

AGENDA

*Regular Council Meeting
City Council Chambers*

*May 27, 2014
7:00 p.m.*

**CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL**

1. APPROVAL OF COUNCIL MINUTES/COMMITTEE MINUTES

- | | | |
|----|---------------------------|-----------|
| a. | City Council Meeting | 5/13/2014 |
| b. | Finance Committee Meeting | 5/20/2014 |

2. SCHEDULE MEETINGS

3. REQUEST OF CITIZENS & PUBLIC COMMENT

4. APPOINTMENTS

5. PROCLAMATIONS

6. STAFF REPORTS

Connie Muggli, Historic Preservation Officer: Tax Increment Finance District

7. CITY COUNCIL COMMENTS

8. MAYOR COMMENTS

9. COMMITTEE RECOMMENDATIONS

Finance Committee of 5/20/2014

- Recommendation to adjust customer's sewer bill back to normal and to split the water bill 50/50 with owner
- Recommendation to purchase one police vehicle from the Capital Improvement Fund in FY 13-14, one vehicle in FY 14-15, and one vehicle in FY 15-16

10. BID OPENING

BID AWARDS

- Curb & Gutter at Triangle Park Area to Century Paving
- Paving for Maintenance Districts 204 & 205 to Century Paving

11. PUBLIC HEARINGS

12. UNFINISHED BUSINESS

13. NEW BUSINESS

- A. **RESOLUTION NO. 3681:** A Resolution Authorizing Certain Officers Of The City Of Miles City As Signatories Upon Bank Accounts Of The City Of Miles City At Stockman Bank.
- B. **RESOLUTION NO. 3682:** A Resolution Authorizing The Miles City To Enter Into Janitorial Service Agreements With Dale Petroff D/B/A Dale's Cleaning Service
- C. **RESOLUTION NO. 3683:** A Resolution Authorizing The Miles City To Enter Into Janitorial Service Agreements With Marilyn Forman D/B/A MMF Cleaning
- D. **ORDINANCE NO. 1270: (First Reading)** An Ordinance Changing The Zoning Of Tract B Of Document #153542, Envelope 500b, And Located Within Section 11 Of Township 7 North, Range 47 East, M.P.M., From Agriculture District Zone To General Commercial Zone, And Providing For A Hearing Thereon
- E. **ORDINANCE NO. 1271: (First Reading)** An Ordinance Repealing Section 12 Of The Code Of Ordinances Of The City Of Miles City And Enacting A New Section 12 Of Said Code Of Ordinances Of The City Of Miles City, Correcting Internal Citations Within The Flood Code Passed By Ordinance 1264
- F. **Approval of Horizon Park Subdivision (current site of Bobcat property)**

14. ADJOURNMENT

Public comment on any public matter that is not on the agenda of this meeting can be presented under Request of Citizens, provided it is within the jurisdiction of the City to address. Public comment will be entered into the minutes of this meeting. The City Council cannot take any action on a matter unless notice of the matter has been made on an agenda and an opportunity for public comment has been allowed on the matter. Public matter does not include contested cases and other adjudicative proceedings.

REGULAR COUNCIL MEETING **May 13, 2014**
7:00 p.m.

CALL TO ORDER

The Regular Council meeting was held Tuesday, May 13, 2014, in the City Hall Conference Room at City Hall, 17 S. 8th Street, Miles City, Montana. Mayor C.A. Grenz called the meeting to order. Council Members present were Roxanna Brush, Mark Ahner, Sheena Martin, Ken Gardner, Jerry Partridge and Susanne Galbraith. Councilmember Dwayne Andrews was excused.

Also present were City Attorney Dan Rice, Police Chief Doug Colombik, Public Works Director Scott Gray, Grant Administrator/Planner-in-Training Dawn Colton, City Clerk/Minute Recorder Lorrie Pearce.

PLEDGE OF ALLEGIANCE

Mayor Grenz led the Council in the Pledge of Allegiance.

APPROVAL OF COUNCIL & COMMITTEE MINUTES

City Council Minutes: 4/22/2014

** *Councilperson Galbraith moved to approve the minutes of the Regular Council Meeting of April 22, 2014, seconded by Councilperson Gardner and passed unanimously, 7-0.*

Human Resources Committee Minutes: 4/28/2014

** *Councilperson Brush moved to approve the minutes of the Human Resources Committee Minutes of April 28, 2014, seconded by Councilperson Gardner and passed unanimously, 7-0.*

Finance Committee Meeting: 4/30/14

** *Councilperson Galbraith moved to approve the minutes of the Finance Committee Meeting of April 30, 2014, seconded by Councilperson Hollowell and passed unanimously, 7-0.*

Special Council Meeting Minutes: 5/6/2014

- ** *Councilperson Hollowell moved to approve the minutes of the Special Council meeting of May 6, 2014, seconded by Councilperson Galbraith and passed unanimously, 7-0.*

SCHEDULE MEETINGS

Planning Board- May 29, 2014 at 6pm

REQUEST OF CITIZENS & PUBLIC COMMENT

None

APPOINTMENTS

Police Commission: Reappointed Steve Rice

Health Board: Caroline Taylor

- ** *Councilperson Ahner moved to approve the reappointment of Steve Rice to the Police Commission, seconded by Councilperson Galbraith and passed unanimously, 7-0.*
- ** *Councilperson Galbraith moved to approve the appointment of Caroline Taylor to the Health Board, seconded by Councilperson Brush and passed unanimously, 7-0.*

PROCLAMATIONS

Law Enforcement Appreciation Week

Mayor Grenz read the proclamation and declared May 15, 2014, as Peace Officer Memorial Day in the City of Miles City.

STAFF REPORTS

None

CITY COUNCIL COMMENTS

Susanne Galbraith

- Reported she had received complaints on the City of Miles City cutting down trees in Triangle Park. Director Gray replied that Cottonwoods are not good boulevard trees, they grow large roots and make the sidewalk heave, which causes safety hazards.

- Another complaint received was that there is a commercial business in a residential area, and she felt that the City should enforce laws regarding commercial businesses in residential areas.

Roxanna Brush

- Commented that Miles City looks nice and she could feel the excitement in the air.
- Reminded everyone of the TIF meeting, May 19th from 6pm to 9pm.

Mark Ahner

- Complimented Sherwin Williams for painting an old storage building at Riverside Park.

Ken Gardner

- Reported he received a phone call about excessive wood cutting in an area that wasn't zoned for that activity.
- Complimented the Park crew on the work they have completed at Spotted Eagle.

MAYOR COMMENTS

- **Purchase of police cars**
Asked the Finance Committee to recognize that the Police Department is in need of purchasing two newer vehicles.
- **Insurance for Special Events**
After attending a training last week in Billings, he realized that the City of Miles City was not asking for enough insurance coverage from those involved in the Bucking Horse Sale events. He took it on himself to raise the coverage from \$1.5 million to \$2 million. Attorney Rice said he would write up an ordinance. Mayor Grenz asked if he would add that the Ordinance gets reviewed annually or at least every two years.
- **Payroll Procedures**
Asked the Finance Committee to look at problems that could be associated with an employee's time sheet being submitted before the end of the pay period.

- **FEMA**

A letter was received from FEMA explaining that the City of Miles City's flood rating had been changed from a 9 to an 8. He added that this was good news.

STANDING COMMITTEE RECOMMENDATIONS

Finance Committee of 4/30/14: Recommendation to Send Ambulance Accounts to Collection in the amount of \$27,423.35.

** *Councilperson Galbraith moved to send ambulance accounts to collection in the amount of \$27,423.35, seconded by Councilperson Martin and passed unanimously 7-0.*

BID OPENING

Curb and Gutter Bid Package- Triangle Park Area

One bid was received and opened by Public Works Director Gray:

Century Construction \$88,000

Maintenance Districts 204 and 205 Paving Bid Package

One bid was received and opened by Public Works Director Gray:

Century Construction District 204-\$156,000
District 205-\$114,000
Cold Mix- \$82/Ton if City picks up
\$92/Ton if delivered

** *Councilperson Ahner moved to refer the bids from Century Construction for Triangle Park and District 204 and 205 to the Finance Committee for review and recommendation, seconded by Councilperson Gardner and passed unanimously 7-0.*

BID AWARDS

Dale's Cleaning Service

Library: \$425/month
City Hall: \$600/month

Marilynn Foreman

Police Department	\$400/month
City Shop	\$225/month

****** *Councilperson Galbraith moved to approve the bids from Dale's Cleaning Service for the Library and City Hall and Marilyn Foreman for the Police Department and City Shop, seconded by Councilperson Martin. After a short discussion and on roll call vote, the motion passed by unanimous consent, 7-0.*

PUBLIC HEARINGS

ORDINANCE NO. 1266: An Ordinance Revising Section 2-26 Of The Code Of Ordinance Of The City Of Miles City, Montana, So As To Allow The Bypass Of Committee Review Upon First Reading Of An Ordinance So Long As The Ordinance Was Previously Reviewed By The Committee

Mayor Grenz called for comments from proponents three times, then opponents three times and, hearing none, the hearing was closed.

ORDINANCE NO. 1267: An Ordinance Repealing Section 21 Of The Code Of Ordinances Of The City of Miles City, Adopting New Subdivision Regulations

Mayor Grenz called for comments from proponents three times, then opponents three times and, hearing none, the hearing was closed.

UNFINISHED BUSINESS

ORDINANCE NO. 1266: *(Second Reading)* An Ordinance Revising Section 2-26 Of The Code Of Ordinances Of The City Of Miles City, Montana, So As To Allow The Bypass of Committee Review Upon First Reading Of An Ordinance So Long As The Ordinance Was Previously Reviewed By The Committee

****** *Councilperson Galbraith moved to adopt the ordinance, read by title only and seconded by Councilperson Gardner. On roll call vote, the motion passed by unanimous consent, 7-0. Ordinance No. 1266 was adopted.*

ORDINANCE NO. 1267: *(Second Reading)* An Ordinance Repealing Section 21 Of The Code Of Ordinances Of The City of Miles City, Adopting New Subdivision Regulations

****** *Councilperson Brush moved to adopt the ordinance, read by title only and seconded by Councilperson Galbraith. On roll call vote, the motion passed by unanimous consent, 7-0. Ordinance No. 1267 was adopted.*

ORDINANCE NO. 1268: *(Second Reading) An Ordinance Changing The Zoning Of Block 5 Of The Southgate Meadows Subdivision From Local Commercial To General Commercial And Providing For A Hearing Thereon*

On 4/22/2014 Councilperson Galbraith moved to approve the ordinance on the first reading, seconded by Councilperson Brush.

On 4/22/2014 Councilperson Galbraith then moved to table until a plan for a second exit has been developed. Councilperson Partridge seconded the motion, which passed unanimously, 6-0.

****** *Councilperson Galbraith moved to remove the ordinance from the table, seconded by Councilperson Brush. The motion passed 6-1 with Councilperson Ahner voting no.*

Councilperson Galbraith suggested that the Council approve the ordinance because the access issue goes back several years, and she felt the cost shouldn't be a new developer's responsibility.

Mayor Grenz commented that he had talked with Butch Krutzfeldt, owner of the road. Mr. Krutzfeldt said that the City can use the road if the City graveled it. Mayor Grenz explained that work could start sometime this spring, and then after the Memorandum Of Understanding (MOU) with the college is signed, other work will be completed.

Attorney Rice explained that the City is not looking at an easement; it's looking at a MOU between the City and Butch Krutzfeldt, for emergency use only. The road will be posted as an emergency route and will not be open for general public use. In exchange for usage of the road, the City will make safety improvements to it. He anticipated that by the time the MOU expires, a second route would have been installed.

Public Works Director Gray said there were several options being considered for a second exit so it's not going to happen overnight.

Councilperson Ahner mentioned that at the last council meeting Councilperson Galbraith made a motion to table the ordinance until a plan for a second exit had been developed. He asked if the emergency plan is the second

exit. Mayor Grenz replied yes, and the plans for the permanent second exit should be completed in late fall.

Mayor Grenz informed the Council that the zone change is the only issue being voted on. The discussion on the second road is just for everyone's information.

** *Councilperson Brush moved to retable the ordinance, seconded by Councilperson Ahner. On roll call vote, the motion **failed** 3-4 with Councilpersons Galbraith, Gardner, Martin and Hollowell voting no.*

** *Councilperson Galbraith's original motion to approve Ordinance No. 1268 **passed** 4-3, with Councilpersons Partridge, Ahner, and Brush voting no.*

NEW BUSINESS

A. RESOLUTION NO. 3678: A Resolution Authorizing The City Of Miles City, Montana To Enter Into A Memorandum Of Understanding With Miles Community College For The Use Of Equipment And Facilities For Student Training And Community And Local Government Project Completion

** *Councilperson Ahner moved to defer the resolution until more information is produced, seconded by Councilperson Gardner. On roll call vote, the motion **passed** 6-1, with Councilperson Partridge voting no. **Resolution No. 3678 was tabled.***

B. RESOLUTION NO. 3679: A Resolution Authorizing The City Of Miles City To Contract With Dennis Hirsch For Building Inspection Services For Fiscal Year 2014-2015

** *Councilperson Ahner moved to adopt the resolution, read by title only and seconded by Councilperson Galbraith. After a brief discussion and on roll call vote, the motion **passed** 6-1, with Councilperson Brush voting no. **Resolution No. 3679 was adopted.***

C. RESOLUTION NO. 3680: A Resolution Adopting Findings Of Fact And Approving The Amended Plat For The Purpose Of Boundary Line Relocation Of Lots 31-34 In Block 1 Of The Miles Addition To The City of Miles City

** *Councilperson Galbraith moved to adopt the resolution, read by title only and seconded by Councilperson Gardner. After brief a discussion and on roll call vote, the motion passed by unanimous consent, 7-0. Resolution No. 3680 was adopted.*

D. Site Plan Approval: Magic Diamond Casino

** *Councilperson Brush moved to grant the request for an addition to be added to the Magic Diamond Casino, seconded by Councilperson Hollowell and, on roll call vote, the motion passed by unanimous consent, 7-0.*

E. Approval of April Claims

** *Councilperson Galbraith moved to approve the April claims, seconded by Councilperson Brush and, on roll call vote, the motion passed by unanimous consent, 7-0*

ADJOURNMENT.

** *Councilperson Hollowell moved to adjourn the meeting, seconded by Councilperson Brush and passed unanimously, 7-0.*

The meeting was adjourned at 8:10 p.m.

C.A. Grenz, Mayor

**Lorrie Pearce
City Clerk**

Finance Committee Meeting May 20, 2014

The **Finance Committee** met Tuesday, May 20, 2014, at 6:00 p.m. in the City Hall Conference Room. Present were Committee members Sue Galbraith, Dwayne Andrews, John Hollowell and Sheena Martin.

Also present were Mayor C.A. Grenz, Public Works Director Scott Gray, Public Utilities Director Al Kelm, Police Chief Doug Colombik, Billie Burkhalter, HR/Payroll Officer and Recorder/City Clerk Lorrie Pearce.

Request of Citizens

None

Request for adjustment of water/sewer bill

Public Utilities Director Kelm explained that Tony Page's water line to his sprinkler system broke this winter. The vault and meter are approximately 7 ½ to 8 feet deep, which usually isn't a problem in the winter. Since it was a colder year, there was frost at least 6 feet deep, which caused the sprinkler line to freeze and crack. The crack caused water to fill the meter pit, overflowing onto the street and eventually onto the neighbor's driveway. Once the leak was found and reported to Mr. Page, he fixed it immediately. Director Kelm recommended adjusting the sewer back to the normal usage of the previous month, and split the water bill with Mr. Page. Director Kelm said that the only thing the City asks is to add insulation to the pit.

