may have their city business license revoked as per Section 5.08.120 M.M.C. Further, any person convicted of a violation of this chapter shall be required to post with the City Treasurer a cash bond in the amount of five thousand dollars before they may perform any further excavating work within the city. The cash bond shall be used on order of the Development Services Director to repair and maintain any further excavations made by such person.

12.28.020 Signs--Generally. No person shall place, erect, or maintain, or cause to be placed, erected, or maintained, upon, over, or across any street, sidewalk, or alley any hanging or swinging sign or signs, or post or posts, or any obstruction of any kind or character as will in any degree interrupt or hinder the free use of the street, sidewalk, or alley by the public, or that will in any manner endanger the safety of any person passing or traveling along, upon, or over such streets, alleys, and sidewalks, except small sidewalk commercial signs may be used provided that:

- A. No such sign may obstruct pedestrian or other traffic;
- B. No such sign may be lighted or use electricity;
- C. No such sign may be larger than five feet in height or three feet in width;

- D. No such sign may hang, but must rest on the ground or on supports placed on the ground;
- E. The business establishment using the sign has no other feasible means of advertising;
- F. The sign is approved by the Development Services staff . The use of any sign authorized by this section is a privilege granted by the city and shall not constitute a nonconforming use in the event such signs are prohibited in the future.

12.28.060 Building materials. It is unlawful for any person to place or leave upon any street, avenue or alley any rock, stone, lumber, brick or other building material, unless permission to do so shall be first obtained from the Development Services staff or unless the person shall be entitled to do so under a building permit issued by Development Services staff .

12.28.110 Visibility obstructions. Signs, fences, hedges, walls, shrubbery, natural growth, or other obstructions to the view, whether movable or stationary exclusive of motor vehicles, located on private property or public right-of-way that are higher than thirty inches above the level of the established top-of-street curb grade or level of the adjacent street intersection and are located within:

- A. The isosceles triangle having sides of fifty feet measured along the curb line of each intersecting street; or
- B. The triangle having a fifteen foot side measured along the curb line of a minor street and a seventy-five foot side along the curb line of the intersecting arterial, collector, stop controlled through street whereas adjacent intersections of the through street are stop controlled creating a stop controlled through street corridor, or through street of a T-intersection, all with speed limits of thirty miles per hour or less; or
- C. The triangle having a fifteen foot side measured along the curb line of a minor street and a one hundred twenty foot side along the curb line of the intersecting arterial with a speed limit of thirty-five miles per hour or more; or
- D. The isosceles triangle having sides of ten feet along the right-of-way line of an alley or along the edge line of a private drive and along:
 - (1) The inside line of the sidewalk, or
 - (2) If there is no sidewalk, the curb line; or
- E. Regardless of other provision of this section fences, walls, trees, or hedges erected or maintained in any area which materially impedes vision of vehicles entering an abutting street as determined by Development Services staff ; are obstructions to visibility of pedestrians and persons operating vehicles and are public nuisances.

It is the duty of the owner or tenant of any premises within the city to abate such public nuisances in front of and adjoining their premises within the public right-of-way or upon their premises by destroying, removing, or trimming the cause of the public nuisance.

12.28.140 Visibility obstructions--Misdemeanor and penalty.

- A. It shall be a misdemeanor for any person or persons or corporations owning real property or tenants of any real property to install, set out, or maintain or to allow the installation, setting out, or maintenance of any signs, hedge, fence, shrubbery, natural growth, or other obstruction to the view, whether movable or stationary, higher than thirty inches above the level of the street curb or the level of the adjacent roadway on any private property or public right-of-way that is located in the areas described in Section 12.28.110, subsections A, B, C, D and E.

B. Any person or persons or corporations violating Section 12.18.110 of this code after thirty days' notice by the Development Services Director, shall be guilty of a misdemeanor and on conviction shall be fined any sum not less than fifty dollars nor more than one hundred dollars, and each day that the violation shall continue shall constitute a separate offense.

12.30.020 Fences--Permit required. Any person or contractor constructing a new fence or any time fifty percent (50%) or more of an existing fence in or adjacent to a public right-of-way is reconstructed or repaired by any person or contractor on any property where any portion of the fence is located within five feet of public right-of-way, a fence permit from the Development Services staff prior to construction or reconstruction of said fence shall be obtained from the City. A fee of forty two dollars (\$42.00) which shall be paid by any applicant for each permit issued. All work under this permit shall be completed within one hundred eighty days of issuance. All work after one hundred eighty days of the date of the permit issuance shall require a new permit.

12 30.030 Investigation fee--Work without a permit.

A. Investigation. Whenever any fence work for which a fence permit is required by this code has been commenced without first obtaining said permit, an investigation Development Services staff shall be made before a fence permit may be issued for such work.

B. Fee. An investigation fee, in addition to the fence permit fee, shall be collected whether or not a fence permit is then or subsequently issued upon the second investigation of fence work performed by an individual or upon the first investigation of fence work performed by a contractor. The investigation fee shall be fifty dollars. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

12.30.050 Encroachments--Permits. The Development Services Director, or a designated agent, is authorized to grant a fence encroachment permit to the owner of land abutting city right-of-way for a temporary revocable privilege to construct, install, and maintain a fence upon a portion of the public right-of-way that is not currently or prospectively used or needed in the near future for any public travel or public use. This fence encroachment permit shall be a revocable privilege and shall be in the form of a fence encroachment permit signed and acknowledged by the permittee whereby the permittee recognizes that the permit is revocable by the City at any time upon thirty days' notice to the permittee and whereby the permittee recognizes that the City retains its right to use and to access the public right-of-way subject to the fence encroachment permit. The permittee must as part of the fence encroachment permit application process covenant to remove the fence and restore the land to its former condition, all at the permittee's expense, upon the receipt of such notice. Such fence encroachment permits as the aforesaid to be made by the City, through the action of the Development Services Director, or designee, shall be filed with the Missoula County Clerk and Recorder. A fence encroachment permit fee in the amount of eight hundred sixty-eight dollars (\$868.00) to issue this agreement shall be paid by the property owner.

A. Fences, Encroachments. Restrictions to fences allowed to encroach into the public right-of-way.

1. No fence shall be constructed which will restrict visibility as described in 12.28.110 of this code.
2. No fence shall be allowed to encroach into Montana Highway Department right-of-way.
3. In any public right-of-way, where public sidewalks do not exist, no fence shall be installed closer than two feet to the back of any future public sidewalk as determined by the Development Services staff. In any public right-of-way, where public sidewalks exist, no fence shall be installed closer than one foot to the back of the sidewalk
4. Fences shall have a maximum height requirement per Section 12.30.040

5. Fences shall have posts not exceeding two and three-eighths (2-3/8) inches outside diameter for metal pipe or four inch dimension for wooden posts. No fences shall be constructed of stone, rock, masonry, any metal with pointed or projecting tops, cable, or chain. Prior to the issuance of the fence encroachment permit, the fence design must be approved by the Development Services staff to ensure conformity to this section and to be reviewed for potential hazards.
6. No other structure or storage of personal property inclusive of motorized vehicles other than landscape materials approved by 12.48.060 of this code shall be allowed in the public right-of-way behind a permitted fence. There shall be no shrubs, bushes, or hedges exceeding the height of the permitted fence in the public right-of-way.
7. No encroachments of fences into the public right-of-way shall be allowed in a commercial or industrial district. No encroachments shall be allowed on properties used for business purposes
8. When fifty percent or more of an existing fence in or adjacent to a public right-of-way is repaired or reconstructed it shall conform to this section.

12.30.060 Penalty.

A. It shall be unlawful for anyone to construct a fence or to allow a fence to be constructed on their real property in violation of this chapter. There shall be a fine of up to five hundred dollars for not complying with the above chapter. Imprisonment shall not be a penalty for any such violation.

B. Any fence not in compliance with this chapter may be ordered removed by the Development Services Director or a designee. Any fence not removed or brought into compliance within thirty days' notice from the Development Services Director, or a designee, shall be removed by City labor forces or by an assigned contractor with all associated costs assigned to the property owner to become a recordable lien.

12.30.070 Variances. Variances from the forty-eight inch height limit, as specified in Section 12.30.040(B), may be granted to a height of six feet by the Development Services Director in cases where:

- A. The front yard is substantially less in size than the typical neighborhood front yard; or
- B. The front yard is located in the side yard of a typical neighborhood lot; or
- C. The variance would be in accordance with the typical location and height of fences in adjacent or neighboring properties of the neighborhood; or
- D. The portions of a preexisting single family home that are affected by, and are immediately adjacent to, or directly across the street from a commercial, industrial or multifamily development that has been permitted by a use variance or a zoning change that contains nine or more parking spaces.

12.32.120 Providing barriers during construction. Adequate barriers will be placed around trees growing in the public right-of-way to protect the trunk and limbs from damage due to construction work. Excavation taking place within the "tree preservation zone" of any tree growing in the public right-of-way will require a permit from Development Services staff and the and the City Parks Department. The City Parks and Recreation Department will inspect all such excavations to ensure minimum damage to tree roots. When trees are damaged severely, as determined by the Parks Department, due to excavation or construction, the abutting property owner shall be responsible for planting a new tree pursuant to the City Parks Department specifications, except where contractor negligence damaged the tree in which case the contractor shall be responsible for repairing or replacement of the tree.

12.48.040 Permitted uses.

A. Where the City Engineer has approved, prior to the passage of the ordinance codified in this chapter, the use of a city boulevard for commercial and/or multi-family off-street parking and the boulevard has been paved, such use may continue unless deemed hazardous by the Development Services Director or determined not to be in the public interest by the city council.

B. Where the city boulevards, prior to the passage of the ordinance codified in this chapter, have been used for multi-family and commercial parking prior to the enactment of the off-street parking ordinance, such use may continue unless deemed hazardous by the Development Services Director or determined not to be in the public interest by the city council.

C. When approving design plans for a zoning compliance permit, the city zoning officer may allow landscaping requirements to be partially satisfied by landscaping within the boulevard.

12.48.070 Regulations for landscaping. The city zoning officer is authorized to develop regulations to implement this chapter and to govern landscaping in the public right-of-way. Such regulations shall be approved by the city council and shall be utilized by the city zoning officer in approving landscaping site plans.

12.48.080 Enforcement. This chapter shall be enforced by the Police department, Development Services, city Parks department.

12.50.020 Banner sign defined. A "banner sign" means a sign composed of lightweight material erected for a limited duration to emphasize a particular nonprofit event, activity or celebration. Signs erected solely for the purpose of providing directions for special events shall not be considered banner signs and may be approved by Development Services staff.

12.50.030 Application for permit. An application shall be made to the Development Services for the installation of any banner sign. The application shall include the following:

A. An initial twenty-five dollar application fee to help defray review costs. Any subsequent review of the identical banner placed at the same location shall be exempt from the review fee;

B. The applicant's 501 nonprofit documentation form if the event, activity or celebration promotes a nonprofit organization;

C. The requested dates and location of banners; and

D. A scaled drawing of the proposed banners, including all copy.

12.50.060 Zoning officer review. The zoning officer shall collect, record, review and approve or deny all applications in accordance with the standards provided in this chapter for safety considerations.

12.52.010 Assignment. For each lot or tract of land abutting any street or avenue in the city a street number shall be assigned by the city's Geographical Information Services (GIS) office.

12.52.020 Renumbering --Appeal--Failure to comply.

A. Whenever existing street numbers for structures:

- (1) Are out of sequence;
- (2) Indicate that the structure should be found on the other side of the street;

- (3) Identify houses on corner lots as being on one intersecting street when by virtue of their access they should be on the other intersecting street;
- (4) Need to be changed to bring numbers assigned by the county into conformity with numbers assigned by the city;
- (5) Do not conform to the system and the modifications thereto used by the city's GIS office in assigning street numbers; or
- (6) Do not comply with one or more of the other requirements of this chapter; the city's GIS office may order the owner or the affected property owner to change the number to one selected by the city's GIS office.

B. The order of the city's GIS office may be appealed by sending a written notice of appeal to the city council within thirty days of issuance of the order. The city council shall refer the appeal to an appropriate committee.

C. After hearing the appeal, the committee shall affirm, modify or rescind the city GIS office's order.

D. Upon expiration of the time for appeal or upon a decision of the appeal, the affected property owner shall change the house number as required by the city's GIS office or the city council. Failure to comply with the order shall constitute a misdemeanor. Each day shall constitute a separate offense.

12.52.030 Numbering system. The city GIS office shall assign numbers in accordance with the following system: The south side of streets running east and west shall bear odd numbers, and the north side of such streets shall bear even numbers. The west side of streets running north and south shall bear odd numbers and the east side of such streets shall bear even numbers. The city GIS office shall follow this system as they deem it applicable. Where problems arise in the application of the above system, the city GIS office shall have discretion to assign numbers or select such a numbering system as best meets the needs of the particular case.

12.52.040 Residential uses.

A. Street numbers shall be placed on the exterior wall of all residential structures in such a position as to be clearly visible from the public highway or street to which the number relates.

B. Where multi-family structures have separate street numbers for each unit, such numbers shall be placed on the doors or within three feet of the doors on adjacent walls. If such numbers are not clearly visible from the nearest public highway or street, the numbers shall also be listed elsewhere on the premises on which the structure is located so as to be clearly visible from the public highway or street.

C. Street numbers for mobile homes shall be placed on exterior walls within three feet of the main entrances. If such numbers are not clearly visible from the public highway or street to which the number relates, the numbers shall also be listed elsewhere on the premises on which the structure is located so as to be clearly visible from such public highway or street. Where the city GIS office deems it necessary, he/she shall require the owners of mobile home parks to erect a map at the entrances thereto depicting the layout of streets and the location of lots to which street numbers are assigned.

D. Where multi-family structures have a primary street number to designate the structure and the secondary numbers or letters to designate individual units therein, the primary street number may be placed on the premises near the structure as well as on the exterior wall pursuant to subsection A of this section. Secondary numbers or letters designating individual units shall be placed on doors or on adjacent walls within three feet of the doors.

12.58.030 Special event permit requirement.

A. A special event permit shall be issued by the police department with respect to public right-of-way or by the parks and recreation department for park usage in order to conduct a special event within a public sidewalk, street, sidewalk or public right-of-way, whenever in the opinion of the city

police department, city public safety regulation or control of motor vehicle or pedestrian traffic or public safety police protection is required for conducting the special event. It is unlawful to conduct a special event regulated by this chapter without a permit. A special event permit for use of a public sidewalk, street, sidewalk or public right-of-way shall be obtained from the city police department. The entity or person organizing, sponsoring or conducting the special event shall be responsible for obtaining any required liability insurance policy coverage as well as for applying for a special event permit. It is recommended the entity or person organizing or sponsoring the special event start the permit process at least two weeks in advance when time permits. If the submittal is received by city officials at least two weeks in advance of the event, the application may be circulated through intra-city departmental mail. However, if it is received less than two weeks prior to the event the applicant shall be responsible for going individually to the fire, Development Services, parking commission, and park departments to obtain any necessary approval. Completing those approvals, the applicant must return the application to the police department for police review. The request is then forwarded to the Mayor for final consideration.

