AGENDA
MONDAY, DECEMBER 2, 2019
COUNCIL CHAMBERS CITY HALL

FINANCE COMMITTEE – 6:30 P.M.
(Barnhart, Shepard, Fisher)

1. Claims Review

REGULAR MEETING – 7:00 P.M.

1. CALL TO ORDER
   A. Roll Call
   B. Pledge of Allegiance

2. APPROVAL OF AGENDA

3. CONSENT AGENDA:
   *A. Approval of Claims - $27,074.08 - December 2, 2019
   *B. Approval of Payroll Claims - $77,528.55 – November 29, 2019
   *C. Approval of Regular Meeting Minutes – November 18, 2019
   *D. Approval of Easement Agreement, Williams and City of Columbia Falls, and authorize City Manager to execute.

4. VISITORS/PUBLIC COMMENT (Items not on agenda)

5. NOTICE OF PUBLIC HEARINGS:
   *A. NOTICE IS HEREBY GIVEN, that the City Council of the City of Columbia Falls, Montana, will hold a public hearing on January 6, 2020 at 7:00 p.m. in the Columbia Falls City Hall, 130-6th Street West, Columbia Falls, Montana, to adopt an amended 2020 FY budget for the Tax Increment District Fund and Targeted Economic District Fund.

The City received the estimated tax funding for the Tax Increment District Fund at the end of October, 2019. Based on the estimated real estate tax funding of $459,324, the City Council will amend the appropriations for the 2020 FY. The funds will be spent as provided for in the Tax Increment District Statement of Need and priorities established through the public hearing process.

The City received the estimated tax funding for the Targeted Economic District Fund at the end of October, 2019. Based on the estimated real estate tax funding of $1,734,
the City Council will consider appropriating the available funds for the 2020 FY based on the Statement of Need and priorities established through the public hearing process.

Taxpayers are encouraged to attend the hearing and give written or oral comments on the budget-related item. Written comments may be mailed to the City Clerk, 130 6th Street West, Room A, Columbia Falls, Montana, 59912. Questions regarding the proposed items can be made by contacting City Manager Susan Nicosia at 892-4391.

*B. NOTICE IS HEREBY GIVEN, that the City Council of the City of Columbia Falls, Montana will hold a public hearing beginning on January 6, 2020 during the 7:00 p.m. regular council meeting, the City Council of the City of Columbia Falls, shall conduct a series of public hearings and meetings for the purpose of obtaining public comment to determine the greatest community development needs (public facilities, economic development, and housing needs). The City will take public comment during the month of January in order to obtain the greatest public input. The intent of the needs assessment process is to provide the City with a list of potential projects or actions in the areas of housing, economic development and public infrastructure that could be pursued over a period of years in order to improve the community, particularly as those needs affect low and moderate income persons. Based on the results of the needs assessment, the City may apply for state or federal funding from the Montana Community Development Block Grant (CDBG) Program and other funding sources to deal with local housing, public facilities, or other community needs and would like comments or suggestions from local citizens regarding the City’s needs and types of projects which should be considered.

Interested persons may contact the City Manager at 406-892-4391 or 130 6th Street West, Columbia Falls, MT for more information about the hearing or to submit community needs suggestions. Comments may be given orally at the hearing or submitted in writing before 5 pm, Thursday, January 2, 2020.

The City of Columbia Falls makes reasonable accommodation for any known disability that may interfere with a person’s ability to participate in this hearing. Persons needing an accommodation need to contact Barb Staaland, City Clerk no later than Friday, January 3, 2020 to allow adequate time to make needed arrangements. Please contact Barb Staaland at 892-4391 or write to 130 6th ST West, Room A, Columbia Falls, MT 59912 to make your request known.

6. ORDINANCES/RESOLUTIONS:
*A. SECOND AND FINAL READING - Ordinance # 795 – An Ordinance of the City Council of the City of Columbia Falls, Montana, Amending Title 15 of the Columbia Falls Municipal Code.

*B. AMENDED SECOND AND FINAL READING – Ordinance No. 793 – An Ordinance of the City Council of the City of Columbia Falls, Montana, Amending Title 8 of the Columbia Falls Municipal Code.
8. CITY MANAGER REPORT
   A. Project Updates & Election Results

9. CITY ATTORNEY REPORT

10. MISCELLANEOUS
    *A. INFORMATIONAL CORRESPONDENCE – List available for Review

11. ADJOURN

Next Scheduled Meetings:
City Council – Regular Meeting, December 16 – 7 p.m.
Planning Board – TBD
Resort Tax Advisory Committee – Wednesday, December 11th – 6:30 p.m.
Council Workshop – Monday, December 9th – 6:30 pm (Extraterritorial Jurisdiction/Extension of Services Plan)

*Attached
* ... Over spent expenditure

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For the Accounting Period: 11/19

* ... Over spent expenditure

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Total for Vendor: 1,339.25
Total for Vendor: 510.00
Total for Vendor: 206.98
Total for Vendor: 400.00
Total for Vendor: 474.50
Total for Vendor: 474.50
Total for Vendor: 68.90
Total for Vendor: 87.26
* ... Over spent expenditure

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For the Accounting Period: 11/19

* ... Over spent expenditure

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Total for Vendor: 387.05

# of Claims 59
Total: 27,141.55

Total Electronic Claims 5,249.46
Total Non-Electronic Claims 21892.09
### Claim from Another Period Cancelled in this Period

For the Accounting Period: 11/19

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*  ... Over spent expenditure

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# of Claims 1  Total: 67.47
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### Fund Summary for Claims

Report ID: AP110

For the Accounting Period: 11/19

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**Total:** $27,074.08
Council Meeting Date: 12/2/19

Claims Submitted to Council: $27,141.55 less $67.47 void = $27,074.08

Claims Denied/Withheld by Council Finance Committee: $_______________ Claim #'s: __________

Prepared By: Sandy Carlson, Finance Director

Sandy Carlson

Approved by Susan M. Nicosia, City Manager

Susan Nicosia

City Council to Approve by motion on consent agenda

These claims are routine. If you have questions, please let me know.  
(This should be the last time the voided claim appears on the report.)

Sandy
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PERS BASE 64,317.32 0.00
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UN BASE 67,111.15 0.00
WC BASE 66,157.73 0.00

Total 13,670.81
Total Payroll Expense (Gross Pay + Employer Contributions): 80,781.96

Check Summary
Payroll Checks Prev. Out. $43,269.57
Payroll Checks Issued $593.36
Payroll Checks Redeemed $42,958.77
Payroll Checks Outstanding $1,024.16
Electronic Checks $76,835.19

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Social Security 4787.22
Medicare 1946.20
P.E.R.S. 6397.13
Unempl. Insur. 302.00
Workers' Comp 2951.41
FIT 5592.12
SIT 1078.00
AFLAC-PREXTAX 0.00
NATIONAL/PENSION 0.00
Teamsters dues 0.00
MPPE DUES 0.00
PERS/Police 5358.30
TEAMSTERS INIT 0.00
NATIONAL/CITY 0.00
AFLAC-POSTTAX 0.00
PERS/PURS 707.09
MT ST FEB ASSO 28.22
HEALTHINS/PRER 0.00
CITY OF COLUMBI 25.00
UNUM LIFE INS. 0.00
FLEX ALLEGTANCE 0.00
CHILD SUPPORT 88.61
CHILD SUPPORT P 413.07
CPP ASSOCIATION 0.00
WA CHILD SUPPOR 138.46
POP 0.00

Carried Forward From Previous Month Deduction Checks Issued Difference Liab Account
4787.22 1946.20 6397.13 1831.23 212260
0.00 0.00 0.00 0.00 212260
0.00 0.00 0.00 0.00 212270
302.00 1529.23 1831.23 212210
2951.41 14732.60 17684.01 212220
5592.12 5592.12 0.00 212260
1078.00 1078.00 0.00 212260
0.00 0.00 0.00 0.00 212230
0.00 0.00 0.00 0.00 212280
0.00 0.00 0.00 0.00 212310
0.00 0.00 0.00 0.00 212320
5358.30 5358.30 0.00 212240
0.00 0.00 0.00 0.00 212310
0.00 0.00 0.00 0.00 212280
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0.00 0.00 0.00 0.00 212275
28.22 28.22 0.00 212315
0.00 18154.36 18154.36 212400
0.00 25.00 25.00 212450
0.00 169.34 169.34 212400
0.00 0.00 0.00 212285
88.61 88.61 0.00 212310
413.07 413.07 0.00 212330
0.00 0.00 0.00 212335
138.46 138.46 0.00 212330
0.00 0.00 0.00 212335

Total Ded. 31812.83 34585.53 28559.42 37838.94

**** Carried Forward column only correct if report run for current period.
CITY OF COLUMBIA FALLS
MINUTES OF THE REGULAR MEETING
HELD NOVEMBER 18, 2019

Regular Meeting - Transact Routine Business

Mayor Barnhart called the meeting to order at 7:00 p.m. with roll call as follows:

PRESENT: Mayor Barnhart
COUNCIL: Karper, Shepard, Fisher, Lovering, Piper and Robinson
ABSENT: None

Also present were City Manager Nicosia, City Clerk Staaland, City Attorney Breck and Police Chief Peters.

Pledge of Allegiance

APPROVAL OF AGENDA:
Mayor Barnhart requested a motion to approve the agenda. Councilor Shepard moved to approve the agenda, second by Councilor Piper, and the motion carried unanimously.

CONSENT AGENDA:
Councilor Robinson moved to approve the consent agenda noting that all claims appeared to be in order, second by Councilman Shepard. Motion carried with Council voting as follows: YES: Karper, Shepard, Fisher, Lovering, Piper, Robinson and Barnhart NOES: None. ABSENT: None.

A. Approval of Claims - $146,222.28 - November 18, 2019
B. Approval of Payroll Claims - $71,901.66 – November 15, 2019
C. Approval of Regular Meeting Minutes - November 4, 2019
D. Approval of Payment Agreement/Water Service Line Repair, 917 3rd Ave. East and authorize City Manager to sign.

VISITOR/PUBLIC COMMENT: (Items not on agenda)
None.

APPOINTMENTS:
A. Board/Commission Appointments
City Manager Nicosia said the City received letters of interest from two individuals that currently serve on the Planning Board/Zoning Commission in City-appointed positions. Steve Duffy and Sam Kavanagh have agreed to be reappointed for two year terms expiring on 12/31/2021.

Additionally, Nicosia reported that the City has a vacancy on the City Police Commission as the previous member did not wish to be reappointed. The City received a letter of interest from Mr. Shawn Bates. Mr. Bates has previously...
served as a Councilman and is currently a Volunteer Fireman and a Water Operator for the City. City Manager Nicosia recommended appointment of Mr. Bates to the Police Commission.

Councilor Fisher motioned to appoint Steve Duffy and Sam Kavanagh to the Planning Board/Zoning Commission and Shawn Bates to the Police Commission, second by Councilor Lovering and the motion passed.

RESOLUTION/ORDINANCES:
A. Resolution # 1810 - A Resolution of the City Council of the City of Columbia Falls, Montana, Designating the Night of Lights 2019 Parade as an Official Activity of the City of Columbia Falls.

City Manager Nicosia said this is the annual resolution to recognize the Night of Lights Parade as a city-sponsored event, as required by MDOT.

Councilor Piper motioned to approve Resolution # 1810, second by Councilor Robinson with council voting as follows. AYES: Fisher, Karper, Lovering, Piper, Robinson, Shepard and Barnhart. NOES: None. ABSENT: None.

B. SECOND AND FINAL READING - Ordinance # 791 - An Ordinance of the City Council of the City of Columbia Falls, Montana, Amending Title 3 of the Columbia Falls Municipal Code.

City Manager Nicosia said Title 3, Chapter 3.14 established fees were amended to include: Breath Test, Court of Record Audio Recording Copy and Records Check. Staff recommends approval of the amendment as it agrees with the fee schedule adopted by resolution.

Councilor Fisher motioned to approve Ordinance # 791, second by Councilor Karper with council voting as follows. AYES: Karper, Lovering, Piper, Robinson, Shepard, Fisher and Barnhart. NOES: None. ABSENT: None.

C. SECOND AND FINAL READING – Ordinance # 792 - An Ordinance of the City Council of the City of Columbia Falls, Montana, Amending Title 6 of the Columbia Falls Municipal Code.

City Manager Nicosia said there were no changes to Title 6 from the first reading, and recommends approval.

Councilor Shepard made motion to adopt Ordinance # 792, second by Councilor Lovering with council voting as follows. AYES: Lovering, Piper, Robinson, Shepard, Fisher, Karper and Barnhart. NOES: None. ABSENT: None.
D. SECOND AND FINAL READING – Ordinance # 793 - An Ordinance of the City Council of the City of Columbia Falls, Montana, Amending Title 8 of the Columbia Falls Municipal Code.

Councilor Robinson motioned to adopt ordinance # 793, second by Councilor Shepard with council voting as follows. AYES: Piper, Robinson, Shepard, Fisher, Karper, Lovering and Barnhart. NOES: None. ABSENT: None.

E. SECOND AND FINAL READING – Ordinance # 794 – An Ordinance of the City Council of the City of Columbia Falls, Montana, Amending Title 13 of the Columbia Falls Municipal Code.

City Manager Nicosia said on Section 13.08.260 she considered striking some of the older dates but upon careful review it is best we leave the dates as written.

Councilor Lovering made motion to approve Ordinance #794, second by Councilor Piper with council voting as follows. AYES: Robinson, Shepard, Fisher, Karper, Lovering Piper and Barnhart. NOES: None. ABSENT: None.

F. FIRST READING - Ordinance # 795 – An Ordinance of the City Council of the City of Columbia Falls, Montana, Amending Title 15 of the Columbia Falls Municipal Code.

City Manager Nicosia said there are some changes in Chapter 15.04.030 Board of Appeals as we want to make sure we comply with Exhibit B of the ICC Building Codes. Nicosia also noted that Chapter 15.28 – Floodplain was updated with Ordinance 755 in 2015. Staff will update the formatting to conform to municipal code. Nicosia said the only change thus far was on section 15 Penalties; we deleted the penalty of jail time as it is no longer applicable. This title will come forward at the Dec. 2nd council meeting.

Councilor Karper motioned to approve the first reading of Ordinance # 795, second by Councilor Robinson and the motion carried.

MAYOR AND COUNCIL COMMENTS:
Councilor Shepard asked if anyone read the article in the Daily Interlake on septic systems in the county, noting that he had served on the county-wide committee studying septic systems for over 2 years.
Councilor Fisher said Hungry Horse News wrote an article that clarified the Nucleus District monuments; Mark Johnson stated in the article the foundation was not asking for TIF money.
Mayor Barnhart updated council on the Resort Tax Committee progress.
Hopefully we will have a complete list of taxable items by the end of December to bring to forward to council by the first meeting in January.

CITY MANAGER:
Nicosia reported that city staff participated in training on Dude Solutions a new maintenance and work order program for the public works department. This program will eliminate duplication of operator efforts and will replace the paper work order system with an automated system. The City is using the program for UB work orders, water distribution, sewer distribution, and WWTP preventative maintenance. The program with staff training is estimated at $11,000 with an annual fee of $4,500, beginning the 2nd year.

Nicosia said when we send the updated Columbia Falls Municipal Code for codification we will have it available on the city website along with books available in the City Clerks office. The goal is to keep the Municipal Code updated as amended.

The area Managers met and discussed the 911 the funding meeting. Nicosia asked council, as elected officials what we should be looking at to fund the 911 center. The Managers agreed to continue the discussion and bring it back to the elected officials. Mayor Barnhart said he would like to have them give us some options. Nicosia requested council think about suggestions to bring forward.

We received a call from Senator Daines office and our BUILD grant was not funded. Out of the 6 Montana applications, only Missoula’s was funded. Nicosia said she requested a debriefing on the strengths and weaknesses of our application in order to submit again.

Nicosia said she and Finance Director Carlson will be meeting with the Community Land Trust this Thursday. Hopefully we can work with Neighbor Works Montana and the Community Land Trust to reinvest the $120,000 in recaptured HOME funds into affordable housing.

Nicosia presented a report on the Top 10 taxpayers for 2019 as compared to the prior 3 years and 2001. Nicosia also reviewed the tax value and mill value changes from 2001 to 2019, with 2001 being the first year of the new tax code. Nicosia noted that the market value rose over 364% and the mills have risen 150% without permissive and voted levies. As previously noted, the numbers reflect that the City does not get the full benefit of tax growth.

Nicosia noted that she will give notice for the Urban Renewal District and Targeted Economic Development District hearings to be held in January. The
hearings will include establishing priorities and budget authority for the TIF and TEDD funds.

The Fire Chief applications are due by November 20th. The Volunteer Fire Department has selected a member and the Rural Board will select a member as well the Public Safety Committee for the interview committee.