Homeowner Tony Page, 818 Silversage, agreed to splitting the water bill and installing insulation.

* * *Committee Member Andrews moved to recommend that the City Council approves adjusting the sewer back to normal usage and split the water bill with the homeowner. The motion was seconded by Committee Member Martin; the motion carried unanimously, 4-0.*

Review Curb & Gutter Bid Package for Triangle Park Area

Director Gray explained the bid was to replace sidewalks, curbs, fillets and ADA corners. He said that this was the second time the bid was posted. The first time the City did not receive any offers and was told that the due date was too early, so he extended the second bid to be completed by Sept 15, 2014. He explained that the \$142,000 set aside for the project will be transferred to reserves, and the taxes generated will be credited to assessment. He explained that the first line in the bid, combined concrete, curb and gutter included the mobilization fees, bonds and miscellaneous overhead.

* * *Committee Member Hollowell moved to recommend that the City Council approve the awarding of the bid for curb and gutter replacement to Century for an amount of \$88,000. The motion was seconded by Chairperson Martin; after a short discussion, the motion carried unanimously, 4-0.*

Review Maintenance Districts 204 & 205 Paving Bid Package

Director Gray explained the following line items:

- 1300 Tons includes a 2 inch overlay, milling and preparing the area, then paving Stower Street from Moorehead Street to Haynes Avenue, ending at the car wash. It also includes four blocks on Sudlow that tie into the Strevell water line project.
- 950 Tons includes an overlay on two blocks of North Merriam. Then it will be chipped in about two years.
- 500 Tons would be if City hauls the material, (which the City will do)
- 500 Tons would be for the purchase of hot mix.
- 140 Tons includes a 2 inch overlay which would include Moorehead to Haynes, and from Stower to Sudlow.

He added that the \$156,000 budgeted for these projects will be transferred to reserves, since the project won't be completed until September 30, 2014.

- * * *Committee Member Hollowell moved to recommend that the City Council approve the awarding of the bids for paving Maintenance District 204 for an amount of \$210,000 and for paving Maintenance District 205 for an amount of \$114,000 to Century. The motion was seconded by Chairperson Martin; after a short discussion and on roll call vote, the motion passed unanimously, 4-0.*

Review quotes for Garage Roof at City Hall

Director Gray explained the three quotes received:

- Wagoner Construction's bid was \$12,600, which included a 50 mill Dura-last product. The product would have one seam after installed, and is white, which would make the roof about 40-50 degrees cooler in the summer. The bid did not include the material for repairing the low area, which would be approximately \$200.
- Oddy Construction's bid was \$15,500, which included an EPDM material, and repairing the low area.
- ABT Electric and Construction bid was \$67,788, which included repairing the low area.

He added that the project was budgeted for \$20,000, and felt that both the Dura last and EPDM were good products. He recommended Wagoner Construction because they would have the project completed by this fiscal year end, and thought the white material used would be cost effective.

- * * *Committee Member Hollowell moved to approve the awarding of the bid for replacing the garage roof at City Hall to Wagoner Construction. The motion was seconded by Committee Member Martin; on roll call vote the motion passed unanimously, 4-0.*

Discussion and Recommendation on Purchasing New Police Cars

Police Chief Colombik explained that he didn't think he was asking for a lot, just safe vehicles for his staff to drive. He said the police department generated \$178,957.28 in court fines, \$7,530.00 in animal control court fines and had vacancy savings totaling \$37,981.00 in fiscal year 2012-2013. He felt with the money generated and given back to the general fund, that the City could afford at least one new equipped vehicle this year, and another next year.

He said two (2) 2014 Ford Explorer police models, which are pursuit rated for liability issues, would cost \$26,500 each, with an additional \$10,000 to equip them with radio, lights, etc. Mac's Frontierland quoted him the same price range for the same make and model that were two years older.

- * * *Committee Member Hollowell moved to recommend that the City Council approve replacing one police vehicle this fiscal year, and one every year for the next two years.. The motion was seconded by Chairperson Martin; after a long discussion, the motion carried unanimously, 4-0.*

Discussion and Recommendation on Changing Payroll Policy

Human Resource/Payroll Officer said that the City of Miles City's payroll rules do not address much of anything on payroll deadlines, and she has begun to update some of the policies. She will be writing a policy to cover the payroll process and present it to the Human Resource Committee.

- * * *Committee Member Hollowell moved to recommend a change in payroll policy. The motion was seconded by Committee Member Martin; after a long discussion, the motion carried unanimously, 4-0.*

Adjournment

There being no further business, *Committee Member Andrews moved to adjourn the meeting, seconded by Chairperson Hollowell.* The meeting was adjourned at 7:12 p.m.

Respectfully Submitted:

Chairperson Susanne Galbraith

City Clerk Lorrie Pearce



OFFICE OF HISTORIC PRESERVATION

CITY OF MILES CITY, MONTANA

Date: May 20, 2014
To: John Hollowell, President
Roxanna Brush
Sheena Martin
Dwayne Andrews
Mark Ahner
Jerry Partridge
Sue Galbraith
Ken Gardner

From: Connie Muggli
Steve Zeier

Hi Everyone,

For those of you who were unable to attend the TIFD Orientation meeting last night, I have attached the material presented at last night's meeting for your review. This material does not include the level of detail or lively discussion that ensued during our meeting, but will help you form questions when we do meet with you.

It is critical that we fulfill our obligations specified by the grants we have accepted from the State to fund this project. For that reason it is very important that we make every effort to provide you with the information you need to:


- To allow for an informed discussion with, and answer the questions of, your constituents,
- Make an informed decision on whether a TIFD will benefit the city as a whole

Steve will be in Miles City this week through the end of the business day on Wednesday May 22nd. We will follow up with a phone call during that time to arrange a meeting with you if possible. We will also schedule an Orientation session immediately following next week's City Council meeting.

Regards,

Connie Muggli
Historic Preservation Officer

CITY OF MILES CITY
TAX INCREMENT FINANCE PROJECT



Kick Off Meeting
May 19, 2014
BLM Conference Room

AGENDA

- ▶ Overview of Tax Increment Finance District Process
 - ▶ What a TIFD is
 - ▶ How are TIF revenues generated
 - ▶ How can TIF revenues be utilized
 - ▶ Considerations in boundary selection

AGENDA

- ▶ Overview of proposed TIF District Project in Miles City
 - ▶ Schedule
 - ▶ Roles and responsibilities
 - ▶ Other taxing jurisdictions
 - ▶ Public engagement
 - ▶ Adoption process

QUESTIONS TO BE ANSWERED

- ▶ Where do the TIF Funds come from?
- ▶ What can they be used for?
- ▶ What is the best way to use this tool?

TIF DISTRICTS IN MONTANA

- ▶ Montana statute 7-15-42 & 43
- ▶ Locally driven redevelopment tool
- ▶ Provides critical funding for planning and infrastructure
- ▶ Property owners, business owners, general public, elected officials are all involved
- ▶ NOT an increase in taxes!

Tax Increment Financing

(TIF) a useful redevelopment tool for LOCAL government



TIF DISTRICTS IN MONTANA

- ▶ Funds collected must be spent in the district
- ▶ Are restricted to public infrastructure i.e. water, sewer, storm drain, roads, curb, gutter, sidewalk, other utilities, publically owned facilities, etc.
- ▶ Needs to demonstrate a community benefit
- ▶ Projects must have a public component

TIF DISTRICTS IN MONTANA

- ▶ TIF dollars are mostly used to construct or improve publicly owned infrastructure. However, there are exceptions.
- ▶ TIF funds, for example, can be used to assemble land that will ultimately be developed by private entities.
- ▶ Communities have used TIF funds to construct buildings and other infrastructure for use by private companies in their course of business.
- ▶ The local government should provide an open and transparent process
- ▶ Should be referred to in the Urban Renewal Plan

TIF DISTRICTS IN MONTANA

- ▶ MCA 7-15-4233 Planning and policy costs
 - ▶ Economic development planning
 - ▶ Incentives, Marketing, and Place making
 - ▶ Demographic studies
 - ▶ Who is in the downtown, what are they doing and how?
 - ▶ Preliminary engineering reports
 - ▶ Architectural design documents
 - ▶ Engineering design documents
 - ▶ Land use plans and policy documents
 - ▶ TIF Funds can be used as matching funds when seeking grant dollars from State and Federal agencies

TIF DISTRICTS IN MONTANA

MCA 7-15-4288 Property development costs

- ▶ Purchase of Site for a Public use
- ▶ Demolition and Abatement
- ▶ Sidewalks, Curbs, Gutters, Drive Approaches
- ▶ Public Utilities such as Water, Sewer, and Storm Drain
- ▶ Private Utilities such as Electrical, Natural Gas, Telecommunications L
- ▶ Street Surface Improvements
- ▶ Crosswalks
- ▶ Landscaping, Green Space, and Improvement of Pedestrian Areas
- ▶ Historical Restorations
- ▶ Off Street Parking

TIF DISTRICTS IN MONTANA

- ▶ Ancillary Actions to strengthen opportunities for success
 - ▶ Identify and address barriers to development in the proposed district
 - ▶ Address them with new strategies:
 - ▶ Parking
 - ▶ Permitting Processes
 - ▶ Flood Insurance
 - ▶ What does FEMA allow within the district?
 - ▶ Exemptions for historic buildings

TIF DISTRICTS IN MONTANA

- ▶ Managing Environmental Liability & Hazardous Material
 - ▶ Brownfields
 - ▶ Assessments
 - ▶ Cleanup funding
 - ▶ Architectural Viability/feasibility: Cheaper to tear down than re-use

TIF DISTRICTS IN MONTANA

- ▶ TIF dollars have been used to stabilize and restore privately owned properties that are on or eligible for listing on the National Register of Historic Places.
- ▶ Privately owned with a public benefit. How TIF dollars are spent must be done carefully to ensure success
 - ▶ Evaluate other available tax credits available to supplement incentivizing investment
 - ▶ Historic Tax Credits - 25%
 - ▶ New Market Tax Credits - 20%
 - ▶ Energy Efficiency tax incentives: LEED, etc
 - ▶ Evaluate other grant opportunities that encourage housing, business development and job creation

TIF DISTRICTS IN MONTANA

- ▶ Many communities in Montana have used tool with success
- ▶ Large Cities such as Billings, Bozeman, Helena, Missoula, Kalispell, Great Falls, and Butte
- ▶ Many smaller communities have also found success. Cities such as Laurel, Hamilton, Lewistown, Polson have successfully utilized this tool

PROPOSED MILES CITY TIF DISTRICT

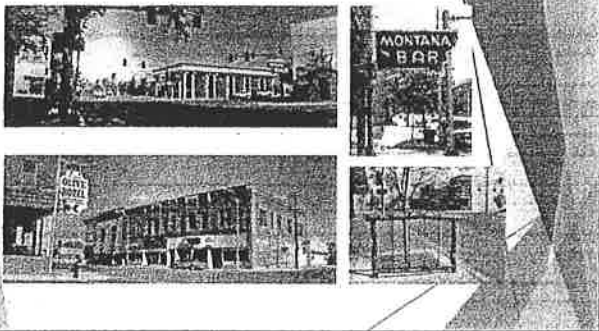
- ▶ Composed of the Downtown Core
- ▶ Infrastructure and Land Use Issues
- ▶ Continuation of other activities in Downtown
 - ▶ Rezoning
 - ▶ Historic Preservation
 - ▶ Brownfields

PROPOSED MILES CITY TIF DISTRICT

- ▶ Development potential currently exists
 - ▶ Many underutilized parcels and buildings in the Downtown
- ▶ Urban Renewal Plan with a TIF provision to be adopted to help guide and assist this redevelopment

TIF DISTRICTS IN MONTANA

- ▶ Marketing the District – letting people know the city is behind development and ready to do business
- ▶ Public Education: Perceptions are our reality:
 - ▶ Character & History is valuable as/for
 - ▶ Livability
 - ▶ Business environment
 - ▶ Tourism



URBAN RENEWAL PLAN PROCESS

PROPERTY OWNER INPUT IS CRITICAL!

- ▶ Any Urban Renewal Plan requires that there be a solid plan in place to involve all property owners
- ▶ The successful districts all take steps to address this item

BOUNDARY CONSIDERATIONS

- ▶ Any proposed Urban Renewal District boundary needs to be carefully considered
- ▶ Large enough to accomplish the goals of the plan
- ▶ Small enough to not be seen as too much
- ▶ Need to try and predict any redevelopment potential in adjacent properties





OTHER TAXING JURISDICTIONS

- ▶ Taxing Jurisdictions
 - ▶ Miles City Unified School District
 - ▶ Custer County
 - ▶ State of Montana
 - ▶ City of Miles City
 - ▶ Note on tax abatement programs

PROJECT SCHEDULE

Objective	Task	Date
■ 1. Feasibility		
1.1	Council kick off meeting and initial orientation and training session including funding, creation, and implementation of TIF's in Montana.	May 19
1.2	Discussion of preliminary site reconnaissance, analysis, and feasibility of a TIF in the Downtown Core	Week of May 19
1.3	Interviews with key stakeholders identified by Council or designated representative	Week of May 19
1.4	Generation of a proposed Urban Renewal District Map	Week of May 19
1.5	Presentation to Council of Feasibility Information. Determine a go/no go from City Council.	June 10

2. Urban Renewal Plan

Generation of a Final Urban Renewal District Map	June 17
Resolution of infrastructure deficiency/drafting and approval by the City Council	June 28
Audit the local government with the affected taxing jurisdictions and the public, assisting the city in necessary public meetings with technical assistance	July 1
Prepare an Urban Renewal Plan for the District and the Steering Committee that shows that the area within the proposed TIFD is deficient in infrastructure to validate the use of TIF. Plan to generally include: <ul style="list-style-type: none"> • Analysis of Strengths and weaknesses – July 8 • Drafting of goals and objectives – July 8 • Development Alternatives & Strategies – July 22 • Discussion of funding mechanisms – August 5 • Implementation strategies – August 19 	
Draft Urban Renewal Plan for Review by all parties and City Council	August 29
Final Draft, for approval and editing	September 12

3. Approval and Adoption

3.1	Miss City Planning Board Review and recommendation as per statute requirement	September 23
3.2	City Council final review and adoption of the Urban Renewal District Ordinance	October 1
3.3	Prepare the ordinance for adoption approving the plan with 18 pursuant to the Missouri Uniform Law to ensure 2014 is first year. Ensure compliance with all aspects of the Missouri Urban Renewal Law	October 1
3.4	Provide 60 additional sq. feet of area with 200 sq. ft. of residential use on the urban renewal plan.	October 1
3.5	1 st Reading of Ordinance Adopting the Urban Renewal Plan	November 11
3.7	3rd Reading of Ordinance Adopting the Urban Renewal Plan	November 23
3.6	Documents to Missouri Department of Revenue	December 1
3.9	General Certification by DOR (up to 30 months)	June 2015

FINAL THOUGHTS

- ▶ Opportunity is knocking at the door
- ▶ Increased development in the area will have an impact on the downtown core
- ▶ To be competitive the downtown needs policy and incentive measures in place to attract investment

THANK YOU!