- B. The issuance of a special event permit shall be governed by the following standards:
1. The applicant or sponsors of the special event shall provide liability insurance providing coverage for their organization and naming the city as an additional insured. To the extent reasonably possible, liability insurance coverage shall be in the minimum amounts of \$750,000 per claimant and \$1,500,000 per occurrence. Any liability insurance requirements for residential block parties shall be governed by section 12.58.090, MMC, pertaining to residential block parties.
 2. The applicant for any special event must have a traffic control plan which has been reviewed and approved by Development Services staff and if barricades or traffic control devices are deemed necessary the applicant shall be solely responsible for renting, placing and removing any required barricades or traffic control devices.
 3. No permit shall be necessary for sidewalk picketing or marching being conducted solely on public sidewalks when the picketing is conducted in such a manner that allows pedestrian traffic an opportunity to pass by unobstructed and that allows pedestrian and/or motor vehicle traffic an unobstructed opportunity for ingress and egress to property.
 4. No special event shall be conducted on a public street, sidewalk or right-of-way between the hours of nine p.m. and eight a.m.
 5. No special event permit shall be issued to conduct a special event anywhere on Brooks Street from the intersection of Brooks and Bancroft southwest on Brooks to the city limits, for the reasons that this area is an area with a great amount of motor vehicle traffic congestion with higher speed limits and greatly restricted alternative motor vehicle traffic routes as a result of large areas of land not having streets pass through them as a result of the Bitterroot railroad tracks, several large shopping center complexes, the Sentinel High School and Missoula Vocational Technical campuses, the County Fairgrounds and Play Fair Park and little league baseball field complex. A special event permit may be issued for motor vehicle convoys or parades using Reserve Street when passing through the Missoula community from a beginning point outside of the city.
 6. The police chief or his designee shall be empowered to reasonably designate the route of a parade or event to be consistent with one of the recommended routes approved by the Police Department and Development Services. If the applicant is unwilling to modify the application to incorporate this change, the application shall be denied.
 7. The police chief or his designee may limit use of a street for a special event to one side or portion of a street whenever necessary in the public interest in order to provide and preserve

public safety and traffic control in order to permit simultaneous use of streets by those participating in the special event and other motor vehicle traffic.

8. If the proposed special event is for the primary purpose of commercial advertising and it would disrupt streets or public places ordinarily subject to great congestion during the time of the special event, or would require such a diversion of police protection that it would deny reasonable police protection to the city, the application may be denied, unless the applicant modifies the proposed special event to satisfactorily deal with these concerns in a manner reasonably acceptable to the police chief or his designee.
 9. A special event permit application requiring police protection for public safety shall be denied if the application requests the conducting of a special event at the same time as another special event requiring police protection that is being conducted in a different vicinity at a different geographical location and the additional diversion of police protection would deny reasonable police protection to the city.
 10. A special event permit application shall be denied if it would require such a substantial amount of police protection for public safety that it would deny reasonable police protection to the remainder of the city, even when additional off-duty police officers would be employed on an overtime basis.
 11. A special event permit application shall be denied if the request is for a time and location where a special event or street excavation or construction project has already been scheduled for that time and location and an irreconcilable conflict exists between the two so that they could not reasonably be conducted at the same time and location.
 12. A special event permit application shall be denied if it would be:
 - a. Obscene pursuant to Montana state law; or
 - b. Hazardous to public health or safety; or
 - c. Would create an extraordinary amount of litter and the applicant has not presented an acceptable, effective plan for the applicant to clean up the litter immediately after the conclusion of the special event; or
 - d. Would substantially interfere with emergency ambulance, fire or police service and the applicant fails to modify the application request to satisfactorily alleviate or eliminate this interference with emergency services.
 13. When such an event will be an exercise of political and religious rights protected by the First and Fourteenth Amendments to the United States Constitution, the application shall be processed promptly, without requiring liability insurance.
 14. Spontaneous special events in response to political and public controversies may not be denied a special event permit.
- C. An applicant desiring to appeal any denial of a permit application may immediately appeal to the mayor, or in the mayor's absence, the city council president, or in the city council president's absence, the city council vice president. A decision on any appeal must be issued within twenty-four hours after the appeal is submitted.

12.58.050 Public conduct during special events.

- A. The following types of public conduct shall not be allowed during a special event:

1. Any person unreasonably hampering, obstructing, impeding or interfering with the reasonable conduct of any special event;
2. Any driver of any vehicle driving between the vehicles or persons comprising any parade, assembly or similar activity when such vehicles or persons are conspicuously engaged in a parade, assembly or similar activity, provided that this provision shall not apply to authorized emergency vehicles such as police, fire, ambulance and service vehicles which may be engaged in an emergency situation;
2. Participants in any parade, march or procession, whether driving, riding or walking, shall not consume, use, display or be under the influence of alcohol or illegal drugs which violate any law or ordinance;
3. No participant in a parade or procession shall throw, cast or drop candy, trinkets or any other articles to the people along the parade route but may walk along the side edges of the parade route and hand out these items.

B. The chief of police shall have the authority to prohibit or restrict parking of vehicles along any street constituting the route of a parade or procession and in any street proximately located to the site of a special event when such parking restrictions or prohibitions are necessary to the safe conduct of the activity. The chief of police shall order the posting of signs and/or barricades to such effect and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof except emergency or service vehicles engaged in an emergency situation. Further, if any street is entirely closed off for the purpose of conducting a special event, other than a parade, within the closed street the organizer or sponsor of the special event shall have the responsibility of providing street barricades and signs informing the public of the street closure. The placement of signs and barricades for all special events located within the city right-of-way shall be approved by Development Services staff. Barricades and signs shall be used that comply with the Manual on Uniform Traffic Control Devices (MUTCD).

12.58.090 Temporary street or alley closures for residential block parties. Residential block parties may be authorized by the mayor in consultation with Police, Fire and Development Services departments at residential locations not involving closure of any arterial or collector streets and during hours between 8:00 a.m. and 9:00 p.m. approved by the mayor subject to the following conditions:

- A. All abutting or adjacent property owners as well as the property owners on the corner lots immediately across the intersection on the opposite side of the street closure shall be contacted and have the opportunity to voice concerns to the applicant and the city;
- B. The applicant for any special event must have an approved traffic control plan and shall be solely responsible for obtaining, placing and removing any required barricades or traffic control devices;
- C. The applicant or sponsors of the event to the extent reasonably possible shall provide liability insurance protecting themselves as well as naming the city as an additional insured;
- D. Comply with any conditions imposed by the city police, fire or Development Services departments.
- E. The applicant must agree to defend, indemnify and hold harmless the city from any claims or lawsuits that arise out of the temporary street closure usage.

13.01.070 Increased use. The enlargement or change in use of a structure served by a septic system where the enlargement or change in use is likely to increase the effluent flow from the structure. Increased use includes, but is not limited to, the addition to a residence of one (1) or more spaces that can be used as

bedrooms. The Development Services Director, or designee, shall have the sole discretion to determine if an enlargement or change in use is an increased use.

13.01.110 Public Works Director. For the purposes of this title, the person occupying that position or his or her designee including but not limited to the Wastewater Treatment Facility Superintendent and Pretreatment Coordinator.

13.04.010 Connections with public sanitary sewers-Required. Plumbed buildings or structures on any lot or premises within the City of Missoula, which is or will be generating wastewater and has public sanitary sewer available, is required to connect to available public sanitary sewer in accordance with this section as follows:

A. Connection according to Specification. Connections to a public sanitary sewer main shall be in accordance with the city master sanitary sewer plan or a city preferred sanitary sewer design as determined by the City Engineer.

B. Exceptions.

1. Plumbed buildings or structures or related exterior drainage facilities, existing and connected to an approved septic system where there is available public sewer may remain connected to the septic system until:
 - i. The system is a failed septic system; or
 - ii. Enlargement or change in use of a building or structure is likely to increase the effluent flow from the structure as determined by the Development Services Director. Increased (effluent flow) use includes, but is not limited to, the addition to a residence of one (1) or more spaces which can be used as bedrooms.
2. Once plumbed buildings or structures are connected to city sewer, graywater systems in conformance with the Uniform Plumbing Code may be discharged from May to October to an irrigation system as permitted by the Missoula City-County Health Department. From November to April, all graywater must be discharged to the public sanitary sewer.

13.04.020 Connection to public sanitary sewer upon property transfer - Required. Within the Missoula city limits, it is unlawful for any person to sell, transfer or convey any real property containing plumbed buildings or structures with available public sanitary sewer until the plumbed buildings or structures have been connected to the public sanitary sewer, except as provided in (D) and (E) below.

A. Property owner and purchaser responsibility – Required. Property owner and purchaser shall arrange to connect any plumbed buildings or structures on the property prior to recording the deed or conveyance transferring ownership to the purchaser at their own expense.

B. The Development Services director shall grant a one (1) time delay with evidence of a property owner/purchaser negotiated financial holdback, upon request of the property owner and/or purchaser, up to a maximum of six (6) months when extenuating circumstances prohibit immediate connection of plumbed buildings on a property being sold at the director's discretion.

C. The Development Services Director may grant a six month time extension which may be renewed at the discretion of the director (extending the maximum six (6) month time delay, in B. above) to allow for the connection to coincide with another scheduled City or private construction project. A property owner/purchaser negotiated financial holdback is required during any additional time extension(s).

D. Exception. In the event of a foreclosure, the financial or lending institution to which a mortgage lien or trust indenture was given is exempt from 13.04.020 (A). This exemption is applicable only to the transfer of

a property from the owner to the foreclosing financial or lending institution and the subsequent transfer from the financial or lending institution to a new owner.

E. Exception. A graywater irrigation system that has been installed in conformance with the Uniform Plumbing Code and permitted by the Missoula City County Health Department may remain in use in accordance with 13.04.010(B)(2).

13.04.030 Record of Non-Compliance with this chapter.

A. The Development Services office will file a Record of Non-Compliance with this chapter at the Missoula County Clerk and Recorder's Office for each lot or premises containing existing plumbed buildings or structures, which have public sanitary sewer available, but have no verifiable record of connection to the public sanitary sewer system.

B. The Record of Non-Compliance with this chapter shall state that:

1. There are existing plumbed buildings and structures on the property; and,
2. There is available public sewer; and
3. The plumbed building or structure or associated septic system has no verifiable public sewer connection record.

C. Owners of properties with a Record of Non-Compliance may request Development Services provide a Certificate of Compliance with this chapter by providing satisfactory evidence verifying the plumbed buildings or structures have been connected to the public sanitary sewer system. The Development Services office will file the Certificate of Compliance with this chapter at the Missoula County Clerk and Recorder's office.

D. Property owners or legal representatives of owners and purchasers or their legal representatives shall not be liable for violating Section 13.04.020 where no Record of Non-Compliance was recorded for a parcel of property at the time the property transfer occurred.

13.04.060 Separate and independent connections for buildings. Every building or structure shall be separately and independently connected with the public sanitary sewer, provided that exceptions may be allowed by the Development Services Director when it is advisable to connect two (2) or more buildings to one (1) sewer service connecting to the public sanitary sewer system. (Ord. 3336, 2007; Ord. 2340 (part), 1983).

13.04.130 Rebate for privately financed public sanitary sewer main extensions.

A. Private property owners may contract to install public sewer mains within public rights-of-way or public easements at their own expense after obtaining applicable approval from both city and state authorities and obtaining applicable permits. Any public sewer main must be installed in conformance with the regulations and rules of both city and state and under the direction of the City Engineer including, but not limited to the property owners granting to the city any and all necessary easements required by the city for the construction, operation and maintenance of the sewer line to be connected to the city municipal sewage system.

B. Once acceptance and approval of any installed public sewer main has occurred, property owners who financed the installation of the public sewer main, if interested, may request the city to establish a rebate program for them for future connections to the newly installed public sewer main; they shall file with Development Services such data that is necessary to establish the rebate program, specifying the itemized expense in connection with the installation of the sewer main including construction and engineering expenses. Any rebate program request is to be filed with Development Services within thirty (30) days after acceptance and approval by the City of the public sewer main in order to be eligible to participate in a

rebate program. Eligible property owners who financed public sewer mains that were accepted and approved prior to the enactment of this provision shall have thirty (30) days after the date of written notification to them by Development Services staff of this rebate program and their eligibility to submit a proper request for a rebate program.

C. If a rebate request is submitted within thirty (30) days after the city's acceptance and approval of an installed public sewer main, the rebate program for that public sewer main shall remain in effect for up to ten (10) years after the City's acceptance and approval of the public sewer main. Any property owner who financed such an installation must submit a written filing of a rebate program request with the city prior to another property owner tapping into that public sewer main in order to be eligible for a rebate from that other property owner. Thereafter, within ten (10) years after the city's acceptance and approval of the public sewer main no property owner or their representative desiring to tap that public sewer main to connect a building or structure shall be issued any sewer connection permit or be allowed to tap the sewer main until their proportionate rebate has been paid to the City Finance Officer or designee their proportionate rebate. If the sewer main is tapped for a sewer service lateral which is extended only to the property line, payment of the rebate is delayed until the building or structure is connected to the sewer service lateral and is to be paid only if the building or structure is connected to the public sewer main within ten (10) years after the city has accepted and approved the public sewer main. The amount of the rebate is to be a proportion of the original developer property owner's total cost, excluding any accrued interest, to install the sewer main, the rebate proportion including construction and engineering costs. The rebate proportion is to be determined by the front footage of the lot, which is connecting to the public sewer main and this lot's front footage proportion of the total front footage which can be connected to the public sewer main under the rebate program. In addition to the rebate payment, property owner or their representative desiring to tap the public sewer main shall pay an administrative fee to the city amounting to five percent (5%) of the rebate amount. The administrative fee shall be payable to the city and deposited in the city general fund.

D. City Finance Officer or designee is to place the monies in a special fund and shall pay the proportionate share(s) to the property owner(s) of the property that originally was financially responsible for the installation of the public sewer main who is the current deeded property owner of record in the county clerk and recorder's office, excluding pending notice of purchaser's interest, at the time the rebate payment is made.

13.07.410 Additional Pretreatment Measures

- A. Whenever deemed necessary, the Superintendent or designee may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage necessary to protect the POTW and determine and/or assure the User's compliance with the requirements of this section.
- B. The Superintendent or designee may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.
- C. Grease, oil, and sand interceptors or other approved pretreatment devices shall be installed when, in the opinion of the Superintendent or designee, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users.
 - 1. This includes but is not limited to mechanical repair, machining, vehicle washing or such facilities which may generate water containing petroleum fuels, oils, grease, sand, grit, or other floating or settleable materials as well as food service facilities, food manufacturing, packaging, and/or wholesale preparation, meat packing facilities, slaughter houses and other such facilities that may generate fats, oils, greases, and/or settleable materials.
 - i. All newly constructed facilities, facilities which are remodeling or those associated with existing interference to the POTW which are covered by this section shall install an interceptor or other approved pretreatment device per 13.07.410 (C) MMC
 - ii. All change of use, change of occupant, and or change of menu are subject to review and requirements under this section, 13.07.410 (C) MMC and the FOG Sector Control Program

- iii. A variance to the interceptor or other approved pretreatment device may be granted by a Review Committee. The Industrial Interceptor Review Committee shall consist of a representative from the Wastewater Division and Development Services staff. The variance fee is one hundred forty-eight dollars (\$148.00) for each variance considered by the Review Committee. Criteria for allowing a variance shall be feasibility of installation, generation potential and existing interference to the POTW. A variance may carry conditional requirements including, but not limited to, installation of a solids interceptor, hydromechanical grease interceptor (previously known as a grease trap), and/or self monitoring.
2. All interception units or other approved pretreatment devices shall be of a type and capacity approved by the Superintendent or designee, shall comply with the City's FOG Sector Control program, shall be so located to be easily accessible for cleaning and inspection.
3. Such interceptors shall be inspected, cleaned, and repaired in accordance with the City's FOG Sector Control Program by the User at their expense. This includes maintaining an updated logbook of these activities that will be submitted to Superintendent or designee upon request. Total interceptor contents shall be removed at the time of cleaning.