INFORMATIONAL CORRESPONDENCE - List available for Review

A. REPORTS
   a. Finance - October
   b. Police Activity - October

ADJOURN: Upon motion duly made by Councilor Lovering and seconded by Councilor Shepard and the meeting adjourned at 8:03 p.m.

____________________________
Mayor

ATTEST:

__________________________________
City Clerk

APPROVED BY COUNCIL ACTION: December 2, 2019
EASEMENT AGREEMENT

THIS “EASEMENT” is made effective and is entered into by and between CITY OF COLUMBIA FALLS, whose address is 130 6th Street West, Room A, Columbia Falls, MT 59912, hereinafter referred to as "Grantor", and Charles M. Williams and Brittany Williams, joint tenants, residing at 1035 8th Street West, Columbia Falls, MT 59912, hereinafter referred to as "Grantee".

RECITALS:

The parties recite and declare:

Grantor is the owner of real property located in Flathead County, Montana, depicted as Parcel A in the attached Exhibit A, more particularly described as follows:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of Block 1 and Lots 1 and 2 of Block 2 of Robindale, according to the map or plat thereof on file and of record in the office of the County Clerk and Recorder of Flathead County, Montana; and,

That part of the SW¼SW¼ Section 8, Township 30 North, Range 20 West, M.P.M., Flathead County, Montana, described as follows: Commencing at a point where the North boundary line of said SW¼SW¼ intersects the Easterly boundary line of the Burlington Northern Railway right of way; thence South 48°10’ West along the Easterly right of way line of said Burlington Northern Railway a distance of 39.6 feet to a point where the West boundary of Block 2 of Robindale intersects said Easterly right of way line, the place of beginning of the tract to be herein described; thence South 0°08’ West along the West boundary line of said Block 2 of Robindale a distance of 416 feet; thence South 41°50’ East a distance of 106.4 feet; thence South 6°40’ West to a point on a line running South 89°33’ West and 50 feet North of the North boundary line of Lots 11 and 12 of Block 6 of Robindale; thence South 89°33’ West along said line to its intersection with the Northeasterly boundary line of Lot 9 of said Block 6 of Robindale; thence North 41°50’ West along the Northeasterly boundary line of Block 6 of Robindale to an intersection with the Easterly boundary line of the Burlington Northern Railway right of way; thence North 48°10’ East long said right of way to the place of beginning.
(Hereinafter the “Servient Tenement”)  
Grantee is the owner of real property located in Flathead County, Montana, depicted as Parcel B in the attached Exhibit A, more particularly described as follows:

Lot Eight and the East half of Lot Seven of Block Six of Robindale, except the South 120 feet of said Lot Eight and the East half of Lot Seven of Block Six of Robindale, according to the plat thereof on file and of record at the office of the Clerk and Recorder, Flathead County, Montana.

(Hereinafter the, “Dominant Tenement”)

Grantor, for and in consideration of the faithful observance and strict performance of the terms and conditions hereof, hereby grants to Grantee an exclusive easement and right of way, over and across an existing, unimproved dirt road, within a twenty-five (25) foot wide corridor extending in a southeasterly direction beginning at a point north of the northernmost corner of Lot 5 of Robindale lying and being in Section 8, Township 30 North, Range 20 West, Principal Meridian, City of Columbia Falls, Flathead County, MT, and terminating at the Northeast corner of the dominant tenement, lying and being in the southwest quarter of the southwest quarter of Section 8, Township 30 North, Range 20 West, Principal Meridian, City of Columbia Falls, Flathead County, Montana (herein referred to as the “Easement Area”); said Easement Area being more particularly described in Exhibit A, attached hereto and by this reference being made a part hereof.

AGREEMENT:

It is mutually understood and agreed that Grantor has granted this Easement and Grantee has accepted the same, subject to and upon the following terms, conditions, covenants and agreements:

1. Grant. Grantor hereby grants and conveys to Grantee an exclusive twenty-five foot (25’) wide easement over and across an existing, unimproved dirt road, within a twenty-five (25) foot wide corridor extending in a southeasterly direction beginning at a point north of the northernmost corner of Lot 5 of Robindale lying and being in Section 8, Township 30 North, Range 20 West, Principal Meridian, City of Columbia Falls, Flathead County, MT, and terminating at the Northeast corner of the dominant tenement, lying and being in the Southwest portion of the Servient tenement (herein referred to as the “Easement Area”); said Easement Area being more particularly described on Exhibit A, attached hereto and by this reference being made a part hereof. The Easement Area shall extend across the Southeast boundary of the Servient Tenement for a distance, covering a twenty-five (25) foot wide corridor, beginning at a point north of the northernmost corner of the aforementioned Lot 5 of Robindale, progressing in a Southeast direction, and terminating at the Northeast corner of the Dominant Tenement, all as shown on Exhibit A.
Grantor reserves the right to use the Easement Area for whatever purposes it deems appropriate, as long as such use does not impede the Grantee’s use of it for the specified purpose.

2. **Purpose.** Grantee shall have the right privilege and authority to use the Easement Area for a private access road, following the route depicted on Exhibit A hereto, for ingress and egress over and across the Servient Tenement to and from Grantee’s garage, which exists on the very north end of the Dominant Tenement, for the encroachment of the northeast corner of such garage and shed onto the Grantor’s property, and for the maintenance, inspection, and repair of the garage and current appurtenances (herein collectively the “Garage”). Grantee shall not, without first obtaining the written consent of Grantor, in any way, enclose the Easement Area with fencing or other impediments or place gates or other obstructions at any point along the twelve foot (12’) wide corridor.

3. **Third Parties.** Grantee shall not have the right to grant the use of said Easement Area or provide rights under this Easement to any other person, partnership, cooperative, association or corporation for any purpose. Specifically, the use of said Easement Area by a party other than Grantee, or its duly authorized agents or subcontractors, shall require a separate grant of rights from Grantor.

4. **Ingress and Egress.** Grantee shall, at all times, have ingress to and egress from the Garage over and across Grantor’s adjacent land via the Easement Area for the purposes of exercising all of the rights herein granted.

5. **Maintenance / Repair / Termination for Abandonment.** Grantee shall, at all times, maintain and / or repair the Garage in accordance with State and local laws, rules and regulations. Should the Grantee, its successors, or assigns willfully abandon the use of the Garage for purposes that require ingress and egress across the Easement Area for a period exceeding five (5) years, or convert the Garage to another use that does not require ingress and egress across the Easement Area, this easement will terminate without any action by either the Grantor or the Grantee and the Servient Tenement will be forever released from the encumbrance created by this Easement.

6. **Assumption of Liability.** In the exercise of the rights granted hereunder to Grantee, Grantee shall make every effort to avoid damage to Grantor’s real or personal property within and adjacent to said Easement Area. Grantee shall be liable and hereby covenants to pay for all loss or damage to Grantor’s real or personal property that is caused by or results from any act or omission to act, of Grantee, its employees and agents in the access to, use, maintenance, or repair of the Garage, whether negligent or otherwise.
7. **Release of Claims/Liability.** Grantee expressly releases Grantor from any and all claims for damage to the Garage pursuant to the rights granted herein arising from any action of Grantor on its said property; provided, that in conduct of any such action, Grantor shall use reasonable care to avoid causing such damage, it being expressly understood that this provision does not release Grantor from any claim for damages caused by its negligence. Any liability of Grantor for such damage shall be limited to the reasonable costs of repairing damage to the Garage directly caused by Grantor’s activities, including temporary repairs and replacements, but not including any indirect or consequential damages to Grantee’s facilities or for interruption of Grantee’s services or for losses suffered by Grantee’s invitees, tenants, or other third parties. Grantor does not assume any liability for damages or injuries caused by or resulting from acts or omissions by other than Grantor employees, agents and contractors.

8. **Grantee’s Agents.** Subject to Section 2 hereof, any independent contractor or subcontractor engaged by Grantee to perform services relating to or dependent upon the rights held by Grantee herein shall, as between the parties hereto, be deemed to be the agent of Grantee.

9. **Successor and Assigns.** This Easement, and all of the rights and obligations herein, shall run with the land, inure to the benefit of, and be binding upon, the respective successors and assigns of the parties hereto.

10. **Attorneys’ Fees.** In the event legal action, including litigation, is undertaken to interpret or enforce any aspect of this Easement, the prevailing party shall be entitled to reasonable attorneys’ fees and court costs.

11. **Modification.** Any modifications of this Easement or additional obligation assumed by either party in connection with this Easement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

[Signatures and acknowledgements appear on following pages]
IN WITNESS, WHEREOF, said Grantor has executed, and Grantee has accepted this Easement this _____ day of ________________, 2019.

GRANTOR:
CITY OF COLUMBIA FALLS

By: ____________________________
Name: Susan Nicosia
Title:  City Manager

ACKNOWLEDGEMENT

STATE OF MONTANA  )
) ss.
County of Flathead )

On this _____ day of ________________, 2019, before me, the undersigned, a Notary Public for the State of Montana, personally appeared SUSAN NICOSIA known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same.

____________________________________
Notary Public in and for the State of Montana

This Easement is accepted and approved as of this _____ day of ___________, 2019.

GRANTEE:

By: ____________________________
Name: Charles M. Williams
Title:  Trustee
ACKNOWLEDGEMENT

STATE OF MONTANA         )
                        ) ss.
COUNTY OF FLATHEAD      )

On this _____ day of ________, 2019 before me, the undersigned, a Notary Public in and for the State of Montana, duly commissioned and sworn, personally appeared CHARLES M. WILLIAMS to me known to be the person who signed as TRUSTEE, and acknowledged said instrument to be the free and voluntary act and deed of such party for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of the Trust.

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

__________________________________________
Notary Public in and for the State of Montana
EXHIBIT A

LEGAL DESCRIPTION OF EASEMENT AREA

(include surveyed legal description and map here)
NOTICE IS HEREBY GIVEN, that the City Council of the City of Columbia Falls, Montana, will hold a public hearing on January 6, 2020 at 7:00 p.m. in the Columbia Falls City Hall, 130-6th Street West, Columbia Falls, Montana, to adopt an amended 2020 FY budget for the Tax Increment District Fund and Targeted Economic District Fund.

The City received the estimated tax funding for the Tax Increment District Fund at the end of October, 2019. Based on the estimated real estate tax funding of $459,324, the City Council will amend the appropriations for the 2020 FY. The funds will be spent as provided for in the Tax Increment District Statement of Need and priorities established through the public hearing process.

The City received the estimated tax funding for the Targeted Economic District Fund at the end of October, 2019. Based on the estimated real estate tax funding of $1,734, the City Council will consider appropriating the available funds for the 2020 FY based on the Statement of Need and priorities established through the public hearing process.

Taxpayers are encouraged to attend the hearing and give written or oral comments on the budget-related item. Written comments may be mailed to the City Clerk, 130 6th Street West, Room A, Columbia Falls, Montana, 59912. Questions regarding the proposed items can be made by contacting City Manager Susan Nicosia at 892-4391.

DATED THIS 2ND DAY OF DECEMBER 2019

s/ Barb Staaland, City Clerk

Publish: Sunday, December 15th and December 29th
CITY OF COLUMBIA FALLS
NOTICE OF PUBLIC HEARING
COMMUNITY NEEDS ASSESSMENT

Beginning on January 6, 2020 during the 7:00 p.m. regular council meeting, the City Council of the City of Columbia Falls, shall conduct a series of public hearings and meetings for the purpose of obtaining public comment to determine the greatest community development needs (public facilities, economic development, and housing needs). The City will take public comment during the month of January in order to obtain the greatest public input. The intent of the needs assessment process is to provide the City with a list of potential projects or actions in the areas of housing, economic development and public infrastructure that could be pursued over a period of years in order to improve the community, particularly as those needs affect low and moderate income persons. Based on the results of the needs assessment, the City may apply for state or federal funding from the Montana Community Development Block Grant (CDBG) Program and other funding sources to deal with local housing, public facilities, or other community needs and would like comments or suggestions from local citizens regarding the City’s needs and types of projects which should be considered.

Interested persons may contact the City Manager at 406-892-4391 or 130 6th Street West, Columbia Falls, MT for more information about the hearing or to submit community needs suggestions. Comments may be given orally at the hearing or submitted in writing before 5 pm, Thursday, January 2, 2020.

The City of Columbia Falls makes reasonable accommodation for any known disability that may interfere with a person’s ability to participate in this hearing. Persons needing an accommodation need to contact Barb Staaland, City Clerk no later than Friday, January 3, 2020 to allow adequate time to make needed arrangements. Please contact Barb Staaland at 892-4391 or write to 130 6th ST West, Room A, Columbia Falls, MT 59912 to make your request known.

DATED THIS 2nd DAY of DECEMBER, 2019

Barb Staaland
City Clerk

Publish: Daily Interlake Sunday December 15, 2019 and Sunday December 29, 2019
ORDINANCE NO. 795

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLUMBIA FALLS, MONTANA, AMENDING TITLE 15 OF THE COLUMBIA FALLS MUNICIPAL CODE.

WHEREAS, the City Council desires to amend and update municipal code pursuant to a thorough legal analysis and review of outdated text in preparation of recodifying the City Municipal Code; and

WHEREAS, hearings on said text amendments were held by the City Council of the City of Columbia Falls, Montana, at its regular meetings held between November 5, 2018 and July 1, 2019, after said hearings were advertised according to law; and at each hearing on said dates, the City Council considered any and all comments filed or voiced with respect to said changes; and

WHEREAS, the City Council has determined that said amendments to the Columbia Falls Municipal Code are in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA FALLS, MONTANA AS FOLLOWS:

Section One. Title Amended: Title 15 Buildings and Construction of the Columbia Falls Municipal Code is hereby amended as more particularly set forth on Exhibit “A” attached hereto.

Section Two. Remaining Provisions Intact: The remaining provisions of the Columbia Falls Municipal Code, not specifically amended hereby, are continued in full force and effect.

Section Three. Inconsistent Provisions: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section Four. Severability: The provisions of this Ordinance are severable. If any provision of this Ordinance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision.

Section Five. Effective Date: This Ordinance shall become effective thirty (30) days after its final passage and approval by the City Council of the City of Columbia Falls, Montana.

PASSED AND APPROVED BY THE CITY COUNCIL OF COLUMBIA FALLS, MONTANA THIS 2nd DAY OF DECEMBER, 2019, THE COUNCIL VOTING AS FOLLOWS:

AYES:

NOES:

ABSENT:

ORD 795
FIRST READING

City Clerk

APPROVED BY THE MAYOR OF COLUMBIA FALLS, MONTANA, THIS ___ DAY OF DECEMBER, 2019.

Mayor

ATTEST:

City Clerk

ORD 795
EXHIBIT A

Title 15

BUILDINGS AND CONSTRUCTION

Chapter 15.04

BUILDING AND TECHNICAL CODES

15.04.010 Adoption of model technical codes and administrative regulations.

A. The current and future editions of the model technical building construction codes and all accompanying appendices, amendments and modifications adopted or required to be adopted by the Building Codes Bureau, Montana Department of Labor and Industry (or its successor), as set out in the Administrative Rules of Montana, as amended from time to time by the Building Codes Bureau, shall be adopted by reference by Administrative Order of the City Manager, except for any exceptions noted in this chapter or any regulations not applicable to local government jurisdictions. Except are otherwise stated herein, these codes are applicable to all buildings within the building code enforcement area of the city of Columbia Falls, Montana, including but not limited to, residential buildings containing less than five dwelling units or their attached-to structures, any farm or ranch building and any private garage or private storage structure used only for the owner's own use as provided by Montana Code. Upon adoption of new codes by administrative order, the predecessor codes shall automatically be repealed.

The adopted building codes shall regulate the erection, construction, enlargement, alteration, relocation, repair, moving, conversion, equipment, use and occupancy, location, maintenance, removal and demolition of all buildings and/or structures or any appurtenances connected or attached to such buildings or structures in the city.

The adopted mechanical code shall regulate and control the design, installation, alterations, repair, relocation, replacement and additions to and maintenance or use of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including heating, ventilating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems within the city.

The adopted plumbing code shall regulate and control the design,
installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system.

The adopted electrical code shall regulate and control the design and installation of electrical conductors, equipment and raceways or conduit; signaling and communications conductors, equipment and raceways; and optical fiber cables and raceways for public and private premises, including buildings, structures, mobile homes, recreational vehicles, and floating buildings, yards, lots, parking lots, carnivals, and industrial substations, installations of conductors and equipment that connect to the supply of electricity and installations used by the electrical utility that are not an integral part of a generating plant, substation or control center within the city.

The adopted International Swimming Pool and Spa Code shall regulate and control the standards for pool and spa construction, alteration, movement, renovation, replacement, and repair and maintenance within the city.

The adopted International Wildland-Urban Interface Code shall supplement the adopted building and fire codes; and shall regulate and control the standards for construction, alteration, repair, addition, change-of-use or remodeling of any building, structure, or premises within the designated wildland-urban interface within the city.