Steve Zeier

President
Zeier Consulting, LLC
406/670-6969

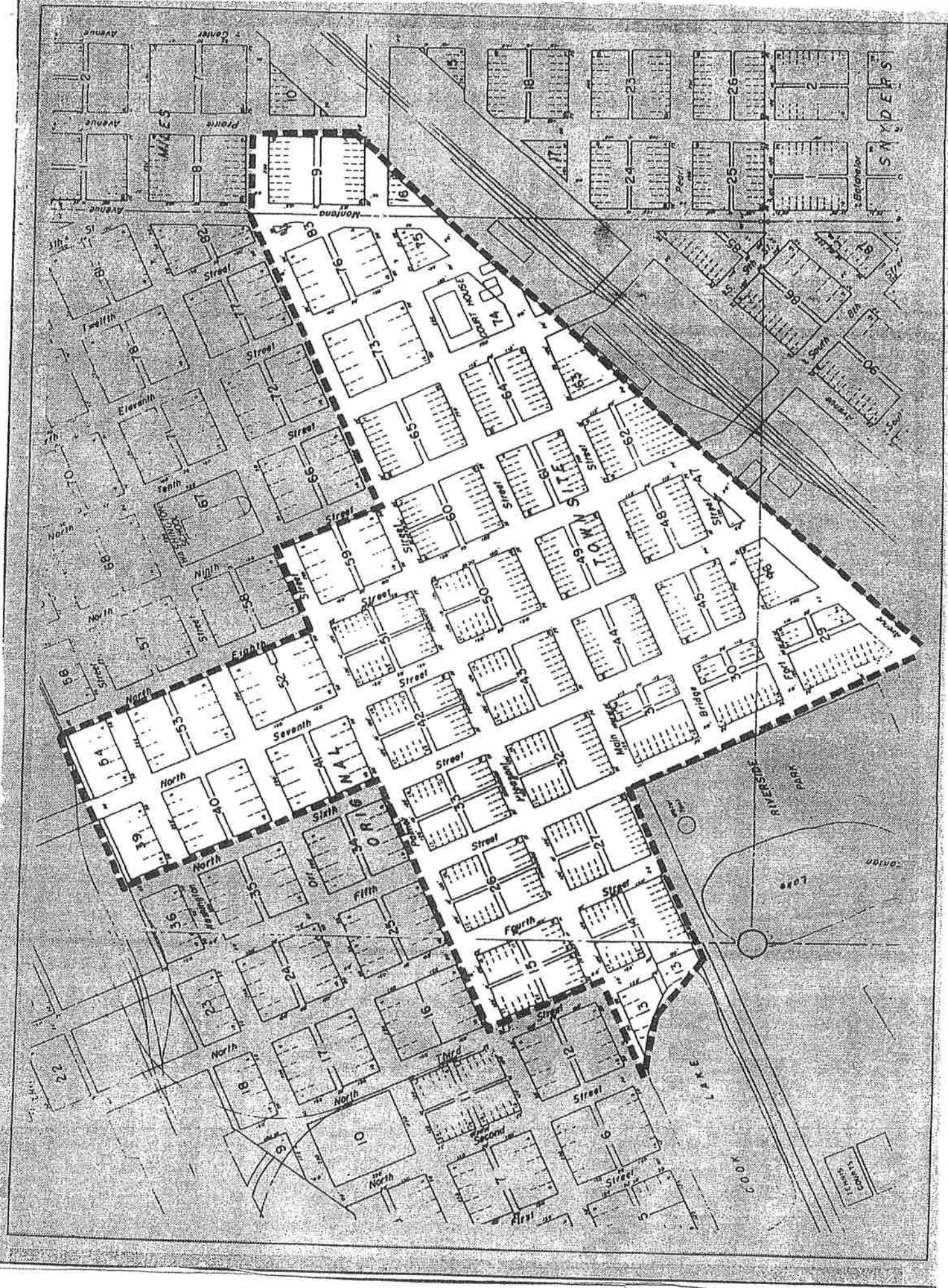
steve@zeierconsulting.com

Connie Muggli

Director, Historic Preservation
City of Missoula
406/628-4796

mchistoricalpreservation@prestoffice.net

171115 WY & TAV 1987





Miles City Police Department
2420 BRIDGE STREET
MILES CITY, MT 59301 - 406-234-6273 Fax: 406-234-4270
Doug Colombik Chief of Police



5/20/2014

To: Finance Committee

From: Chief Colombik

Ref: Patrol Vehicles

Dear Finance Committee,

I have requested a meeting with you to discuss our current situation with our patrol vehicles. We just lost one of our SUV's in an officer involved crash and the vehicle is totaled. Our current fleet is becoming seriously outdated and it is becoming a safety issue to continue to patrol in these vehicles.

The police department generated \$178,957.28 in court fines for fiscal year 2012-2013. In addition, we generated \$7,530.00 in animal control court revenue. Animal licenses generated \$722.50. For the current fiscal year through March 2014 we have generated \$122,955.62 in court fines. In addition, animal control court revenue has brought in \$6,080.00.

In addition to money generated by this department through court costs, we have returned approximately \$37,981.00 for vacancy savings in 2013, not including any portion of 2012. To add to that, this department has returned approximately \$94,292.48 from the original budget appropriations in 2013-2014. This was the amount between police, animal control and dispatch that was not used.

Our patrol fleet is becoming very outdated with older unsafe vehicles continually being patched together for patrol work. This creates tremendous liability for the city if the officer gets into an accident in a vehicle that was not rated for police use or pursuit use. Purchasing regular vehicles is not an option, we must purchase vehicles that are rated for police use. The accident the officer was involved in was driving a 1996 Jeep that was not rated for police work. That could have been a big problem for the city if it turned out worse than it was. This vehicle should never have been used for patrol work due to the condition it was in. We are at the point again (about every 3 years) of needing to update and replace our fleet.



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Doug Colombik Chief of Police



As a result of a deteriorating fleet and with only one more payment needed for the last purchase (approximately \$18,000) we made in October 2010 for three used Crown Victoria cars, I am requesting capital improvement funds to purchase two new Ford Explorers which are rated for police use.

The police department has generated and given back a tremendous amount of funds back to the City general fund. Including 2012-2013 generated fines, current fiscal year fines, vacancy savings and budget funds not spent, this department has generated and given back \$448,518.88!

#940 Capital Improvements: Two (2) 2014 Ford Explorer Police models which are pursuit rated for liability issues, \$26,550 each for total of \$53,100. These prices are out of Veto Enterprises (Illinois) which supplies police vehicles and equipment to law enforcement agencies. Costs to equip each vehicle will be approximately \$10,000 for a total of \$20,000. For two new pursuit rated vehicles with all equipment will be approximately \$73,100.00. Mac's Frontierland quoted us the same price range for 2 year old used vehicles of the same make and model.

We need basic pieces of equipment to operate efficiently. Part of that includes patrol vehicles that are not old and broken down. I do not feel it is asking too much for two new patrol vehicles considering the amount of money that the city has received in fines, vacancy savings and unspent funds from this department.

Thank you for your time and consideration in this matter.

Doug Colombik
Chief of Police
Miles City Police Department

RESOLUTION NO. 3681

A RESOLUTION AUTHORIZING CERTAIN OFFICERS OF THE CITY OF MILES CITY AS SIGNATORIES UPON BANK ACCOUNTS OF THE CITY OF MILES CITY AT STOCKMAN BANK

WHEREAS, the City of Miles City, pursuant to authorization of the City Council, maintains the following designated accounts at Stockman Bank, 700 Main Street, Miles City, Montana, to-wit:

City of Miles City General Fund
City of Miles City ACH Account
City of Miles City restricted
Account City of Miles City Airport
Account City of Miles City Payroll
Account

AND WHEREAS the City of Miles City desires to authorize certain officers of the City of Miles City to sign Accounts Agreements for such accounts and to sign checks and other withdrawals from such accounts;

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Miles City, Montana, as follows:

1. It does hereby authorize ANY TWO to the following named officers, to wit:

Mayor: Chris A. Grenz
City Treasurer: John Moorehead
City Clerk: Lorrie Pearce or Deputy City Clerk: Connie Watts

to execute Account Agreements and to sign checks and other withdrawals from the following accounts of the City of Miles City maintained at Stockman Bank, Miles City, Montana:

City of Miles City General Fund
City of Miles City ACH Account
City of Miles City Restricted Account
City of Miles City Airport Account
City of Miles City Payroll Account

2. All prior corporate authorizations as to the above accounts are hereby revoked.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, AT A DULY CALLED MEETING THIS ____ DAY OF _____, 2014.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

RESOLUTION NO. 3682

A RESOLUTION AUTHORIZING THE MILES CITY TO ENTER INTO JANITORIAL SERVICE AGREEMENTS WITH DALE PETROFF d/b/a DALE'S CLEANING SERVICE.

WHEREAS, the City of Miles City desires to contract for janitorial services for the cleaning of certain City owned buildings;

AND WHEREAS after publishing a notice of requests for proposals, Dale Petroff d/b/a Dale's Cleaning Service was the lowest responsible bidder for provision of janitorial services for the Library and City Hall buildings;

NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA AS FOLLOWS:

1. The Janitorial Service Agreements attached hereto as Resolution Exhibits "A" and "B" are hereby approved and adopted by the Council.
2. The Mayor of the City of Miles City is hereby empowered and authorized to execute said agreements on behalf of the City of Miles City and bind the City of Miles City thereto.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS ____ DAY OF _____, 2014.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

JANITORIAL SERVICE AGREEMENT

THIS AGREEMENT entered into this _____ day of _____, 201____, by and between **THE CITY OF MILES CITY**, a political subdivision of the State of Montana, of 17 South Eighth Street, Miles City, Montana 59301, hereinafter referred to as "*the City*" and Dale Petroff d/b/a Dale's Cleaning Service of 2709 Leighton Blvd #3, Miles City, Montana 59301, hereinafter referred to as "*Contractor*";

IT IS HEREBY AGREED between the parties as follows:

1. **LOCATION AT WHICH SERVICES ARE TO BE PROVIDED.** Contractor will provide janitorial services, as further specified herein, for the City at the location set forth in Exhibit "A", *Location*, attached hereto and made a part hereof.

2. **SERVICES TO BE PROVIDED.** Contractor will provide at such location those janitorial services set forth in Exhibit "B", *Services to Be Provided*, attached hereto and made a part hereof, with the frequency set forth in such Exhibit "B". Services shall be provided by Contractor during those hours or days specified in Exhibit "B" to this Agreement.

Contractor shall perform all services hereunder timely, competently and in full compliance with the schedule attached hereto as Exhibit "B".

3. **TERM OF AGREEMENT; EARLY TERMINATION ON 30 DAYS NOTICE.**

The term of this agreement shall be for a period commencing on the 1st day of July, 2014, and terminating at midnight on the 30th day of June, 2015, unless earlier terminated by written notice of either party. Either party may terminate this agreement by thirty (30) days advanced written notice of termination to the other party.

4. **COMPENSATION.** The above services shall be provided by Contractor to the City at the above location for the sum of six hundred and no/100 Dollars(\$ 600.00) per month,

payable by the City to Contractor within (30) days after the last day of each month for which service is provided hereunder. If service is provided for only a portion of a month, then such monthly sum shall be prorated by the number of days for which service was provided to the City by Contractor during such month, divided by the number of days for which service is to be provided in each month under Exhibit "B" to this Agreement.

5. ***NO ADDITIONAL COMPENSATION.*** Contractor shall not receive any additional compensation for travel, per diem, subsistence expenses, or any other expenses, all such expenses having been included in the rates set forth in paragraph 4, above.

6. ***PERSONNEL, EQUIPMENT AND SUPPLIES.*** Contractor, at Contractor's expense, shall supply all personnel, equipment and supplies necessary to carry out the scope of work under this Agreement. The City will supply toilet paper, paper towels and waste receptacle bags.

7. ***HAZARDOUS MATERIALS.*** In providing services hereunder, Contractor shall not utilize any supplies or materials that are a Hazardous Material, as defined herein, or that would impose a cleanup obligation on behalf of the City under any federal, state or local law or regulation. Contractor shall not discharge, leak, or emit, or permit to be discharged, leaked, or emitted, any Hazardous Material into the atmosphere, ground, sewer system, or any body of water. As used herein, the term "Hazardous Material" means:

- a. Any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder;
- b. Any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder;
- c. Any substance which is or becomes regulated by any federal, state, or local

governmental authority.

Contractor agrees that it shall be fully liable for all costs and expenses related to the use, storage, and disposal of Hazardous Material used or brought upon the location by the Contractor, and the Contractor shall give immediate notice to the City of any violation of the provisions of this Section. Contractor shall defend, indemnify, and hold harmless the City from and against any claims, demands, penalties, fines, liabilities, settlements, damages (including, but not limited to all damages for injury to person and/or property) cleanup expense, and all other costs or expenses (including, without limitation, attorneys' and consultant fees, court costs, and litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to the presence, disposal, contamination, release of any such Hazardous Material by Contractor, its agents or employees, which is on, from, or affects soil, water, vegetation, buildings, personal property, persons, animals, or otherwise.

8. SECURITY; DUTY OF CONTRACTOR TO CONTROL ACCESS. The City will provide Contractor a key or keys to access the location at which services are to be provided hereunder. Contractor shall keep such key or keys secure at all times so as to prevent unauthorized access to such location and shall not make copies of, nor permit any other person to make copies of, such keys.

Contractor shall access the location at which services are to be provided only for the purposes of providing such services and only at the times set forth in Exhibit "B" to this Agreement. While accessing such location, Contractor shall not authorize, permit or allow any person other than an employee of Contractor actually providing services under this Agreement to access the location where services are to be provided.

Contractor shall, at the inception of this Agreement, provide to the City a written list of names of the persons who are providing services to the City under this Agreement and shall

immediately update such listing in the event that new or different persons are providing services to the City under this Agreement. No person, other than persons named in the written listing provided by Contractor to the City, shall be allowed by Contractor to access the location while Contractor is providing services under this Agreement.

Unless otherwise instructed by the City, in writing, Contractor shall keep all doors to the location at which services are to be provided locked during periods during which service are being provided by Contractor hereunder and shall assure that all doors are locked when leaving the location.

9. INDEPENDENT CONTRACTOR STATUS OF CONTRACTOR; PROOF OF WORKERS' COMPENSATION COVERAGE OR EXEMPTION CERTIFICATE. Contractor is an independent contractor under this Agreement and is not the employee or agent of the City. Contractor, its officers, agents and employees, shall not hold themselves out as, nor represent themselves to be, employees or agents of the City. Contractor shall provide Workers' Compensation insurance coverage on all of its employees engaged in providing services under this Agreement, unless specifically exempted by law, and shall pay all payroll taxes, including FICA, Medicare, and unemployment, for its employees providing services hereunder. Contractor, prior to commencing work under this Agreement, shall provide to the City a certificate of insurance from the insurer providing Workers' Compensation insurance to Contractor. If Contractor claims exemption from providing Workers' Compensation insurance under Montana law, Contractor shall provide the City with a copy of its independent contractor exemption certificate issued by the Montana Department of Labor and Industry pursuant to §39-71-417 MCA.

10. NONDISCRIMINATION. In compliance with §49-3-207 MCA, all hiring by Contractor shall be on the basis of merit and qualification, and Contractor, in the performance of this Agreement, shall not discriminate on the basis of race, color, religion, creed, political ideas,

sex, age, marital status, physical or mental disability, or national origin.

11. **INDEMNIFICATION.** Contractor shall indemnify, defend and hold the City harmless from all liabilities and claims incurred in performance of the services provided hereunder.

12. **INSURANCE REQUIREMENTS.** During the term of this Agreement, Contractor shall maintain in full force and effect a policy of commercial general liability insurance providing coverage for negligence, errors and omissions of Contractor in such amounts as set forth in Exhibit "C", *Insurance Requirements*, attached hereto and made a part hereof. Contractor shall provide the City with certificates of insurance for such complying insurance coverage at the inception of this Agreement, and thereafter, upon reasonable demand, satisfactory evidence of the existence and continued existence of such insurance coverage. All such policies of insurance shall require at least ten (10) days advanced written notice by the insurer to the City prior to any cancellation, termination or lapse of such insurance coverage.