D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

13.08.005 Service area.

A. The service area of the municipal sanitary sewer system is that area lying within the incorporated limits of the city.

B. The service area of the municipal sanitary sewer also includes those areas lying within the county of Missoula, but outside the city limits, with which the city has specifically contracted for the provisions of city sewer services pursuant to 7-13-4312 and 7-13-4316, MCA.

C. A service copy of a map depicting the municipal sanitary sewer system area shall be maintained for public inspection in the Public Works and Development Services offices.

13.08.010 City sewer use fees to be established and adopted by resolution.

A. Pursuant to Mont. Code Ann. § 7-13-4304, a municipal governing body shall fix and establish by ordinance or resolution the rates, rentals and charges for sanitary services, facilities and benefits afforded by the sanitary sewer system. While the City of Missoula has historically established its sanitary sewer rates, rentals and charges pursuant to uncodified ordinances, it is the City's desire in the future to establish its sanitary sewer rates, rentals and charges pursuant to City Council resolution.

B. The City Council shall fix and establish by resolution the sanitary sewer rates, rentals and charges for the benefits afforded by the City's sanitary sewer system. A copy of the resolution shall be placed on file in the City Clerk, City Finance/Treasurer and Development Services office.

13.08.080 Sewer development fee.

A. Sewer Development Fee.

1. Any party desiring to connect to the sanitary sewer system shall be subject to the sewer development fee for the following amounts per capacity unit:

\$1,400 per capacity unit; or

2. Existing plumbed buildings within the City limits as of the effective date of this ordinance shall have a sewer development fee per capacity unit at:

\$350 per capacity unit until January 1, 2009.; or

- Existing plumbed buildings outside the City limits within the approved City Wastewater Facilities Service Area, shall have a sewer development fee per capacity unit at:

\$950 per capacity unit until January 1, 2009.

B. Capacity Unit. For purposes of this ordinance, a capacity unit will be determined by the size of the water meter for potable water servicing the unit or facility connecting to the sanitary sewer system. The capacity units will be determined as follows:

1.	Water Meter Size	Capacity Unit
	5/8 inch	1.0
	3/4 inch	1.5
	1 inch	2.5
	1½ inches	5.0
	2 inches	8.0
	3 inches	15.0
	4 inches	25.0
	6 inches	50.0
	8 inches	90.0

- For those units or facilities without a water meter, the capacity unit shall be determined by the water meter size in a facility or unit that is a similar size and similar use to the one seeking to connect to the sewer.
- A water meter attached to a water line that is devoted exclusively to providing fire protection services or landscape irrigation services shall be exempt from the sewer development fee and shall not be considered in determining the capacity units.
- The sewer development fee for an industrial or commercial facility which uses water to produce a product containing water may be revised by Development Services director or designee based upon the designed average daily sewer flow as submitted by the engineer or the architect of the facility. One capacity unit equals two hundred thirty eight gallons per day.

C. Exemptions. All properties currently being assessed the sewer use charge per Section 13.08.010, Missoula Municipal Code as of the effective date of Ordinance #2459, 1985 shall be exempt from paying the sewer development fee except as provided in Section D.

D. Water Meter Increase. Whenever a customer requests a permit to connect to an existing larger or additional sewer service or requests a larger or additional sewer service and in addition installs a larger sized water meter, said customer shall pay to the City an incremental sewer development fee based upon subtracting the smaller capacity unit with the existing water meter from the larger capacity unit with new water meter. No refund shall be made to any sewer user who decreases his total capacity units.

E. Credit for Excess Capacity. After the effective date of this ordinance, when an applicant is required to pay for sewer improvements that are extra capacity general benefit facilities, the applicant may request that the cost for the extra capacity paid by the applicant become a credit against the sewer development fee for properties of the applicant served by installed sewer improvements. The Development Services director, or designee is to determine the amount of the credit based upon the cost of the approved extra capacity general benefit facilities.

F. Payment. The sewer development fee is to be paid in full by the party seeking connection before a sewer connection permit for connection of the sewer to a building is issued.

G. Payment Alternatives. Arrangements for alternative means of payment may be made as described in the following:

1. The sewer development fee may be paid through a special improvement district at the discretion of the City.
2. The sewer development fee may be considered part of the costs of the sewer connection in the Sewer Loan Program per Chapter 3.18 of the Missoula Municipal Code.
3. a. Property owner whose sewer development fee for a water connection will exceed \$5,000.00 may execute a written agreement with the City to pay any required sewer development fee in equal semi-annual payments for a number of years not exceeding a total of five years with no interest charge on the outstanding balance owed for the sewer development fee. These equal semi-annual installments shall be due and payable on November 30 and May 31 of each year. In addition to the required sewer development fee, property owner shall pay a \$50.00 administrative cost fee per sewer connection to the City to initiate and administer this agreement. The administrative fee is to be paid to the City prior to the initiating the agreement and deposited in the City General Fund.

b. Sewer development fee semi-annual payments not paid on the due date shall be a lien upon the real property subject to the fee until paid and shall be assessed a penalty as per Section 13.08.070.

H. Use of Fee. All funds received in payment of the sewer development fee shall be deposited in a segregated account. Funds shall be expended for expansion inclusive of payment of debt service for general benefit sewerage facilities. General benefit sewerage facilities are defined as public sewer treatment facilities, public sewer lift stations, and public sewer collection system except sewer mains less than 10 inches in diameter. Expenditures of these funds shall be set forth by the City Council in its Capital Improvements Program and/or Annual Budget.

I. Appeals. A decision made by the Development Services Director under this ordinance may be appealed to the Sewer Use Fee Appeals Committee per Section 9, Chapter 13.08.010 Of the Missoula Municipal Code.

13.12.010 Protection of water mains or service lines against corrosion.

A. All buried metallic water mains or service lines located in areas described in this section shall be protected against corrosion:

1. All areas within the city limits, south of a line beginning at the intersection of Highway 93 with the Bitterroot River at Buckhouse Bridge; thence easterly along Highway 93 to 39th Street; thence east along 39th street to Stephens Avenue; thence north along Stephens Avenue to Pattee Creek Drive; thence east along Pattee Creek Drive to Bancroft Street; thence north along Bancroft Street to South Avenue; thence east along South Avenue to Higgins Avenue; thence south along Higgins Avenue to Pattee Creek Drive; thence east along an extension of Pattee Creek Drive to Mount Sentinel.
2. In addition, such protection against corrosion may be required by the city engineer or the city building inspector in any area in the city limits not included in subdivision 1 of this subsection, when in their opinion such protection will be beneficial.

B. Such protection against corrosion shall be provided by one of the following methods:

1. Installing the water main or service line within plastic pipe conduit. Plastic pipe shall be polyethylene, PE 2306, ASTM D 2239 or polyvinyl chloride ASTM D 2241. Plastic pipe shall be class 80 or heavier. All joints shall be sealed as recommended by the pipe manufacturer. All valves and connections shall be protected as stated in subdivisions 2 and 3 of this subsection.

2. Wrapping the water main or service line within polyethylene sheeting. The water pipe shall be installed with a minimum of one wrap of 8-mil sheeting or two wraps of 6-mil sheeting. All sheeting joints and edges shall be taped with a tape as recommended by the sheeting manufacturer. All valves and connections shall be wrapped and taped, or coated with bitumastic material.

3. Other methods or materials, if approved by the city engineer or city building inspector prior to installation.

13.26.020 Legislative intent and purpose. In order to protect the Missoula Valley's sole source of drinking water and surface waters in the Missoula Valley and to secure and promote the general public health, safety and welfare, the Missoula City Council declares that:

A. The improper storage, handling, use, transport, production or disposal of certain substances in the Missoula Valley is potentially harmful to the quality of water in the Missoula Valley and to drinking water obtained by the use of private and public supply wells, and that certain activities involving the use of certain substances should be managed to prevent water contamination.

B. Affirmative measures to prevent water pollution are the most effective means available to protect water quality.

C. In order to effectively protect surface and groundwater, local authority is needed to require pollution prevention measures at facilities which handle significant quantities of certain substances, and to prohibit and deter activities which pose threats to the quality of the Missoula Valley Aquifer.

D. The construction, development and use of new public water supply wells in proximity to existing sources of contamination is potentially harmful to the quality of drinking water obtained from such wells. The location of identified contaminant sources which pose serious threats of contamination should also be prohibited in proximity to public drinking water wells, in order to minimize the risk of contamination.

13.26.030 Definitions. For purposes of this Ordinance, the following terms have the following meanings unless the context clearly indicates otherwise:

1. Aboveground Storage Tank (AST) - Any one or combination of tanks that is used to contain an accumulation of Regulated Substance, and the volume of which is more than 90% above the surface of the ground.

2. Anti-Icing: Anti-icing means the application of a deicer before or during a storm event for the purpose of preventing ice and snow accumulation on the roadway.

3. Aquifer - A water-bearing, subsurface formation capable of yielding sufficient quantities of water for beneficial use.

4. Aquifer Protection Area - The areas within the City of Missoula and within five miles outside the Missoula city limits which are within the boundaries of the Missoula Valley Water Quality District.

5. Board - The Board of Directors of the Missoula Valley Water Quality District.

6. Bulk Petroleum Storage Facility - A facility used for storage of petroleum products for marketing or wholesale distribution that has a total bulk storage capacity of 50,000 gallons or more.

7. Carbon Absorption/Evaporation Technology: A treatment technology for perchloroethylene contaminated wastewater which removes perchloroethylene or other

chlorinated solvents from a water-solvent mixture using carbon absorption and evaporates the remaining water.

8. Chemical Manufacturing Facility - A facility having a Standard Industry Class Code (SIC Code) between 2800 and 2899 which handles Regulated Substances in an amount equal to or greater than threshold quantities.

9. Class II Landfill - An area of land or an excavation, as defined in Montana Administrative Rules A.R.M. 17.50.504, where group II or group III wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile. Group II and III wastes are defined in Montana Administrative Rules, A.R.M. 17.50.503.

10. Class III Landfill - An area of land or an excavation, as defined in Montana Administrative Rules A.R.M. 17.50.504, where group III wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile. Group III wastes are defined in Montana Administrative Rules, A.R.M. 17.50.503.

11. Closure Permit - A permit issued by the Department in accordance with section 13.26.060 of this Ordinance when a facility is permanently closed, or has been abandoned for one year.

12. Community Water System - Any public water supply system, as defined in A.R.M. 17.38.101, which serves at least ten service connections used by year-round residents or regularly serves at least 25 year-round residents.

13. Component - Any constituent part of a unit or any group of constituent parts of a unit which are assembled to perform a specific function.

14. Contamination - The presence of any substance (chemical, radiological, or biological) or any condition (temperature, pH, taste, color, odor, turbidity) in soil or water which may create or threaten to create a hazard to human health or the environment, or impair the usefulness of the soil or water.

15. Department - The Missoula Valley Water Quality District.

16. Dry Cleaning Establishment - Any facility that uses a transfer machine, dry-to-dry vented unit, or dry-to-dry closed loop unit with one or more of the following solvents to clean clothing or other materials: perchloroethylene; trichlorotrifluoroethane (CFC-113); CFC-11; stoddard solvent; 1,1,1-Trichloroethane; HCFC 14 lb.; HCFC-123 lb.; and HCFC-225 lb.

17. Dry-to-Dry machine: A machine that can wash and dry garments without transferring them and potentially emit chlorinated solvent to the atmosphere.

18. EPA - United States Environmental Protection Agency.

19. Facility - An area, building or buildings, appurtenant structures or surrounding land area used by a person.

20. Fleet - More than 5 vehicles or locomotives.

21. Fueling Facility - A facility that dispenses petroleum products for commercial sale, public use, or for fleet vehicle operation, excluding bulk petroleum storage facilities and farm and residential tanks of 1100 gallons or less capacity used for storing motor fuel for non commercial purposes.

22. Future Wellhead Reservation Area - The surface area overlying a portion of the Missoula Valley Aquifer which, because of aquifer recharge, groundwater flow and potential sources of

contamination, should be protected against contamination to assure high quality groundwater for future generations.

23. Grass Infiltration Swale - A vegetative-lined infiltration cell designed and constructed in accordance with Department standards to collect and treat contaminants in storm water runoff.

24. Groundwater - Water that fills the interconnected spaces of material below the water table (upper limit of saturation), or water which is held in the unsaturated zone by capillary action.

25. Handle - To use, generate, process, produce, package, treat, store, emit, discharge or dispose of a Regulated Substance, excluding (a) handling during continuous non-stop transit, (b) transit via pipeline, and (c) handling of parcels and packages by the United States Postal Service, motor freight companies, and private delivery services.

26. Hazardous Waste - A hazardous waste as defined pursuant to section 1004(5) of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6903(5), as amended, including a substance listed or identified in 40 CFR 261.

27. Hazardous Waste Management Facility - All contiguous land, and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of a hazardous waste, and that are required under Montana Hazardous Waste Administrative Rules, A.R.M 17.54.105, to have a hazardous waste management permit. A Hazardous Waste Management Facility may consist of several treatment, storage, or disposal operational units.

28. Independent Certified Laboratory: A laboratory outside the control of the person requesting approval from the Department that is certified by the EPA or other appropriate certifying agency to complete testing.

29. Industrial or Commercial Injection Well - A well or septic system that receives industrial or commercial wastes from a public or private facility, excluding wells or septic systems used solely for storm water discharge, sanitary waste discharge and/or discharge or extraction of non-contact heating and cooling system water.

30. Missoula Valley Aquifer - The aquifer underlying the Missoula Valley which supplies the area with water.

31. New - Constructed, installed or brought into operation after the effective date of this Ordinance.

32. Noncomplying Activity - An activity involving the handling of a Regulated Substance in an amount equal to or greater than its threshold quantity within a Future Wellhead Reservation Area.

33. Non-transient Non-community water system - Any public water supply system as defined in A.R.M. 17.38.202 that is not a community water system and that regularly serves at least 25 of the same persons over six months per year.

34. Perchloroethylene (C₂CL₄) - A colorless liquid used as a dry cleaning fluid; general degreaser of metals; solvent for waxes, fats, oils, and gums; constituent of printing inks and paint removers. Synonyms include, Tetrachloroethylene, Tetrachloroethene, PCE, PERC.

35. Person - Any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer or any other entity whatsoever or any combination of such, jointly or severally.

36. Piping Manifold - The area(s) of a piping system fitted with apertures for making multiple connections.

37. Pollution Prevention Permit - A permit required of a person who owns, operates or controls a facility that handles any Regulated Substance in an amount equal to or greater than four times its threshold quantity. Pollution Prevention Permits are issued by the Department in accordance with section 13.26.050 of this Ordinance.

38. Primary Container - A container which comes into immediate contact with a Regulated Substance.

39. Public Sewage Disposal System - A system, as defined in §75-6-102(11) MCA, for collection, transportation, treatment or disposal of sewage that is designed to serve or serves ten or more families or 25 or more persons daily for a period of at least 60 days out of the calendar year.

40. Public Water Supply System - A system, as defined in §75-6-102(12) MCA, for the provision of water for human consumption from any community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that is designed to serve or serves 10 or more families or 25 or more persons daily or has at least 10 service connections at least 60 days out of the calendar year.

41. Reasonably Achievable Limit: A pollutant limit that is determined on a case by case basis to be reasonably achievable taking into account environmental, economic, and other factors and costs.

42. Refrigerator Condenser: A vapor recovery system into which an air-chlorinated solvent vapor stream is routed and the chlorinated solvent is condensed by cooling the gas-vapor stream.