B. One copy of each code shall be on file in the office of the City Clerk.

C. Any codes or amendments adopted by the Building and Measurement Standards Bureau which apply to local governmental jurisdictions, including the adoption of the latest editions of the model technical codes or applicable Administrative Rules of Montana, shall become effective in the city upon order of the city administrator within three days after the date that the bureau notifies the city of said amendments.

15.04.020 Permit fees.

All fees of any kind or nature whatsoever allowed or required under this title or under any code adopted pursuant to this title, shall be as adopted by the city council by resolution and on file and available for public inspection at the office of the City Clerk.

ORD 795
FIRST READING

15.04.030 Board of appeals.

In order to determine the suitability of alternate materials and methods of construction and to provide for reasonable interpretations of the provisions of this code, there shall be and is created a board of appeals, consisting of five members who are qualified by experience and training to pass upon matters pertaining to building construction. The board of appeals shall be appointed by the city council and shall hold office pursuant to Appendix B of the International Building Code. The board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions by resolution. Certified copies shall be furnished to the appellant and to the building official.

15.04.040 Copies on file.

One copy of each of the codes shall be available at city hall for inspection by the public.

Chapter 15.28

FLOODPLAIN HAZARD MANAGEMENT REGULATIONS

15.28.100 TITLE, PURPOSE, AUTHORITY AND GENERAL PROVISIONS

15.28.101 FLOODPLAIN HAZARD MANAGEMENT REGULATIONS
These regulations are known and may be cited as the “Floodplain Hazard Management Regulations;” hereinafter referred to as “these regulations.”

15.28.102 STATUTORY AUTHORITY
1. Floodplain and Floodway Management is incorporated in Montana Code Annotated (MCA) Title 76, Chapter 5 and describes the authority, procedures and minimum standards for local regulations and is further described in Montana Administrative Rule (ARM) 36, Chapter 15.

2. The authority to regulate development in specifically identified flood hazard areas has been accepted pursuant to 76-5-301, MCA.

15.28.103 FINDINGS OF FACT
1. Flood hazard areas specifically adopted herein as Regulated Flood Hazard Areas have been delineated and designated by order or determination of the Department of Natural Resources and Conservation (DNRC) pursuant to MCA 76-5-201 et.seq.

2. These regulations have been reviewed by Montana Department of Natural Resources and Conservation and the Federal Emergency Management Agency. The Montana Department of Natural Resources and Conservation has found the regulations acceptable in meeting the

ORD 795
Department minimum standards. The Federal Emergency Management Agency finds that these regulations are adequate and consistent with the comprehensive criteria for land management and use pursuant to the standards established in 44 CFR 60.3. (76-5-302, MCA, ARM 36.15.202, 44 CFR60.1(b), 42USC 4022)

15.28.104 PURPOSE
The purpose of these regulations is to promote public health, safety and general welfare of the residents and minimize public and private losses due to flood conditions in Regulated Flood Hazard Areas. These Regulations are intended to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business and public service interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood disruptions; and to
7. Ensure compliance with the minimum standards for the continued participation in the National Flood Insurance Program for the benefit of the residents.

15.28.105 METHODS TO REDUCE LOSSES
In accordance with 76-5-102, MCA, these regulations are intended to reduce flood losses through the following methods:
1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flooding or that may cause excessive increases in flood heights or velocities;
2. Require that uses of land vulnerable to floods, including public facilities, be developed or constructed to at least minimum standards or to otherwise minimize flood damage;
3. Regulate the alteration of natural floodplains, stream channels, and natural protective barriers which are needed to accommodate floodwaters;
4. Regulate filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will impact other land, flood water depth or velocity of floodwaters;
6. Distinguish between the land use regulations applied to the floodway within the Regulated Flood Hazard Area and those applied to that portion of the Regulated Flood Hazard Area not contained in the floodway;
7. Apply more restrictive land use regulations within the floodway of the Regulated Flood Hazard Area; and

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8. Ensure that regulations and minimum standards balance the greatest public good with the least private injury.

15.28.106 REGULATED AREA
These regulations apply only to the flood hazard areas specifically adopted herein as Regulated Flood Hazard Areas which are more fully and specifically described in Section 15.28.400. Requirements and approvals for alterations to the Regulated Flood Hazard Area are specified in Section 15.28.400. The Regulated Flood Hazard Area includes areas specifically identified, labeled and illustrated on maps such as Floodplain, Floodway, or Flood Fringe that have differing uses allowed and minimum building standards that apply. The Regulated Flood Hazard Area is the geographic area inundated by the Flood of 100-year Frequency illustrated and depicted in the referenced studies and maps.

The Regulated Flood Hazard Area supporting study and maps illustrating the regulatory area are based on studies and maps that have been specifically adopted pursuant to 76-5-201et.seq. The maps and accompanying study become the Regulated Flood Hazard Area only when formally adopted by DNRC and subsequently by the political subdivision by these regulations. The original source of studies and data may be from a Flood Insurance Study by FEMA, or other studies by Corps of Engineers, Soil Conservation, United States Geological Service or other federal or state agency.

15.28.107 FLOODPLAIN ADMINISTRATOR
A Floodplain Administrator is hereby officially appointed and is the responsibility of the office of Columbia Falls City Manager and/or Designee. The Floodplain Administrator’s duty is to administer and implement the provisions of these regulations. The Floodplain Administrator must serve to meet and maintain the commitments pursuant to 44 CFR 59.22(a) to FEMA to remain eligible for National Flood Insurance for individuals and business within the political subdivision. ((44 CFR 59.22(b)(1)) (ARM 36.15.204(2)(h))

15.28.108 COMPLIANCE Development, New Construction, Alteration or Substantial Improvement may not commence without full compliance with the provisions of these regulations.

15.28.109 ABROGATION AND GREATER RESPONSIBILITY
It is not intended by these regulations to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, zoning or other regulations in effect. However, where these regulations impose greater restrictions, the provision of these regulations must prevail. (44 CFR 60.1(d))

15.28.110 REGULATION INTERPRETATION
In the interpretation and application of these regulations, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under state statutes. (44 CFR 60.1)

15.28.111 WARNING AND DISCLAIMER OF LIABILITY
These regulations do not imply that land outside the Regulated Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder.

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15.28.112 SEVERABILITY
If any section, clause, sentence, or phrase of these regulations is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding will in no way affect the validity of the remaining portions of these regulations.

15.28.113 DISCLOSURE PROVISION
All property owners or their agents in the Regulated Flood Hazard Areas shall notify potential buyers or their agents that such property, including any permitted uses transferred, is located within the Regulated Flood Hazard Area and is subject to regulation and any permitted uses that are transferred. Information regarding Regulated Flood Hazard Area and the repository for Floodplain maps is available in the Floodplain Administrator’s office. (ARM 36.15.204(2)(g))

15.28.114 AMENDMENT OF REGULATIONS
These regulations may be amended after notice and public hearing in regard to the amendments to these regulations. The amendments must be found adequate and acceptable by DNRC and FEMA to be effective and must be submitted for review at least 30 days prior to official adoption.

15.28.115 PUBLIC RECORDS
Records, including permits and applications, elevation and flood proofing certificates, certificates of compliance, fee receipts, and other matters relating to these regulations must be maintained by the Floodplain Administrator and are public records and must be made available for inspection and for copies upon reasonable request. A reasonable copying cost for copying documents for members of the public may be charged and may require payments of the costs before providing the copies. (44 CFR 60.3(b)(5)(iii) & 44 CFR 59.22 (a)(9)(iii))

15.28.116 SUBDIVISION REVIEW
Within the Regulated Flood Hazard Area, subdivisions including new or expansion of existing manufactured home parks, must be designed to meet the following criteria:

1. The Base Flood Elevations and boundary of the Regulated Flood Hazard area must be determined and considered during lot layout and building location design;

2. Locations for future structures and development must be reasonably safe from flooding; (44 CFR 60.3(a)(4))

3. Adequate surface water drainage must be provided to reduce exposure to flood hazards; (44 CFR 60.3 (a)(4)(iii))

4. Public utilities and facilities such as sewer, gas, electrical and water systems must be located and constructed to minimize or eliminate flood damage; and (44 CFR 60.3(a)(4)(ii))

5. Floodplain permits must be obtained according to these regulations before development occurs that is within the Regulated Flood Hazard Area. (44 CFR 60.3(b))
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15.28.117 DISASTER RECOVERY
In the event of a natural or man-made disaster, the Floodplain Administrator should participate in the coordination of assistance and provide information to structure owners concerning Hazard Mitigation and Recovery measures with the Federal Emergency Management Agency, Montana Disaster Emergency Services, Montana Department of Natural Resources and Conservation, and other state, local and private emergency service organizations.

Upon completion of cursory street view structure condition survey within the Regulated Flood Hazard Area, the Floodplain Administrator shall notify owners that a permit may be necessary for an alteration or substantial improvement before repair or reconstruction commences on damaged structures because of damages caused by natural or man-made disasters such as floods, fires or winds.

Owners should be advised that structures that have suffered substantial damage and will undergo substantial improvements require a floodplain application and permit and must be upgraded to meet the minimum building standards herein during repair or reconstruction. ((MCA 76-5-404(3)(b) (ARM 36.15.702) (44 CFR 60.3(c)(2 and 3))

15.28.200 DEFINITIONS

FOR INFORMATIONAL PURPOSES ONLY
There is a large list of definitions of terms and nomenclature normally used in floodplain hazard management guidelines and explanations. Be aware the same word may mean something different when applied to flood insurance, minimum standards, or a regulatory requirement.

The definitions in 76-5-103, MCA and ARM 36.15.101 where applicable may be considered however several of those definitions are specifically for describing the role and responsibility of the DNRC in regard to development and adoption of flood hazard studies and map and other responsibilities.

FEMA definitions 44 CFR 59.1 may be considered. Definitions are used to describe the FEMA minimum standards for floodplain management if communities want to join the National Flood Insurance Program so individuals and businesses are eligible for flood insurance in that community. However, some definitions are specifically for insurance purposes under the National Flood Insurance Program.

Another source of information including definitions is the FEMA National Flood Insurance Manual.

Unless specifically defined below, words or phrases used in these regulations shall be interpreted as to give them the meaning they have in common usage and the most reasonable application. For the purpose of these regulations, the following definitions are adopted:

100-year Flood – One percent (1%) annual chance flood. See Base Flood
**Alteration** – Any change or addition to an artificial obstruction that either increases its external dimensions or increases its potential flood hazard. (ARM 36.15.101(2))

**Appurtenant Structure** – A structure in which the use is incidental or accessory to the use of a principal structure. (44 CFR 59.1)

**Artificial Obstruction** – Any obstruction which is not natural and includes any development, dam, diversion, wall, riprap, embankment, levee, dike, pile, abutment, projection, revetment, excavation, channel rectification, road, bridge, conduit, culvert, building, refuse, automobile body, fill or other analogous structure or matter in, along, across, or projecting into any Regulated Flood Hazard Area that may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water, or that is placed where the natural flow of the water would carry the same downstream to the damage or detriment of either life or property. See also Development. (ARM 36.15.101(3) & MCA 76-5-103(1))

**Base Flood (Flood of 100 Year Frequency)** – A flood having a one percent (1%) chance of being equaled or exceeded in any given year (ARM 36.15.101(4) & (44 CFR 59.1)

**Base Flood Elevation (BFE)** – The elevation above sea level of the Base Flood in relation to the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988 or unless otherwise specified. (ARM 36.15.101(5))

**Basement** – Any area of a building, except a crawl space, as having its Lowest floor below ground level on all sides. (44 CFR 59.1) (NFIP Insurance Manual, Rev. May 2013)

**Building** – A walled and roofed structure, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. (44 CFR 59.1)

**Channel** – The geographical area within either the natural or artificial banks of a watercourse or drain way. (MCA 76-5-103(2))

**Crawl Space** – An enclosure that has its interior floor area no more than 5 feet below the top of the next highest floor. See Enclosure and Sub grade Crawlspase. (NFIP Insurance Manual, Rev. May 2013)

**DNRC** – Montana Department of Natural Resources and Conservation

**Development** – Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. See also Artificial Obstruction. (44 CFR59.1)

**Elevated Building** – A building that has no Basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns. A building on a crawlspace is considered an elevated building. (NFIP Insurance Manual, Rev. May 2013)
**Enclosure** – That portion below the lowest elevated floor of an elevated building that is either partially or fully shut in by rigid walls including a crawlspace, sub grade crawlspace, stairwell, elevator or a garage below or attached.

**Encroachment** – Activities or construction within the Regulated Flood Hazard Area including fill, new construction, substantial improvements, and other development.

**Encroachment Analysis** – A hydrologic and hydraulic analysis performed by an engineer to assess the effects of the proposed artificial obstruction or nonconforming use on Base Flood Elevation, flood flows and flood velocities.

**Establish** – To construct, place, insert, or excavate. (MCA 76-5-103(7) (ARM 36.15.101(9))

**Existing Artificial Obstruction or Nonconforming Use** – An artificial obstruction or nonconforming use that was established before land use regulations were adopted pursuant to Section 76-5-301(1), MCA. (MCA 76-5-404(3))

**FEMA** – Federal Emergency Management Agency

**Flood Fringe** – The identified portion of the Floodplain of the Regulated Flood Hazard Area outside the limits of the Floodway. (ARM 36.15.101(10))

**Flood of 100 Year Frequency (Base Flood)** – A flood magnitude expected to recur on the average of once every 100-years or a flood magnitude that has a 1% chance of occurring in any given year. (MCA 76-5-103(9)) (44 CFR 59.1)

**Floodplain** – The area of the Regulated Flood Hazard Area including an adjoining the watercourse or drain way that would be covered by the floodwater of a Base Flood. The area is partitioned into a Flood Fringe and Floodway where specifically designated. See Regulated Flood Hazard Area.

**Floodway** – The identified portion of the Floodplain of the Regulated Flood Hazard Area that is the channel and the area adjoining the channel that is reasonably required to carry the discharge of the Base Flood without cumulatively increasing the water surface by more than one half foot. (MCA 76-5-103(11)) (MCA 76-5-103(5))

**Floodplain Administrator** – Community official or representative appointed to administer and implement the provisions of this ordinance.

**Flood Proofing** – Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, electrical, plumbing, HVAC systems, structures and their contents. The term includes wet flood proofing, dry flood proofing and elevation of structures. (44 CFR 59.1)

**Letter of Map Change (LOMC)** – An official response from FEMA that amends or revises the FEMA Special Flood Hazard Area and FEMA Flood Insurance Study for flood insurance purposes and/or flood risk hazard. FEMA Letters of Map Change specific to an amendment or revision include:

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Letter of Map Amendment (LOMA) – A letter of determination from FEMA issued in response to a request that a property or structure is not subject to the mandatory flood insurance requirement because it was inadvertently located in the effective FEMA Special Flood Hazard Area. The material submitted and response from FEMA may be considered by the Floodplain Administrator for determining if a property or structure is within the Regulated Flood Hazard area and subject to these regulations.

Letter of Map Revision Based on Fill (LOMR-F) – A letter of approval from FEMA removing the mandatory requirement for flood insurance on property based on placement of fill or an addition. Placement of fill or an addition must be preceded by a permit pursuant to these regulations. Placement of fill does not remove the development from the Regulated Flood Hazard Area or these regulations.

Letter of Map Revision (LOMR) – An official FEMA amendment to the currently effective FEMA Flood Insurance Rate Map or FEMA Flood Boundary Map based on a physical change to the floodplain of the Special Flood Hazard Area. It is issued by FEMA and changes flood zones, delineations, and elevations on the FEMA Flood Insurance Rate Map or FEMA Flood Boundary Map and may amend the FEMA Flood Insurance Study. It must be preceded by an approved alteration of the designated floodplain from DNRC and subsequently an amendment to the Regulated Flood Hazard Area.

Conditional Letter of Map Revision (CLOMR) – A FEMA letter of approval for a proposed physical change that when completed would propose to change the flood zones, delineation or elevations on the FEMA Flood Insurance Rate Map or FEMA Flood Boundary Map and may amend the FEMA Flood Insurance Study through a subsequent LOMR. The CLOMR may be considered in an evaluation by DNRC and the Floodplain Administrator during consideration of a proposed alteration to the Regulated Flood Hazard Area.

Lowest Floor – Any floor of a building including a basement used for living purposes, storage, or recreation. This includes any floor that could be converted to such a use. ((ARM 36.15.101(14)) (44 CFR 59.1))

Manufactured Home Park or Subdivision – Includes the construction of facilities for servicing the manufactured home lots and at a minimum includes the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads. (44 CFR 59.1)

Manufactured or Mobile Home – A building that may be residential or non-residential, is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities and includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. (ARM 36.15.101(15))

New Construction – Structures for which the commencement of clearing, grading, filling, or excavating to prepare a site for construction occurs on or after the effective date of these regulations and includes any subsequent improvements to such structures. (ARM 36.15.101(20)) (44 CFR 59.1)

New Manufactured Home Park Or Subdivision – A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be
affixed includes at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads and is completed on or after the effective date of floodplain management regulations adopted by a community. (44 CFR 59.1)

Non-Residential—Buildings including manufactured homes that are not residential including commercial, agricultural, industrial buildings and accessory buildings. See Residential.