13. **PROHIBITION OF ASSIGNMENT OR SUBCONTRACTING.** This Agreement is personal as to Contractor and may not be assigned by Contractor, or subcontracted in any manner, without the prior written consent of the City.

14. **DEFAULT.** In the event that Contractors fails to timely and competently provide services, within the scope of services set forth in Exhibit "B", or otherwise fails to perform or violates any of the other terms and conditions of this Agreement, the City may give Contractor written notice of such default, detailing the nature of the default, and Contractor shall have fifteen (15) days from the date of such notice to correct the default. If Contractor does not fully correct the default within fifteen (15) days of the date of giving of such notice, the City may, without further notice, terminate this Agreement and it shall have no further force and effect. Notice shall be served upon Contractor by certified mail, return receipt requested, addressed to

Contractor at:

____Dales Cleaning Service_____

____2709 Leighton Blvd #3_____

____Miles City, MT 59301_____

Notice shall be deemed given as of the date of its deposit into the United States Mail.

The failure or forbearance of the City to give notice of default shall not constitute a waiver of further defaults by Contractor. Nothing herein shall be construed as limiting the right of the City to terminate this Agreement for cause, without notice of default, in the event of repeated defaults noticed by the City to Contractor.

15. **MODIFICATION.** This Agreement constitutes the entire Agreement of the parties and supersedes all prior negotiations and understandings of the parties. This Agreement may be modified only by written instrument executed by all parties.

16. **LITIGATION.** In the event that it becomes necessary for either party to institute legal proceedings to enforce any of the terms of this Agreement, then the prevailing party in such proceedings shall be entitled to recover from the non-prevailing party all costs and expenses incurred in such proceedings, including reasonable attorney's fees.

17. **VENUE.** This Agreement shall be construed under the laws of the State of Montana and any action upon this Agreement shall be venued in Custer County, Montana.

18. **TIME OF THE ESSENCE.** Time is of the essence of this Agreement.

19. **BINDING EFFECT.** This Agreement is binding upon and inures to the benefit of the parties, their successors and assigns. The terms of this Agreement may be enforced individually by the member facilities of the Network receiving services under this Agreement.

20. **CAPACITY; PROOF OF GOOD STANDING.** The signators to this Agreement represent and warrant that they have the legal capacity and authority to bind the entities which are the parties to this Agreement. If Contractor is a corporation or limited liability company at

time of execution of this Agreement, Contractor shall provide to City a Certificate of Existence for such entity issued by the Montana Secretary of State. If Contractor is operating under an assumed business name at time of execution of this Agreement, Contractor shall provide to City a Certificate of Fact issued by the Montana Secretary of State evidencing registration of such assumed business name.

EXECUTED this _____ day of _____, 201__.

CITY OF MILES CITY, MONTANA

By: _____

Its Mayor

Contractor

By: _____

Title: _____

EXHIBIT "A"

LOCATION

Contractor shall provide the City janitorial services, as specified in Exhibit "B", at the following location(s):

City Hall- 17 S 8th St, Miles City, Montana

Initialed for identification:

City

Contractor

EXHIBIT "B"

SERVICES TO BE PROVIDED AND FREQUENCY

[ATTACH APPROPRIATE EXHIBIT "B" FROM RFP OFFER]

Initialed for identification:

City

Contractor

**EXHIBIT "C" INSURANCE
REQUIREMENTS**

Contractor shall provide insurance coverage pursuant to Section 3 of the Janitorial Services Contract in the following amounts:

Personal Injury:	\$250,000.00 per person
	\$500,000.00 per occurrence
Property Damage:	\$100,000.00 per occurrence

Initialed for identification:

City

Contractor

JANITORIAL SERVICE AGREEMENT

THIS AGREEMENT entered into this _____ day of _____, 201____, by and between **THE CITY OF MILES CITY**, a political subdivision of the State of Montana, of 17

South Eighth Street, Miles City, Montana 59301, hereinafter referred to as "*the City*" and Dale Petroff d/b/a Dale's Cleaning Service of 2709 Leighton Blvd #3, Miles City, Montana 59301, hereinafter referred to as "*Contractor*";

IT IS HEREBY AGREED between the parties as follows:

1. ***LOCATION AT WHICH SERVICES ARE TO BE PROVIDED.*** Contractor will provide janitorial services, as further specified herein, for the City at the location set forth in Exhibit "A", *Location*, attached hereto and made a part hereof.

2. ***SERVICES TO BE PROVIDED.*** Contractor will provide at such location those janitorial services set forth in Exhibit "B", *Services to Be Provided*, attached hereto and made a part hereof, with the frequency set forth in such Exhibit "B". Services shall be provided by Contractor during those hours or days specified in Exhibit "B" to this Agreement.

Contractor shall perform all services hereunder timely, competently and in full compliance with the schedule attached hereto as Exhibit "B".

3. ***TERM OF AGREEMENT; EARLY TERMINATION ON 30 DAYS NOTICE.***

The term of this agreement shall be for a period commencing on the 1st day of July, 2014, and terminating at midnight on the 30th day of June, 2015, unless earlier terminated by written notice of either party. Either party may terminate this agreement by thirty (30) days advanced written notice of termination to the other party.

4. **COMPENSATION.** The above services shall be provided by Contractor to the City at the above location for the sum of four hundred twenty five and no/100 Dollars(\$ 425.00) per month, payable by the City to Contractor within (30) days after the last day of each month for which service is provided hereunder. If service is provided for only a portion of a month, then such monthly sum shall be prorated by the number of days for which service was provided to the City by Contractor during such month, divided by the number of days for which service is to be provided in each month under Exhibit "B" to this Agreement.

5. **NO ADDITIONAL COMPENSATION.** Contractor shall not receive any additional compensation for travel, per diem, subsistence expenses, or any other expenses, all such expenses having been included in the rates set forth in paragraph 4, above.

6. **PERSONNEL, EQUIPMENT AND SUPPLIES.** Contractor, at Contractor's expense, shall supply all personnel, equipment and supplies necessary to carry out the scope of work under this Agreement. The City will supply toilet paper, paper towels and waste receptacle bags.

7. **HAZARDOUS MATERIALS.** In providing services hereunder, Contractor shall not utilize any supplies or materials that are a Hazardous Material, as defined herein, or that would impose a cleanup obligation on behalf of the City under any federal, state or local law or regulation. Contractor shall not discharge, leak, or emit, or permit to be discharged, leaked, or emitted, any Hazardous Material into the atmosphere, ground, sewer system, or any body of water. As used herein, the term "Hazardous Material" means:

- a. Any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder;

- b. Any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder;
- c. Any substance which is or becomes regulated by any federal, state, or local governmental authority.

Contractor agrees that it shall be fully liable for all costs and expenses related to the use, storage, and disposal of Hazardous Material used or brought upon the location by the Contractor, and the Contractor shall give immediate notice to the City of any violation of the provisions of this Section. Contractor shall defend, indemnify, and hold harmless the City from and against any claims, demands, penalties, fines, liabilities, settlements, damages (including, but not limited to all damages for injury to person and/or property) cleanup expense, and all other costs or expenses (including, without limitation, attorneys' and consultant fees, court costs, and litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to the presence, disposal, contamination, release of any such Hazardous Material by Contractor, its agents or employees, which is on, from, or affects soil, water, vegetation, buildings, personal property, persons, animals, or otherwise.

8. SECURITY; DUTY OF CONTRACTOR TO CONTROL ACCESS. The City will provide Contractor a key or keys to access the location at which services are to be provided hereunder. Contractor shall keep such key or keys secure at all times so as to prevent unauthorized access to such location and shall not make copies of, nor permit any other person to make copies of, such keys.

Contractor shall access the location at which services are to be provided only for the purposes of providing such services and only at the times set forth in Exhibit "B" to this

Agreement. While accessing such location, Contractor shall not authorize, permit or allow any person other than an employee of Contractor actually providing services under this Agreement to access the location where services are to be provided.

Contractor shall, at the inception of this Agreement, provide to the City a written list of names of the persons who are providing services to the City under this Agreement and shall immediately update such listing in the event that new or different persons are providing services to the City under this Agreement. No person, other than persons named in the written listing provided by Contractor to the City, shall be allowed by Contractor to access the location while Contractor is providing services under this Agreement.

Unless otherwise instructed by the City, in writing, Contractor shall keep all doors to the location at which services are to be provided locked during periods during which service are being provided by Contractor hereunder and shall assure that all doors are locked when leaving the location.

9. INDEPENDENT CONTRACTOR STATUS OF CONTRACTOR; PROOF OF WORKERS' COMPENSATION COVERAGE OR EXEMPTION CERTIFICATE. Contractor is an independent contractor under this Agreement and is not the employee or agent of the City. Contractor, its officers, agents and employees, shall not hold themselves out as, nor represent themselves to be, employees or agents of the City. Contractor shall provide Workers' Compensation insurance coverage on all of its employees engaged in providing services under this Agreement, unless specifically exempted by law, and shall pay all payroll taxes, including FICA, Medicare, and unemployment, for its employees providing services hereunder. Contractor, prior to commencing work under this Agreement, shall provide to the City a certificate of insurance from the insurer providing Workers' Compensation insurance to

Contractor. If Contractor claims exemption from providing Workers' Compensation insurance under Montana law, Contractor shall provide the City with a copy of its independent contractor exemption certificate issued by the Montana Department of Labor and Industry pursuant to §39-71-417 MCA.

10. **NONDISCRIMINATION.** In compliance with §49-3-207 MCA, all hiring by Contractor shall be on the basis of merit and qualification, and Contractor, in the performance of this Agreement, shall not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

11. **INDEMNIFICATION.** Contractor shall indemnify, defend and hold the City harmless from all liabilities and claims incurred in performance of the services provided hereunder.

12. **INSURANCE REQUIREMENTS.** During the term of this Agreement, Contractor shall maintain in full force and effect a policy of commercial general liability insurance providing coverage for negligence, errors and omissions of Contractor in such amounts as set forth in Exhibit "C", *Insurance Requirements*, attached hereto and made a part hereof. Contractor shall provide the City with certificates of insurance for such complying insurance coverage at the inception of this Agreement, and thereafter, upon reasonable demand, satisfactory evidence of the existence and continued existence of such insurance coverage. All such policies of insurance shall require at least ten (10) days advanced written notice by the insurer to the City prior to any cancellation, termination or lapse of such insurance coverage.

13. **PROHIBITION OF ASSIGNMENT OR SUBCONTRACTING.** This Agreement is personal as to Contractor and may not be assigned by Contractor, or subcontracted in any manner, without the prior written consent of the City.

14. **DEFAULT.** In the event that Contractors fails to timely and competently provide services, within the scope of services set forth in Exhibit "B", or otherwise fails to perform or violates any of the other terms and conditions of this Agreement, the City may give Contractor written notice of such default, detailing the nature of the default, and Contractor shall have fifteen (15) days from the date of such notice to correct the default. If Contractor does not fully correct the default within fifteen (15) days of the date of giving of such notice, the City may, without further notice, terminate this Agreement and it shall have no further force and effect.

Notice shall be served upon Contractor by certified mail, return receipt requested, addressed to Contractor at:

____ Dales Cleaning Service _____

____ 2709 Leighton Blvd #3 _____

____ Miles City, MT 59301 _____

Notice shall be deemed given as of the date of its deposit into the United States Mail. The failure or forbearance of the City to give notice of default shall not constitute a waiver of further defaults by Contractor. Nothing herein shall be construed as limiting the right of the City to terminate this Agreement for cause, without notice of default, in the event of repeated defaults noticed by the City to Contractor.

15. **MODIFICATION.** This Agreement constitutes the entire Agreement of the parties and supersedes all prior negotiations and understandings of the parties. This Agreement may be modified only by written instrument executed by all parties.

16. **LITIGATION.** In the event that it becomes necessary for either party to institute legal proceedings to enforce any of the terms of this Agreement, then the prevailing party in such

proceedings shall be entitled to recover from the non-prevailing party all costs and expenses incurred in such proceedings, including reasonable attorney's fees.

17. **VENUE.** This Agreement shall be construed under the laws of the State of Montana and any action upon this Agreement shall be venued in Custer County, Montana.

18. **TIME OF THE ESSENCE.** Time is of the essence of this Agreement.

19. **BINDING EFFECT.** This Agreement is binding upon and inures to the benefit of the parties, their successors and assigns. The terms of this Agreement may be enforced individually by the member facilities of the Network receiving services under this Agreement.

20. **CAPACITY; PROOF OF GOOD STANDING.** The signators to this Agreement represent and warrant that they have the legal capacity and authority to bind the entities which are the parties to this Agreement. If Contractor is a corporation or limited liability company, at time of execution of this Agreement Contractor shall provide to City a Certificate of Existence for such entity issued by the Montana Secretary of State. If Contractor is operating under an assumed business name, at time of execution of this Agreement Contractor shall provide to City a Certificate of Fact issued by the Montana Secretary of State evidencing registration of such assumed business name.

EXECUTED this _____ day of _____, 201__.

CITY OF MILES CITY, MONTANA

By: _____
Its Mayor

Contractor

By: _____

Title: _____

EXHIBIT "A"

LOCATION

Contractor shall provide the City janitorial services, as specified in Exhibit "B", at the following location(s):

Miles City Library 1 S 10th Street, Miles City, Montana

Initialed for identification:

City

Contractor

EXHIBIT "B"

SERVICES TO BE PROVIDED AND FREQUENCY

[ATTACH APPROPRIATE EXHIBIT "B" FROM RFP OFFER]

Initialed for identification:

City

Contractor

**EXHIBIT "C" INSURANCE
REQUIREMENTS**

Contractor shall provide insurance coverage pursuant to Section 3 of the Janitorial Services Contract in the following amounts:

Personal Injury:	\$250,000.00 per person
	\$500,000.00 per occurrence
Property Damage:	\$100,000.00 per occurrence

Initialed for identification:

City

Contractor

RESOLUTION NO. 3683

A RESOLUTION AUTHORIZING THE MILES CITY TO ENTER INTO JANITORIAL SERVICE AGREEMENTS WITH MARILYNN FORMAN d/b/a MMF CLEANING.

WHEREAS, the City of Miles City desires to contract for janitorial services for the cleaning of certain City owned buildings;

AND WHEREAS after publishing a notice of requests for proposals, Marilyn Forman d/b/a MMF Cleaning was the lowest responsible bidder for provision of janitorial services for the Police Department and City Shop buildings;

NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA AS FOLLOWS:

1. The Janitorial Service Agreements attached hereto as Resolution Exhibits "A" and "B" are hereby approved and adopted by the Council.
2. The Mayor of the City of Miles City is hereby empowered and authorized to execute said agreements on behalf of the City of Miles City and bind the City of Miles City thereto.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS ____ DAY OF _____, 2014.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

JANITORIAL SERVICE AGREEMENT

THIS AGREEMENT entered into this _____ day of _____, 201____, by and between **THE CITY OF MILES CITY**, a political subdivision of the State of Montana, of 17 South Eighth Street, Miles City, Montana 59301, hereinafter referred to as "*the City*" and Marilynn Forman d/b/a MMF Cleaning of 58 Pony Lane, Miles City, Montana 59301, hereinafter referred to as "*Contractor*";

IT IS HEREBY AGREED between the parties as follows:

1. **LOCATION AT WHICH SERVICES ARE TO BE PROVIDED.** Contractor will provide janitorial services, as further specified herein, for the City at the location set forth in Exhibit "A", *Location*, attached hereto and made a part hereof.