43. Regulated Substance - Any liquid substance, semi-liquid substance, or soluble solid on the most current Superfund Amendments and Reauthorization Act (SARA), Title III List of Lists published by the Office of Pollution Prevention and Toxic Substances, U.S. Environmental Protection Agency, Washington D.C., any petroleum product, any hazardous waste, or any other substances that the Board determines, following public review, may threaten contamination of the Missoula Valley Aquifer, excluding substances used for personal household use. The Board may, following public review and comment, remove a substance from the list of Regulated Substances.

44. Release - Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a regulated substance into the environment (including the past release of a regulated substance), but excluding (a) releases contained in a secondary containment area or the indoor work place provided the release does not exit the indoor work place, (b) the use of pesticides and fertilizers as defined in §80-8-102(30) MCA and §80-8-102(2) MCA when they are applied in accordance with approved federal and state labels, and (c) any discharge permitted by a local, state, or federal agency.

45. Replacement - Replacement or replace shall mean:

a. Replacing, repairing, upgrading or improving a facility at a cost which equals or exceeds 50% of the value of the facility at the time of such act.

b. Replacing a component or more than 50% of a component of a facility.

c. Reoccupation of a facility, reuse of a component at a facility, or restarting an activity which has been out of service or not practiced for a period of one year.

46. Secondary Containment - Containment external to and separate from the primary container adequate to prevent the release of Regulated Substances to native soil, surface water, or groundwater. The secondary containment structure or cell must:

- a. be non-reactive and resistant to the materials contained;
- b. prevent infiltration of any Regulated Substance into the ground in the event of a release from the primary storage container;
- c. isolate the Regulated Substance from soils, injection wells, floor drains, or any other potential surface and groundwater entry point; and
- d. contain at least 110% of the volume of the largest container, or 10% of the aggregate volume of all containers, whichever is greater.

A covered building or structure may fulfill the secondary containment requirements of this Ordinance, provided the building or structure has an impermeable floor and walls and the release of a Regulated Substance would remain in the building or structure.

47. Soluble Solid - A solid that exists in a powder form and has a particle size less than 100 microns, is handled in solution or molten form, or meets the criteria for a National Fire Protection Association (NFPA) rating of 2, 3, or 4 for reactivity.

48. Storm Water Injection Well - A structure, pit or hole that primarily receives storm water runoff from paved areas, including, but not limited to, parking lots, streets, residential subdivisions, and highways.

49. Tank - Stationary device designed to contain an accumulation of substances and constructed of non-earthen materials (e.g. concrete, steel, plastic) that provide structural support.

50. Tank Fueling Area - The area surrounding the above or underground storage tanks subject to releases of petroleum products during tank fueling, including the area surrounding the tanker truck during fueling.

51. Threshold Quantity - The following quantities of Regulated Substances (excluding products in vehicle fuel tanks, aerosol spray cans, products used for research at educational institution laboratories, and substances sold for retail in a container equal to or less than 5 gallons capacity) handled at a facility at any one time, regardless of location, number of containers, or method of storage, shall constitute the Threshold Quantity:

- a. For those Regulated Substances specifically listed in the Superfund Amendments and Reauthorization Act (SARA) Title III List of Lists and for those Regulated Substances which are listed hazardous waste defined pursuant to 40 CFR Part 261, as amended, the threshold quantity shall be the reportable quantity published in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 40 CFR 302, Table 302.4 or the Superfund Amendments and Reauthorization Act (SARA) Section 355, Appendix A.

- b. For those Regulated Substances that are characteristic hazardous wastes defined pursuant to 40 CFR Part 261, as amended, the threshold quantity shall be based on the substance contained in the waste with the lowest threshold quantity.

- c. For those Regulated Substances not listed in the Superfund Amendments and Reauthorization Act Title III List of Lists, and for those Regulated Substances that are not a hazardous waste, the following quantities of qualifying substances at a facility at any one time shall constitute a Threshold Quantity:

- (i) Waste oil - 1000 pounds or 100 gallons.

- (ii) Gasoline - 250 pounds or 25 gallons

- (iii) Diesel/Jet Fuel/Kerosene - 500 pounds or 50 gallons

- (iv) New Motor Oil - 2,000 pounds or 200 gallons

d. For those substances that are mixtures of one or more Regulated Substance, the threshold quantity shall be based on the substance contained in the mixture with the lowest threshold quantity.

Threshold Quantities of substances may be established or revised by the Board, following public review and comment.

52. Transfer Dry Cleaning Machine: A machine unable to both wash and dry garments, which emits chlorinated solvent to the atmosphere during transfer.

53. Underground Storage Tank (UST) - Any one or combination of tanks as defined in MCA 75-10-403.

54. Vehicle Fueling Area - The area surrounding a fuel island or dispenser(s) subject to releases of petroleum products during vehicle fueling, including a 3 foot release collection buffer zone extending beyond the lanes of traffic next to the fuel islands or dispenser(s).

55. Waste Oil - Oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

56. Well - A structure, pit or hole sunk into the earth to reach a resource supply such as water.

57. Wellhead - The physical structure or device at the land surface surrounding a well, from or through which groundwater flows or is pumped from an aquifer.

13.26.040 Pollution prevention requirements.

- A. No product shall be distributed, sold, offered, or exposed for sale within the aquifer protection area if it contains Perchloroethylene in any quantity. Those products containing Perchloroethylene used at dry cleaning establishments and educational institution research laboratories are exempt from this provision of the Ordinance, provided the person who owns, operates, or controls such facility obtains a pollution prevention permit from the Department, regardless of the quantity of Perchloroethylene handled at the facility.
- B. A person who owns, operates or controls a facility which handles Regulated Substances in an amount equal to or greater than the threshold quantities must submit an inventory and quantity of those Regulated Substances to the Local Emergency Planning Committee (LEPC) every year.
- C. A person who owns, operates or controls a new or replacement fueling facility must:
 - 1. install and maintain an awning or canopy that prevents precipitation from falling on the vehicle fueling area(s) if surface releases of fuel from the vehicle fueling area could discharge to a storm water injection well; and
 - 2. design and install a storm water collection system for the facility which shall:
 - i) prevent the flow of fuel releases in the tank fueling area and vehicle fueling area from discharging directly to a storm water injection well; and
 - ii) collect and discharge storm water from areas outside of the tank fueling area and vehicle fueling area to a grass infiltration swale or otherwise provide for such storm water to be handled in a manner to reduce the potential for water contamination.
 - 3. The storm water collection design must be approved by the Department and permitted by the City of Missoula Public Works and Development Services prior to facility construction. The person owning, operating, or controlling the facility must maintain any grass infiltration swale and any other approved device used to prevent releases in the vehicle and tank fueling areas from discharging to a storm water injection well. The facility shall keep records of maintenance of the device at the facility to be viewed during Department inspections.

- D. A person who owns, operates or controls a fueling facility where surface releases of fuel from the vehicle or tank fueling area may discharge to a storm water injection well shall provide the following physical and procedural measures to prevent fuel releases:
1. breakaway hoses and nozzles shall be installed on all dispensers;
 2. emergency response equipment shall be kept on site to be used in the event of a release, including absorbent materials and spill containment covers for each storm water injection well which may receive discharge from a surface release; and
 3. An employee trained on how to respond to a release must be on site at all times during facility operation, except as provided in (a).
 - (a) A fueling Facility that provides 24-hour public access to fuel through a remote card-lock system is exempt from the requirement to have a trained employee on site at all times during facility operation if it provides the following:
 - (1) Automatic pump shutoff when 50 gallons of gasoline or 250 gallons of diesel fuel have been dispensed,
 - (2) Emergency phone access,
 - (3) Signs posted to instruct public to call 9-1-1 in the event of a fuel release.
4. In addition to the above procedural and physical requirements, a person who owns, operates, or controls an existing fueling facility shall incorporate a release prevention section within the pollution prevention plan required under section 13.26.050 (B) of this Ordinance. The release prevention section of the plan shall describe the steps or methods that will be taken to prevent fuel released at the tank and/or vehicle fueling areas from reaching a storm water injection well. The release prevention plan must be approved by the Department. Physical alterations or procedural changes required as a condition of the Department's approval must be completed or instituted within one year of the Department's approval.
- E. A facility that handles a total quantity of any Regulated Substance in an amount equal to or greater than four times its threshold quantity must obtain a Pollution Prevention Permit, pursuant to section 13.26.050 of this Ordinance.
- F. A person who owns, operates or controls a facility at which a Regulated Substance (excluding petroleum products in underground storage tanks, in vehicle fuel tanks, at bulk petroleum storage facilities, and Regulated Substances sold for retail in a container equal to or less than 5 gallons capacity) equal to or greater than the threshold quantity is handled on the effective date of this Ordinance shall provide secondary containment for that substance. A person who owns, operates, or controls a new facility at which a Regulated Substance (excluding petroleum products in underground storage tanks, in vehicle fuel tanks, at bulk petroleum storage facilities, and Regulated Substances sold for retail in a container equal to or less than 5 gallons capacity) equal to or greater than the threshold quantity is handled after the effective date of this Ordinance must obtain Department approval of their plan for secondary containment prior to obtaining a building permit or first handling a Regulated Substance in an amount equal to or greater than its threshold quantity, whichever occurs first.
- G. A person who owns, operates, or controls a facility at which a Regulated Substance equal to or greater than its threshold quantity is stored in any new or replacement underground storage tank system shall equip that system with double walled product piping, secondary containment of all ancillary equipment from the tank to the dispenser(s), tank release detection systems, and leak detectors on pressurized piping. Tank system design must be approved by the Department prior to obtaining a building permit. Such systems shall, at a minimum, meet the requirements described in A.R.M. 17.56.403 of the Montana Underground Storage Tank Regulations, as amended.
- H. No person shall construct or operate an industrial commercial injection well at a new or existing facility unless said person obtains an Underground Injection Control Permit from the Environmental Protection Agency (EPA) or the Department. A person may be granted a permit from the Department or EPA if the owner, operator or controller demonstrates to the Department or EPA that the process wastewater does not contain a Regulated Substance at a concentration equal to or above its EPA primary maximum contaminant level for drinking water, EPA health advisory level, or the standard proposed in

the Montana Numeric Water Quality Standards, (Circular WQB-7), whichever is lower, and the potential for water contamination is reduced by such other measures as the Department or EPA may require.

- I. A person who owns, operates, or controls a bulk petroleum storage facility shall:
 1. During new or replacement construction, install all new or replacement piping aboveground;
 2. Perform annual release response training exercises simulating the actions that will be taken during a release of fuel at the facility;
 3. Have a person trained in the proper filling of aboveground tanks at the facility during tank filling operations, or establish a monitoring system capable of detecting and alerting local emergency personnel of a release during tank filling operations in such a manner to prevent the contamination of the Missoula Valley Aquifer. The monitoring system shall at a minimum include vapor monitors located at any valve and piping manifold that controls the flow of fuel to the tanks and from the tanks to the dispensers, and overfill alarms on any aboveground product fuel storage tank. The monitoring system must be staffed during tank filling operations. Any proposed monitoring system must be approved by the Department;
 4. Conduct annual integrity and leak testing of below grade metal fuel product piping to a pressure of one and a half times the operational pressure;
 5. Cathodically protect buried metal piping and the bottom of aboveground tanks in accordance with guidelines contained in American Petroleum Institute (API) 651;
 6. On or before January 1, 1996, and every five years thereafter, prepare a Contingency Plan outlining how personnel are to respond to a release of fuel at the facility. The plan shall also address alternative technologies which may prevent fuel from contaminating the Missoula Valley Aquifer, such as:
 - a. installation of impermeable barriers or liners to prevent the vertical migration of released fuel to the aquifer;
 - b. grading of the secondary containment area to common drainage channels or sumps equipped with dedicated pumps that can be activated to pump fuel from the containment area in the event of a large release;
 - c. installation of vapor monitoring devices at piping manifolds and valves to alert personnel of a release;
 - d. installation of vapor monitoring wells within a secondary containment area of the aboveground tanks to be used to recover released fuel before it reaches the underlying aquifer;
 - e. installation of a dedicated recovery tank outside a secondary containment area of the aboveground tanks that can be used to recover released fuel; or
 - f. excavation of contaminated soils immediately after a release occurs.The Contingency Plan must be approved by the Department, and all physical or procedural changes required as a condition of the Department's approval of the Contingency Plan, shall be completed or instituted within two years of the Department's approval;
 7. On or before January 1, 1998, and every 10 years thereafter, test the integrity of the shell of each aboveground tank in accordance with American Petroleum Institute (API) 653;
 8. Install containment devices to prevent a surface release of fuel at the vehicle fueling area from discharging directly to a storm water injection well, or surface waters;
 9. Secondarily contain all aboveground piping manifolds; and
 10. On or before January 1, 2000, and every 10 years thereafter, test the integrity of the bottom of each aboveground tank in accordance with American Petroleum Institute (API) 653. The frequency of integrity testing of the bottom of each tank may be extended by the Department provided that the owner, operator, or controller of the bulk petroleum storage facility proposes an extended frequency in accordance with American Petroleum Institute (API) 653, the proposal is received by the Department within two years of the adoption of this Ordinance, and the Department approves of the change in frequency of testing.
- J. A person who owns, operates or controls a facility on which a public or private water well or monitoring well is abandoned after the effective date of this Ordinance shall ensure that the well is abandoned in compliance with the Montana Department of Natural Resources and Conservation Board of Water Well Contractor Regulations, ARM §36.21.669 through §36.21.679 and §36.21.810.

- K. No person shall construct or operate a new or replacement facility which handles a Regulated Substance in a quantity equal to or greater than its threshold quantity within the Future Wellhead Reservation Area comprised of all land within township 13N, range 19W, sections 27 and 34, all land south of the Clark Fork River within township 13N, range 19W, section 22, and all land within the northwest and northeast quarter sections of township 13N, range 19W, section 4 of Montana Meridian, Missoula County, Missoula, Montana.

- L. Existing facilities within the Future Wellhead Reservation Area defined in section 13.26.050 (K) of this Ordinance may continue to operate, subject to all the conditions of section 13.26.050 and the following:
 - 1. Any activity involving the handling of a Regulated Substance in an amount equal to or greater than its threshold quantity shall be a noncomplying activity.
 - 2. Any noncomplying activity that is discontinued, abandoned or ceases for a period of twelve consecutive months may not be resumed.
 - 3. A noncomplying activity may not be enlarged, expanded, or altered so as to substantially increase the risk of soil or groundwater contamination. Any enlargement, expansion or increase in a noncomplying activity must be approved by the Department, in writing, prior to activity commencement.
 - 4. In the event a facility which houses a noncomplying activity is destroyed or damaged by any means to an extent that the cost to repair or replace the facility equals 50% of the value of the facility at the time of such act, the activity shall not be resumed or continued.

- M. In addition to any other applicable federal or state law and regulation, the following pollution prevention measures shall apply to dry cleaning facilities:
 - 1. After October 19, 2000, wastewater generated from dry cleaning machines and vacuum presses that use perchloroethylene and other chlorinated solvents shall not be discharged to any sewer system. Dry cleaning facilities which use perchloroethylene or other chlorinated dry-cleaning solvents shall either, a) treat their wastewater from dry-cleaning machines and vacuum presses on site using carbon absorption/evaporation or an equivalent technology, or b) properly dispose of the wastewater as a hazardous waste;
 - 2. After June 19, 2000, all new or replacement dry cleaning machines using perchloroethylene or other chlorinated solvents shall be dry-to-dry machines and be equipped with integral refrigerated condensers or an equivalent.
 - 3. After June 19, 2001, no dry cleaning facility shall include operation of a transfer dry cleaning machine using perchloroethylene.