Owner—Any person who has dominion over, control of, or title to an artificial obstruction. (MCA 76-5-103(13))

Person—Includes any individual, or group of individuals, corporation, partnership, association or any other entity, including State and local governments and agencies. (44 CFR 59.1)

Recreational Vehicle—A park trailer, travel trailer, or other similar vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a motorized vehicle; and (d) designed primarily for use as temporary living quarters for recreation, camping, travel, or seasonal use, not for use as a permanent dwelling. (44 CFR 59.1)

Regulated Flood Hazard Area—A Floodplain whose limits have been designated pursuant to Part 2, Chapter 5 of Title 76, MCA, and is determined to be the area adjoining the watercourse that would be covered by the floodwater of a Base Flood. The Regulated Flood Hazard Area consists of the Floodway and Flood Fringe where specifically designated. (MCA 76-5-103(4)), (MCA 76-5-103(10), (ARM 36-15-101(11))

Residential Building—A dwelling or building for living purposes or place of assembly or permanent use by human beings and including any mixed use of residential and non-residential use. All other buildings are non-residential.

Riprap—Stone, rocks, concrete blocks, or analogous materials that are placed along the bed or banks of a watercourse or drainway for the purpose of preventing or alleviating erosion. (ARM 36.15.101(18))

Scour Depth—The maximum depth of streambed scour caused by erosive forces of the Base Flood.

Special Flood Hazard Area—Land area which has been specifically identified by the Federal Emergency Management Agency as the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is useful for the purposes of identifying flood hazards by local subdivisions of government for regulatory purposes as well as use by the National Flood Insurance Program for establishing risk zones and flood insurance premium rates. The FEMA flood hazard area zone designation or flood risk potential is as illustrated on FEMA's Flood Hazard Boundary Map or Flood Insurance Rate Map.

Structure—Any Artificial Obstruction.

Sub grade Crawlspace—A Crawlspace foundation enclosure that has its interior floor no more than 5 feet below the top of the next higher floor and no more than 2 feet below the lowest adjacent grade on
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all sides. A foundation exceeding either dimension is a Basement. (NFIP Insurance Manual, Rev. May 2013)

Substantial Damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would exceed 50 percent of the market value of the structure before the damage occurred. (44 CFR 59.1)

Substantial Improvement – Any repair, reconstruction or improvement of a structure where the cost equals or exceeds fifty percent (50) of the market value of the structure either before the improvement or repair is started or if the structure has been damaged, and is being restored, before the damage occurred;
1. Substantial improvement is considered to occur when the first construction of any wall, ceiling, floor or other structural part of the building commences;
2. The term does not include:
   1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
   2. Any alteration of a structure listed on the national register of historic places or state inventory of historic places. (ARM 36.15.101(21)) (44 CFR 59.1)

Suitable Fill – Fill material which is stable, compacted, well graded, and pervious, not adversely affected by water and frost, devoid of trash or similar foreign matter, tree stumps or other organic material; and is fitting for the purpose of supporting the intended use and/or permanent structure. (ARM 36.15.101(22))

Variance – Means a grant or relief from the development requirements of these regulations which would permit construction in a manner that would be otherwise prohibited by these regulations by an approval pursuant to Section 15.28.1200. (ARM 36.15.101(23))

Violation – A finding and order pursuant to the regulations against the owner or responsible party of the failure of a structure or other development to be fully compliant with these regulations. (44 CFR 59.1)

15.28.300 FORMS AND FEES

15.28.301 Forms The following forms may be required by the Floodplain Administrator:

1. Floodplain Permit Application Form – The “Joint Application for Proposed Work in Montana’s Streams, Wetlands, Regulated Flood Hazard Areas, and Other Water Bodies”, or other designated application form. A completed FEMA MT-1 form may be required to accompany the application when required by the Floodplain Administrator.

2. Floodplain Permit Compliance Report – A report required to be submitted by the Applicant to the Floodplain Administrator once the permitted project in the Regulated Flood Hazard Area is completed or within the designated time stipulated on the Floodplain permit. A compliance report including an elevation and or flood proofing certificate may be required where specified for the purpose of documenting compliance with the requirements of the permit.

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3. **Floodplain Variance Application Form** – An application submitted by the Applicant to the Floodplain Administrator to initiate a proposed variance from the requirements of these regulations as described in Section 15.28.1200.

4. **Floodplain Appeal Notice Form** – A form submitted by the Applicant or an aggrieved party to initiate the appeal process described in Section 15.28.1300.

5. **Floodplain Emergency Notification Form** – A written notification form required pursuant to Section 15.28.1100 of these regulations.

6. **Official Complaint Form** – A form that may be used by any person to notify the Floodplain Administrator of an activity taking place that appears to be noncompliant with the requirements of these regulations.

**15.28.302 Fees**
See Columbia Falls Fee Schedule for applicable fees for various Floodplain Permit Reviews
15.28.400 REGULATED FLOOD HAZARD AREA

15.28.401 REGULATED FLOOD HAZARD AREAS

1. The Regulated Flood Hazard Areas are the 100-year floodplains illustrated and referenced in the following specific studies and reports described as follows:

November 4, 2015 FEMA Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs) for the City Columbia Falls and unincorporated areas within one mile of the City Limits as determined by the City of Columbia Falls and Flathead County’s Interlocal Agreement.

FIRM Panels include all or portions of following Maps:

30029C1115J Effective Date: November 4, 2015
30029C1112G Effective Date: September 28, 2007
30029C1410J Effective Date: November 4, 2015
30029C1430J Effective Date: November 4, 2015
30029C1435J Effective Date: November 4, 2015

2. The Regulated Flood Hazard Areas specifically described or illustrated in the above referenced studies and maps of the 100-year floodplain have been delineated, designated and established by order or determination by the DNRC pursuant to 76-5-201et.seq., MCA.

3. Use allowances, design and construction requirements specifically in Sections 5, 6, 9, and 10 in these regulations vary by the specific Floodplain areas including areas identified as Floodway and Flood Fringe within the Regulated Flood Hazard Area.

15.28.402 INTERPRETATION OF REGULATED FLOOD HAZARD AREA BOUNDARIES

1. The mapped boundaries of the Floodplain illustrated in the referenced studies and maps in this Section are a guide for determining whether property is within the Regulated Flood Hazard Area.

2. A determination of the outer limits and boundaries of the Regulated Flood Hazard Area or the Flood Fringe and Floodway within the Regulated Flood Hazard Area includes an evaluation of the maps as well as the particular study data referenced in this Section. Supporting study material for Base Flood Elevations takes precedence over any map illustrations if it exists.

3. The Regulated Flood Hazard Area boundary is delineated by the Base Flood Elevation. The physical field regulatory boundary of the Regulated Flood Hazard Area is the actual intersection of the applicable study Base Flood Elevation with the existing adjacent terrain of the watercourse or drainway. (ARM 36.15.501(6))

4. The Floodway boundary where identified within the Floodplain is as illustrated on the referenced maps and studies. Since the Floodway boundary is a study feature, the location of the boundary may be physically located by referencing the study data to a ground feature. The
Floodplain Administrator’s interpretation of the boundary and decision may be appealed as set forth in Section 15.28.1300.

5. The Floodplain Administrator may request additional information described below to determine whether or not the proposed development is within the Regulated Flood Hazard Area:

1. Where Base Flood Elevations exist, the property owner may provide additional information which may include elevation information provided by an engineer or land surveyor in order to determine if the proposed development is subject to these regulations. (ARM 36.15.501(6))

2. Where Base Flood Elevations do not exist, the property owner may provide additional information to be considered to determine the location of the regulatory boundary or alternatively provide a computed Base Flood Elevation provided by an engineer.

3. The Floodplain Administrator’s interpretation of the boundaries and decision may be appealed as set forth in Section 15.28.1300.

6. Any owner or lessee of property who believes his property has been inadvertently included in the Regulated Flood Hazard Area including the Floodway or Flood Fringe may submit scientific and/or technical information to the Floodplain Administrator for a determination if the property is appropriately located. Scientific or technical information submitted to FEMA by an owner to affect the insurance rating for insurance purposes may be considered by the Floodplain Administrator. A determination by the Floodplain Administrator is independent of any determination by FEMA for insurance purposes.

15.28.403 ALTERATION OF REGULATED FLOOD HAZARD AREA

1. Revisions or updates to the specific maps and data that alter the established Floodplains or Floodway of the Regulated Flood Hazard Area require DNRC approval pursuant to 75-5-203, MCA. An alteration of the Regulated Flood Hazard Area is a DNRC approved amendment to the DNRC order that originally delineated and designated the 100-year floodplain and is the basis of the Regulated Flood Hazard Area referenced in Section 15.28.400.1.2. A DNRC approved alteration consists of revisions or updates to the specific maps and data of the referenced studies in this Section and forms the basis for an amendment to the Regulated Flood Hazard Area in these regulations; (ARM 36.15.505)

2. Any change to the Regulated Flood Hazard Area as a result of a DNRC alteration is effective upon amendment to the Regulated Flood Hazard Area described in Section 15.28.400.1.1;

3. Substantial natural physical change or new technical or scientific flood data showing that the Base Flood Elevation has or may be changed or was erroneously established shall be brought to the attention of DNRC and FEMA; (ARM 36.15.505(1)(a)) (44 CFR 65.3)
4. Any Floodplain permit application for a proposed development or artificial obstruction must be denied until a DNRC alteration pursuant to 76-5-203, MCA is approved if it causes an increase of 0.5 feet or more to the Base Flood Elevation of a Regulated Flood Hazard Area without a Floodway or an increase of more than 0.00 feet to the Base Flood Elevation of a Floodway.

5. To propose an alteration a petition must be submitted to DNRC and must include the following information:

1. Certification that no buildings are located in the areas which would be impacted by the increased Base Flood Elevation; (44 CFR 65.12(a)(5))

2. Evidence of notice to all property and land owners of the proposed impacts to their properties explaining the proposed impact on their property; (44 CFR 65.12(a)(3))

3. Information that demonstrates that alternatives are not feasible; (44 CFR 65.12(2))

4. Information that demonstrates that development is for a public use or benefit; and

5. Any other supporting information and data as needed for approvals. ((ARM 36.15.505) (44 CFR 60.3(c)(10)) (44 CFR 60.3(d)(3)) (44 CFR 65.7(3)) (44 CFR 65.12))

6. The Floodplain Administrator may represent the permit authority for any necessary applications, approvals or endorsements such as the FEMA Community Acknowledgement Form to FEMA where affecting the FEMA Special Flood Hazard Area;

7. A determination by the Floodplain Administrator that land areas located within the Regulated Flood Hazard Area are above the Base Flood Elevation as proven by a certified elevation survey does not constitute or require an alteration or an amendment of the Regulated Flood Hazard Area and may be maintained as a public record that more explicitly defines the Regulated Flood Hazard Area boundary; and

8. Elevating with suitable fill as permitted does not alter the Regulated Flood Hazard Area or remove the elevated area from the Regulated Flood Hazard Area. (ARM 36.15.505(2))

9. A floodplain permit implementing the physical change cannot be approved until a CLOMR has been issued by FEMA.

15.28.500 USES ALLOWED WITHOUT A PERMIT WITHIN THE REGULATED FLOOD HAZARD AREA

15.28.501 GENERAL Existing artificial obstructions or nonconforming uses established before land use regulations pursuant to Section 76-5-301, MCA were effective, are allowed without a permit. However, alteration or substantial improvement of an existing artificial obstruction or nonconforming
use requires a floodplain permit. Maintenance of an existing artificial obstruction or nonconforming use
does not require a floodplain permit if it does not cause an alteration or substantial improvement. (MCA
76-5-404(3))

15.28.502 OPEN SPACE USES The following open space uses shall be allowed without a permit in
the Regulated Flood Hazard Area, provided that such uses are not prohibited by any other regulation or
statute, do not require structures, and do not require fill, grading, excavation or storage of materials or
equipment: ((ARM 36.15.601) (ARM 36.15.701)(1) (MCA 76-5-401) (MCA 76-5-404(3))

1. Agricultural uses, not including related structures, such as tilling, farming, irrigation, ranching,
harvesting, grazing, etc; ((ARM 36.15.601(1)(a)) (MCA 76-5-401(1)))

2. Accessory uses, not including structures, such as loading and parking areas, or emergency
landing strips associated with industrial or commercial facilities; ((ARM 36.15.601(1)(b))
(MCA 76-5-401(2),))

3. Forestry, including processing of forest products with portable equipment; ((ARM
36.15.601(1)(d)) (MCA 76-5-401(4)))

4. Recreational vehicle use provided that the vehicle is on the site for fewer than 180 consecutive
days and the vehicle is fully licensed and ready for highway use. A recreational vehicle is ready
for highway use if it is on its wheels or jacking system with wheels intact, is attached to the site
only by quick disconnect type utilities and security devices, and has no permanently attached
additions; (44 CFR 60.3(c)(14))

5. Residential uses such as lawns, gardens, parking areas, and play areas; ((ARM 36.15.601(1)(e))
(MCA 76-5-401(5)))

6. Maintenance of the existing state of an existing open space uses including preventive
maintenance activities such as bridge deck rehabilitation and roadway pavement preservation
activities. Maintenance cannot increase the external size or increase the hazard potential of the
existing open space use; (MCA 76-5-404(3)(b))

7. Public or private recreational uses not requiring structures such as picnic grounds, swimming
areas, boat ramps, parks, campgrounds, golf courses, driving ranges, archery ranges, wildlife
management and natural areas, alternative livestock ranches (game farms), fish hatcheries,
shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking
and horseback riding trails; (ARM 36.15.601(a)(c)) (MCA 76-5-401,)

8. Fences that have a low impact to the flow of water such as barbed wire fences and wood rail
fences, and not including permanent fences crossing channels. Fences that have the potential to
stop or impede flow or debris such as a chain link or privacy fence requires a floodplain permit
and meet the requirements of Section 15.28.900.11; (ARM 36.15.601(2)(b)) (MCA 76-5-401)

9. Addition of highway guard rail, signing and utility poles that have a low impact to the flow of
water along an existing roadway.
10. Irrigation and livestock supply wells, provided that they are located at least 500 feet from domestic water supply wells and with the top of casing 18" above the Base Flood Elevation. 
((ARM 36.15.601(2)(a)) (MCA 76-5-401) (ARM 36.21.647))

15.28.600 PROHIBITED USES, ACTIVITIES AND STRUCTURES WITHIN THE REGULATED FLOOD HAZARD AREA

15.28.601 FLOODWAY The following artificial obstructions and nonconforming uses are prohibited in the Floodway of the Regulated Flood Hazard Area, except for those established before land use regulations pursuant to Section 76-5-301, MCA have been adopted: (MCA 76-5-404(3))

1. A building for residential or non-residential purposes; (MCA 76-5-403(1), (ARM 36.15.605)(1a)), (ARM 36.15.605(2b), (ARM 36.15.605(2)(a)).

2. A structure, fill, or excavation that would cause water to be diverted from the Floodway, cause erosion, obstruct the natural flow of waters or reduce the carrying capacity of the Floodway. Notwithstanding these requirements, excavation or fill may be allowed when it is a component to a permitted use allowed in these regulations; (MCA 76-5-403(2)).

3. The construction or storage of an object (artificial obstruction) subject to flotation or movement during flood level periods; (MCA 76-5-403(3) and ARM 36.15.605(1)(c))

4. Solid and hazardous waste disposal and individual and multiple family sewage disposal systems unless the systems meet the local health and sanitation regulations and when permitted pursuant to these regulations and are designed to minimize or eliminate infiltration of flood waters and avoid impairment or contamination; ((ARM 36-15-605(2e)) (44 CFR 60.3(a)(3))). Note: The Flathead City County Health Department prohibits new on-site sewage disposal systems (septic tanks and drainfields) within the Regulated Flood Hazard Area (100-year Floodplain).