2. **SERVICES TO BE PROVIDED.** Contractor will provide at such location those janitorial services set forth in Exhibit "B", *Services to Be Provided*, attached hereto and made a part hereof, with the frequency set forth in such Exhibit "B". Services shall be provided by Contractor during those hours or days specified in Exhibit "B" to this Agreement.

Contractor shall perform all services hereunder timely, competently and in full compliance with the schedule attached hereto as Exhibit "B".

3. **TERM OF AGREEMENT; EARLY TERMINATION ON 30 DAYS NOTICE.**

The term of this agreement shall be for a period commencing on the 1st _____ day of July, 2014, and terminating at midnight on the 30th day of June, 2015, unless earlier terminated by written notice of either party. Either party may terminate this agreement by thirty (30) days advanced written notice of termination to the other party.

4. **COMPENSATION.** The above services shall be provided by Contractor to the City at the above location for the sum of two hundred twenty five and no/100 Dollars(\$225.00)

per month, payable by the City to Contractor within (30) days after the last day of each month for which service is provided hereunder. If service is provided for only a portion of a month, then such monthly sum shall be prorated by the number of days for which service was provided to the City by Contractor during such month, divided by the number of days for which service is to be provided in each month under Exhibit "B" to this Agreement.

5. ***NO ADDITIONAL COMPENSATION.*** Contractor shall not receive any additional compensation for travel, per diem, subsistence expenses, or any other expenses, all such expenses having been included in the rates set forth in paragraph 4, above.

6. ***PERSONNEL, EQUIPMENT AND SUPPLIES.*** Contractor, at Contractor's expense, shall supply all personnel, equipment and supplies necessary to carry out the scope of work under this Agreement. The City will supply toilet paper, paper towels and waste receptacle bags.

7. ***HAZARDOUS MATERIALS.*** In providing services hereunder, Contractor shall not utilize any supplies or materials that are a Hazardous Material, as defined herein, or that would impose a cleanup obligation on behalf of the City under any federal, state or local law or regulation. Contractor shall not discharge, leak, or emit, or permit to be discharged, leaked, or emitted, any Hazardous Material into the atmosphere, ground, sewer system, or any body of water. As used herein, the term "Hazardous Material" means:

- a. Any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder;
- b. Any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder;

c. Any substance which is or becomes regulated by any federal, state, or local governmental authority.

Contractor agrees that it shall be fully liable for all costs and expenses related to the use, storage, and disposal of Hazardous Material used or brought upon the location by the Contractor, and the Contractor shall give immediate notice to the City of any violation of the provisions of this Section. Contractor shall defend, indemnify, and hold harmless the City from and against any claims, demands, penalties, fines, liabilities, settlements, damages (including, but not limited to all damages for injury to person and/or property) cleanup expense, and all other costs or expenses (including, without limitation, attorneys' and consultant fees, court costs, and litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to the presence, disposal, contamination, release of any such Hazardous Material by Contractor, its agents or employees, which is on, from, or affects soil, water, vegetation, buildings, personal property, persons, animals, or otherwise.

8. SECURITY; DUTY OF CONTRACTOR TO CONTROL ACCESS. The City will provide Contractor a key or keys to access the location at which services are to be provided hereunder. Contractor shall keep such key or keys secure at all times so as to prevent unauthorized access to such location and shall not make copies of, nor permit any other person to make copies of, such keys.

Contractor shall access the location at which services are to be provided only for the purposes of providing such services and only at the times set forth in Exhibit "B" to this Agreement. While accessing such location, Contractor shall not authorize, permit or allow any person other than an employee of Contractor actually providing services under this Agreement to access the location where services are to be provided.

Contractor shall, at the inception of this Agreement, provide to the City a written list of names of the persons who are providing services to the City under this Agreement and shall

immediately update such listing in the event that new or different persons are providing services to the City under this Agreement. No person, other than persons named in the written listing provided by Contractor to the City, shall be allowed by Contractor to access the location while Contractor is providing services under this Agreement.

Unless otherwise instructed by the City, in writing, Contractor shall keep all doors to the location at which services are to be provided locked during periods during which service are being provided by Contractor hereunder and shall assure that all doors are locked when leaving the location.

9. *INDEPENDENT CONTRACTOR STATUS OF CONTRACTOR; PROOF OF WORKERS' COMPENSATION COVERAGE OR EXEMPTION CERTIFICATE.* Contractor is an independent contractor under this Agreement and is not the employee or agent of the City. Contractor, its officers, agents and employees, shall not hold themselves out as, nor represent themselves to be, employees or agents of the City. Contractor shall provide Workers' Compensation insurance coverage on all of its employees engaged in providing services under this Agreement, unless specifically exempted by law, and shall pay all payroll taxes, including FICA, Medicare, and unemployment, for its employees providing services hereunder. Contractor, prior to commencing work under this Agreement, shall provide to the City a certificate of insurance from the insurer providing Workers' Compensation insurance to Contractor. If Contractor claims exemption from providing Workers' Compensation insurance under Montana law, Contractor shall provide the City with a copy of its independent contractor exemption certificate issued by the Montana Department of Labor and Industry pursuant to §39-71-417 MCA.

10. *NONDISCRIMINATION.* In compliance with §49-3-207 MCA, all hiring by Contractor shall be on the basis of merit and qualification, and Contractor, in the performance of

this Agreement, shall not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

11. **INDEMNIFICATION.** Contractor shall indemnify, defend and hold the City harmless from all liabilities and claims incurred in performance of the services provided hereunder.

12. **INSURANCE REQUIREMENTS.** During the term of this Agreement, Contractor shall maintain in full force and effect a policy of commercial general liability insurance providing coverage for negligence, errors and omissions of Contractor in such amounts as set forth in Exhibit "C", *Insurance Requirements*, attached hereto and made a part hereof. Contractor shall provide the City with certificates of insurance for such complying insurance coverage at the inception of this Agreement, and thereafter, upon reasonable demand, satisfactory evidence of the existence and continued existence of such insurance coverage. All such policies of insurance shall require at least ten (10) days advanced written notice by the insurer to the City prior to any cancellation, termination or lapse of such insurance coverage.

13. **PROHIBITION OF ASSIGNMENT OR SUBCONTRACTING.** This Agreement is personal as to Contractor and may not be assigned by Contractor, or subcontracted in any manner, without the prior written consent of the City.

14. **DEFAULT.** In the event that Contractors fails to timely and competently provide services, within the scope of services set forth in Exhibit "B", or otherwise fails to perform or violates any of the other terms and conditions of this Agreement, the City may give Contractor written notice of such default, detailing the nature of the default, and Contractor shall have fifteen (15) days from the date of such notice to correct the default. If Contractor does not fully correct the default within fifteen (15) days of the date of giving of such notice, the City may, without further notice, terminate this Agreement and it shall have no further force and effect.

Notice shall be served upon Contractor by certified mail, return receipt requested, addressed to Contractor at:

____Marilynn Forman____

____58 Pony Lane____

____Miles City, MT 59301____

Notice shall be deemed given as of the date of its deposit into the United States Mail.

The failure or forbearance of the City to give notice of default shall not constitute a waiver of further defaults by Contractor. Nothing herein shall be construed as limiting the right of the City to terminate this Agreement for cause, without notice of default, in the event of repeated defaults noticed by the City to Contractor.

15. **MODIFICATION.** This Agreement constitutes the entire Agreement of the parties and supersedes all prior negotiations and understandings of the parties. This Agreement may be modified only by written instrument executed by all parties.

16. **LITIGATION.** In the event that it becomes necessary for either party to institute legal proceedings to enforce any of the terms of this Agreement, then the prevailing party in such proceedings shall be entitled to recover from the non-prevailing party all costs and expenses incurred in such proceedings, including reasonable attorney's fees.

17. **VENUE.** This Agreement shall be construed under the laws of the State of Montana and any action upon this Agreement shall be venued in Custer County, Montana.

18. **TIME OF THE ESSENCE.** Time is of the essence of this Agreement.

19. **BINDING EFFECT.** This Agreement is binding upon and inures to the benefit of the parties, their successors and assigns. The terms of this Agreement may be enforced individually by the member facilities of the Network receiving services under this Agreement.

20. **CAPACITY; PROOF OF GOOD STANDING.** The signators to this Agreement represent and warrant that they have the legal capacity and authority to bind the entities which are the parties to this Agreement. If Contractor is a corporation or limited liability company, at time of execution of this Agreement Contractor shall provide to City a Certificate of Existence for such entity issued by the Montana Secretary of State. If Contractor is operating under an assumed business name, at time of execution of this Agreement Contractor shall provide to City a Certificate of Fact issued by the Montana Secretary of State evidencing registration of such assumed business name.

EXECUTED this _____ day of _____, 201__.

CITY OF MILES CITY, MONTANA

By: _____
Its Mayor

Contractor

By: _____

Title: _____

EXHIBIT "A"

LOCATION

Contractor shall provide the City janitorial services, as specified in Exhibit "B", at the following location(s):

Miles City Shop, 217 S 8th Street, Miles City, Montana

Initialed for identification:

City

Contractor

EXHIBIT "B"

SERVICES TO BE PROVIDED AND FREQUENCY

[ATTACH APPROPRIATE EXHIBIT "B" FROM RFP OFFER]

Initialed for identification:

City

Contractor

JANITORIAL SERVICE AGREEMENT

THIS AGREEMENT entered into this _____ day of _____, 201____, by and between **THE CITY OF MILES CITY**, a political subdivision of the State of Montana, of 17 South Eighth Street, Miles City, Montana 59301, hereinafter referred to as "*the City*" and Marilynn Forman d/b/a MMF Cleaning of 58 Pony Lane, Miles City, Montana 59301, hereinafter referred to as "*Contractor*";

IT IS HEREBY AGREED between the parties as follows:

1. **LOCATION AT WHICH SERVICES ARE TO BE PROVIDED.** Contractor will provide janitorial services, as further specified herein, for the City at the location set forth in Exhibit "A", *Location*, attached hereto and made a part hereof.

2. **SERVICES TO BE PROVIDED.** Contractor will provide at such location those janitorial services set forth in Exhibit "B", *Services to Be Provided*, attached hereto and made a part hereof, with the frequency set forth in such Exhibit "B". Services shall be provided by Contractor during those hours or days specified in Exhibit "B" to this Agreement.

Contractor shall perform all services hereunder timely, competently and in full compliance with the schedule attached hereto as Exhibit "B".

3. **TERM OF AGREEMENT; EARLY TERMINATION ON 30 DAYS NOTICE.**

The term of this agreement shall be for a period commencing on the 1st day of July, 2014, and terminating at midnight on the 30th day of June, 2015, unless earlier terminated by written notice of either party. Either party may terminate this agreement by thirty (30) days advanced written notice of termination to the other party.

4. **COMPENSATION.** The above services shall be provided by Contractor to the City at the above location for the sum of three hundred fifty and no/100 Dollars(\$ 350.00) per

month, payable by the City to Contractor within (30) days after the last day of each month for which service is provided hereunder. If service is provided for only a portion of a month, then such monthly sum shall be prorated by the number of days for which service was provided to the City by Contractor during such month, divided by the number of days for which service is to be provided in each month under Exhibit "B" to this Agreement.

5. ***NO ADDITIONAL COMPENSATION.*** Contractor shall not receive any additional compensation for travel, per diem, subsistence expenses, or any other expenses, all such expenses having been included in the rates set forth in paragraph 4, above.

6. ***PERSONNEL, EQUIPMENT AND SUPPLIES.*** Contractor, at Contractor's expense, shall supply all personnel, equipment and supplies necessary to carry out the scope of work under this Agreement. The City will supply toilet paper, paper towels and waste receptacle bags.

7. ***HAZARDOUS MATERIALS.*** In providing services hereunder, Contractor shall not utilize any supplies or materials that are a Hazardous Material, as defined herein, or that would impose a cleanup obligation on behalf of the City under any federal, state or local law or regulation. Contractor shall not discharge, leak, or emit, or permit to be discharged, leaked, or emitted, any Hazardous Material into the atmosphere, ground, sewer system, or any body of water. As used herein, the term "Hazardous Material" means:

- a. Any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder;
- b. Any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder;

c. Any substance which is or becomes regulated by any federal, state, or local governmental authority.

Contractor agrees that it shall be fully liable for all costs and expenses related to the use, storage, and disposal of Hazardous Material used or brought upon the location by the Contractor, and the Contractor shall give immediate notice to the City of any violation of the provisions of this Section. Contractor shall defend, indemnify, and hold harmless the City from and against any claims, demands, penalties, fines, liabilities, settlements, damages (including, but not limited to all damages for injury to person and/or property) cleanup expense, and all other costs or expenses (including, without limitation, attorneys' and consultant fees, court costs, and litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to the presence, disposal, contamination, release of any such Hazardous Material by Contractor, its agents or employees, which is on, from, or affects soil, water, vegetation, buildings, personal property, persons, animals, or otherwise.

8. SECURITY; DUTY OF CONTRACTOR TO CONTROL ACCESS. The City will provide Contractor a key or keys to access the location at which services are to be provided hereunder. Contractor shall keep such key or keys secure at all times so as to prevent unauthorized access to such location and shall not make copies of, nor permit any other person to make copies of, such keys.

Contractor shall access the location at which services are to be provided only for the purposes of providing such services and only at the times set forth in Exhibit "B" to this Agreement. While accessing such location, Contractor shall not authorize, permit or allow any person other than an employee of Contractor actually providing services under this Agreement to access the location where services are to be provided.

Contractor shall, at the inception of this Agreement, provide to the City a written list of names of the persons who are providing services to the City under this Agreement and shall

immediately update such listing in the event that new or different persons are providing services to the City under this Agreement. No person, other than persons named in the written listing provided by Contractor to the City, shall be allowed by Contractor to access the location while Contractor is providing services under this Agreement.

Unless otherwise instructed by the City, in writing, Contractor shall keep all doors to the location at which services are to be provided locked during periods during which service are being provided by Contractor hereunder and shall assure that all doors are locked when leaving the location.

9. *INDEPENDENT CONTRACTOR STATUS OF CONTRACTOR; PROOF OF WORKERS' COMPENSATION COVERAGE OR EXEMPTION CERTIFICATE.* Contractor is an independent contractor under this Agreement and is not the employee or agent of the City. Contractor, its officers, agents and employees, shall not hold themselves out as, nor represent themselves to be, employees or agents of the City. Contractor shall provide Workers' Compensation insurance coverage on all of its employees engaged in providing services under this Agreement, unless specifically exempted by law, and shall pay all payroll taxes, including FICA, Medicare, and unemployment, for its employees providing services hereunder. Contractor, prior to commencing work under this Agreement, shall provide to the City a certificate of insurance from the insurer providing Workers' Compensation insurance to Contractor. If Contractor claims exemption from providing Workers' Compensation insurance under Montana law, Contractor shall provide the City with a copy of its independent contractor exemption certificate issued by the Montana Department of Labor and Industry pursuant to §39-71-417 MCA.

10. *NONDISCRIMINATION.* In compliance with §49-3-207 MCA, all hiring by Contractor shall be on the basis of merit and qualification, and Contractor, in the performance of

this Agreement, shall not discriminate on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

11. **INDEMNIFICATION.** Contractor shall indemnify, defend and hold the City harmless from all liabilities and claims incurred in performance of the services provided hereunder.