DEICER SPECIFICATIONS

A. GENERAL REQUIREMENTS

- 1. A person applying a deicer on streets and highways within the City of Missoula and all places within five miles outside the city limits must comply with the requirements of this section, which are intended to ensure compliance with the drinking water or aquatic life standards for parameters listed in Table 1 below, at the point of discharge after 100:1 dilution with stormwater.
- 2. Any deicer applied within the City of Missoula and all places within five miles outside the city limits must be analytically tested to demonstrate that its quality meets the limits shown in Table 1. Analytical testing must be performed by the manufacturer or distributor at an independent certified laboratory using test methods approved by the Department. It is the City's preference to use a deicer that contains the least amount of any constituents which are not essential to the product's performance and which may cause contamination of soil or water, including inert or proprietary ingredients.

Table 1: Constituent Limit for Deicers

Parameter	Limit (mg/kg) ¹
Arsenic	1.0
Barium	100
Cadmium	0.20

<u>Chromium</u>	<u>0.50</u>
<u>Copper</u>	<u>0.20</u>
<u>Lead</u>	<u>1.0</u>
<u>Mercury</u>	<u>0.005</u>
<u>Selenium</u>	<u>5.0</u>
<u>Zinc</u>	<u>10.0</u>
<u>Total Cyanide</u>	<u>0.20</u>
<u>Total Phosphorus</u>	<u>2,000</u>
<u>Total Nitrogen</u>	<u>1,000 / 500 ²</u>
<u>PH</u>	<u>6.0- 9.0</u>
<u>Pesticides/herbicides</u>	<u>Based on WQB-7 Standard ³</u>

¹ In most cases, the limit is based on the Montana drinking water quality or acute aquatic life standard (WQB-7 standards), whichever is lower. The limit for nitrogen and phosphorus are set even lower because they are believed to be reasonably achievable. A 100 to 1 dilution factor is applied for most parameters. This factor accounts for the dilution and attenuation of deicer from the truck to the side of the road. It was determined by comparing the chloride concentration of deicers to the chloride concentration of storm water samples collected during runoff.

² The allowable amount of total nitrogen for a deicer is dependent on the form of nitrogen present in the deicer. Supplier must test for TKN, Nitrate + Nitrite as N, and Ammonia Nitrogen using methods approved by the Department. Organic nitrogen shall equal the amount of Total Kjeldahl Nitrogen (TKN) minus Ammonia Nitrogen. If 50% or more of the nitrogen present in the deicer is of the organic form, a limit of 1,000 mg/kg shall apply. If less than 50% of the nitrogen is of the organic form, a limit of 500 mg/kg shall apply.

³ For a product that contains an agricultural by-product, the supplier shall test for any pesticide/herbicide possibly in the deicer using test methods approved by the Department. The limit will be based on MT WQB-7 standard using a 100 to 1 dilution.

⁴ Liquid products shall be analyzed in the concentration they are applied to the street and directly compared to Table 1. Solid products shall be liquefied at specifications approved by the Department prior to analysis. In general products will be analyzed in accordance with product category test protocols developed by the Pacific Northwest Snowfighter's Association (PNS) before being compared to Table 1.

3. The supplier of a product delivered and/or applied that is contaminated with something not specified on the Product Checklist or contains a specified constituent at a concentration high enough to be a public health or environmental concern, may be subject to cleanup costs for anything that came in contact with the product, including but not limited to storage tanks, equipment, soils, and/or groundwater.

B. DEPARTMENT APPROVAL PROCESS

1. Persons wanting Department approval for a deicer must submit a complete application to the Department. The complete application must include:
 - a. A Department supplied Product Checklist;
 - b. Documentation showing that the product is on the approved PNS product list;
 - c. Analytical results of testing required in section (A) (2);
 - d. The most recent Material Safety Data Sheet for the product;
 - e. Proprietary chemical and physical information on the product, which shall be held confidential;
 - f. Two one liter samples of the product for quality control testing purposes; and
 - g. Other relevant information that the Department may require which is obtainable by the applicant.
2. The Department shall have 30 days to review the submitted documentation and determine whether the product is approved. Persons requesting approval shall be notified whether their product is

approved within 7 days of the Department's determination. Once a product has been approved it need not be approved again as long as the product formulation does not change.

3. Changes to an approved product by the manufacturer or distributor which in any way makes the product different from the original qualified product will result in removal of the product from the approved list, and may result in cleanup costs, as per section (A) (3).

C. FIELD DELIVERY OF PRODUCTS

1. A bill of lading and invoice must accompany each shipment. The bill of lading and invoice must contain the following information:
 - a. Name of product;
 - b. Supplier and manufacturer of product;
 - c. Destination of delivery;
 - d. Total number of units being delivered;
 - e. Total weight of delivery (certified scale, or certified micro flow meter);
 - f. Lot number. The lot number must enable purchaser to track a delivered product back to its manufacturing point, date of manufacture, and specific batch;
 - g. Name of Transport Company, tank trailer or rail car number, point and date of origin;
 - h. Percent concentration and specific gravity for liquid products; and
 - i. Contract unit of measure, unit price delivered (invoice only), and total price for units delivered (invoice only).
2. All deicers can be subject to inspection and analysis as delivered. Purchaser shall have the option at the point of delivery to collect a sample of the product for quality control/quality assurance purposes. No precipitate or flocculation in liquid products shall be allowed in excess of the specification limits. Materials portraying these or other uncharacteristic traits or found to contain constituents at concentrations above the limits shown in Table 1, may be immediately rejected at the option of the buyer or their representative at the delivery location. Cost to remove an unwanted product and re-supply the purchaser shall be paid by the supplier or manufacturer of the product. The supplier or manufacturer may also be subject to cleanup costs in accordance with section (A) (3).
3. Each shipment shall be accompanied by a current and clearly legible MSDS.
4. Advance notice must be made for all deliveries. Deliveries shall be made during normal working hours (Monday through Friday between the hours of 8:00 A.M. and 4:00 P.M.), unless otherwise requested or agreed to by the purchaser.

D. STORAGE AND FIELD APPLICATION OF DEICERS

1. Deicers stored at volumes greater than 1000 gallons or 10,000 pounds (for solids) shall be secondarily contained (liquids) or covered (solids).
2. Where appropriate based on deicer manufacturer recommendations and/or PNS specifications, deicers stored in tanks must be circulated to prevent settling and product stratification.
3. Deicers shall be applied in such a manner and at such a rate that pure product (liquid or solid) remains on the roadway.
4. Deicers shall be applied using trucks equipped with ground-speed controllers. Deicers applied for anti-icing purposes prior to or during a storm event shall be applied at a rate not to exceed 30 gallons per lane mile. Whenever snow accumulations on the road are equal or greater than 2 inches, deicers shall only be applied after snow plowing to improve the effectiveness of a deicer and to reduce the amount applied.
5. Deicer may be applied over the entire roadway for main transportation routes identified in the Missoula Street Snow and Ice Control Plan. Only the area in advance of intersections shall be deiced for residential neighborhood streets and non-essential transportation routes.
6. The location and amount of deicer applied shall be tallied daily. Yearly volumes of deicer applied shall be provided to the Department annually by June 1 of each year.
7. Any application of a non-approved deicer or a spill of deicer in an amount greater than 100 gallons or 1,000 pounds (solid) shall be reported to the Department within 24 hours of application or release.

8. By January 1, 2001, the City of Missoula shall revise their Street Snow and Ice Control Plan to address the following:
 - (a) liquid deicer application methods (use of ground-speed controllers);
 - (b) rates of application;
 - (c) use of deicers with respect to the effective temperature and freezing point of the product;
 - (d) use of snow plows prior to deicer application; and
 - (e) keeping records on the amounts applied.

Chapter 15.28

BUILDING INSPECTOR

(Codifier's note: In 2012, this chapter was repealed and recodified in Title 2, Chapter 11)

Sections:

15.28.010 Repealed.

15.28.020 Repealed.

15.28.050 Repealed.

15.28.010 Repealed (Codifier's note: In 2012, this section was recodified as Section 2.11.060.).
(Ord. 2781 §1, 1991; Ord. 2141 §3, 1980).

15.28.020 Repealed (Codifier's note: In 2012, this section was recodified as Section 2.11.070.). (Ord. 2781 §2, 1991; Prior Code §2-18).

15.28.050 Repealed (Codifier's note: In 2012, this section was recodified as Section 2.11.080.).
(Ord. 2328 §2, 1983).

15.38.040 Permit required.

All new or altered off-street parking areas for public buildings must meet accessibility standards as set forth in Section 15.38.010 MMC. New off-street parking areas for public buildings must be constructed to these standards. Existing off-street parking areas for public buildings that are being altered or reconfigured must be upgraded to these standards. The construction of a public building, or alteration to a primary function area of a public building, which must meet the requirements of Title 20 MMC, regarding parking, shall require a Parking Lot Permit. The term "public building" as used in this section means a building or facility owned or operated by a government entity, or a private sector building or facility that is open to members of the public, as established in 50-60-101 MCA.

Any new building or facility which requires a building permit and is subject to site accessibility requirements per Section 15.38.010 MMC, which must meet the off street parking requirements of Title 20 MMC, shall require a Parking Lot Permit. Routine maintenance of an existing parking area, such as asphalt maintenance, or repainting of existing parking stripes, shall not require a Parking Lot Permit. It shall be unlawful for any person, firm or corporation to perform the following work on sites subject to accessibility requirements per Section 15.38.010 without first obtaining a Parking Lot Permit from the Development Services :

- (1) Construct a new off-street parking area;
- (2) Alteration of an existing off-street parking area;
- (3) Pave an existing unpaved off-street parking area;

(4) Paint traffic or parking lanes in an existing off-street parking area in which the configuration of the parking area will be altered.

The applicant for the permit shall provide plans of the proposed parking area and receive approval for such plans prior to commencing any construction. Permits shall expire by limitation and become null and void if work authorized is not commenced within one hundred eighty (180) calendar days after date of issuance. Also, permits shall expire by limitation and become null and void if work authorized by the permit is suspended for more than thirty (30) calendar days except for weather related delays. Before work is commenced, a new permit shall be issued and a full permit fee paid. The Development Services Director or a designated agent may grant extension of time on permits. Applicants shall give the Development Services two hours' notice prior to beginning placement of asphalt, concrete or traffic paint, and provide notice of completion of work under the permit.

15.38.060 Permit fee exceptions.

- (1) Any contractor doing work for the City may be exempted from permit fees referred to in Section 15.38, by the Development Services Director.

Work performed by the City is exempt from permit fees.

15.38.090 Plan requirements. Three copies of the plans of the proposed parking area shall be submitted to Development Services for review prior to issuance of the Parking Lot Permit if not previously submitted with a building permit or zoning compliance permit application. The plans shall be drawn to scale of not less than one inch equal to fifty feet, showing locations of all features and the following:

- (1) All structures proposed and existing;
- (2) All property lines, adjacent right-of-ways, and all easements;
- (3) Location of existing and proposed curbs, sidewalks, trails, driveways, and adjacent roads;
- (4) Parking arrangements, markings and dimensions, circulation patterns, traffic signs and symbols;
- (5) The thickness of the proposed pavement and base materials;
- (6) Landscaping and lighting proposed and existing;
- (7) All underground and overhead utilities proposed and existing;
- (8) Drainage structures, and flowlines proposed and existing;
- (9) Erosion control structures, and drainage structure protections as needed;
- (10) Construction notes and City standard drawing references;
- (11) A complete legal description of the parcel;
- (12) North arrow and scale. (Ord. 3158, 2000)

15.38.100 Design standards. In addition to the requirements of Title 20 MMC parking regarding parking and Section 15.38.010 MMC, the following standards shall be the minimum requirements for off-street parking:

A. Curbs, sidewalks, and street drainage structures shall be installed in the public right of way if none exist in accordance with Chapter 12.12 MMC, Sidewalk Construction. Deteriorated curbs and sidewalks located in the public right-of-way adjacent to the site shall be replaced as designated by the City Engineer. Public sidewalks located in the public right-of-way adjacent to the site shall be modified to meet accessibility standards.

B. All pedestrian pathways used for accessible routes within the development shall be a minimum 5 feet in width. Where pathways cross vehicle driving lanes the path shall continue at the same elevation of the pathway, or have permanent access ramps installed.

C. All pedestrian pathways used for accessible routes within the development shall be constructed across vehicle driving lanes with the same surface type as the path.

D. Unpaved areas of the property, or adjacent unpaved properties, shall not be used as access routes or parking areas, and shall be protected from parking or access by a physical barrier such as raised or pin-down curbs.

15.44.030 Permit.

A. Permit Required. Except as provided in subsection B of this section, no person, partnership, corporation, firm or association shall move an oversize load, house or building or part thereof into, out of, within, or through the City without first obtaining an oversize load/housemover's license pursuant to Chapter 5.70 of this code and a moving permit as provided for in this chapter. A moving permit is required for each separate oversize load, house or building or any part thereof that is moved separately and whose size comes within the provisions of this chapter. The **building official** shall assure that the oversize load, house or building that originates within the City limits is inspected prior to the move in order to ensure that it can be safely moved through the city streets pursuant to the provisions of this chapter.

B. Exceptions to Required Permit or Oversize Load/Housemover's License.

1. Neither a moving permit nor an oversize load/housemover's license is required pursuant to this chapter for the moving of a mobile home and similarly sized factory-built buildings.

2. The operation or movement of a vehicle, combination of vehicles, load, object or other things of a size or weight not exceeding the maximum specified in Sections 61-10-101 through 61-10-110, MCA, and which move can be legally accomplished without an oversize permit from the State (pertaining to the size, weight and load regulations for motor vehicles upon any highway within the state) shall not require an oversize load/housemover's license or permit when operated or moved upon a street or highway. Standard maximum dimensions pursuant to Montana state law are:

- a. Total outside width loaded or unloaded of one hundred two inches (eight and one-half feet);
- b. Overall length inclusive of front and rear bumpers, whether unladen or with load, forty feet;
- c. A vehicle unladen or with load may not exceed a height of thirteen feet six inches. See Sections 61-10-102 through 61-10-104, MCA.

3. No city oversize load/housemover's license or permit shall be required where the movement of any oversize load, house, building, or part thereof that is being moved through the City from a location outside the City to a different location outside the City only when the moving route used within the City is solely Highway 93 if the move does not involve physical contact with or require the movement, adjustment or stoppage of a traffic-control signal, traffic flow is not adversely affected for more than ten (10) minutes, the oversize load does not exceed the overweight limit as defined by the Montana Department of Transportation, and as long as the move is made in compliance with Montana state law and administrative regulations applicable to motor vehicle traffic and house movers.

4. The movement of any of the excepted loads identified in this chapter must comply with all other City ordinances pertaining to motor vehicle traffic, including but not limited to, compliance with City truck route regulations to the extent feasible. Further, if the house or building being moved within the City is to be relocated within the City, the relocation of the house or building must be in compliance with all city ordinance provisions, including but not limited to, compliance with all City zoning, building and fire regulations.

C. Application. The application for a moving permit shall be filled out with the information required in this section:

1. All permit requests shall include:

- a. Information with Respect to Mover. Name; address; state housemover's license number;

- b. A description of the oversize load or building proposed to be moved, giving construction materials, dimensions, and conditions of exterior;
- c. Proposed moving date(s) and time(s) and anticipated time length of move;
- d. List complete moving route including a traffic control plan for approval by the following City departments:
 - 1. Public works
 - 2. Park Department
 - 3. Police Department
 - 4. Fire Department
 - 5. Development Services
- e. Further, the mover shall comply with all provisions of state laws and Administrative Rules of Montana pertaining to notifying and working with all utilities in order to accomplish the movement of any oversize load, house or building or part thereof in a safe manner. The mover shall consult with all utilities as to the most appropriate traffic route for a movement of any house or building or part thereof.