5. Storage of toxic, flammable, hazardous or explosive materials; and (ARM 36.15.605(2d))

6. Cemeteries, mausoleums, or any other burial grounds.

15.28.602 FLOOD FRINGE OR REGULATED FLOOD HAZARD AREA WITHOUT A FLOODWAY The following artificial obstructions and nonconforming uses are prohibited in the Flood Fringe or Regulated Flood Hazard Area without a Floodway, except for those established before land use regulations have been adopted: (MCA 76-5-404(3))

1. Solid and hazardous waste disposal and individual and multiple family sewage disposal systems unless the systems meet the local health and sanitation regulations and when permitted pursuant to these regulations and are designed to minimize or eliminate infiltration of flood waters and avoid impairment or contamination; ((ARM 36-15-703(1)) (44 CFR 60.3(a)(3))). Note: The Flathead City County Health Department prohibits new on-site sewage disposal systems (septic tanks and drainfields) within the Flood Fringe (100-year Floodplain).
2. Storage of toxic, flammable, hazardous or explosive materials; (ARM 36-15-703(2))

3. The construction or storage of an artificial obstruction subject to flotation or movement during flood level periods;

4. Cemeteries, mausoleums, or any other burial grounds; and

5. Critical facilities, including buildings and associated structures that provide essential community care and emergency operation functions such as schools, hospitals, nursing home facilities, fire stations and police stations. (44CFR 60.22(a)(2))

15.28.700 FLOODPLAIN PERMIT APPLICATION REQUIREMENTS

15.28.701 GENERAL

1. A Floodplain permit is required for a person to establish, alter or substantially improve an artificial obstruction, nonconforming use or development within the Regulated Flood Hazard Area; ((44 CFR 60.1) (MCA 76-5-404) (ARM 36.15.204(2)(a)))

2. A Floodplain permit is required for artificial obstructions, developments and uses not specifically listed in Sections 15.28.900 and 15.28.1000, except as allowed without a Floodplain permit in Section 15.28.500, or as prohibited as specified in Section 15.28.600, within the Regulated Flood Hazard Area;

3. Artificial obstructions and nonconforming uses in a Regulated Flood Hazard Area not exempt under Section 15.28.500 are public nuisances unless a Floodplain permit has been obtained; (MCA 76-5-404(1))

4. A Floodplain permit is required for an alteration of an existing artificial obstruction or nonconforming use that increases the external size or increases its potential flood hazard and not exempt under Section 15.28.500; ((MCA 76-5-404(3)(b)) (ARM 36.15.204(2)(a)))

5. A Floodplain permit is required to reconstruct or repair an existing artificial obstruction that has experienced substantial damage and will undergo substantial improvement; and

6. Maintenance of an existing artificial obstruction or use that is a substantial improvement or an alteration requires a Floodplain permit. (MCA 76-5-404(3)(b))

15.28.702 REQUIRED FLOODPLAIN PERMIT APPLICATION INFORMATION

1. A Floodplain permit application shall include, but is not limited to the following:

1. A completed and signed Floodplain Permit Application;
2. The required review fee;

3. Plans in duplicate drawn to scale showing the location, dimensions, and elevation of the proposed project including landscape alterations, existing and proposed structures, and the location of the foregoing in relation to the Regulated Flood Hazard Areas and if applicable the Floodway boundary; ((MCA 76-5-405) (ARM 36.15.216))

4. A copy of other applicable permits or pending applications required by Federal or State law as submitted which may include but are not limited to a 310 permit, SPA 124 permit, Section 404 Permit, 318 Authorization, 401 Certification or a Navigable Rivers Land Use License or Easement for the proposed project; and the applicant must show that the Floodplain permit application is not in conflict with the relevant and applicable permits; and (44 CFR 60.3(a)(2))

5. Additional information related to the specific use or activity that demonstrates the design criteria and construction standards are met or exceeded as specified in Sections 9 and 10. ((MCA 76-5-405) (ARM 36.15.216))

15.28.800 FLOODPLAIN PERMIT APPLICATION EVALUATION

15.28.801 FLOODPLAIN PERMIT APPLICATION REVIEW

1. The Floodplain Administrator shall review and evaluate the Floodplain permit application and shall approve, approve with conditions, or deny the application within (60 days) of receipt of a correct and complete application. (MCA 76-5-405(2))

2. The Floodplain Administrator shall determine whether the Floodplain permit application contains the applicable elements required in these regulations and shall notify the applicant of the Floodplain Administrator's determination.

3. If the Floodplain permit application is found to be missing the required elements and if the applicant corrects the identified deficiencies and resubmits the Floodplain application, the Floodplain Administrator shall notify the applicant whether the resubmitted Floodplain application contains all the elements required by these regulations, as applicable.

4. This process shall be repeated until the applicant submits a completed Floodplain permit application containing all the elements required by these regulations, or the application is withdrawn.

5. If after a reasonable effort the Floodplain Administrator determines that the Floodplain application remains incomplete, the Floodplain Administrator shall deny the Floodplain permit application and notify the applicant of missing elements. No further action shall be taken on the

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Floodplain permit application by the Floodplain Administrator until the Floodplain permit application is resubmitted.

6. A determination that a Floodplain permit application is correct and complete for review does not ensure that the Floodplain permit application will be approved or conditionally approved and does not limit the ability of the Floodplain Administrator to request additional information during the review process.

15.28.802 NOTICE REQUIREMENTS FOR FLOODPLAIN PERMIT APPLICATIONS:

1. Upon receipt of a complete application for a Floodplain permit, the Floodplain Administrator shall prepare a notice containing the facts pertinent to the Floodplain permit application and shall:

   1. Publish the notice at least once in a newspaper of general circulation in the area; (ARM 36.15.204(2)(c))

   2. Serve notice by first-class mail upon adjacent property owners; (ARM 36.15.204(2)(c))

   3. Serve notice to the State National Flood Insurance Program Coordinator located in DNRC by the most efficient method. Notice to other permitting agencies or other impacted property owners may be provided; and

   4. Prior to any alteration or relocation of a watercourse in the Regulated Flood Hazard Area, additionally provide notice to FEMA and adjacent communities. (44 CFR 60.3 (b)(6))

2. The notice shall provide a reasonable period of time, not less than 15 days, for interested parties to submit comments on the proposed activity. (ARM 36.15.204(2)(c))

15.28.803 FLOODPLAIN PERMIT CRITERIA

1. Floodplain permit applications shall be approved provided the proposed new construction, substantial improvement, or alteration of an artificial obstruction meets the requirements of the minimum standards and criteria in Sections 9 and 10 and other requirements of these regulations. ((MCA 76-5-406) (44 CFR 60.3))

2. A Flood Plain permit application for a development that will cause an increase of more than 0.00 feet to the Base Flood Elevation of the Floodway or more than 0.50 feet to the Base Flood Elevation of the Regulated Flood Hazard Area without a Floodway shall not be approved until approval for an Alteration pursuant to Section 15.28.400.3 has been approved, the Regulated Flood Hazard Area is amended and a FEMA CLOMR where required is issued.

3. The Floodplain Administrator shall determine that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendment of 1972, 36 U.S.C. 1334. (44 CFR 60.3(a)(2))
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15.28.804 DECISION

1. The Floodplain Administrator shall approve, conditionally approve, or deny the proposed Floodplain permit application. The Floodplain Administrator shall notify the applicant of his action and the reasons thereof within (60 days) of receipt of a correct and complete Floodplain permit application unless otherwise specified. A copy of the approved Floodplain permit must be provided to DNRC. ((MCA 76-5-405(2)) (ARM 36.15.204(2)(e))

2. The approval of a Floodplain permit application does not affect any other type of approval required by any other statute or ordinance of the state or any political subdivision or the United States, but is an added requirement. (MCA 76-5-108)

15.28.805 FLOODPLAIN PERMIT CONDITIONS AND REQUIREMENTS

1. Upon approval or conditional approval of the Floodplain permit application, the Floodplain Administrator shall provide the applicant with a Floodplain permit with applicable specific requirements and conditions including but not limited to the following:

1. The Floodplain permit will become valid when all other necessary permits required by Federal or State law are in place; (44 CFR 60.3(a)(2)

2. Completion of the development pursuant to the Floodplain permit shall be completed within one year from the date of Floodplain permit issuance or a time limit commensurate with the project construction time line for completion of the project or development. The applicant may request an extension for up to an additional year. The request must be made at least 30 days prior to the permitted completion deadline;

3. The applicant shall notify subsequent property owners and their agents and potential buyers of the Floodplain development permit issued on the property and that such property is located within a Regulated Flood Hazard Area and shall record the notice with the Floodplain Administrator; (ARM 36.15.204(2)(g))

4. The applicant shall maintain the artificial obstruction or use to comply with the conditions and specifications of the permit;

5. The applicant shall allow the Floodplain Administrator to perform on-site inspections at select intervals during construction or completion;

6. The applicant shall provide periodic engineering oversight and/or interim reports during the construction period to be submitted to the Floodplain Administrator to confirm constructed elevations and other project elements;

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7. The applicant shall submit a compliance report including certifications where required and applicable including flood proofing, elevation, surface drainage, proper enclosure openings and materials to the Floodplain Administrator within 30 days of completion or other time as specified;

8. The applicant shall submit an annual performance and maintenance report on bank stabilization or other projects utilizing maturing vegetative components to the Floodplain Administrator for a period of 5 years or a time specified in the permit; or

9. The applicant shall submit evidence of a submittal of a FEMA Letter of Map Revision (LOMR) to FEMA and applicable fees within 6 months of project completion and proceed with due diligence for acceptance of the document and necessary supporting materials by FEMA. (44 CFR 65.3)
15.28.900 DEVELOPMENT REQUIREMENTS IN THE FLOODWAY

15.28.901 USES REQUIRING PERMITS Artificial obstructions including alterations and substantial improvements specifically listed in Sections 15.28.900.3 to 15.28.900.15 may be allowed by permit within the Floodway, provided the General Requirements in Section 15.28.900.2 and the applicable requirements in Sections 9.3 to 9.15 are met.

15.28.902 GENERAL REQUIREMENTS An application for a permit shall meet the following requirements:

1. All projects shall be designed and constructed to ensure that they do not adversely affect the flood hazard on other properties and are reasonably safe from flooding;

2. All projects shall assure that the carrying capacity of the Floodway is not reduced. All projects in the Floodway shall meet the following:

   1. Demonstrate that the project does not increase the Base Flood Elevation by conducting an encroachment analysis certified by an engineer. A minimal or qualitative encroachment analysis may be accepted when the project or development does not require a structure, alteration of the Floodway, involve fill, grading, excavation or storage of materials or equipment but is also certified by an engineer to not exceed the allowable encroachment to the Base Flood Elevation; and

   2. The allowable encroachment to the Base Flood Elevation is 0.00 feet, and no significant increase to the velocity or flow of the stream or water course unless approval of an alteration of the Regulated Flood Hazard Area pursuant to Section 15.28.400.3 and an approved FEMA Conditional Letter of Map Revision occurs before permit issuance; and

      ((ARM 36.15.604) (ARM 36.15.505) (ARM 36.15.605(b)) (44 CFR 60.3(a)(3 and 4)) (44 CFR 65.12(a))

   3. An application for a Floodplain permit must also demonstrate the following factors are considered and incorporated into the design of the use or artificial obstruction in the Floodway:

      1. The danger to life and property due to backwater or diverted flow caused by the obstruction or use; ((MCA 76-5-406(1)) (ARM 36.15.216(2)(a)))

      2. The danger that the obstruction or use may be swept downstream to the injury of others; ((MCA 76-5-406(2)) (ARM 36.15.216(2)(b)))

      3. The availability of alternative locations; ((MCA 76-5-406(3)) (ARM 36.15.216(2)(c)))

      4. Construct or alter the obstruction or use in such manner as to lessen the flooding danger; ((MCA 76-5-406(4)) (ARM 36.15.216(2)(d)))

      5. The permanence of the obstruction or use and is reasonably safe from flooding; ((MCA 76-5-406(5)) (ARM 36.15.216(2e)))
6. The anticipated development in the foreseeable future of the area which may be affected by the obstruction or use; ((MCA 76-5-406(6)) (ARM 36.15.216(2f)))

7. Relevant and related permits for the project have been obtained; (44 CFR 60.3(a)(2))

8. Such other factors as are in harmony with the purposes of these regulations, the Montana Floodplain and Floodway Management Act, and the accompanying Administrative Rules of Montana; and ((MCA 76-5-406(7)) (ARM 36.15.216(2)(g)))

9. The safety of access to property in times of flooding for ordinary and emergency services. (44CFR 60.22 (c)(7))

15.28.903 MINING OF MATERIAL REQUIRING EXCAVATION FROM PITS OR POOLS provided, in addition to the requirements of Section 15.28.900.2, that:

1. A buffer strip of undisturbed land of sufficient width as determined by an engineer to prevent flood flows from channeling into the excavation is left between the edge of the channel and the edge of the excavation; (ARM 36.15.602(1)(a))

2. The excavation meets all applicable laws and regulations of other local and state agencies; and (ARM 36.15.602(1)(b))

3. Excavated material may be processed on site but is stockpiled outside the Floodway. (ARM 36.15.602(1)(c))

15.28.904 RAILROAD, HIGHWAY AND STREET STREAM CROSSINGS, including other transportation related crossings provided, in addition to the requirements of Section 15.28.900.2, that:

1. Crossings are designed to offer minimal obstructions to the flood flow; (ARM 36.15.602(2))

2. Where failure or interruption of public transportation facilities would result in danger to public health or safety and where practicable and in consideration of FHWA Federal-Aid Policy Guide 23CFR650A:

   1. Bridge lower chords shall have freeboard to at least two (2) feet above the Base Flood Elevation to help pass ice flows, the base flood discharge and any debris associated with the discharge; and

   2. Culverts shall be designed to pass the Base Flood discharge and maintain at least two (2) feet freeboard on the crossing surface;

3. Normal overflow channels, if possible are preserved to allow passage of sediments to prevent aggradations; and

4. Mid stream supports for bridges, if necessary, have footings buried below the maximum scour depth.
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15.28.905 LIMITED FILLING FOR ROAD AND RAILROAD EMBANKMENTS, including other transportation related embankments not associated with stream crossings and bridges provided, in addition to the requirements of Section 15.28.900.2, that:

1. The fill is suitable fill;

2. Reasonable alternate transportation routes outside the floodway are not available; and (ARM 36.15.602(3))

3. The encroachment is located as far from the stream channel as possible. (ARM 36.15.602(3))

15.28.906 BURIED OR SUSPENDED UTILITY TRANSMISSION LINES provided, in addition to the requirements of Section 15.28.900.2, that:

1. Suspended utility transmission lines are designed such that the lowest point of the suspended line is at least six (6) feet higher than the Base Flood Elevation; (ARM 36.15.602(4))

2. Towers and other appurtenant structures are designed and placed to withstand and offer minimal obstruction to flood flows; (ARM 36.15.602(4))

3. Alternatives such as alternative routes, directional drilling, and aerial crossings are considered when technically feasible; and

4. Utility transmission lines carrying toxic or flammable materials are buried to a depth of at least twice the calculated maximum scour depth determined by an engineer for the Base Flood. (ARM 36.15.602(4))

15.28.907 STORAGE OF MATERIALS AND EQUIPMENT provided, in addition to the requirements of Section 15.28.900.2, that:

1. The material or equipment is not subject to major damage by flooding and is properly anchored to prevent flotation or downstream movement; or (ARM 36.15.602(5)(a))

2. The material or equipment is readily removable within the limited time available after flood warning. Storage of flammable, toxic or explosive materials shall not be permitted. (ARM 36.15.602(5)(b))

15.28.908 DOMESTIC WATER SUPPLY WELLS provided, in addition to the requirements of Section 15.28.900.2, that:

1. They are driven or drilled wells located on ground higher than surrounding ground to assure positive drainage from the well; (ARM 36.15.602(6))

2. They require no other structures (e.g. a well house); (ARM 36.15.602(6))

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3. Well casings are water tight to a distance of at least twenty five (25) feet below the ground surface and the well casing height is a minimum of two (2) feet above the Base Flood Elevation or capped with a watertight seal and vented two (2) feet above the Base Flood Elevation; (ARM 36.15.602(6))

4. Water supply lines have a watertight seal where the lines enter the casing; (ARM 36.15.602(6))

5. All pumps and electrical lines and equipment are either of the submersible type or are adequately flood proofed; and (ARM 36.15.602(6))

6. Check valves are installed on main water lines at wells and at all building entry locations. ((44 CFR 60.3 (a)(5)) (ARM 36.15.602(6)))

15.28.909 BURIED AND SEALED VAULTS FOR SEWAGE DISPOSAL IN CAMPGROUNDS AND RECREATIONAL AREAS provided, in addition to the requirements of Section 15.28.900.2, demonstrate approval by Montana Department of Environmental Quality and local health and sanitation permits or approvals. ((44 CFR 60.3(a)(6)) (ARM 36.15.602(7)))

15.28.910 PUBLIC AND PRIVATE CAMPGROUNDS provided, in addition to the requirements of Section 15.28.900.2, that:

1. Access roads require only limited fill and do not obstruct or divert flood waters; (ARM 36.15.602(8))

2. The project meets the accessory structures requirements in this Section;

3. No dwellings or permanent mobile homes are allowed; (ARM 36.15.602(8))

4. Recreational vehicles and travel trailers are ready for highway use with wheels intact, with only quick disconnect type utilities and securing devices, and have no permanently attached additions; and (44 CFR 60.3(c)(14))

5. There is no large-scale clearing of riparian vegetation within 50 feet of the mean annual high water mark where possible, except for boat ramps and fire mitigation.