12. **INSURANCE REQUIREMENTS.** During the term of this Agreement, Contractor shall maintain in full force and effect a policy of commercial general liability insurance providing coverage for negligence, errors and omissions of Contractor in such amounts as set forth in Exhibit "C", *Insurance Requirements*, attached hereto and made a part hereof. Contractor shall provide the City with certificates of insurance for such complying insurance coverage at the inception of this Agreement, and thereafter, upon reasonable demand, satisfactory evidence of the existence and continued existence of such insurance coverage. All such policies of insurance shall require at least ten (10) days advanced written notice by the insurer to the City prior to any cancellation, termination or lapse of such insurance coverage.

13. **PROHIBITION OF ASSIGNMENT OR SUBCONTRACTING.** This Agreement is personal as to Contractor and may not be assigned by Contractor, or subcontracted in any manner, without the prior written consent of the City.

14. **DEFAULT.** In the event that Contractors fails to timely and competently provide services, within the scope of services set forth in Exhibit "B", or otherwise fails to perform or violates any of the other terms and conditions of this Agreement, the City may give Contractor written notice of such default, detailing the nature of the default, and Contractor shall have fifteen (15) days from the date of such notice to correct the default. If Contractor does not fully correct the default within fifteen (15) days of the date of giving of such notice, the City may, without further notice, terminate this Agreement and it shall have no further force and effect.

Notice shall be served upon Contractor by certified mail, return receipt requested, addressed to Contractor at:

____Marilynn Forman____

____58 Pony Lane____

____Miles City, MT 59301____

Notice shall be deemed given as of the date of its deposit into the United States Mail. The failure or forbearance of the City to give notice of default shall not constitute a waiver of further defaults by Contractor. Nothing herein shall be construed as limiting the right of the City to terminate this Agreement for cause, without notice of default, in the event of repeated defaults noticed by the City to Contractor.

15. **MODIFICATION.** This Agreement constitutes the entire Agreement of the parties and supersedes all prior negotiations and understandings of the parties. This Agreement may be modified only by written instrument executed by all parties.

16. **LITIGATION.** In the event that it becomes necessary for either party to institute legal proceedings to enforce any of the terms of this Agreement, then the prevailing party in such proceedings shall be entitled to recover from the non-prevailing party all costs and expenses incurred in such proceedings, including reasonable attorney's fees.

17. **VENUE.** This Agreement shall be construed under the laws of the State of Montana and any action upon this Agreement shall be venued in Custer County, Montana.

18. **TIME OF THE ESSENCE.** Time is of the essence of this Agreement.

19. **BINDING EFFECT.** This Agreement is binding upon and inures to the benefit of the parties, their successors and assigns. The terms of this Agreement may be enforced individually by the member facilities of the Network receiving services under this Agreement.

20. **CAPACITY; PROOF OF GOOD STANDING.** The signators to this Agreement represent and warrant that they have the legal capacity and authority to bind the entities which are the parties to this Agreement. If Contractor is a corporation or limited liability company, at time of execution of this Agreement Contractor shall provide to City a Certificate of Existence for such entity issued by the Montana Secretary of State. If Contractor is operating under an assumed business name, at time of execution of this Agreement Contractor shall provide to City a Certificate of Fact issued by the Montana Secretary of State evidencing registration of such assumed business name.

EXECUTED this _____ day of _____, 201__.

CITY OF MILES CITY, MONTANA

By: _____
Its Mayor

Contractor

By: _____

Title: _____

EXHIBIT "A"

LOCATION

Contractor shall provide the City janitorial services, as specified in Exhibit "B", at the following location(s):

Miles City Police Station, 2420 Bridge Street, Miles City, Montana

Initialed for identification:

City

Contractor

EXHIBIT "B"
SERVICES TO BE PROVIDED AND FREQUENCY

[ATTACH APPROPRIATE EXHIBIT "B" FROM RFP OFFER]

Initialed for identification:

City

Contractor

EXHIBIT "C" INSURANCE

REQUIREMENTS

Contractor shall provide insurance coverage pursuant to Section 3 of the Janitorial Services Contract in the following amounts:

Personal Injury: \$250,000.00 per person

\$500,000.00 per occurrence

Property Damage: \$100,000.00 per occurrence

Initialed for identification:

City

Contractor

ORDINANCE NO. 1270

AN ORDINANCE CHANGING THE ZONING OF TRACT B OF DOCUMENT #153542, ENVELOPE 500B, AND LOCATED WITHIN SECTION 11 OF TOWNSHIP 7 NORTH, RANGE 47 EAST, M.P.M., FROM AGRICULTURE DISTRICT ZONE TO GENERAL COMMERCIAL ZONE, AND PROVIDING FOR A HEARING THEREON

WHEREAS, the owner of the below described real property, Diamond J Construction, LLC, a Montana limited liability company, has made application for the property to be rezoned from Agriculture District (AG) zone to General Commercial District (GC) zone;

AND WHEREAS, such property is situated outside of the boundary of the incorporated city limits of the City of Miles City, but within the 2 mile area surrounding the City of Miles City where the City maintains zoning jurisdiction pursuant to Montana Code Annotated Section 76-2-310 and Section 24-3 of the Miles City Code;

AND WHEREAS, Section 24-8 of the Miles City Code requires that such application be referred to the City Zoning Commission for public hearing and recommendation to the City Council prior to any action by the City Council upon such application;

AND WHEREAS, the Miles City Zoning Commission, on April 24, 2014, held a public hearing upon said application, pursuant to notice, and tabled the making of a decision until a subsequent noticed meeting on May 7, 2014;

AND WHEREAS, on May 7, 2014, the Miles City Zoning Commission heard additional public comment, and upon deliberation, recommended to the City Council that such zoning change be denied.

BE IT ORDAINED, by the City Council of the City of Miles City, Montana, as follows:

Section 1. Zoning for the following described real property located within the two mile area surrounding the incorporated city limits of the City of Miles City, Custer County, Montana, is hereby rezoned from Agriculture District (AG) zone to General Commercial District (GC) zone, to wit:

TOWNSHIP 7 NORTH, RANGE 47 EAST, M.P.M.

Section 11: Tract B of Document #15342, Envelope 500B, on file with the Clerk and Recorder in and for Custer County, Montana.

Section 2. A public hearing shall be held upon this proposed zoning change before the City Council at 7:00 P.M. on the 24th day of June, 2014, in the Council Chambers at City Hall, 17 S. Eighth Street, Miles City, Montana.

Section 3. The City Clerk shall give notice of the date, time and place of such hearing by publication in the Miles City Star at least 15 days prior to the date of such hearing, in accordance with MCA Sections 76-2-303 and 305.

Section 4. This ordinance shall be in full force and effect thirty (30) days after its final passage and approval.

Said Ordinance read and put on its passage this ____ day of _____, 2014.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

FINALLY PASSED AND ADOPTED this ____ day of _____, 2014.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

CITY OF MILES CITY
Zoning Commission
PO Box 910
Miles City, MT 59301

1270

May 9, 2014

Mayor Grenz and City Council,

RE: Proposed re-zone on behalf of Diamond J Construction, LLC on property located on 722 Hwy 59 South, Tract "B" from Agriculture (AG) to General Commercial (GC).

The Miles City Zoning Commission conducted its public hearing on April 24, 2014 and again on May 7, 2014 to consider the request to re-zone the above described area. After reviewing comments from the public hearing and meeting, the Zoning Commission recommends for the zone change request be denied (see attached letters for clarification).

Please schedule this for review by the City Council at your earliest convenience.

Respectfully,

A handwritten signature in black ink, appearing to read 'Amber Trenka', written in a cursive style.

Amber Trenka, Chair
Zoning Commission

RECOMMENDATION:

To the City Council of Miles City to DENY the zone change based on review and modification of the Staff Report written by Scott Gray, public input/opinions of the proponents and opponents to the zone change, and the legal precedent Little vs. County Commissioners of Flathead County, 193 Mont. 334 (1981), wherein the Montana Supreme Court identified three factors that enter into a determination of whether illegal spot zoning exists.

In Little the Montana Supreme Court stated:

There is no single, comprehensive definition of spot zoning applicable to all fact situations. Generally, however, three factors enter into determining whether spot zoning exists in any given instance. First, in spot zoning, the requested use is significantly different from the prevailing use in the area. Second, the area in which the requested use is to apply is rather small. This test, however, is concerned more with the number of separate landowners benefited by the requested change than it is with the actual size of the area benefited. Third, the requested change is more in the nature of special legislation. In other words, it is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public. (From Legal Opinion 2011-002, dated January 10, 2011, from Jim Nugent, City Attorney for City of Missoula, MT.)

See Evaluation of Diamond J Zoning Map Amendment Request under the 'Little Factors' written by Dave DeGrandpre, dated April 23, 2014, determining that all three 'Little Factors' are present in this case of spot zoning.

Sincerely,

MILES CITY ZONING COMMISSION


The following are my reasons for denying a zone change request by John Peila (Diamond J Construction) for Tract B Section 11 Township 7N Range 47E from Ag to General Commercial.

1. I believe a zone change would constitute spot zoning. Having read and studied information from Dave DeGrandpre, AICP and Dan Rice, Miles City Attorney citing a Montana Supreme Court Case I feel a zone change would be illegal.
2. The number of opponents out numbered the proponents, some being employees of Mr. Peila. I feel it is important to take into consideration the concerns of citizens who would be affected by the zoning change. (Information per Gary Ryder, attorney and a concerned citizen phone call, a letter and attendance at public hearing.
3. The fact Mr. Peila said he was unaware he needed a zone change for the land in question. I feel this is his responsibility as a responsible citizen. Mr. Peila on being questioned as to what the appearance of the property of the zoning change would be, replied it would be "neat and tidy" as his other properties. Observing his property at 840 Truscott (zone MH-A) which is being used as a construction business I did not find it "neat and tidy". Note he is not using the property as zoned which also demonstrates a lack of responsibility for compliance.
4. I do not think a truck yard falls under GC zoning if this is the use Mr. Peila is requesting for the zone change. It would be better described as fitting under HC # 24-61.

According to the Growth Plan of 2006/2008 future growth is predicted to be south in direction, the area of the requested zone change. Growth should be planned and orderly taking into consideration the community as a whole which would prevent future zone change requests resulting in spot zoning.

I would strongly suggest the city consider the advice of Mr. Dave DeGrandpre on this issue.

Sincerely,



Muriel Rost

5-5-2014

RE-ZONE
Property Owner List
for
Diamond J Construction, LLC

Dean Gillette & Brad Certain
53 Balsam Circle
Miles City, MT 59301

Peggy Pyle
268 Cemetery Road
Miles City, MT 59301

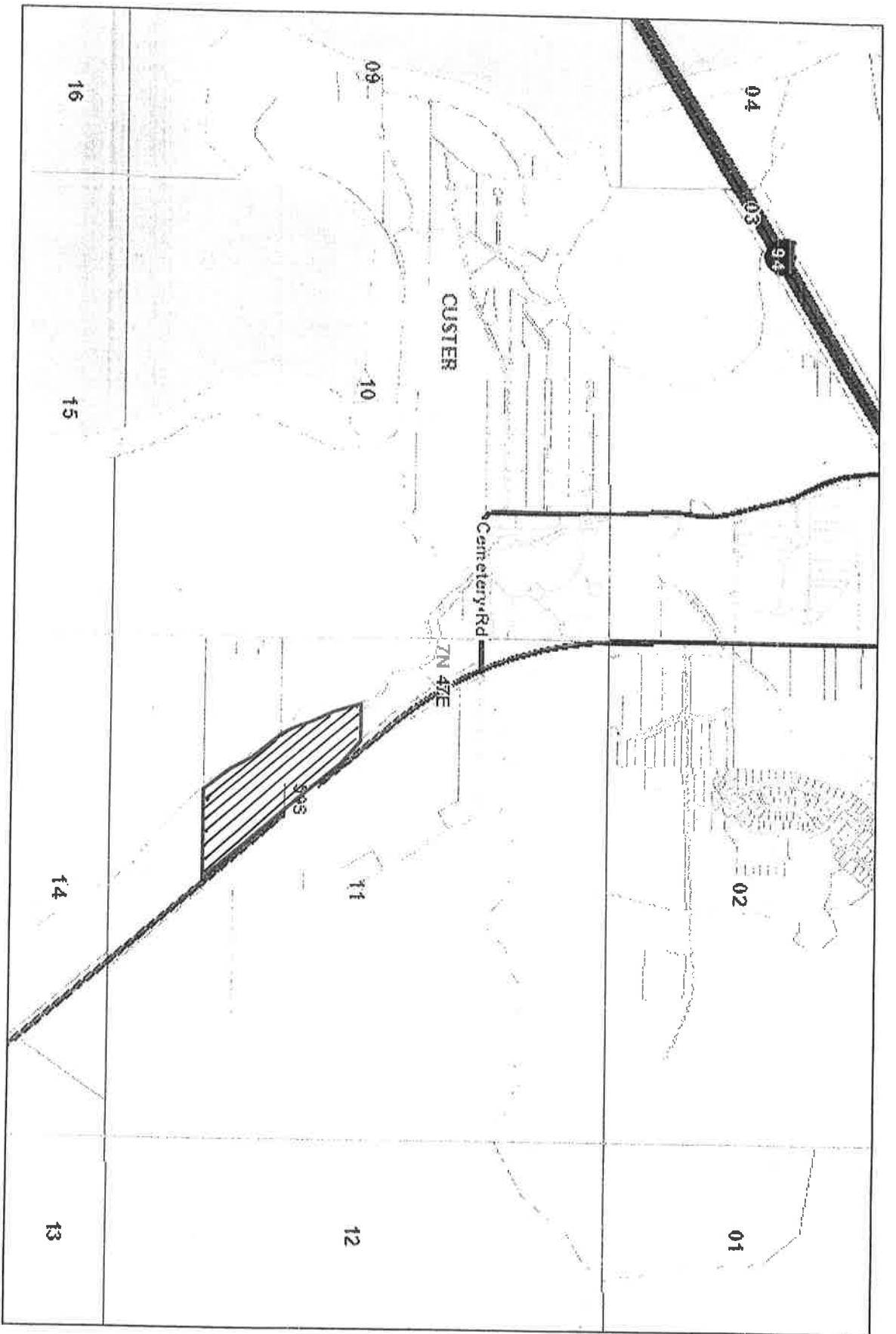
Susan L. Colvin & Mary Jo Zent
287 Mciver Road
Great Falls, MT 59404-6311

Arlo D Nansel
11 Nansel Lane
Miles City, MT 59301

Certain Enterprises, LLC
Diamond J Construction, LLC
PO Box 520
Miles City, MT 59301

Barbara Ann Nicholas
778 Hwy 59S
Miles City, MT 59301

Frank E & Mary Jane Nelson
PO Box 396
Miles City, MT 59301



ORDINANCE NO. 1271

AN ORDINANCE REPEALING SECTION 12 OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY AND ENACTING A NEW SECTION 12 OF SAID CODE OF ORDINANCES OF THE CITY OF MILES CITY, CORRECTING INTERNAL CITATIONS WITHIN THE FLOOD CODE PASSED BY ORDINANCE 1264

BE IT ORDAINED, by the City Council of the City of Miles City, Montana, as follows:

Section 1. Chapter 12 shall be amended by replacing Sections 12-1 through 12-76 with the following sections 12-1 through 12-76:

ARTICLE 1. TITLE, PURPOSE, AUTHORITY AND GENERAL PROVISIONS

Sec. 12-1 FLOODPLAIN HAZARD MANAGEMENT REGULATIONS

These regulations are known and may be cited as the "Floodplain Hazard Management Regulations;" hereinafter referred to as "these regulations."