2. Permit requests for house or building moves must also include:

- a. If original site is within the city the applicant shall provide the name of building owner; address of site; legal description; bond owner and bond number for restoration.
- b. If destination site is within the city the applicant shall provide:
 - i. Name of owner; address of site; legal description; current zoning.
 - ii. Zoning Review. The City Zoning Officer must review the site plan and other materials submitted in this section and determine that the building, as relocated, will meet all requirements of Title 20 of this code pertaining to zoning.
 - iii. Building Permit Review and Permit. An approved City Building Permit will be required for any buildings relocated within the City limits.

15.44.040 Permit--Completion requirement Any oversize load, house or building or part thereof moved into, out of, within or through the City shall be accomplished in accordance with the building codes and following procedures:

A. If the permit is for a house or building and the original site is within the city; prior to the issuance of the moving permit, the real property owner, or representative thereof shall present a bond for twenty thousand dollars (\$20,000) to guarantee that the existing site shall be satisfactorily restored to protect public health and safety and the aesthetic quality of the site within forty-five days of the date of the issuance of the moving permit.

B. The time limits in subsections A may be extended by the Building official. The decision to extend or not extend a deadline may be appealed to the City Council.

C. If the City determines that any site restoration was not done to City standards, the City may draw upon either the bond of the moving contractor or the property owner of the existing site.

D. The physical move shall be completed on the date and time indicated on the permit or as extended by the Development Services Director taking into consideration the Administrative Rules of

Montana and all state law pertaining to authorized time(s) allowed for moving oversize loads, houses or buildings.

15.44.050 Permit--Fees. Fees for the issuance of a permit to move any oversize load, house or building shall be as set forth below. If any one measurement of the building exceeds the maximum given in any one fee schedule, the fee shall be determined by the next larger schedule. Permit fees shall be deposited in the City General Fund.

A. An oversize load, house or building or part thereof that when loaded onto its means of transportation is eight feet six inches wide but less than fifteen feet wide, and less than twenty-two feet in length and less than thirteen feet six inches in height, a permit fee of forty dollars (\$40) each.

B. An oversize load, house or building or part thereof that when loaded onto its means of transportation is fifteen feet or more wide, and twenty-two feet or more in length, and thirteen feet six inches or more in height, a fee of two hundred dollars (\$200) each.

C. If the Building official or Public Works Director requires the services of a City employee(s) while the oversize load, house or building or part thereof is in transit, a fee of seventy-five dollars (\$75) per hour per person shall be paid for all time spent on the inspection.

D. Overweight fee. In addition to the above listed City permit fees, whenever a load is overweight in accordance to the Montana Department of Transportation, an overweight impact fee of \$100 shall be paid to the City of Missoula before City oversize load permit issuance.

E. Multiple Moves. Whenever it is proposed that an oversize load, a house or building be moved in more than one part, a moving permit shall be obtained for each part moved that comes within the provisions of this chapter. The primary permit fee shall be based upon the size of the largest part. Each additional permit for each part shall be based on the actual size of the remaining parts.

15.44.060 Grounds for issuance of permit. The Building official may issue a moving permit only once he or she verifies:

A. That any application requirement of any fee, deposit or bonding requirement has been complied with;

B. That the process for granting any State or Federal oversize loads permits or permissions to proceed fully addresses and mitigates impacts identified by the City as determined by Development Services, Public Works Department and/or the Police Department.

C. That the oversize load or building is not too large or heavy to move without endangering persons or private or public property, including trees, buried utilities and other public improvements as determined by the Building official in consultation with the Public Works Director;

D. That the oversize load or building is not in such a state of deterioration, disrepair or otherwise so structurally unsafe that it can be moved without endangering persons and property in the city as determined by the Building official;

E. That the oversize load or building is structurally safe and fit for the purpose of its intended future use if the relocation site is in the City as determined by the Building official;

F. That the applicant's equipment to be used for moving the oversize load, house or building or part thereof is safe and that persons and property will not be endangered by its use as determined by the Building official;

G. That City Zoning, Building, Fire or other codes or ordinances would not be violated by the building in its new location, if the relocation site is in the City;

H. That for any other reason persons or property in the city would not be endangered by the moving of the oversize load, house or building as determined by the Building official, Public works Department, Development Services and/or the Police Department;

I. That the proposed route would not cause excessive traffic congestion as determined by the Public Works Department, Development Services Department and/or the Police Department;

J. That the time period in which the move would be taking place would not cause excessive traffic congestion as determined by the Public Works Department, Development Services Department and/or the Police Department.

15.44.070 Permit duties of the mover. The duties of the permittee shall be as follows:

A. To move the oversize load, house or building or any part thereof that comes within the scope of this chapter only over streets designated for such use in the written permit. If an emergency arises during the move, the mover may make slight changes in the route as long as the changes can be achieved without unduly endangering persons or property.

B. To request in writing any change in the moving date or hours approved in the application. Such changes must be approved in writing by the Building Official.

C. To notify the Building Official in writing of any and all damage done to property within a public right-of-way within twenty-four hours after the damage or injury occurred, and further comply with all state law accident reporting procedures.

D. To cause flashing yellow lights to be displayed on every side of the oversize load, house or building or part thereof if it is temporarily parked on a street or anywhere else within the public right-of-way. The flashing yellow lights shall be placed in such a manner as to warn the public of the obstruction.

E. At all times erect and maintain barricades across the street in such manner as to protect the public from damage or injury.

F. To remove the oversize load, house or building or part thereof from the public right-of-way after two days of such occupancy unless an extension is granted by the Building Official.

15.44.100 Supervision of move. The actual oversize load, house, or building movement shall be under the supervision of the Building Official, who shall determine any precautions deemed advisable for the protection of the streets, abutting structures, trees, foliage or any other property of the city. No oversize load, house or building or part thereof shall be moved without pilot vehicles or flag persons front and rear on any oversize load, house or building or part thereof twelve feet or more in width; or over thirty-six feet in length or more; or over twelve feet six inches in height. Such pilot cars or flat persons are to be provided by the mover at the mover's expense. No oversize load, house or building or part thereof shall be moved which shall cause an extensive deprivation of any public utility service to the citizens of the city. Whenever in the judgment of a city department the moving of an oversize load, a house or building or part thereof requires tree trimming, and/or removal and replacement of facilities by city forces, the costs of such work shall be borne by the permittee. Payments for those costs shall be made within five city business days of the date the costs are incurred and prior to the city's release of the mover's bond.

15.46.060 Inspection Fee. An inspection fee shall be paid to Development Services prior to any residential inspection being conducted under this ordinance. A fee schedule shall be adopted, and modified from time to time, by the Missoula City Council.

15.60.030 Enclosure--Building permit required. No fence or barrier shall be constructed until a building permit for same has been issued by the building official. (Prior Code §30-3) .

15.60.040 Enclosure--Inspection by building official. The building official is empowered to inspect swimming pools within the city to determine whether or not they are surrounded by a sufficient barrier as defined herein. (Prior code § 30-4) .

15.60.050 Abandoned and unused pools. Abandoned pools and unused pools, situated on premises not occupied for periods of thirty days or more, shall be drained or equipped with swimming pool covers approved by the building official as adequate to prevent accidental drowning. (Prior Code §30-5) .

15.65.040 Permit required.

1. It shall be unlawful for any person, firm or corporation to commence grading associated with a building permit or zoning compliance permit on public or private property without first obtaining a Grading Permit from Development Services . Any new building which requires a building permit where grades are altered more than three feet (3'), except single-family residences located on slopes less than five percent (5%), shall require a Grading Permit. Any construction activities related to grading which shall meet the requirements of this chapter, shall require a Grading Permit. The applicant for the permit shall provide plans of the proposed site development in conformance with this chapter and receive approval for such plans prior to commencing any construction.

2. Grading, Drainage and Erosion Control Permits shall expire by limitation and become null and void if work authorized is not commenced within one hundred eighty (180) calendar days after date of issuance. Also, permits shall expire by limitation and become null and void if work authorized by the permit is suspended for more than thirty (30) calendar days except for weather related delays. Issued Grading, Drainage and Erosion Control Permits expire one (1) year from date of issuance. Before work is commenced, a new permit shall be issued and a full permit fee paid. The Development Services Director may grant extension of time on permits. Applicants shall give Development Services staff two hours' notice prior to beginning grading operations, and provide notice of completion of work under the permit. (Ord. 3157, 2000)

3. Storm Water Pollution Prevention Plan (SWPPP) Permits shall expire by limitation and become null and void if work authorized is not commenced within one hundred eighty (180) calendar days after date of issuance. Also, permits shall expire by limitation and become null and void if work authorized by the permit is suspended for more than thirty (30) calendar days except for weather related delays. Issued Storm Water pollution Prevention Plan (SWPPP) Permits expire one (1) year from date of issuance. Before work is commenced, a new permit shall be issued and a full permit fee paid. The Development Services Director or a designated agent may grant extension of time on permits. Applicants shall give the Development Services staff two hours' notice prior to beginning grading operations, and provide notice of completion of work under the permit.

15.65.060 Permit fee exceptions.

1. Any contractor doing work for the City may be exempted from permit fees referred to in Section 15.65, by the Development Services Director .
2. Work performed by the City is exempt from permit fees.

15.65.090 General Requirements for Single Family and Duplex Residential Parcels

1. The finished grade of the ground shall slope away from the house
2. Roof drainage structures shall be installed so as to divert storm water away from the foundation of the structure. Roof drainage shall not be constructed to concentrate storm water runoff on to an adjacent parcel.
3. The finished grade shall be contoured to move storm water away from any structures, this includes:
 - a. Stormwater runoff from impermeable surfaces such as roofs, driveways, and sidewalks on the subject property
 - b. Runoff from adjacent properties and undeveloped lands
4. The finished grade shall be contoured such that:

- a. Storm water runoff shall not impact structures on adjacent parcels but shall be configured to direct storm water runoff to landscaped undevelopable areas, or drainage facilities of the adjacent properties.
- b. That natural drainage patterns shall be unaltered or if approved by the Development Services Director may be redirected
- c. Post developmental drainage patterns shall be unaltered or if approved by the Development Services Director may be redirected

5. Irrigation shall be installed and used so as not impact adjacent properties.

15.65.100 General Requirements for Multifamily, Commercial and Industrial parcels. All storm water runoff shall be retained on site.

1. Drainage and grading plans shall be prepared by a by a licensed professional engineer, surveyor or architect

2. A minimum of one (1) eight foot (8') sump or dry well shall be installed per every ten thousand square feet (10,000 SF) of impervious area including but not limited to paved areas, sidewalks, roofs, etc. Additional drainage facilities may be required if soil permeability indicates a slow percolation rate.

3. Alternative drainage systems may be considered with approval from the Development Services Director .

4. Multifamily, commercial, and industrial parcels that have four (4) or less parking spaces shall meet the requirements set forth in 15.65.060

15.65.110 Submittal Requirements.

1. Plans for grading, drainage and erosion control shall be approved by Development Services staff, where required, prior to any on-site grading. The following information shall be submitted by the applicant for a Building and / or Zoning Compliance Permit for all new construction and/or additions including but not limited to structures, driveways, streets and parking. The site plan and grading plans may be on one sheet. A Grading and Drainage Plan to scale not to exceed one inch (1") equals 40 feet;

2. All structures proposed and existing;

3. All property corners and adjacent right-of-way, including location of curbs, sidewalks, and driveways;

4. All utilities and utility easements and other easement locations;

5. Existing and finished floor elevations for primary structures;

6. North arrow and scale;

7. Spot elevations for (a) driveway at the street; (b) finished elevation for garage; and (c) existing and finished grade at building corners;

8. Areas of riparian resource;

9. Existing trees including location and size;

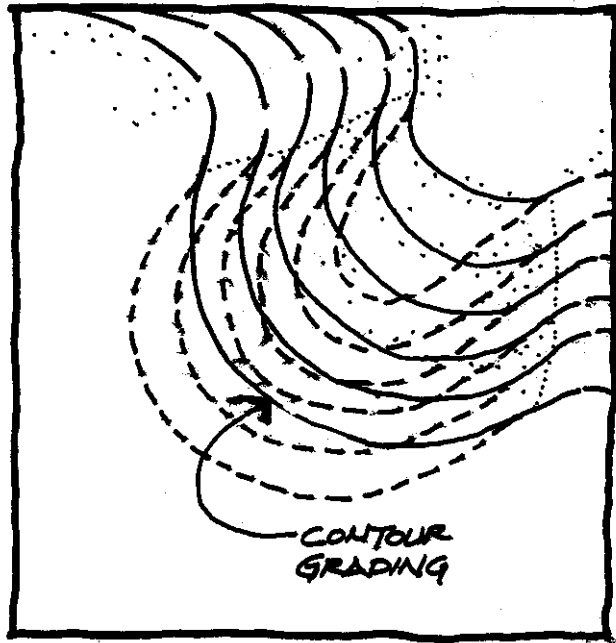
10. Locations of cut and fill;

11. Existing and proposed drainage structures and flow lines;

12. Proposed slopes in excess of 2:1;
13. Retaining walls;
14. Storm Water Pollution Prevention Plan (SWPPP)
15. Drag-on prevention plan
16. For slopes ten percent (10%) or greater, all multi family, commercial, and industrial parcels with more than four (4) Parking spaces the following additional information shall be required:
 - a. A contour map showing two foot (2') existing and proposed contours of the entire lot up to one acre in size
 - b. A contour map showing two foot (2') existing and proposed contours for the disturbed area on lots exceeding one acre in size.
 - c. The contour maps including the grading and drainage plans shall be prepared by a licensed professional engineer, surveyor or architect

15.65.120 Plan Requirements and Design Standards.

1. Five (5) copies of the submitted plans for the proposed grading, drainage, erosion control and Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the Development Services at the time of the application for zoning compliance permit and / or building permit which requires site grading as described in Title 15.64. The submitted plans shall be in conformance with Title 12, Title 15, Title 20, or as required by any Federal, State, and/or Local agency.
2. All disturbed slopes shall be graded or have retaining walls constructed according to an approved grading plan. The required grading plans shall accomplish the following:
 - a. Cut-and-fill slopes and intersections of manufactured and natural slopes shall have curved configurations that reflect the forms and shapes of surrounding topography.



CONTOUR GRADING ILLUSTRATION

- b. Grading shall incorporate elements to protect drainage systems. Natural drainage ways shall be preserved. Drainage ways shall remain clear and open and shall not be obstructed with fences, structures, etc. Streets and roads which cross a drainage way shall preserve the capacity of the drainage.
- c. Grading shall integrate landscaping design to provide erosion protection and prevent weed infestation to the site. Landowners shall replant areas of disturbance no later than the first growing season in consultation with the County Extension Office.
- d. Where site grading is necessary, topsoil shall be salvaged or imported to redistribute on areas to be re-vegetated.
- e. Where drainage swales are used to divert surface waters, they shall be vegetated or protected to minimize potential erosion.
- f. Manufactured slopes may not exceed a slope ratio of 2:1 unless all of the following requirements are met and satisfied;
- i. The soils are suitable.
 - ii. Only if it is necessary so that significant environmental characteristics of a site are preserved or the need for extensive cut and fill slopes is substantially reduced.
 - iii. Shall have certification by a licensed professional geotechnical / soils engineer.
- g. Within public rights-of-way, private use of retaining structures shall be allowed only if approved by the Development Services Director. Slope ratios within the public right-of-way require approval by Development Services.

h. Use of retaining structures outside of the right-of-way may be allowed, if approved by Development Services, as part of the grading plan.