15.28.911 STRUCTURES ACCESSORY OR APPURTENANT to permitted uses such as boat docks, loading and parking areas, marinas, sheds, emergency airstrips, permanent fences crossing channels that may impede or stop flows or debris, picnic shelters and tables and lavatories, that are incidental to a principal structure or use, provided in addition to the requirements of Section 15.28.900.2, that:

1. The structures are not intended for human habitation or supportive of human habitation; (ARM 36.15.602(9))

2. The structures will have low flood damage potential; (ARM 36.15.602(9))

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3. The structures will, insofar as possible, be located on ground higher than the surrounding ground and as far from the channel as possible; (ARM 36.15.602(9))

4. The structures will be constructed and placed so as to offer a minimal obstruction to flood flows; (ARM 36.15.602(9))

5. Only those wastewater disposal systems that are approved under health and sanitation regulations are allowed;

6. Service facilities within these structures such as electrical, heating and plumbing are flood proofed according to the requirements in Section 15.28.1000; (ARM 36.15.602(9))

7. The structures are firmly anchored to prevent flotation; (ARM 36.15.602(9))

8. The structures do not require fill and/or substantial excavation;

9. The structures or use cannot be changed or altered without permit approval; and

10. There is no clearing of riparian vegetation within 50 feet of the mean annual high water mark, except for boat ramps and fire mitigation.

15.28.912 CONSTRUCTION OF OR MODIFICATIONS TO SURFACE WATER DIVERSIONS provided, in addition to the requirements of Section 15.28.900.2, that the design is reviewed and approved by an engineer and includes:

1. Measures to minimize potential erosion from a Base Flood; and (ARM 36.15.603(3)(b))

2. Designs and plans that demonstrate any permanent structure in the stream is designed to safely withstand up to the Base Flood considering the forces associated with hydrodynamic and hydrostatic pressures including flood depths, velocities, impact, ice buoyancy, and uplift forces associated with the Base Flood. (ARM 36.15.603(3)(c) (CFR 60.3(a)(3) (CFR 60.3(d)(3)))

15.28.913 FLOOD CONTROL AND STREAM BANK STABILIZATION MEASURES provided, in addition to the requirements of Section 15.28.900.2, that the design is reviewed and approved by an engineer and constructed to substantially resist or withstand the forces associated with hydrodynamic and hydrostatic pressures, including flood depths, velocities, impact, ice, buoyancy, and uplift associated with the Base Flood. The design must also show compliance with the following applicable criteria: (CFR 60.3(a)(3) (CFR 60.3(d)(3)) (ARM 36.15.606))

1. LEVEE AND FLOODWALL construction or alteration:
   1. Must be designed and constructed with suitable fill and be designed to safely convey a Base Flood; (ARM 36.15.606(1)(a))

   2. Must be constructed at least 3 feet higher than the elevation of the Base Flood unless the levee or floodwall protects agricultural land only; (ARM 36.15.606(2)(a))

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3. Must meet state and federal levee engineering and construction standards and be publically owned and maintained if it protects structures of more than one landowner; and (ARM 36.15.505(1)(c)(ii)and (iii))

4. For any increase in the elevation of the Base Flood, an alteration of the Regulated Flood Hazard Area requires approvals pursuant to Section 15.28.400.3.

2. STREAM BANK STABILIZATION, PIER AND ABUTMENT PROTECTION projects:

1. Must be designed and constructed using methods and materials that are the least environmentally damaging yet practicable, and should be designed to withstand a Base Flood once the project's vegetative components are mature within a period of up to 5 years or other time as required by the Floodplain Administrator. Once vegetation is mature and established it should not require substantial yearly maintenance after the initial period;

2. Materials for the project may be designed to erode over time but not fail catastrophically and impact others. Erosion, sedimentation, and transport of the materials may be designed to be at least similar in amount and rate of existing stable natural stream banks during the Base Flood;

3. Must not increase erosion upstream, downstream, across from or adjacent to the site in excess of the existing stable natural stream bank during the Base Flood; and (ARM 36.15.606(1)(b))

4. Materials for the project may include but are not limited to riprap, root wads, brush mattresses, willow wattles, natural woody debris or combinations of analogous materials.

3. CHANNELIZATION PROJECTS where the excavation and/or construction of an channel is for the purpose of diverting the entire or a portion of the flow of a stream from its established course, the project must:

1. Not increase the magnitude, velocity, or elevation of the Base Flood; and
2. 15.28.900.13.2.
   (ARM 36.15.101(7)) (ARM 36.15.606(1)(c))

4. DAMS:
1. The design and construction shall be in accordance with the Montana Dam Safety Act and applicable safety standards; and

2. The project shall not increase flood hazards downstream either through operational procedures or improper hydrologic/hydraulic design. (ARM 36.15.606(1)(d)

15.28.914 STREAM AND BANK RESTORATION projects intended to reestablish the terrestrial and aquatic attributes of a natural stream and not for protection of a structure or development provided, in addition to the requirements of Section 15.28.900.2, that:

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1. The project will not increase velocity or erosion upstream, downstream, across from or adjacent to the site; (ARM 36.15.606(1)(b))

2. Materials may include but are not limited to boulders, rock cobble, gravel, native stream bed materials, root wads, brush mattresses, willow wattles, natural woody debris or combinations of analogous materials and that reasonably replicates the bed and bank of the natural stream;

3. Erosion, sedimentation, and transport of the materials are not more than the amount and rate of existing natural stream banks during the Base Flood; and

4. The project may be designed to allow vegetative materials to mature within a period up to 5 years or other time as required by the Floodplain Administrator. Once vegetation is mature and established it should not require substantial yearly maintenance after the initial period.

15.28.915 EXISTING RESIDENTIAL AND NON-RESIDENTIAL BUILDINGS IN THE FLOODWAY any alteration or substantial improvement to an existing building must meet the requirements of Section 15.28.900.2 and the applicable requirements in Section 15.28.1000 for residential or non-residential buildings. (MCA76-5-404(3)(b))
15.28.1000 DEVELOPMENT REQUIREMENTS IN THE FLOOD FRINGE OR REGULATED FLOOD HAZARD AREA WITH NO FLOODWAY

15.28.1001 USES REQUIRING PERMITS – All uses allowed by permit in the Floodway shall also be allowed by permit within the Flood Fringe or Regulated Flood Hazard Area with no Floodway. Such uses are subject to the requirements in Section 15.28.900, with the exception of the encroachment limit of Section 15.28.900.2.2. Instead, such uses are subject to the encroachment limits of this Section 15.28.1000.2.9.

Except for prohibited artificial obstructions in Section 15.28.600.2, all other artificial obstructions including new construction, substantial improvements, alterations to residential, and nonresidential structures including manufactured homes, and related suitable fill or excavation shall be allowed by permit and are subject to the requirements in this Section and General Requirements of Section 15.28.900.2, with the exception of the encroachment limit of Section 15.28.900.2.2.

(ARM 36.15.701(2))

15.28.1002 GENERAL REQUIREMENTS An application for a Floodplain permit must demonstrate or meet the following applicable requirements:

1. **Base Flood Elevation** Where necessary to meet the appropriate elevation requirement in these regulations, the Base Flood Elevation(s) must be determined by an engineer and utilized in the design and layout of the project demonstrating the design and construction criteria herein are met. For Regulated Flood Hazard Areas that do not have computed and published Base Flood Elevations in the adopted flood hazard study referenced in Section 15.28.400, a Base Flood Elevation must be determined or obtained from a reliable source, utilizing appropriate engineering methods and analyses;

2. **Flood Damage** Structures must be constructed by methods and practices that minimize flood damage and structures must be reasonably safe from flooding; ((44 CFR 60.3(a)) (4 CFR 60.3(a)(3)(iii)))

3. **Surface Drainage** Adequate surface drainage must be provided around structures;

4. **Materials** Structures must be constructed with materials resistant to flood damage; ((44 CFR 60.3(a)) (44 CFR 60.3(a)(3)(ii))

5. **Artificial Obstructions** Structures, excavation or fill must not be prohibited by any other statute, regulation, ordinance, or resolution; and must be compatible with subdivision, zoning and any other land use regulations, if any; (ARM 36.15.701(3)(a)) ((ARM 36.15.701(3)(b))

6. **Anchoring** All construction and substantial improvements must be designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; (44 CFR 60.3(a)(3)

7. **Certification** Certification by an engineer, architect, land surveyor, or other qualified person must accompany the application where required including for an encroachment analysis,
adequacy of structural elevations, Base Flood Elevation determinations, flood-proofing, enclosure flood openings and design and construction to withstand the hydrodynamic forces and hydrostatic pressures of flood depths, velocities, impact, buoyancy, uplift forces associated with the Base Flood and surface drainage. A certification is not intended to constitute a warranty or guarantee of performance, expressed or implied; ((ARM 36.15.606(1) (ARM 36.15.702(2)(c)) (ARM 36.15.801(3)(b)) (44 CFR 60.3(c)(3 &4)) (44 CFR 60.3 (d)(3)))

8. **Access** Structures may be required to have safe access during times of flooding up to the Base Flood for ordinary and emergency services provided there are no reasonable alternate locations for structures;

9. **Encroachment Analysis**

1. All applications in the Regulated Flood Hazard Area without a Floodway must be supported by an encroachment analysis of the proposed use, a thorough hydrologic and hydraulic analysis except as provided in following paragraph 4, Section 15.28.100.2.9.4, prepared by an engineer to demonstrate the effect of the structure on flood flows, velocities and the Base Flood Elevation; ((ARM 36.15.604) (44 CFR 60.3(a)(3))

2. The maximum allowable encroachment is certified to be at or less than 0.5 feet increase to the Base Flood Elevation unless approval of an alteration of the Regulated Flood Hazard Area pursuant to Section 15.28.400 and an approved FEMA Conditional Letter of Map Revision occurs before permit issuance; ((ARM 36.15.604) (ARM 36.15.505) (44 CFR 60.3(c)(13)))

3. An encroachment analysis is not required for any development in the Flood Fringe where an accompanying Floodway has been designated within the Regulated Flood Hazard Area; and

4. Although all other development standards herein apply, a minimal or qualitative encroachment analysis may be accepted when the project or development does not require a structure, alteration of the Floodplain, involve fill, grading, excavation or storage of materials or equipment and also is certified by an engineer to not exceed the allowable encroachment.

10. **Electrical Systems Flood Proofing** All electrical service materials, equipment and installation for uses in a Regulated Flood Hazard Area must be certified to meet the following requirements:

1. All incoming power service equipment including all metering equipment, control centers, transformers, distribution and lighting panels and all other stationary equipment must be located at least two feet above the Base Flood Elevation; (ARM 36.15.901(1)(a))

2. Portable and movable electrical equipment may be placed below the Base Flood Elevation, provided that the equipment can be disconnected by a single plug and socket assembly of the submersible type; (ARM 36.15.901(1)(b))

ORD 795
3. The main power service lines must have automatically operated electrical disconnect equipment or manually operated electrical disconnect equipment located at an accessible remote location outside the Regulated Flood Hazard Area or two feet above the Base Flood Elevation; and (ARM 36.15.901(1)(c))

4. All electrical wiring systems installed below the Base Flood Elevation must be suitable for continuous submersion and may not contain fibrous components. (ARM 36.15.901(1)(d))

11. **Heating and Cooling Systems Flood Proofing** Heating and cooling systems for uses in a Regulated Flood Hazard Area must be certified to meet the following requirements:

   1. Float operated automatic control valves must be installed so that fuel supply is automatically shut off when flood waters reach the floor level where the heating and cooling systems are located; (ARM36.15.902(1)(a))

   2. Manually operated gate valves must be installed in gas supply lines. The gate valves must be operable from a location above the Base Flood Elevation; (ARM36.15.902(1)(b))

   3. Electrical Systems flood proofing must be met; and (ARM36.15.902(1)(c))

   4. Furnaces and cooling units must be installed at least two (2) feet above the Base Flood Elevation and the ductwork installed above the Base Flood Elevation.

12. **Plumbing Systems Flood Proofing** Plumbing systems for uses in the Regulated Flood Hazard Area must be certified to meet the following requirements:

   1. Sewer lines, except those to a buried and sealed vault, must have check valves installed to prevent sewage backup into permitted structures; and (ARM 36.15.903(1)(a))

   2. All toilets, stools, sinks, urinals, vaults, and drains must be located so the lowest point of possible flood water entry is at least two (2) feet above the Base Flood Elevation. (ARM 36.15.903(1)(b))

13. **Structural Fill Flood Proofing** Fill used to elevate structures, including but not limited to residential and non-residential buildings must be certified to meet the following requirements:

   1. The filled area must be at or above the Base Flood Elevation and extend at least fifteen (15) feet beyond the structure in all directions;

   2. Fill material must be suitable fill, that is stable, compacted, well graded, and pervious, not adversely affected by water and frost, devoid of trash or similar foreign matter, tree stumps or other organic material; and is fitting for the purpose of supporting the intended use and/or permanent structure. (ARM 36.15.101(22))

ORD 795
3. The fill must be compacted to minimize settlement and compacted to 95 percent of the maximum density. Compaction of earthen fill must be certified by an engineer;

4. No portion of the fill is allowed within the floodway;

5. The fill slope must not be steeper than 1 ½ horizontal to 1 vertical unless substantiating data justifying a steeper slope is provided and adequate erosion protection is provided for fill slopes exposed to floodwaters; and

14. Wet Flood Proofing Building designs with an enclosure below the lowest floor must be certified to meet the following:

1. Materials used for walls and floors are resistant to flooding to an elevation two (2) feet or more above the Base Flood Elevation; (ARM 36.15.702(2)(a))

2. The enclosure must be designed to equalize hydrostatic forces on walls by allowing for entry and exit of floodwaters. Opening designs must either be certified by an engineer or architect or meet or exceed the following:

1. Automatically allow entry and exit of floodwaters through screens, louvers, valves, and other coverings or devices;

2. Have two (2) or more openings with a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area below the Lowest Floor, except if the enclosure is partially subgrade, a minimum of 2 openings may be provided on a single wall; and

3. Have the bottom of all openings no higher than one (1) foot above the higher of the exterior or interior adjacent grade or floor immediately below the openings. (44 CFR 60.3(c)(5)) (NFIP Insurance Manual, Rev. May 2013)

15. Dry Flood Proofing Building designs that do not allow internal flooding must be certified according to these regulations to meet the following:

1. Building use must be for non-residential use only and does not include mixed residential and non-residential use;

2. Be Flood Proofed to an elevation no lower than two (2) feet above the Base Flood Elevation;

3. Be constructed of impermeable membranes or materials for floors and walls and have water tight enclosures for all windows, doors and other openings; and

4. Be designed to withstand the hydrostatic pressures and hydrodynamic forces resulting from the Base Flood and the effects of buoyancy. (ARM 36.15.702(2)(b)) (44 CFR 60.3(c)(3))
16. Elevation of the Lowest Floor  Elevating the lowest floor may be by either suitable fill, foundation wall enclosure, stem walls, pilings, posts, piers, columns or other acceptable means; ((MCA 76-5-402(2)(b)) (44 CFR 60.3(b)(8)) (44 CFR 60.3(c)(6))

17. Crawl Spaces  Crawl space foundation enclosures including sub grade crawlspace enclosures below the lowest floor must meet the wet flood proofing requirements and be designed so that the crawl space floor is at or above the Base Flood Elevation. Crawl space foundations must have an inside dimension of not more than five (5) feet from the ground to the top of the living floor level and a sub grade crawlspace must also have the interior ground surface no more than two (2) feet below the exterior lowest adjacent ground surface on all sides. A sub grade foundation exceeding either dimension is a basement;

18. Manufactured Home Anchors  For new placement, substantial improvement or replacement of manufactured homes for residential or nonresidential use including additions, the chassis must be secure and must resist flotation, collapse or lateral movement by anchoring with anchoring components capable of carrying a force of 4,800 pounds and as follows:

1. For manufactured homes less than fifty (50) feet long, over-the-top ties to ground anchors are required at each of the four (4) corners of the home, with two additional ties per side at intermediate locations; or

2. For manufactured homes more than fifty (50) feet long, frame ties to ground anchors are required at each corner of the home with five (5) additional ties per side at intermediate points; and ((CFR 60.3(b)(8)) CFR 60.3(c)(6))

19. Access  Access for emergency vehicles may be required.

15.28.1003 RESIDENTIAL BUILDING, EXCEPTIONS OR ADDITIONAL REQUIREMENTS
New construction, alterations, and substantial improvements of residential dwellings, manufactured homes, including replacement of manufactured homes, must be constructed such that:

1. Elevation of the Lowest Floor  The Lowest Floor of the building including an attached garage or basement must be two (2) feet or more above the Base Flood Elevation; (ARM 36.15.701(3))

2. Enclosure  Enclosures of elevated buildings cannot be dry flood proofed. Use for an enclosure is limited to facilitating building component access. The enclosure including a crawlspace must be wet flood proofed and the enclosure floor must be at or above the Base Flood Elevation. An attached garage floor must be two (2) or more feet above the Base Flood Elevation; and

3. Recreation Vehicles  Recreational vehicles on site for more than 180 days or not ready for highway use must meet the requirements for manufactured homes for residential use.