Sec. 12-2 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.

Sec. 12-3 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 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)

Sec. 12-4 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.

Sec. 12-5 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
8. Ensure that regulations and minimum standards balance the greatest public good with the least private injury.

Sec. 12-6 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 Article 4. Requirements and approvals for alterations to the Regulated Flood Hazard Area are specified in Article 4. 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.

Sec. 12-7 FLOODPLAIN ADMINISTRATOR

A Floodplain Administrator is hereby officially appointed by the Mayor and is an employee of the office of Public Works. 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))

Sec. 12-8 COMPLIANCE

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

Sec. 12-9 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))

Sec. 12-10 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)

Sec. 12-11 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.

Sec. 12-12 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.

Sec. 12-13 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))

Sec. 12-14 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.

Sec. 12-15 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))

Sec. 12-16 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; (44CFR 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))

Sec. 12-17 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))

ARTICLE 2. DEFINITIONS

Sec. 12-18 Definitions

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 Crawlspace. (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 CFR 59.1)

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 and adjoining the watercourse or drainway 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:

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 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 Article 12. (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)

ARTICLE 3. FORMS AND FEES

Sec. 12-19 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 Steams, 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.
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 Article 12.
4. **Floodplain Appeal Notice Form**– A form submitted by the Applicant or an aggrieved party to initiate the appeal process described in Article 13.
5. **Floodplain Emergency Notification Form**– A written notification form required pursuant to Article 11 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.

Sec. 12-20 Fees

A reasonable application fee for processing of permit applications may be imposed. Fees may be adopted for costs of permit applications, notices, variances, inspections, certifications or other administrative actions required by these regulations. (ARM 36.15.204(3)(b))

ARTICLE 4. REGULATED FLOOD HAZARD AREA

Sec. 12-21 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:
 1. FEMA Flood Insurance Study (FIS) and Digital Flood Insurance Rate Maps (DFIRMs) for the City of Miles City, Montana adopted July 22, 2010.
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 Articles 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.

Sec. 12-22 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 Article 13.
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 Article 13.
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.

Sec. 12-23 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 requires 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 12-21.2. 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 12-21.1;
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.

ARTICLE 5. USES ALLOWED WITHOUT A PERMIT WITHIN THE REGULATED FLOOD HAZARD AREA

Sec. 12-24 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))

Sec. 12-25 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 12-45; (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))

ARTICLE 6. PROHIBITED USES, ACTIVITIES AND STRUCTURES WITHIN THE REGULATED FLOOD HAZARD AREA

Sec. 12-26 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 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(2c)) (44 CFR 60.3(a)(3)))
5. Storage of toxic, flammable, hazardous or explosive materials; and (ARM 36.15.605(2d))
6. Cemeteries, mausoleums, or any other burial grounds.

Sec. 12-27 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)))
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))

ARTICLE 7. FLOODPLAIN PERMIT APPLICATION REQUIREMENTS

Sec. 12-28 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 Articles 9 and 10, except as allowed without a Floodplain permit in Article 5, or as prohibited as specified in Article 6, within the Regulated Flood Hazard Area;
3. Artificial obstructions and nonconforming uses in a Regulated Flood Hazard Area not exempt under Article 5 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 Article 5; ((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))

Sec. 12-29 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 Articles 9 and 10. ((MCA 76-5-405) (ARM 36.15.216))

ARTICLE 8. FLOODPLAIN PERMIT APPLICATION EVALUATION

Sec. 12-30 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 working days or a time specified) 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 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.

Sec. 12-31 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))

Sec. 12-32 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 Articles 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 12-23 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))

Sec. 12-33 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 working days or a time specified) 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)

Sec. 12-34 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;
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)

ARTICLE 9. DEVELOPMENT REQUIREMENTS IN THE FLOODWAY

Sec. 12-35 USES REQUIRING PERMITS

Artificial obstructions including alterations and substantial improvements specifically listed in Sections 12-37 to 12-49 may be allowed by permit within the Floodway, provided the General

Requirements in Section 12-36 and the applicable requirements in Sections 12-37 to 12-49 are met.

Sec. 12-36 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 12-23 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)) (44CFR 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))

Sec. 12-37 MINING OF MATERIAL REQUIRING EXCAVATION FROM PITS OR POOLS provided, in addition to the requirements of Section 12-36, 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))

Sec. 12-38 RAILROAD, HIGHWAY STREET STREAM CROSSINGS

including other transportation related crossings provided, in addition to the requirements of Section 12-36, 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.

Sec. 12-39 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 12-36, 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))

Sec. 12-40 BURIED OR SUSPENDED UTILITY TRANSMISSION LINES

provided, in addition to the requirements of Section 12-36, 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))

Sec. 12-41 STORAGE OF MATERIALS AND EQUIPMENT

provided, in addition to the requirements of Section 12-36, 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))

Sec. 12-42 DOMESTIC WATER SUPPLY WELLS

provided, in addition to the requirements of Section 12-36, 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))
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)))

Sec. 12-43 BURIED AND SEALED VAULTS FOR SEWAGE DISPOSAL IN CAMPGROUNDS AND RECREATIONAL AREAS

provided, in addition to the requirements of Section 12-36, 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)))

Sec. 12-44 PUBLIC AND PRIVATE CAMPGROUNDS

provided, in addition to the requirements of Section 12-36, 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.

Sec. 12-45 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 12-36, 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))
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 Article 10; (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.

Sec. 12-46 CONSTRUCTION OF OR MODIFICATIONS TO SURFACE WATER DIVERSIONS

provided, in addition to the requirements of Section 12-36, 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)))

Sec. 12-47 FLOOD CONTROL AND STREAM BANK STABILIZATION MEASURES

provided, in addition to the requirements of Section 12-36, 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))
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 12-23.

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. Meet the requirements of Section 12-47.2.
(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))

Sec. 12-48 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 12-36, that:

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.

Sec. 12-49 EXISTING RESIDENTIAL AND NON-RESIDENTIAL BUILDINGS IN THE FLOODWAY

any alteration or substantial improvement to an existing building must meet the requirements of Section 12-36 and the applicable requirements in Article 10 for residential or non-residential buildings. (MCA76-5-404(3)(b))

ARTICLE 10. DEVELOPMENT REQUIREMENTS IN THE FLOOD FRINGE OR REGULATED FLOOD HAZARD AREA WITH NO FLOODWAY

Sec. 12-50 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 Article 9, with the exception of the encroachment limit of Section 12-36.2. Instead, such uses are subject to the encroachment limits of this Section 12-51.9.

Except for prohibited artificial obstructions in Section 12-27, 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 12-36, with the exception of the encroachment limit of Section 12-36.2. (ARM 36.15.701(2))

Sec. 12-51 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 Article 4, 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)) (44 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;(44CFR 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 must 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 12-51.9.4, 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 Article 4 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))
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 submergence 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))
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 is provided. For manufactured homes, access for a manufactured home hauler is also provided.

Sec. 12-52 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.

Sec. 12-53 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 12-51.10, 12-51.11, and 12-51.12; 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))

ARTICLE 11. EMERGENCIES

Sec. 12-54 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.

Sec. 12-55 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.

ARTICLE 12. VARIANCES

Sec. 12-56 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))

Sec. 12-57 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.

Sec. 12-58 NOTICE REQUIREMENTS FOR FLOODPLAIN VARIANCE

APPLICATION Public Notice of the Floodplain permit application and Variance application shall be given pursuant to Section 12-31.

Sec. 12-59 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 12-51.14, 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. 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))

Sec. 12-60 DECISION

1. The Board of Adjustments shall:

1. Evaluate the Floodplain permit application and Variance application using the criteria in Section 12-59, and the application requirements and minimum development standards in Articles 9 and 10;
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. (44CFR 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)

Sec. 12-61 JUDICIAL REVIEW

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

ARTICLE 13. ADMINISTRATIVE APPEALS

Sec. 12-62 GENERAL

An administrative appeal may be brought before the Board of Appeals 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.

Sec. 12-63 APPEALS REQUIREMENTS

The following provisions apply to administrative appeals:

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.

Sec. 12-64 NOTICE AND HEARING

1. Notice of the pending appeal and hearing shall be provided pursuant to Section 12-31. The Floodplain Administrator may notify DNRC and FEMA of pending appeals.

2. A public hearing on the appeal must be held within 60 days of the Notice unless set otherwise.

Sec. 12-65 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.

Sec. 12-66 JUDICIAL REVIEW

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

ARTICLE 14. ENFORCEMENT

Sec. 12-67 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)

Sec. 12-68 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.

Sec. 12-69 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.

Sec. 12-70 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.

Sec. 12-71 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 Article 13.

Sec. 12-72 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.

Sec. 12-73 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.

ARTICLE 15. PENALTIES

Sec. 12-75 MISDEMEANOR

Violation of the provisions of these regulations or failure to comply with any of the requirements, including failure to obtain permit approval prior to development in the Regulated Flood Hazard Area except for an emergency, shall constitute a misdemeanor and may be treated as a public nuisance.

Any person who violates these regulations or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100 or imprisoned for not more than 10 days or both. Each day's continuance of a violation shall be deemed a separate and distinct offense. (MCA 76-5-110)

Sec. 12-76 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.

Section 2. This Ordinance shall become effective thirty (30) days after its final passage.

Said Ordinance read and put on its passage this ____ day of _____,
2014.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

FINALLY PASSED AND ADOPTED this ____ day of _____, 2014.

C.A. Grenz, Mayor

ATTEST:

Lorrie Pearce, City Clerk

Staff Report

STAFF REPORT
FINAL PLAT REVIEW FP-2014-03
Amended Plat, Lot F-1, Horizon Park Subdivision
May 23, 2014

In April of 2013 the Miles City City Council granted preliminary conditional approval to the Amended Horizon Park Subdivision. The Amended Horizon Park Subdivision Lot F-1 consists of 4 lots located within the SW ¼ of Section 2, Township 7 North, Range 47 East, within the City of Miles City, Custer County, Montana. In January of 2014, the council voted to allow an amendment to the preliminary plat to remove the dry sewer line requirement from the plat conditions. The final plat application was submitted on January 14, 2014. The owner of the property is Vision Enterprises, LLC represented by Roger Lothspeich with technical assistance by Quinn Wright of Dowl HKM.

Mr. Lothspeich has asked for the following modification to condition #18. (See attached letter):

#18 – The current condition reads:

The statements "No lot shall have access from any adjacent street or frontage road. All lots shall access from Bobcat Lane." shall be placed on the face of the plat and the statement restricting Lots F-1-A through D shall be reflected in the recorded covenants. [MCA 76-3-608(3)(a)]

The request is to modify the statement to read: *"No lot shall have access from any adjacent street or frontage road. All lots shall access from Bobcat Lane."* This eliminates the second half of the statement requiring the same information recorded in a new covenant document. The statement placed on the face of the plat serves the same purpose.

This request has been classified as an immaterial change because the statement is redundant and does not violate subdivision regulations or impact the review criteria. In addition, no modification to the previously adopted findings of fact regarding the subdivision (attached) would be required. Therefore, staff is recommending that Council approve the subdivider's request for this modification.

The following is a list of the conditions of plat approval with a description by the subdivision administrator of how the condition has been satisfied or action required by the City Council.

Note: Items not constructed or installed at this time are guaranteed by an irrevocable Letter of Credit #109-000-135-5 issued by Stockman Bank for \$85,000, expiring on Aug 1, 2014. The Letter of Credit includes paving of Bobcat Lane and landscaping for the drainage ditch. See attached Bid from John Muggli Construction. The Letter of Credit equals the quote amount multiplied by 125%.

Standard Conditions:

1. All traffic signs shall be of the size, shape, height, and placement as to be in accordance with the Manuel of Uniform traffic Control Devices. [Miles City Subdivision Regulation (MCSR), Section VI-H-6]

The stop sign and street signs have not been installed at the intersection of Horizon Parkway and Bobcat Lane. Installation of these items will be carried out with the subdividers' obligations guaranteed with an irrevocable Letter of Credit (LOC) #109-000-135-5, dated 1/8/2014.

2. Centralized mail delivery site/s shall be provided with the design and location approved by the local postmaster of the USPS. A letter or other written confirmation from the postmaster stating the applicant has met their requirements shall be included with the application for final plat. [MCSR, Section VI-H-8]

An 8-unit/2 parcel locker NDCBU is to be installed per USPS letter dated 4/18/2013. Installation of this item will be carried out with the subdividers' obligations guaranteed with an irrevocable Letter of Credit #109-000-135-5.

3. All internal subdivision roads, curb and gutters; whether public or private shall be constructed in accordance to City engineering standards and shall be approved by a licensed engineer. [MCSR, Section VI-H-8]

All internal roads have been designed by Dowl HKM in accordance with City standards. The road appears to be roughed-in except for the paved surface, curb, and gutter, although the subdivider and engineer have not certified completion of the road. An irrevocable Letter of Credit No. 109-000-135-5 will cover the costs of installing curb & gutter and the paving of Bobcat Lane, and a licensed engineer will need to certify its completion.

4. Bobcat Lane shall be dedicated to the City. [MCSR VI-H-1]

The Final Plat dedicates Bobcat Lane to the City.

5. All water mains shall be constructed using PVC or equivalent. All water supply systems shall meet MDEQ and City engineering standards and shall be approved by a licensed engineer prior to acceptance. Curb stamps shall indicate line locations. Water line connections shall be provided for each lot location and the owner shall be required to install a minimum 1" copper pipe from the water main to the curb stop. [MCSR, Section VI-J]

Public Water Supply & Sewer Extension(s) have been approved by DEQ EQ#-13-1330, dated 3/20/2013.

Water supply lines have not yet been stubbed out to lots F-1-A, F-1-C, or F-1-D. Construction of these lines will be completed by Muggli Construction. The subdivider has been given a quote and issued corporate Check #1611 to Muggli Construction in the amount of \$3,876 to be cashed at the completion of this task. Dowl HKM will provide 'as-built' drawings to the City Engineering Department and MDEQ, as required.

6. All sanitary sewer systems shall meet MDEQ and City engineering standards and shall be approved by a licensed engineer prior to acceptance. A stub out for connection shall be provided for each lot. A tracer wire or curb stamps shall indicate line locations. [MCSR, Section VI-K]

Public Water Supply & Sewer Extension(s) have been approved by DEQ EQ#-13-1330, dated 3/20/2013. Dowl HKM will provide 'as-built' drawings to the City Engineering Department and DEQ, as required.

7. All water, sewer, and storm water systems must have MDEQ approval. [MCSR Sections VI-I, VI-J, and VI-K; MCA 76-4]

See DEQ approval letters EQ# 13-1621 & EQ #13-1330 issued on 1/8/2014.

8. Where the aggregate total of disturbed area of any construction as defined in A.R.M. 17.30.1102(28) is equal to, or greater than one acre; or where when combined with subsequent construction, such disturbed area is equal to, or greater than one acre, a Montana State Department of Environmental Quality MPDES Storm Water Construction General Permit shall be obtained and provided to the Miles City Planning Office prior to any site disturbance or construction. [ARM 17-30-1102(28)]

The project has involved disturbance of well over one acre of land and requires the Storm Water Pollution Prevention Plan (SWPPP) from DEQ. The developer has successfully submitted the Notice of Intent and received confirmation of receipt by DEQ on May 13, 2014, under General Permit No. MTR105549. The General Permit requires the developer to implement the SWPPP and is in effect until final stabilization is achieved.