3. Provisions for the collection of storm water runoff and prevention of soil erosion shall be the first improvements constructed on the development site. Such improvements shall be designed to divert surface water away from cut faces or sloping surfaces of a fill.

4. Unless an adequate storm sewer exists or is provided, all surface run-off in addition to that normally present before development shall be retained on-site or released from the site in a manner which shall not substantially increase the peak run-off normally present before development. Restrictive covenants may be required to mitigate adverse effects of property drainage. Mitigation may involve the installation of drainage structures or the connection to an existing storm drainage system. Drainage easements across adjoining land to the nearest drainage way may be required.

5. Design of such drainage facilities shall be based upon local soil factors, topography, natural drainages, gullies and swales, aesthetics, and capacity for proper disposal of excess water. Drainage facilities shall be designed to handle both the development and the adjacent drainage basin.

6. Any trees to be saved shall be noted on the site plan and grading shall not take place inside the 'drip line' of the tree canopy.

7. All cut and fill shall be confined to stated right-of-way widths or roadway easement widths.

8. In residential developments with lot sizes one acre or smaller in size, if the total percentage of the impervious surface exceeds 35% of the lot size, additional drainage and / or erosion control measures may be required.

15.66.020 DEFINITIONS.

In this Chapter, unless otherwise indicated below, words and terms shall have the meaning prescribed in Title 20, MMC:

1. **Applicant:** any person, most generally the property owner or agent authorized by the owner, who files an application with the City for a building permit to undertake new development within the City.
2. **Appropriation or To Appropriate:** an action by the City to identify specific public facilities for which development impact fee funds may be utilized. Appropriation shall include, but shall not necessarily be limited to: inclusion of a public facility in the adopted City budget or Capital Improvements program; execution of a contract or other legal encumbrance for construction of a public facility using development impact fee funds in whole or in part; and/or actual expenditure of development impact fee funds through payments made from a development impact fee account.
3. **Capital Improvement Program:** the schedule of public facility improvements to be undertaken by the City as set forth in the capital budget, the City of Missoula Capital Improvement Program, or an adopted public facility plan, consistent with the requirements of Montana Code Annotated Section 7-6-1602, with the exception of the portions of this chapter not amended by this ordinance that were enacted previously and grandfathered as authorized by Section 9. "Applicability," Chapter, No. 299, Senate Bill 185 of the Montana Session Laws 2005."
4. **Chief Financial Officer:** the Director of the Missoula City Finance Office or his or her designee.
5. **City:** City of Missoula, Montana.
6. **Commercial Use:** the purchase, sale, offering for sale, or other transaction involving the handling or disposition of any article, service, substance or commodity for livelihood or profit; or the management or occupancy of recreation or amusement enterprises; or the maintenance and use of buildings, structures, or premises by trades or persons rendering commercial services.
7. **Community Services Development Impact Fee:** a development impact fee imposed on residential and nonresidential development to fund the proportionate share of the costs generated by new development for public facilities, including municipal buildings, vehicles, and equipment.
8. **Development Impact Fee:** a fee imposed on new development on a pro rata basis in connection with and as a condition of the issuance of a building permit and which is calculated to defray all or a portion of the costs of the public facilities required to accommodate new development at City-

designated level of service (LOS) standards and which benefits the new development and is proportionate in amount to actual impact of new development on the public facilities to be funded with development impact fee funds.

9. **Director of Development Services** : The Director of Development Services or his or her designee.
10. **Fire and Emergency Medical Service Development Impact Fee**: a development impact fee imposed on new residential and non-residential development to fund the proportionate share of the costs generated by new development for public facilities including fire stations, emergency vehicles, trucks, pumpers, water tenders, and other fire protection buildings, facilities, and equipment created by new development.
11. **Office**: nonresidential uses that include, but are not limited to, professional services, insurance companies, investment brokers, health care (where no overnight care for patients is given), and tenant services such as banking, restaurants, and service retail facilities ancillary to the principal office uses.
12. **Industrial**: a use devoted to the manufacture, assembly, packaging, processing, fabrication, storage, extraction, reduction, destruction, conversion or distribution of any article, substance, goods, commodities and materials whether new or used, or any treatment thereof in such a manner as to change the form, character, or appearance thereof. Uses include, but are not limited to, printing plants, material-testing laboratories, assembling of data processing equipment, and the substantial refinishing, repair and/or rebuilding of vehicles or boats.
13. **Institutional or Civic Use**: premises reserved for use by organizations considered to support the common good. Civic uses include, but are not limited to, governmental offices and services; cultural, social, educational, and service organizations; not-for-profit organizations; recreational, athletic, convention and entertainment facilities owned or operated by a government agency.
14. **Law Enforcement Development Impact Fee**: a development impact fee imposed on new residential and non-residential development to fund the proportionate share of the costs for public facilities, including law enforcement buildings, vehicles, and equipment generated by new development.
15. **Methodology Reports**: reports prepared in support of this Chapter titled "Impact Fees: City and County of Missoula, Montana," by Tischler & Associates, Inc., dated December 27, 2002, and "Transportation Impact Fee Study," by TischlerBise, dated March 8, 2007, which sets forth the methodology and rational basis for the calculation of the impact of new development and the proper and proportional amount of the development impact fee to be assessed against new development.
16. **New Development**: any new construction, reconstruction, redevelopment, rehabilitation, structural alteration, structural enlargement, structural extension, or new use within the City that requires a building permit, including any damage in use of an existing building, structure, or lot, which increases the demand for one (1) or more public facilities; except as otherwise provided in subsection 15.66.030.
17. **Non-Residential**: any building, structure, use or development designed, intended, or used for purposes other than those of a dwelling or its accessory buildings.
18. **Offset**: a waiver of a portion or all of certain required development impact fees, pursuant to subsection 15.66.040(5) of this Chapter.
19. **Parks and Open Space Development Impact Fee**: a development impact fee imposed on new residential development to fund the proportionate share of the costs generated by new development for public facilities, including neighborhood, community and regional park and recreation facilities; and for acquisition and improvements of open space lands and trails.
20. **Public Facility**: public capital improvements, buildings, vehicles, apparatus, equipment, land acquisitions, and facilities with a useful life of ten (10) years or more, that increase or improve the service capacity of a public facility such as parks, open space, trails, fire and emergency medical service facilities, law enforcement facilities, and community services facilities included in the calculation of development impact fees in the methodology report and transportation facilities

included on the City's capital improvement program with the exception of the portions of this chapter not amended by this ordinance that were enacted previously and grandfathered as authorized by Section 9. "Applicability", Chapter No.299, Senate Bill 185 of the Montana Session Laws 2005".

21. **Residential:** any building, structure, use or development designed, intended or used as a dwelling unit or its accessory buildings, or that results in the expansion of a dwelling unit or units.
22. **Shopping Center:** a retail business area comprised of one or more adjacent or adjoining commercial establishments on a parcel planned, constructed and managed as a unit in one or more buildings. A Shopping Center contains a building or buildings with a total gross floor area of thirty thousand square feet or more, with adjoining or adjacent off-street parking. Shopping centers consist primarily of commercial retail establishments; however they also may contain non-merchandizing facilities such as offices, movie theaters, restaurants, post offices, banks, health clubs, and recreational facilities.
23. **Transportation Development Impact Fee:** a development impact fee imposed on new residential and non-residential development to fund the proportionate share of the public facility costs generated by new development for arterial and collector roads designated on the City's capital improvement program, including roads, streets, bridges, rights-of-way, traffic signal, and landscaping.
24. **Warehousing:** a use engaged in bulk storage of wholesale or distribution materials, inventory, equipment, supplies, goods, wares, merchandise, substances, articles or other materials not stored for immediate, on-site retail sale
25. **Zoning Officer:** the Director of Development Services or his or her designee.

15.66.040 PROCEDURES FOR IMPOSITION, CALCULATION AND COLLECTION OF DEVELOPMENT IMPACT FEES.

A. In General.

An applicant shall be notified by the City of the applicable development impact fee requirements, including applicable service charges, at the time of application for a building permit on a form provided by the City for such purposes. Preliminary development impact fees shall be calculated by the Building Official at the time of application for a Building permit. The final development impact fees shall be paid by the applicant prior to the issuance of a building permit. In lieu of payment prior to building permit issuance, an applicant may provide a Certificate of Deposit payable to the City, Letter of Credit issued by a financial institution in favor of the City, or other reasonable security in an amount equal to the development impact fee calculated to be due, in a form satisfactory to the City Attorney and the Chief Financial Officer, and redeemed or paid in full upon completion of the final inspection by the Building official.

B. Calculation.

1. Upon receipt of an application for a building permit, the Development Services staff shall determine (a) whether it is a residential or non-residential use; (b) the specific category of residential or non-residential development, if applicable; and (c) additional square feet of gross floor area of the proposed use.
2. Upon receipt of an application for a building permit, the Development Services staff shall determine whether the development proposed involves a change in use. In such cases, the development impact fee due shall be based only on the incremental increase in the fee for the increase in the public facility capacity created by the proposed change in square footage.
3. After making these determinations, the Building Official shall calculate the demand for the public facility created by the new development for each public facility category for which a development impact fee is being imposed, and shall calculate the applicable development impact fee by multiplying the demand added by the new development by the amount of the applicable

development impact fee per unit of development, incorporating any applicable offset as discussed in subsection (5) below.

4. If the type of land use proposed for new development is not expressly listed in the particular development impact fee ordinance and schedule, the Building Official, in consultation with the Zoning Officer, as necessary, shall:
 - i. identify the most similar land use type listed and calculate the development impact fee based on the development impact fee for the land use identified;
 - ii. identify the broader land use category within which the specified land use would apply and calculate the development impact fee based on the development impact fee for that land use category; or
 - iii. as appropriate, determine the basis used to calculate the fee pursuant to an independent impact analysis pursuant to subsection (3) below.
5. The calculation of development impact fees due from a multiple-use new development shall be based upon the aggregated demand for each public facility generated by each land use type in the new development.
6. The calculation of development impact fees due from a phased new development shall be based upon the demand generated by each specific land use within the phase of development for which a separate building permit is requested.
7. Development impact fees shall be calculated based on the development impact fee amount in effect at the time of submittal of a complete application for a building permit.

C. Independent Impact Analysis.

The following provisions shall apply to any independent impact analysis:

1. The applicant shall be responsible, at its sole expense, for preparing the independent impact analysis, which shall be reviewed for approval by the Director Development Services, and, as appropriate, other City staff or officials, prior to payment of the fee.
2. The independent impact analysis shall measure the impact that the proposed new development will have on the particular public facility at issue, shall be based on the same methodologies used in the methodology report, and shall be supported by professionally acceptable data and assumptions.
3. Within thirty (30) days of submittal of the independent impact fee analysis, the Development Services Director shall provide written notice to the applicant as to whether the independent impact analysis is accepted or rejected based on the provisions of this section. If the independent impact analysis is rejected, the written notice shall provide an explanation of the insufficiencies of the analysis.
4. The final decision of the Development Services Director may be appealed pursuant to Section 15.66.060 of this Chapter.

D. Development Impact Fee Estimates.

1. **Non-binding Estimate.** An applicant may request a non-binding estimate of development impact fees due for a particular new development at any time by filing a request on a form provided for such purpose by the City; provided, however, that such estimate may be subject to change when a final application for a building permit for new development is made. Such non-binding estimate is solely for the benefit of the prospective applicant and shall in no way bind the City nor preclude it from making amendments or revisions to any provisions of this Chapter or the specific development impact fee implementing ordinances.

2. **Binding Pre-Determination.** An applicant may request a pre-determination of development impact fees due for a particular new development at any time by filing a request on a form provided for such purpose by the City. The pre-determination shall be binding for a period not to exceed ninety (90) days provided, however, that no change has occurred: a) in the square footage and use of the proposed development as presented in a final application for a building permit for the new development; or b) in the schedule of fees as presented in adopted ordinance and modified by annual adjustments. Such binding pre-determination shall not preclude the City from making amendments or revisions to any provisions of this Chapter or the specific development impact fee implementing ordinances.

E. Offsets.

1. Offsets against the amount of a development impact fee due from a new development shall be provided for contributions made or to be made in the future by the affected property owner in cash, or by dedication of land, or by actual construction of all or part of a public facility or public facilities identified in an adopted CIP, or land-use or facilities master plan, or impact fee methodology report and meeting or exceeding the demand generated by the new development. The contribution must be a reasonable substitute for the cost and level of service of public facilities included in the City adopted or City CIP, or land-use or facilities master plan, or impact fee methodology report, as determined by the Development Services Director, the Chief Financial Officer, and representatives of potentially affected departments.
2. The amount of any excess contribution shall be determined by the Development Services Director and the Chief Financial Officer upon receipt of an application form requesting an offset; provided, however, that (a) the City will make no reimbursement for excess contributions unless and until the particular development impact fee account has sufficient revenue to make the reimbursement without overdrawing the account or jeopardizing the continuity of the City's Capital Improvements Program; and (b) the excess contribution may not be transferred or credited to any other types of development impact fees calculated to be due from that development for other types of public facilities. The determination of the eligibility for and the amount of the offset shall be made by the Development Services Director and the Chief Financial Officer, based on the fair market value of the proposed dedication, construction, or contribution, as established by appraisals and construction receipts or construction bids, as applicable. If the applicant contends that any aspect of the City's decision constitutes an abuse of discretion, the applicant shall be entitled to appeal pursuant to Section 15.66.060 of this Chapter.
3. No offset shall be allowed unless the City has clearly documented the need for the dedication or construction, pursuant to Montana Code Annotated Section 7-6-1602, has approved the contribution or expenditure before it is made, in accordance with the provisions of this subsection, and has determined that any proposed land dedication is appropriate for the proposed use by the City.
4. Offsets for dedication of land or provision of public facilities shall be applicable only as to development impact fees imposed for the same types of public facilities that are proposed to be dedicated or provided. Even if the value of the dedication of land or provision of a public facility exceeds the development impact fee due for the type of public facility, the excess value may not be transferred to development impact fees calculated to be due from the applicant for other types of public facilities for which development impact fees may be imposed. Offsets for excess capacity may, however, be transferred to the same applicant or to other applicants for new development that creates a demand for the same type of public facility and which development impact fees are due pursuant to this Chapter.
5. Any offset or reimbursement shall be pursuant to a duly executed development agreement.
6. No offsets shall be given for the construction of local on-site facilities, structures, improvements, or other project improvements required by zoning, subdivision, or other city regulations unless the improvement is identified in the Capital Improvement Program, or impact fee methodology report, or

there is a finding that the proposed improvements meet the same need as improvements identified in the Capital Improvements Program or impact fee methodology report.

F. Collection.

1. The City shall collect all development impact fees and service charges in the amounts set forth in this Chapter and shall issue a receipt to the applicant for such payment unless:
 - a. the applicant is entitled to a full offset;
 - b. the applicant is not otherwise subject to the payment of a development impact fee; or the applicant has filed an appeal as required by Section 15.66.060 and has filed a bond or other surety in the amount of the development impact fee as calculated by the City and approved by file City Attorney and Finance Director/Treasurer.