15.28.1004 NON-RESIDENTIAL BUILDING, EXCEPTIONS OR ADDITIONAL REQUIREMENTS  New construction, alterations, and substantial improvements of non-residential
including agricultural, commercial and industrial buildings and residential and non-residential accessory buildings must be constructed such that:

1. **Elevation of the Lowest Floor** The Lowest Floor of the building must be elevated two (2) feet above the Base Flood Elevation or adequately dry flood proofed according to this Section. The Lowest Floor may be wet proofed provided the use is limited to only parking, loading and storage of equipment or materials not appreciably affected by floodwater; ((ARM 36.15.702(2) (44 CFR 60.3(c)(3)(ii) (44 CFR 60.3(c)(3) & (4)))

2. **Enclosure** Enclosures below the Lowest Floor on elevated buildings must be wet flood proofed and the use must be limited to parking, access or storage or must be adequately dry flood proofed according to this Section;

3. **Manufactured homes** Manufactured homes proposed for use as non-residential buildings cannot be dry flood proofed; and

4. **Agricultural structures** Agricultural structures not intended to be insurable, used solely for agricultural purposes, having low flood damage potential, used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities including raising of livestock, and not intended for human habitation are exempt from the elevation requirement, dry or wet flood proofing, but shall:

   1. Be located on higher ground and as far from the channel as possible;
   2. Offer minimal obstruction to flood flows;
   3. Be adequately anchored to prevent flotation or collapse;
   4. Where electrical, heating and plumbing systems are installed, meet the flood proofing requirements in Sections 10.2.10, 10.2.11, and 10.2.12; and
   5. Meet the elevation or dry flood proofing requirements if the structure is an animal confinement facility.

   ((ARM 36.15.602(9) (ARM 36.15.701(3)(e)) (ARM 36.15.702(2))

15.28.1100 EMERGENCIES

15.28.1101 General

1. Emergency repair and replacement of severely damaged artificial obstructions and development in the Regulated Flood Hazard Area, including public transportation facilities, public water and sewer facilities, flood control works, and private projects are subject to the permitting requirements of these regulations.(ARM 36.15.217)
2. The provisions of these regulations are not intended to affect other actions that are necessary to safeguard life or structures during periods of emergency.

15.28.1102 Emergency Notification and Application Requirements

1. The property owner and or the person responsible for taking emergency action must notify the Floodplain Administrator prior to initiating any emergency action in a Regulated Flood Hazard Area normally requiring a Floodplain permit. An Emergency Notification Form must be submitted to the Floodplain Administrator within five (5) days of the action taken as a result of an emergency.

2. Unless otherwise specified by the Floodplain Administrator, within 30 days of initiating the emergency action, a person who has undertaken an emergency action must submit a Floodplain Permit Application that describes what action has taken place during the emergency and describe any additional work that may be required to bring the project in compliance with these regulations.

3. A person who has undertaken an emergency action may be required to modify or remove the project in order to meet the permit requirements.

15.28.1200 VARIANCES

15.28.1201 GENERAL - A variance from the minimum development standards of these regulations may be allowed. An approved variance would permit construction in a manner otherwise as required or prohibited by these regulations. ((44 CFR 59.1) (ARM 36.15.218))

15.28.1202 VARIANCE APPLICATION REQUIREMENTS:

1. Prior to any consideration of a variance from any development standard in these regulations, a completed Floodplain Permit application and required supporting material must be submitted.

2. Additionally, supporting materials in a Variance application specific to the variance request including facts and information addressing the criteria in this Section must be submitted.

3. If the Floodplain permit application and Variance application is deemed not correct and complete, the Floodplain Administrator shall notify the applicant of deficiencies within a reasonable time not to exceed 30 days. Under no circumstances should it be assumed that the variance is automatically granted.

15.28.1203 NOTICE REQUIREMENTS FOR FLOODPLAIN VARIANCE APPLICATION
Public Notice of the Floodplain permit application and Variance application shall be given pursuant to Section 15.28.802.
**FIRST READING**

**15.28.1204 EVALUATION OF VARIANCE APPLICATION**

1. A Floodplain permit and Variance shall only be issued upon a determination that the variance is the minimum allowance necessary, considering the flood hazard, to afford relief from these regulations and provided all of the following criteria are met:

   1. There is a good and sufficient cause. Financial hardship is not a good and sufficient cause; (44 CFR 60.6(a)(3))

   2. Failure to grant the variance would result in exceptional hardship to the applicant; (44 CFR 60.3(a)(3)) & ARM 36.15.218(b))

   3. Residential and nonresidential buildings are not in the Floodway except for alterations or substantial improvement to existing buildings. Residential dwellings including basements and attached garages do not have the lowest floor elevation below the Base Flood Elevation;

   4. Any enclosure including a crawl space must meet the requirements of Section 15.28.1000, Wet Flood Proofing if the enclosure interior grade is at or below the Base Flood Elevation;

   5. Granting of a variance will not result in increased flood heights to existing buildings, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances; (44 CFR 60.6 (a)(3) & (ARM 36.15.218(a))

   6. The proposed use is adequately flood proofed; (ARM 36.15.218(c)).

   7. The variance is the minimum necessary, considering the flood hazard, to afford relief; (44 CFR 60.6(a)(4))

   8. Reasonable alternative locations are not available; (MCA 76-5-406(3) & ARM 36.15.218(d))

   9. An encroachment does not cause an increase to the Base Flood Elevation that is beyond that allowed in these regulations; and (44 CFR 60.6(a)(1))

   10. All other criteria for a Floodplain permit besides the specific development standard requested by variance are met.

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

   1. For either new construction of a structure outside of the Floodway only or for substantial improvements or an alteration of a structure, on a lot of one-half acres or less that is contiguous to and surrounded by lots with existing structures constructed below the Base Flood Elevation; or (44 CFR 60.6(a).
2. For Historic Structures – variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum relief necessary to preserve the historic character and design of the structure. The historic nature of the building must be designated as a preliminary or historic structure by U.S. Secretary of Interior or an approved state or local government historic preservation program. (44 CFR 60.6(a))

15.28.1205 DECISION

1. The Board of Adjustment, shall:

1. Evaluate the Floodplain permit application and Variance application using the criteria in Section 15.28.1204, and the application requirements and minimum development standards in Section 15.28.900 and 15.28.1000;

2. Make findings, and approve, conditionally approve or deny a Floodplain permit and variance within 60 days of a complete application.

3. If approved, attach conditions to the approval of Floodplain permit and Variance including a project completion date and inspections during and after construction.

4. Notify the applicant that the issuance of a Floodplain permit and Variance to construct a structure not meeting the minimum building requirements in these regulations may result in increased premium rates for flood insurance and that flood insurance premiums are determined by actuarial risk and will not be modified by the granting of a variance. (44 CFR 60.6(a))

5. Submit to the Floodplain Administrator a record of all actions involving a Floodplain permit and variance, including the findings and decision and send a copy of each variance granted to DNRC.(44 CFR 60.6(a)(6) & MCA 76-5-405)

15.28.1206 JUDICIAL REVIEW
Any person or persons aggrieved by the Floodplain permit and variance decision may appeal such decision in a court of competent jurisdiction.

15.28.1300 ADMINISTRATIVE APPEALS

15.28.1301 GENERAL An administrative appeal may be brought before the Board of Adjustment for review of the Floodplain Administrator's order, decision to grant, condition or deny a floodplain permit or interpretation of the Regulated Flood Hazard Area boundary.

15.28.1302 APPEALS REQUIREMENTS The following provisions apply to administrative appeals:
FIRST READING

1. An appeal shall include the basis of the appeal and supporting information including specific findings and conclusions of the Floodplain Administrator’s decision being appealed;

2. An appeal may be submitted by an applicant and/or anyone who may be aggrieved by the Floodplain Administrator’s decision or order;

3. Appeals must be received within 30 days of the date of the decision or order of the Floodplain Administrator; and

4. Additional information specific to the appeal request may be requested by the review panel.

15.28.1303 NOTICE AND HEARING

1. Notice of the pending appeal and hearing shall be provided pursuant to Section 15.28.800.2. The Floodplain Administrator may notify DNRC and FEMA of pending appeals.

2. A public hearing on the appeal must be held within 30 days of the Notice unless set otherwise.

15.28.1304 DECISION
A judgment on an appeal shall be made within 30 days of the hearing unless set otherwise. The decision may affirm, modify, or overturn the Floodplain Administrator's decision. A decision on an appeal of a permit cannot grant or issue a variance. A decision may support, reverse or remand an order or determination of a boundary of the Regulated Flood Hazard Area by the Floodplain Administrator.

15.28.1305 JUDICIAL REVIEW
Any person or persons aggrieved by the decision on an administrative appeal may appeal such decision in a court of competent jurisdiction.

15.28.1400 ENFORCEMENT

15.28.1401 INVESTIGATION REQUEST An investigation to determine compliance with these regulations for an artificial obstruction or nonconforming use within the Regulated Flood Hazard Area may be made either on the initiative of the Floodplain Administrator or on the written request of three titleholders of land which may be affected by the activity. The names and addresses of the persons requesting the investigation shall be released if requested. (MCA 76-5-105)(2)

15.28.1402 NOTICE TO ENTER AND INVESTIGATE LANDS OR WATERS The Floodplain Administrator may make reasonable entry upon any lands and waters for the purpose of making an investigation, inspection or survey to verify compliance with these regulations. (MCA 76-5-105(1))

1. The Floodplain Administrator shall provide notice of entry by mail, electronic mail, phone call, or personal delivery to the owner, owner’s agent, lessee, or lessee’s agent whose lands will be entered.
2. If none of these persons can be found, the Floodplain Administrator shall affix a copy of the notice to one or more conspicuous places on the property.

3. If the owners do not respond, cannot be located or refuse entry to the Floodplain Administrator, the Floodplain Administrator may initiate a Search Warrant.

**15.28.1403 NOTICE TO RESPOND AND ORDER TO TAKE CORRECTIVE ACTION** When the Floodplain Administrator determines that a violation may have occurred, the Floodplain Administrator may issue written notice to the owner or an agent of the owner, either personally or by certified mail. Such notice shall cite the regulatory offense and include an order to take corrective action within a reasonable time or to respond by requesting an administrative review by the Floodplain Administrator.

**15.28.1404 ADMINISTRATIVE REVIEW** The order to take corrective action is final, unless within five (5) working days or any granted extension, after the order is received, the owner submits a written request for an administrative review by the Floodplain Administrator. A request for an administrative review does not stay the order.

**15.28.1405 APPEAL OF ADMINISTRATIVE DECISION** Within ten (10) working days or any granted extension of receipt of the Floodplain Administrator’s decision concluding the administrative review, the property owner or owner’s agent may appeal the decision pursuant to Section 15.28.1300.

**15.28.1406 FAILURE TO COMPLY WITH ORDER TO TAKE CORRECTIVE ACTION** If the owner fails to comply with the order for corrective action, remedies may include administrative or legal actions, or penalties through court.

**15.28.1407 OTHER REMEDIES** This section does not prevent efforts to obtain voluntary compliance through warning, conference, or any other appropriate means. Action under this part shall not bar enforcement of these regulations by injunction or other appropriate remedy.

**15.28.1500 PENALTIES**

**15.28.1501 DECLARATION TO THE FEDERAL FLOOD INSURANCE ADMINISTRATOR** Upon finding of a violation and failure of the owner to take corrective action as ordered, the Floodplain Administrator may submit notice and request a 1316 Violation Declaration to the Federal Insurance Administrator. The Federal Insurance Administrator has the authority to deny new and renewal flood insurance for a structure upon finding a valid violation declaration. (44 CFR 73.3)

The Floodplain Administrator shall provide the Federal Insurance Administrator the following:

1. The name(s) of the property owner(s) and address or legal description of the property sufficient to confirm its identity and location;

2. A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation or ordinance;
3. A clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

5. A clear statement that the declaration is being submitted pursuant to section 1316 of the National Flood Insurance Act of 1968, as amended.
AMENDED ORDINANCE NO. 793

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLUMBIA FALLS, MONTANA, AMENDING TITLE 8 OF THE COLUMBIA FALLS MUNICIPAL CODE.

WHEREAS, the City Council desires to amend and update municipal code pursuant to a thorough legal analysis and review of outdated text in preparation of recodifying the City Municipal Code; and

WHEREAS, hearings on said text amendments were held by the City Council of the City of Columbia Falls, Montana, at its regular meetings held between November 5, 2018 and July 1, 2019, after said hearings were advertised according to law; and at each hearing on said dates, the City Council considered any and all comments filed or voiced with respect to said changes; and

WHEREAS, the City Council has determined that said amendments to the Columbia Falls Municipal Code are in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA FALLS, MONTANA AS FOLLOWS:

Section One. Title Amended: Title 8 Health and Safety, of the Columbia Falls Municipal Code is hereby amended as more particularly set forth on Exhibit “A” attached hereto.

Section Two. Remaining Provisions Intact: The remaining provisions of the Columbia Falls Municipal Code, not specifically amended hereby, are continued in full force and effect.

Section Three. Inconsistent Provisions: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section Four. Severability: The provisions of this Ordinance are severable. If any provision of this Ordinance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision.

Section Five. Effective Date: This Ordinance shall become effective thirty (30) days after its final passage and approval by the City Council of the City of Columbia Falls, Montana.

PASSED AND APPROVED BY THE CITY COUNCIL OF COLUMBIA FALLS, MONTANA THIS 18th DAY OF NOVEMBER, 2019, THE COUNCIL VOTING AS FOLLOWS:

AYES: Lovering, Piper, Robinson, Shepard, Fisher, Karper and Barnhart

NOES: None

ABSENT: None
City Clerk

APPROVED BY THE MAYOR OF COLUMBIA FALLS, MONTANA, THIS 18th DAY OF NOVEMBER, 2019.

Mayor

ATTEST:

City Clerk
EXHIBIT A
Title 8
HEALTH AND SAFETY

Chapter 8.08
GARBAGE COLLECTION

8.08.010 Containers-Required.

All owners, tenants, lessees, and occupants of premises in the city who shall store garbage, ashes, or refuse outside or out of doors prior to the collection and hauling away of the same by any person engaged in the business of collecting and hauling of garbage, ashes and refuse, shall furnish refuse containers for such pre-collection storage. Refuse containers shall be maintained in good condition.

8.08.020 Containers--Construction generally.

Containers for garbage or refuse shall be made of metal or plastic, equipped with suitable handles, and equipped with tight-fitting covers, and shall be watertight.

Chapter 8.12
NUISANCE WEEDS

8.12.010 Defined.

"Nuisance weeds" means all vegetative growth of every kind and nature, other than trees or shrub that are native, common or ordinary, over eight inches in height, that is managed in such a manner that the material is friable or readily combustible and creates a fire hazard; or any height, that is managed in such manner that it produces viable, invasive seed from plants that are generally considered undesirable.

"Managed" means attention or inattention to provision of care that is reasonable and prudent.

"Undesirable plants" means non-native plant species, or plant species not commonly found among landscaping elements or invasive plants that are generally known to require intense efforts to exterminate.


No owner or owners of any property within the city, or agent of such owner or owners, shall permit nuisance weeds on such property, or on one-half of any road or street lying next to such property.
or boulevard abutting thereon. The existence of such weeds shall constitute a public nuisance.

8.12.030 Notice to destroy.

A. Whenever nuisance weeds are found to exist upon any property within the city, the city shall notify the owner of the property or, if no such person can reasonably be found, the person in control or possession of the premises.

B. The notice shall state that the existence of such nuisance weeds constitutes a public nuisance, and shall order the owners, or persons in possession, to exterminate or remove all such weeds on any property within the city limits, and upon one-half of any adjacent street or road. The notice shall further inform such property owners, or person(s) in possession, that upon their failure to remove or exterminate such weeds within a specified time, the city may proceed to have such weeds removed or exterminated and assess the cost thereof to the property involved.

C. Personal notice of the order shall be served. In case personal service cannot reasonably be obtained, then the notice shall be published once a week for two weeks in a newspaper in the municipality, or if no such paper exists, in a newspaper within the county. The last date of publication shall be not less than seven days prior to the date upon which the city commences the removal of weeds from such property.

8.12.040 Action upon noncompliance with order.

Upon the failure, neglect or refusal of any owner or owners, or person(s) in possession, to exterminate or remove nuisance weeds growing, lying or located upon the property of the owner or upon one-half of any road or street lying next to the property before the date specified in the notice, the responsible city official may exterminate or remove such nuisance weeds. Such official shall report to the city clerk the costs of such extermination. The clerk shall make an additional charge of ten percent to cover administrative costs. The total costs shall be assessed against the property from which or adjoining which the nuisance weeds have been exterminated or removed. The clerk shall cause the aforesaid costs to become a special tax and a lien against the property involved.