15.66.050 ESTABLISHMENT OF DEVELOPMENT IMPACT FEE ACCOUNTS; APPROPRIATION OF DEVELOPMENT IMPACT FEE FUNDS; AND REFUNDS

A. Development Impact Fee Accounts.

The City shall establish a development impact fee account for each category of public facility for which development impact fees are imposed. Such account shall clearly identify the category, account, or fund for which the development impact fee has been imposed. Sub-accounts may be established for individual development impact fee districts. All development impact fees collected by the City shall be deposited into the appropriate development impact fee account. Unless otherwise prohibited by law, all interest earned on monies deposited to such account shall be credited to and shall be considered funds of the account. The funds of each such account shall be capable of being accounted for separately from all other City funds. The City shall establish and implement necessary accounting controls to ensure that the development impact fee funds are properly deposited, accounted for, and appropriated in accordance with this Chapter and any other applicable legal requirements.

B. Appropriation of Development Impact Fee Funds.

1. **Use of Funds.** All appropriations from development impact fee accounts shall be detailed on a form provided for such purpose and filed in the City Finance Department. Development impact fee funds may be used only for:
 - i. expenditures on public facilities;
 - ii. the payment of principal, interest, and other financing costs on contracts bonds, notes, or other obligations issued by or on behalf of the City to finance public facilities;
 - iii. financing of offsets as set forth in Section 15.66.040 (5); or
 - iv. financing the costs of updating this chapter.
2. **Restrictions on Use.** Development impact fees appropriations shall be reasonably related to the benefits accruing to new development subject to the provisions of this Chapter and shall not be appropriated for repair or maintenance of public facilities, for operational or personnel expenses associated with the provision of public facilities, to correct an existing deficiency, or for any facility that provides capacity for development other than new development. Additionally, development impact fees shall be appropriated only:
 - i. for the particular public facility for which they were imposed, calculated, and collected; and
 - ii. within six (6) years of the beginning of the City's fiscal year immediately succeeding the date of collection, unless such time period is extended as provided herein.

3. **Appropriation of Development Impact Fee Funds beyond Six (6) Years of Collection.** Notwithstanding the provisions of subsection (2)(b) above, development impact fee funds may be appropriated beyond six (6) years from the beginning of the City's fiscal year immediately succeeding the date of collection, if the appropriation is for a public facility that requires more than six (6) years to plan, design, finance and construct. Funds held over must be specifically identified and described in the impact fee annual financial report. The City shall document compliance with the provisions of this paragraph.

C. Procedure for Appropriation of Development Impact Fee Funds.

1. Each year the City shall identify public facility projects anticipated to be funded in whole or in part with development impact fees. Public facility expenditures shall be based upon the development impact fee annual review set forth in Section 15.66.070 of this Chapter, the methodology report, the City Capital Improvement Program and such other information as may be relevant, and shall be part of the City's annual budget and capital improvements programming process.
2. The recommendations shall be consistent with the provisions of this Chapter, the methodology report, particular public facility development impact fee ordinances other applicable legal requirements, and any guidelines adopted by the City Council.
3. The City Council may include public facilities funded with development impact fees in the City's annual budget and capital improvements program. If included, the description of the public facility shall specify the nature of the public facility, the location of the public facility, the capacity to be added by the public facility, the service area of the public facility, the need/demand for the public facility and the anticipated timing of completion of the public facility.
4. The City Council may authorize public facilities funded by development impact fees at such other times, as they deem necessary and appropriate by a majority vote of the City Council.
5. The City Council shall verify that adequate development impact fee funds are or will be available from the appropriate development impact fee account for the particular public facility.
6. Development impact fee funds shall be spent on a first in/first out basis.

D. Refunds.

Eligibility.

1. **Expiration or Revocation of Building Permit.** An applicant who has paid a development impact fee for a new development for which the necessary building permit has expired or for which the building permit has been revoked prior to construction may apply for a refund of development impact fees paid. Refunds made pursuant to this subparagraph shall be made payable to the owner of the property upon which the development was to occur. The refund application shall be made on a form provided by the City for such purposes.
2. **Failure of City to Appropriate Development Impact Fee Funds within Time Limit.** The current property owner may apply for a refund of development impact fees paid by an applicant if the City has failed to appropriate the development impact fees collected from the applicant within the time limit established in subsection (2) above. Refunds made pursuant to this subparagraph shall be to the current property owner. The refund application shall be made on a form provided by the City for such purposes.
3. **Administrative Fee.** Except when a refund is warranted due to timeliness (see paragraph vi below), a five percent (5%) administrative fee, not to exceed two-hundred dollars (\$200), shall be deducted from the amount of any refund granted and shall be retained by the City in the appropriate development impact fee account to defray the administrative expenses associated with the processing of a refund application.

4. **Processing of Applications for a Refund.** Applications for a refund shall be made on a form provided by the City for such purposes. Upon receipt of a complete application for a refund, the Development Services Director shall review the application and documentary evidence submitted by the applicant as well as such other information and evidence as may be deemed relevant, and make a determination as to whether a refund is due. Refunds by direct payment shall be made following an affirmative determination by the Development Services Director.
5. **Due to Expiration or Revocation.** Applications for refunds due to expiration or revocation of a building permit shall be made on a form provided by the City for such purposes and shall be made within sixty (60) days following expiration or revocation of the building permit. The applicant shall submit: (a) evidence that the person applying for the refund was the initial applicant who paid the fee, or the duly designated agent of the initial applicant; (b) the amount of the development impact fees paid by public facility category and receipts evidencing such payments; and (c) documentation evidencing the expiration or revocation of the building permit. Failure to apply for a refund within sixty (60) days following expiration or revocation of the building permit shall constitute a waiver of entitlement to a refund. No interest shall be paid by the City in calculating the amount of the refunds.
6. **Due to Timeliness.** Applications for refunds due to the failure of the City to appropriate development impact fees collected from the applicant within the time limits established in subsection (2)(a) above shall be made on forms provided by the Finance Office and shall be made within one (1) year following the expiration of such time limit. The applicant shall submit: (a) evidence that the applicant is the property owner or the duly designated agent of the property owner; (b) the amount of the development impact fees paid by public facility category and receipts evidencing such payments; and (c) description and documentation of the City's failure to appropriate development impact fee funds for relevant public facilities. Interest shall be paid by the City in calculating the amount of the refunds based upon actual interest earned, and the Administrative Fee for processing refunds shall be waived.

Section 15.66.060 APPEALS.

A. Initiation.

- 1) An appeal from any decision of a City officer pursuant to this Chapter shall be made within fifteen (15) working days of notice of the decision being sent by certified mail, to the Chief Financial Officer who shall refer it immediately to an Appeals Committee consisting of the Chief Administrative Officer, Chief Financial Officer, Development Services Director, and City Attorney. When filing an appeal, the fee payer shall submit a letter providing a full explanation of the request, the reason for the appeal, as well as all supporting documentation and an administrative fee of five percent (5%) of the impact fee, not to exceed two-hundred dollars (\$200). In the event the appeal is successful, the City Council may refund all or a portion of the administrative fee to the payer.
- 2) Upon review and consideration of information presented by the appellant, the Appeals Committee shall formulate a recommended action and forward it for consideration to the City Council pursuant to Title 20 of the, Missoula Municipal Code. Such appeal shall be based on the record and on other such written argument which appellant has filed with the appeal and the staff response to such argument.
- 3) The filing of an appeal shall not stay the imposition or the collection of the development impact fee as calculated by the City unless a Certificate of Deposit payable to the City, Letter of Credit issued by a financial institution in favor of the City, or other sufficient surety has been provided.
- 4) If the notice of appeal is accompanied by a cash bond or letter of credit in a form satisfactory to the City Attorney and the Chief Financial Officer in an amount equal to the development impact fee calculated to be due, a building permit may be issued to the new development.

B. Contents.

The notice of appeal shall detail the specific grounds therefore and all other relevant information and shall be filed with the Finance Office on a form provided by the City for such purposes.

16.08.050 Hearings--Generally. Any person affected by any notice which has been issued in connection with the enforcement of any provisions of this title, or regulations issued under this chapter, may request and shall be granted a hearing on the matter; provided, that the person shall file in the Development Services office a written petition requesting the hearing and setting forth a brief statement of the grounds therefor, within ten days after the date the notice was served. The filing of the petition for a hearing shall operate as a stay of the notice and of the suspension. Upon receipt of the petition, a time and place for such hearing and shall give the petitioner written notice thereof. At the hearing, the petitioner shall be given an opportunity to show why the notice should be modified or withdrawn. The hearing shall be commenced not later than thirty days after the date on which the petition was filed. However, upon application by the petitioner, the date of the hearing may be postponed for a reasonable time beyond such thirty-day period, when in its judgment the petitioner has submitted good and sufficient reasons for such postponement.

16.08.060 Hearings--Orders. After the hearings an order shall be issued as to the findings with regard to compliance with the provisions of this title and regulations issued hereunder, sustaining, modifying or withdrawing the notice which was served as provided in Section 16.08.040. Upon failure to comply with any order issued, the license of the mobile home park affected by the order shall be revoked.

16.08.070 Hearings--Transcript and grievance procedure. The proceedings at such a hearing, including the findings and decision, together with a copy of every notice and order related thereto shall be entered as a matter of public record in Development Services , but the transcript of the proceedings need not be transcribed unless judicial review of the decision is sought as provided by this-section. .Any person aggrieved by the decision may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of the state. The acceptance of a petition by the court shall act as a temporary stay of the order issued.

16.16.020 Zoning. All mobile home parks shall be located within zoning districts as designated in Title 20.

16.20.010 Intent.

A. In order to achieve the general objective, intent and purpose of this title, preliminary site plan review by Development Services is required of all mobile home parks proposed for construction, alteration or extension.

B. In reviewing the site plan for a proposed mobile home park, Development Services staff shall ascertain whether the proposed site plan is consistent with all regulations of this title and all other city ordinances and state laws.

C. Further, in consideration of each site plan, Development Services staff shall endeavor to assure that the movement of vehicular and pedestrian traffic within the site and in relation to adjacent movement be safe and convenient, and the provisions are so made that the proposed mobile home park will not be a detriment to the surrounding uses now or in the future.

D. The Development Services staff shall make their recommendation regarding the preliminary site plan to the zoning commission, who shall consider such recommendations in their review and approval.

16.20.030 Content of preliminary plans. In order to obtain site plan review, the applicant shall submit preliminary plans containing the following information:

- A. Name, address and phone number of the applicant or his duly authorized representative and of the qualified person or firm preparing the plans;

- B. Interest of the applicant in the mobile home park;
- C. The name, address and phone number of the legal owner of the land upon which the mobile home park is to be located if the applicant is not such legal owner;
- D. Location and legal description of the mobile home park;
- E. Preliminary plans and specifications of the proposed park showing:
 - 1. The area of the park drawn to scale and dimensioned and the approximate area of the tract,
 - 2. The number, location and size of typical or minimum mobile home lots and open spaces,
 - 3. The location and width of roadways, walkways, and parking areas, and access to public arterials,
 - 4. The location of recreation or service buildings, and other proposed structures,
 - 5. The topography of the tract at ten foot intervals or at such intervals as specified by Development Services for tracts which have only a slight elevation change,
 - 6. The size and location of natural features, wetland, streams, lakes, ditches, drains and wooded areas and any anticipated changes in these features, and
 - 7. The location of recreational facilities. (Prior code §19A-21).

16.20.040 Final plans. Following review and approval of the preliminary plans by the zoning commission and provided that the property has obtained the proper zoning and conditional use permit as defined in Title 20 MMC, the applicant shall submit a final detailed set of contract drawings of the proposed mobile home park to the building inspector. These final contract drawings, specifications and quantity estimates shall be prepared in accordance with the following:

- A. Each plan prepared pursuant to this chapter shall comply with applicable state laws, Title 20 MMC, and any other ordinances, statutes or laws pertaining to the establishment of mobile home parks.
- B. The final plan of the proposed mobile home park shall be drawn to scale, not larger than one inch equals fifty feet nor less than one inch equals two hundred feet.
- C. Such final plans shall include the following:
 - 1. The detailed contract drawings shall include the following information;
 - a. Scale, north point and all boundary dimensions,
 - b. Lot lines, including accurate dimensions, angles and square foot area of each lot,
 - c. Proposed streets, driveways, sidewalks and other vehicular and pedestrian circulation within and adjacent to the site,
 - d. Location, size and dimensions of all recreational areas,
 - e. Location, area, number and dimensions of parking spaces in off-street parking areas, .

- f. Identification of service lanes and service parking areas,
- g. Existing and proposed easements and their use,
- h. Topography of the park at ten foot intervals or as required,
- i. Location and size of service buildings,
- j. Type, size and location of all public utility facilities to serve the individual lots within the park, including common fuel storage tank facilities, water and sewer service systems, storm drainage facilities and fire hydrants,
- k. Existing and tentative finished grades for all proposed streets, sidewalks, curbs, driveways, off-street parking areas, service lanes and service parking areas, including cross-sections of the above,
 - 1. The location and type of all plant materials either to remain or to be planted, and
 - m. Location and details of any and all signs to be constructed and placed in the park;
- 2. Any other information deemed necessary by the building inspector or zoning commission.

16.20.050 Investigation of final plan. Upon receipt of final set of detailed contract drawings to establish, enlarge or alter a mobile home park, the building inspector shall transmit one copy each to the zoning commission, Development Services , and health department each of which shall have fifteen days to review the drawings. They shall transmit to the building inspector their final recommendations and comments regarding the detailed contract drawings. Should such recommendations require changes in the final contract drawings, those changes shall be made by the applicant; the revised drawings shall then be resubmitted to the board, commission, engineer or department recommending the change for approval. When the zoning commission, Development Services, and health department have approved the final contract drawings, and if the building inspector finds that such drawings are in compliance with this chapter, other ordinances, and all other codes adopted by the city, he shall issue a building permit within fifteen days after final approval has been given by all the abovementioned agencies.

16.24.080 Vehicle travel lanes. All streets, roads and driveways shall be hard-surfaced, adequately drained and lighted for safety and ease of traffic movement. All streets or roads within the mobile home park shall have a minimum pavement width of twenty-five feet and ten feet for all driveways. The entire pavement width shall be surfaced with a minimum of two inches of asphaltic concrete or plant mix and shall be placed over a suitable base. These improvements to be installed in accordance with plans and specifications approved by Development Services .

16.24.090 Curbs, gutters and sidewalks.

- A. Concrete curbs and gutters shall be placed along both sides of all streets or roads within the park.
- B. Sidewalks shall be provided on at least one side of all streets or roads within the mobile home park and to all service buildings. Such sidewalks shall be at least four feet in width.
- C. All curbs, gutters and sidewalks shall be installed in accordance with plans and specifications approved by Development Services .

16.24.100 Off-street parking requirements.

- A. Two off-street parking spaces shall be provided for each mobile home lot. These spaces may be provided on the mobile home lot or in parking compounds conveniently located to the lot which they are intended to serve, or a combination of the above.

B. The minimum size of each parking space shall be two hundred square feet exclusive of service and access drives.

C. Such parking areas shall be surfaced with asphaltic concrete or plant mix and shall be so designed as to dispose of all surface water accumulation, all in accordance with plans and specifications approved by Development Services .

Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, and if for any reason this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

First reading and preliminary adoption on the 28th day of January, 2013, by a vote of 11 ayes, 0 nays, 0 abstentions, and 1 absent.

Second and final reading and adoption on the 11th day of February, 2013, by a vote of 10 ayes, 0 nays, 0 abstentions, and 2 absent.

ATTEST:

APPROVED:

/s/ Martha L. Rehbein
Martha L. Rehbein, CMC
City Clerk
(SEAL)

/s/ John Engen
John Engen
Mayor