Chapter 8.16

REFUSE AND LITTER

8.16.010 Unlawful to deposit or allow accumulation.

No person within the limits of the city shall throw or deposit loose or waste paper, manure, tin cans or other coarse rubbish, or any dead animals, straw, hay, lawn clipping, brush, waste clothing, hats, books, empty cans, boxes or any paper dodgers or advertisements, or other inflammable rubbish on any public right-of-way or public land, not specifically designated for receiving such material.
8.16.030 Deposit of objectionable waste prohibited.

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

Chapter 8.18
COMMUNITY DECAY CONTROL

8.18.010 Definitions.

For purposes of this chapter, the following words shall have the meanings set out in this section:
A. "Agency" means the police department, which is designated to enforce the community decay ordinance.
B. "Community decay" means a public nuisance which is within "public view" as defined in this section and is created by allowing rubble, debris, junk or refuse to accumulate as set forth in the community decay standards. "Community decay" as used in this chapter may not be construed or defined to apply to normal farming, ranching or other agricultural facility, or any appurtenance thereof, during the course of its normal operation.
C. "Public nuisance" means a nuisance which affects, at the same time, an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
D. "Public view" is any point six feet above the surface of the center of any public road from which the community decay can be seen.
E. "Shielding" refers to fencing or other manmade barriers to conceal a facility from public view. It also refers to natural barriers. Any shielding must also conform to all local zoning, planning, building and protective covenant provisions. Any shielding is to be of sufficient height that no part of the nuisance or decay is visible to public view. This is not intended to require that permanent buildings, other structures, utility poles or any farm buildings, ranch buildings, or other agricultural facilities or appurtenances are to be included in the chapter and shielded.
F. "Unfinished or incomplete buildings or structures" means those that do not possess completed walls on all sides and a roof and do not provide a permanent weather resistant exterior wall and roof envelope.

8.18.020 Powers and duties.
The city council designates the police department as the agency which shall have the following powers and duties:
A. The duty to inspect when there has been a complaint by more than one person that community decay or a nuisance is present in an area.
B. The power to recommend to the city council further applicable standards by which to enforce this chapter.
C. The power to determine whether or not this chapter applies after an inspection of the property or area.
D. The duty to send a written notice of violation to the owner of the property in violation of this chapter.
E. The power to enter upon the property in violation after written notice and a show cause hearing, if applicable, for the specific purpose of abating the violation.
F. The power to assess the property owner for the actual or anticipated costs of an abatement made by the agency.

8.18.030 Notification and enforcement.
A. When the agency receives a complaint that a condition of community decay exists, the agency shall inspect the property alleged to be in violation of this chapter. Upon inspection the agency shall determine whether there is a violation of this chapter.
B. If there appears to be a violation of this chapter, the agency shall notify the owner of the property in writing of the violation. This notice shall be sent by certified mail. This notice shall include a statement specifically describing the violation.
C. The owner may after notification of violation submit a plan of abatement to the agency which shall include:
1. Type of abatement or shielding;
2. Date for commencement of action; and
3. If abatement or shielding is not to commence within thirty days, the reason therefore. The agency may accept such plan and defer further proceedings under this chapter pending abatement.
D. The notice of violation to the owner shall specify that the owner has thirty days from receipt of such notice to become in compliance with this chapter by means of removal or shielding of the conditions.
E. After thirty days following the mailing of the notice of violation, the agency shall determine whether the violation has been abated by the owners.
F. If the owner has failed to act, the agency shall send a notice setting a date and time for a hearing before the city judge notifying the owner to appear to show cause why the violation has not been abated.
G. A show cause hearing will be held by the city judge. Both the city agency and the owner may give evidence. At the end of the hearing the judge shall determine if the violation in fact exists, and if proper notification was made and the violation exists, the owner shall be ordered to abate it within a reasonable time.
H. If after a show cause hearing the owner has not complied with the court-ordered abatement; the agency may send written notification by mail and allow ten days further to complete abatement. After ten days following the mailing of such notification, the agency may enter upon the owners’ property with the specific purpose of abating or shielding the violation, whichever the agency deems appropriate.
I. The agency may assess the property owner/user for the actual costs of the abatement by the agency.
J. Nonpayment of the assessment may be taken as a lien upon the property and is enforceable as is nonpayment of property taxes.

8.18.050 Community decay standards.
It shall be a violation of the city of this chapter to allow any of the following conditions to exist within public view, as defined within this chapter, on any land or property in the city that is not considered to be a normal farm, ranch or other agricultural operation or facility:
A. The piling or spreading of straw, hay or similar material on open lots or fields unless the material is to be used as soil conditioner or mulch and the material is plowed into the ground or otherwise mixed and covered with clean soil within sixty days from placement upon the lot or field.
B. The dumping, piling or stacking of bricks, concrete blocks, waste wood, and similar material on open lots or fields, unless the material is stacked in neat piles and all waste material from the cleaning of such items, such as mortar, wood splinters, broken and unusable bricks, is removed to a licensed solid waste disposal facility or to some other location which has been approved by the agency or to some other location outside the city and its extra-territorial jurisdiction. Should such an operation be an ongoing continuous business, it shall be located in an area properly zoned for such a salvage business and shall be shielded from public view. Shielding shall meet the shielding standards outlined within this chapter and any applicable zoning regulations.

C. The storage or accumulation of a significant amount of cardboard boxes, broken packing boxes, paper or other similar items on lots or fields.

D. The piling, dumping or depositing of any dirt, demolition wastes including wood, bricks, concrete, used road black top and other similar materials on any open lots or fields, unless such material is to be utilized for fill material to fill a coulee or land depression. If such material is used as fill material, all such material shall be completely covered with clean fill material once every ten days and fill area shall be adequately fenced to restrict access to the area. Failure to comply with the periodic cover and access control requirements shall constitute a violation of this chapter.

E. The storage and accumulation of iron, metal, component vehicle and machine parts, junk vehicles, household appliances, barrels and other salvaged metal items, unless such material is stored in an approved, licensed, and shielded motor vehicle wrecking facility. If such material is being accumulated as part of an on-going, active salvage business other than an approved, licensed motor vehicle wrecking facility, said salvage business must be located in a properly zoned area for such a business and shall be shielded from public view. Shielding shall meet the shielding standards outlined within this chapter and any applicable zoning regulations.

F. The accumulation and storage of any other rubble, debris, junk or refuse that, upon investigation by the agency, is deemed to be a public nuisance as defined in this chapter.

G. The maintenance, ownership, occupancy or possession of any dangerous, decaying, non-maintained, fallen or damaged residential dwelling or commercial building or structure, including building(s) or structures that are unfinished or incomplete after a valid building permit has expired or three years after construction was initially started, whichever period expires first. Shielding is not an acceptable mitigation of this violation.

H. The maintenance of any substances or conditions that are injurious to health, indecent, offensive to the senses or obstructive of the free use of property so as to interfere with the comfortable enjoyment of life or property.

8.18.060 Shielding standards.
A. All plans for shielding shall be approved by the agency prior to commencing construction of shielding.

B. When fences are used for shielding the boards may be spaced and/or slanted to reduce wind load. The space between boards when viewed from a broad-side view shall not be more than one and one-half inches and interval between spaces shall not be less than seven and one-half inches. Rough dimensional lumber or better is acceptable. Chain link fences with standard fiberglass or other inserts are acceptable, provided the gap between adjacent slats does not exceed one and one half inches.

C. Shielding with shrubs and trees shall provide a similar degree of shielding at all times of the year. Dirt berms are acceptable for shielding purposes, provided the berm slopes are graded smooth and seeded with an adequate grass seed formula.
D. Other types of fencing of equivalent permanence, attractiveness, and shielding qualities, including corrugated metal, are also acceptable.

E. No more than one of the approved shielding materials shall be used on any one side of a shielding fence.

F. The fencing is to be maintained by the property owner or occupant in a neat and workmanlike manner and shall be replaced when necessary.

Chapter 8.20

JUNKED MOTOR VEHICLES

8.20.010 Definitions.

For the purposes of this chapter, the following terms, phrases and words shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number.

A. "Abandoned, wrecked, junked or dismantled motor vehicles" means any motor vehicle which does not have lawfully affixed thereto both an unexpired license plate or plates and the condition of which is wrecked, dismantled, inoperative, abandoned or discarded.

B. "Abandoned, wrecked, junked or dismantled vehicle" means any vehicle described in which is not being utilized for its manufactured or intended purpose and has been discarded, abandoned, wrecked, junked, dismantled or partially dismantled, including parts thereof.

C. "Vehicle" means every device in, upon, or by which any person or property may be transported or drawn upon a public highway or upon private property, including trailers, semitrailers and travel or camp trailers, as well as machinery used in farming, logging, excavating, but not including mobile homes presently utilized for human habitation. Such term shall not include a bicycle, but shall include motorbikes, motorcycles, motorscooters, tractors, go-carts and golf carts.

8.20.020 Nuisance designated-Abatement.

No person shall park, store, keep, place, leave or permit the same, any abandoned, wrecked, junked or dismantled motor vehicle or vehicle upon any private property within the city for a period in excess of seventy-two hours. The presence of any abandoned, wrecked, junked or dismantled vehicle or motor vehicle, or parts thereof, upon private property as specified in this chapter, is declared a public nuisance which shall be abated as such in accordance with the provisions of this chapter. This section shall not apply to any vehicles enclosed within a building, or covered by a fabric cover specifically designed for covering vehicles or motor vehicles, or to any vehicle held in connection with a business
enterprise, lawfully licensed by the city and properly operated in an appropriate business zone, pursuant to the zoning laws of the city, or to any vehicle or motor vehicle validly and properly retained by the owner thereof for antique collection purposes, pursuant to 61-3-411, MCA. Any motor vehicle whether in operable or inoperable condition designed, adapted or used for dragstrip racing or raceway racing shall be covered, as set forth in this section, or placed within a building.

8.20.030 Exemption for repairs.

This chapter shall not be construed to prevent any occupant of premises within the city from repairing his own motor vehicles or vehicle or machinery on his premises even though exposed to public view, so long as the person pursues the work to completion with reasonable diligence; provided, however, that any vehicle which remains out of running condition with any wheel, tire, engine, body or other major part removed therefrom for a period in excess of twenty days, while remaining exposed to public view, shall be deemed to be prima facie evidence that such vehicle or motor vehicle is not being diligently repaired and constitutes a violation of this chapter.

8.20.040 Responsibility.

The occupant of any private property within the city shall be responsible for any violation of this chapter, with the head of the household being deemed to be the occupant. In the case of vacant or unoccupied premises, the person owning the same shall be responsible for any violation of this chapter.

8.20.050 Notice-Service.

A. Whenever it comes to the attention of the police chief that a nuisance exists within the city due to the maintenance or presence of abandoned, wrecked, junked or dismantled motor vehicles or vehicles upon private property within the city, a notice in writing shall be served upon the occupant of the land where the nuisance exists, or in the case there is no such occupant, then upon the person being the owner of such property, notifying them of the existence of the nuisance and ordering its removal in the time specified in this chapter.

B. Notice shall be given by United States mail, postage prepaid, addressed to the occupant or the person who is the owner, at the last known address, as exists upon the records of the city. In the alternative notice may be served in the same manner as other legal process is served in the state including hand delivery.

8.20.060 Notice-Contents.

The police chief shall give the notice for the removal or covering of the items which constitute the nuisance at least ten days before the time of compliance with such notice. The notice shall specify clearly the abandoned, wrecked, junked or dismantled motor vehicles or vehicles or parts thereof upon the private property which constitutes the nuisance and shall order the removal or covering of the same as specified within this chapter. The notice shall advise that failure to remove or cover as specified in the notice shall render the person so served subject to prosecution for violation of this chapter and the penalty therefor as set forth herein.
Chapter 8.24

HANDBILLS

8.24.010 Purpose.

To protect the people against the nuisance of and incident to the promiscuous distribution of handbills and circulars, particularly commercial handbills, as herein defined, with the resulting detriment and danger to public health and safety, the public interest, convenience and necessity requires the regulation thereof and to that end the purposes of this chapter are specifically declared to be as follows:

A. To protect local residents against trespassing by solicitors, canvassers or handbill distributors upon the private property of such residents if they have given reasonable notice they do not wish to be solicited by such persons or do not desire to receive handbills or advertising matter.

B. To protect the people against the health and safety menace and the expense incident to the littering of the streets and public places by the promiscuous and uncontrolled distribution of advertising matter and commercial handbills. (Ord. 296 § 1, 1972)

8.24.020 Definitions.

The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

A. "Handbills" means and includes any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or reproduced original or copies of any matter, distributed without charge, which advertises for sale, any merchandise, product, commodity, or thing; or which directs attention to any business, mercantile, or commercial establishment and the products sold by the same; or which directs attention to or advertises any meeting, theatrical performance, exhibition, or event or any kind.

B. "Handbill distributor" means and includes any person distributing handbills other than newspapers distributed to the subscribers thereof.

C. "Private premises" means and includes any dwelling house, house, building, or other structure designed or used for private residential purposes, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging thereto.

D. "Public place" means and includes any and all streets, boulevards, avenues, lanes, alleys, or other public ways, and any and all public parks, squares, spaces, plazas, grounds, and buildings.
8.24.030 Throwing broadcast unlawful.

It is unlawful for any person to deposit, place, throw, scatter, or cast any handbill upon any public place within the city and it shall be unlawful for any person to hand out or distribute handbills in any public place to a person not willing to accept it or any vacant private premises.

8.24.040 Placing in or upon vehicles.

It is unlawful for any person to distribute, deposit, place, throw, scatter, or cast any handbill in or upon any automobile or other vehicle not his own, except in a manner that will prevent it from being blown about or scattered by the elements.

8.24.050 Distribution where property posted unlawful.

It is unlawful for any person to distribute, deposit, place, throw, scatter, or cast any handbill upon any premises if requested by any person thereon not to do so, or if there is placed on such premises in a conspicuous position near the entrance thereof a sign bearing the words "No Trespassing," "No Handbills" or similar words.

Chapter 8.28
FIRES AND INFLAMMABLES

8.28.020 Open burning.

No open burning is allowed within the city limits.

Exceptions:
Fire Department sponsored and controlled burns are allowed.

Recreational fires using clean, dry campfire wood are allowed for pleasure, religious, ceremonial, cooking, warmth or similar purposes, measuring thirty-six inches or less in diameter and no more than two feet in height that are surrounded by a nonflammable area and located at least 25 feet (15 feet if fire is in an approved container) from the nearest structure or combustible material. A suitable source of extinguishing the fire must be readily available and the fire must be constantly attended until the fire is extinguished. It is unlawful to burn construction debris, papers, paper goods, rubbish, garbage, organic debris such as lawn clippings, leaves and branches anywhere in city. Notwithstanding the foregoing, recreational fire may not be ignited if special restrictions prohibiting recreational fires have been established by an authority having jurisdiction.

8.28.030 International Fire Code.

A. The city does hereby adopt by reference the current edition of the International Fire Code and any additions thereto adopted by the Fire Prevention and Investigation Section of the MT Department of Justice, or its successor. One (1) copy of each code shall be on file in the office of the City Clerk. Any codes or amendments adopted by the Fire Prevention and Investigation Section which apply to local governmental jurisdictions, including the adoption of the latest editions of the model technical codes or
applicable Administrative Rules of Montana, shall become effective in the City upon order of the City Administrator within thirty (30) days after the date the State of MT notifies the City of said amendments.

C. Removal of Violation. The application of the penalty in Title 1 shall not be held to prevent the enforced removal of prohibited conditions or any other remedial or corrective action provided for under the International Fire Code.


The city does hereby adopt by reference the most recent version of the Life Safety Code and automatically adopts and incorporates any and all amendments and other modifications to such code.

Chapter 8.32

FIREWORKS

8.32.010 Sale unlawful.

It is declared unlawful for any person, firm, corporation or association to sell fireworks of any explosive nature within the city limits of the city of Columbia Falls.

8.32.020 Use unlawful.

It is declared unlawful for any person of any age to set off or fire any fireworks of any explosive nature within the city limits of the city of Columbia Falls.

8.32.030 Permitting use by minor unlawful.

It is declared unlawful for any parent, guardian, or custodian of any minor child to permit or consent to the possession or use by the minor child in his charge or custody of any fireworks or pyrotechnics of an explosive nature. Use by any minor child of any fireworks or pyrotechnics of an explosive nature within the city shall be presumed to be with the permission and consent of such parent, guardian, or other person having the charge or custody of such minor child.
11/20/19 Letter from DEQ-Notice of termination for the authorization to discharge storm water from the above site in accordance with DEQ’s General Permit for storm water discharges associated with construction activity.

11/18/19 Glacier Bancorp, Inc. - To provide equal employment and advancement opportunities to all qualified individuals.

11/16/19 DEQ-Potential Drinking Water SRF Loan Recipients.