9. All utilities shall be placed underground, provide for 20 foot wide easements unless otherwise specified by the utility firms serving the site and shall be centered along the rear and side lot lines wherever necessary for service to the lot. [MCSR, Section VI-M]

The Public Utility easements within this subdivision are as follows: one 20' easement between lots F-1-B and F-1-A; one 30' easement between lots F-1-C and F-1-D; two 60' easements running contiguous from North to South through the center of the subdivision lots, following Bobcat Lane.

10. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [MCA 76-3-611].

The final plat is in substantial compliance with the plat and plans submitted for preliminary review, except as addressed with the Letter of Credit ensuring construction of incomplete items by Dec 31, 2014.

11. The final plat shall comply with state surveying requirements. [MCA 76-3-608(b)(i)]

The final plat has been found to comply with state survey requirements.

12. All required improvements shall be completed and in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the City Council. [MCSR, Section II-B-4]

All required improvements are in place for this subdivision except for the following:

*Paving of and construction of curb & gutter on Bobcat Lane
Landscaping, installation of USPS box, stop sign /street sign at corner of Bobcat Lane & Horizon Parkway (signs may be on same mounting post)*

Construction of these items will be carried out with the subdividers' obligations guaranteed with an irrevocable Letter of Credit #109-000-135-5.

Site-Specific Conditions:

13. An easement to T & Y irrigation in the location of the current irrigation ditch for the use as an irrigation canal will be shown on the plat.

The easement is noted on the face of the plat as required.

14. One fire hydrant shall be installed and located at the end of the cul-de-sac and a second fire hydrant shall be located at the intersection of Horizon Parkway and Bobcat Lane Department. [MCSR, Section VI-Q]

Fire hydrants have been installed as required and are shown on the plat.

15. Bobcat Lane will be constructed to a minimum 26 foot paved surface with a preference that it is constructed to the 36 feet as shown in the preliminary plat. [MCSR, Section VI-H-9 C and Table VI-H, Roadway Design Standards]

Sheet 1 of the Site Grading Plan shows a 24 foot paved surface with 6 foot paved shoulders (total width of 36 feet) and 2 feet of curb and gutter on each side. This demonstrates compliance with Condition #15, upon completion of Bobcat Lane as guaranteed by the irrevocable Letter of Credit.

16. A 60 foot access and utility easement shall be shown on the face of the plat extending from the northern edge of the cul-de-sac bulb to the adjacent parcel to the north. (Tract B-01, Sterling Minor Subdivision, Envelope 363B, document 115218, Custer County, MT [MCSR V-H-1(C)])

The 60 foot access and utility easement is shown on the face of the plat extending from the northern edge of the cul-de-sac bulb to the adjacent parcel to the north as required.

17. The detention pond shown for the street runoff shall be moved to Lot F-1-B or to Lot F-1-C such that it will not conflict with a 26 foot wide paved surface in the access easement required by Condition 16. [MCSR, Section VI-I and Table VI-H, Roadway Design Standards]

The subject detention pond was relocated to within easement No #1 on Lot F-1-B. The relocation will be reflected on the "As-Built" drawings to be submitted to DEQ as required by the approval conditions.

18. The statements "No lot shall have access from any adjacent street or frontage road. All lots shall access from Bobcat Lane." shall be placed on the face of the plat and the statement restricting Lots F-1-A through D shall be reflected in the recorded covenants. [MCA 76-3-608(3)(a)]

This statement is on the face of the final plat but not included in a new recorded covenant as approved by City Council (if the above requested amendment is approved).

19. A landscape plan shall be submitted and approved by the Planning and Community Services department that shows a minimum of 3,547 sq. ft. of landscape area on lot F-1-B and is designed in such a manner as to discourage any traffic entering the west side of the lot from the frontage road and Highway 59. The landscaping shown in the plan shall be installed. [MCA 76-3-608(3)(a) and MCSR VI-V]

A landscaping plan has been submitted to the Planning & Community Services Dept. to reflect this requirement. The plan should reflect a slight reconfiguration of the drainage ditch route on the Bobcat property, adjacent to the Frontage Road on the western property line. The course of this new drainage path may not breach the western property line or hinder access to the Giese property, and must continue to drain into the retention pond located on the subject property's northern property line as shown on the DEQ approved Site Drainage Plan. The drainage ditch should be lined with rocks and deep enough to discourage access to Lots F-1-A and F-1-B from the Frontage Road. This requirement will be carried out with the subdividers' obligations guaranteed with Letter of Credit #109-000-135-5.

20. The subdivision shall be included in a corresponding street maintenance district for the maintenance of Bobcat Lane.

Bobcat Lane will be included in Maintenance District #204 after final plat has been recorded.

Staff Recommendation

Staff recommends approval of the Final Plat for the Horizon Park Subdivision if the City Council is satisfied with the security provided by the subdivider for the remaining improvements. All conditions have been met.

Request for Modification

2214

VISION ENTERPRISES LLC
2323 S HAYNES AVE
MILES CITY, MT 59301-5806
(406)951-1254

To City Council Members:

I am requesting a modification to Condition #18 to eliminate the requirement to record a new covenant repeating the statement restricting access to the four lots from the frontage road. This statement is printed on the face of the plat. The requirement is redundant.



Findings of Fact

**Amended Plat, Lot F-1, Horizon Park Subdivision
Findings of Fact**

Finding #1. All lots in the subdivision comply with zoning because there are no minimum lot dimensions in this zone and due to the lot configurations, future buildings should be able to meet other zoning requirements.

Finding #2. With a condition of plat showing an easement to T & Y irrigation for use as an irrigation canal there will be no impact to agriculture because the area is located in an area that is already fairly developed and the continued location of the current irrigation canal will be ensured.

Finding #3. The impact to most local services is minimal enough that it will not cause any local services to be negatively impacted or to fall below current level of service standards because the current services have capacity or manpower to serve this subdivision.

Finding #4. The impact to the natural environment is not significant because the site has been disturbed and thus has little native vegetation, has no natural water or wetlands, and has no historic or cultural features of significance.

Finding #5. The project will have minimal impact to water or air quality because dust from future construction will be limited to a short duration and the design of utilities should protect surface and groundwater.

Finding #6. Development will not have a significant impact to wildlife or wildlife habitat because the current state of the site there will be little change to habitat value.

Finding #7. The placement of an additional fire hydrant at the corner of Horizon Parkway and Bobcat lane will provide for adequate fire safety because the spacing on hydrants is then close enough to fight potential fires in commercial structures.

Finding #8. Access for all lots should be limited to Bobcat Lane and a barrier should be constructed to ensure current unsafe access conditions to and from Highway 59 do not continue.

Finding #9. Public health and safety is adequate because the site is absent of natural or man-made hazards and the site design shows adequate storm detention and a safe road design.

Finding #10. With the proposed road network, all parcels shall have physical and legal access.

Finding #11. Standard VI-V, the landscaping standards for commercial subdivision can be met by conditioning the plat with landscaping on Lot F-1-B.

Finding #12. Standards und section VI-H can be met by conditioning the plat with a requirement to show an access easement from the cul-de-sac bulb to the northern edge of the property because this will provide for access through the subdivision to the adjacent land.

Finding #13. The subdivision complies with most of the Miles City Subdivision Regulations with the imposition of the standard conditions because it will meet all the design standards for roadways and sections VI-V and VI-H will be satisfied with the site-specific conditions.

ATTACHMENT A

Final Plat Application



File No. FP-2014-02
to be filled out by City

FINAL PLAT SUBDIVISION APPLICATION

Miles City Community Services & Planning
17 South 8th Street
Miles City, MT 59301

Date Received: _____
to be filled out by City

SUBDIVISION NAME: Horizon Park

OWNER(s)
Name: Vision Enterprises, LLC Contact: Roger Lothspach Phone: 951-1254

Address: 2323 S. Hayes Ave Cell Phone: _____
Miles City, MT 59301 Email: RLR@visionenter.com

TECHNICAL ASSISTANCE:
Name: Same as Above Contact: _____ Phone: Same
Address: _____ Cell Phone: _____
Email: _____

DATE of PRELIMINARY PLAT APPROVAL: 4/23/2013 & FILE NO FP-2014-02

LEGAL DESCRIPTION OF PROPERTY:

Street Address or General Location Hwy 59 South

Tract/s F-1 in Section 2 Township 7N Range 41E or

Lot/s _____ of _____ in Section _____ Township _____ Range _____
Subdivision Name

Assessor Number/s or Geocode _____

GENERAL DESCRIPTION OF SUBDIVISION:

Gross Area: 6 Acres Net Area: 4,936 Acres
Number of Lots/Rental Spaces 4 Minimum Lot Size: 49,139 S.F. Maximum Lot Size: 57,741

PARKLAND (Indicate amount or check if exempt)
_____ Acres on site _____ Acres off site \$ _____ Cash in lieu Exempt


FINAL PLAT REQUIREMENTS:

Submittal Copies that meet the Uniform Standards in Appendix A of the Miles City Subdivision Regulations

- 2 24 x 36 Mylar copies of plat
- 2 24 x 36 paper copies of plat
- 1 11x17 copy

Attachments to be submitted with this application:

- Title Report or Abstract of Title showing ownership (*not more than 90 days old*)
- Leinholder's acknowledgement of subdivision (*if land is held as collateral for financing*) **ON PLAT**
- A statement outlining how each condition of approval has been satisfied.
- Tax certification (*proof that taxes are current*)
- Montana DEQ Certification (*or an approved municipal facilities exemption*)
- Certification by the subdivider indicating which required improvements have been completed on the site.
- A copy of Articles of Incorporation & Bylaws for any property owner's association and proposed covenants or restrictions (*if any*)
- NA** Road Approach Permits or Copies of Easements/Proposed Easements (*if required, to provide legal access*)



Signature of Owner(s)

1-14-14

Date

I certify that the information contained herein and all exhibits transmitted herewith are true.

Final Plat

Letter of Credit

COPY

IRREVOCABLE STANDBY LETTER OF CREDIT

Date: 01/08/2014

Letter of Credit No. 109-000-135-5

Beneficiary:

City of Miles City
City Hall
17 S 8th Street
Miles City, MT 59301
(To whom the LOC is issued)

Ladies and Gentlemen:

Stockman Bank of Montana ("Issuing Bank") hereby issues this irrevocable standby letter of credit (the "LOC") in your favor and authorizes you to draw on:

Stockman Bank of Montana
PO Box 250
Miles City, MT
59301-0250

For the account of:

Riverside Marine & Cycle, LLC
2323 South Haynes Ave.
Miles City, MT
59301
(Name and address of customer requesting LOC)

Up to an aggregate amount of not to exceed eighty-five thousand US Dollars (\$85,000.00) (the "Stated Amount").

This LOC shall be effective on January 8th, 2014 and expire at midnight, 12:00 PM (Mountain Time) on August 1st, 2014 (the "Expiration Date").

Original drafts on this LOC shall be manually signed by a duly authorized agent of the Beneficiary, presented to the Issuing Bank at its office stated above, in a single mailing, by courier or personal delivery, and to the Attention of the Loan Department and shall state the following:

"This draft, in the amount of \$ _____ (the "Draw Amount"), is drawn upon Letter of Credit No. 109-000-127-4 issued by Stockman Bank of Montana. The undersigned, on behalf of the Beneficiary, certifies that (1) the undersigned is duly authorized to execute and deliver this draft, and (2) the Draw Amount is due and owing to the Beneficiary."

All drafts drawn under and in compliance with the terms of this LOC will be duly honored on receipt of the specified documents by the Issuing Bank if actually received on a Business Day and before the Expiration Date. Partial drawings are permitted provided the aggregate of all draws does not exceed the Stated Amount. "Business Day" means any calendar day other than a Saturday, Sunday or legal holiday and on which the Issuing Bank is open for business at the office.

This LOC sets forth in full the Issuing Bank's undertakings and the undertaking shall not be in any way modified, amended or limited by reference to any other document, instrument or agreement, excepting only the sight drafts and required drawing statement identified above.

This LOC is subject to and governed by the laws of the State of Montana and the Uniform Customs and Practices for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600 (the "UCP"), and, in the event of any conflict, the laws of the State of Montana will control.

Communications with respect to this LOC shall be in writing and shall be addressed to the Issuing Bank at the address set forth above. All communications must make reference to the LOC number.

This LOC is non-assignable and non-transferable.

STOCKMAN BANK OF MONTANA

By: 
Stanley A. Markuson, President, Miles City Branch

j34-6392

Quote

John Muggil Contracting

P.O. Box 67: #1 Baker Hwy.
Miles City, MT 59301

Date	Quote #
1/6/2014	139545

Customer
Vision Enterprises 2323 South Haynes Ave Miles City MT 59301

Federal Tax ID 81-0506479

Item	Description	Qty	Total
Bid Work	Pave street and cull-de-sac, supplying gravel, with compaction, curb and gutter. Price includes \$5,000.00 for landscaping to be done and supplied by others.	1	67,598.75
NOTE	***NOTE***This bid does NOT include any engineering, or compaction testing, or any other testing that may be required for this project***NOTE***		

Total	\$67,598.75
--------------	--------------------

Date _____ Signature _____

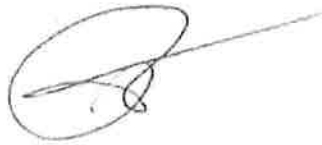
Bid is good for 30 days from the date of this estimate. Please sign date and return this form as acceptance of this bid price.

2-21-14

VISION ENTERPRISES LLC
2323 S HAYNES AVE
MILES CITY, MT 59301-5806
(406)951-1254

To City Council Members:

Completion of the items covered
in the Letter of Credit will
be started when weather permits
and be completed before ~~the~~
expiration of the Letter of Credit.



Condition #2
USPS Letter



Thursday, April 18, 2013

To whom it may concern;

**In regards to the conditions of Plat PP2013-01 Amended Plat, Lot F-1,
Horizon Park Subdivision.**

The USPS is requesting you install a 8 unit/2 parcel locker NDCBU to accommodate any future growth, and will need to be set at the entrance of the subdivision in the line of travel, so as the Rural Carrier can deliver from inside the vehicle safely. It will need to be located off of any highway or street that may be hazardous to the employee's safety.

If you have any questions or need assistance in where to install the CBU, please contact me and I will provide it to you.

Respectfully,

A handwritten signature in cursive script that reads "Stephen M. Miller".

Stephen M Miller

Postmaster

106 N 7th St

Miles City, MT 59301-9998

W-406-232-2586

C-816-588-2138

Care and Cleaning

The surface of all Florence Manufacturing clear aluminum or powder coated products may be cleaned of dirt or grime with a soft cloth dampened with any mild detergent or properly diluted biodegradable, water-based cleaner, such as "Simple Green™"¹. Wipe from top to bottom to avoid run-down. Avoid use of abrasives, which might damage the product surface. Rinse with plain water and dry². Avoid cleaning during extreme temperature conditions.

To varying extents, depending upon the color, it may be possible to remove some spray-paint or marker-applied graffiti from powder coated surfaces by using a stronger cleaner such as "Krud Kutter™"³ or a mild petroleum-based solvent, such as mineral spirits. Test-clean a small area first, a few seconds at a time. Do not allow chemical to remain on surface for an indefinite period, as this may damage the surface of the product. Remove any residue left with a mild cleaner, followed by water rinse as noted above.

Touch-up paint may be available from an Authorized Florence Dealer for those products which utilize powder coating.

- 1 Simple Green™, product #13102, is manufactured by Sunshine Makers Inc of California, 800-228-0709, info@simplegreen.com.
- 2 In foggy coastal regions, frequent cycles of condensation and drying can create a heavy build-up of atmospheric salts and dirt that may adhere tenaciously. This requires that cleaning be done more frequently than in other metropolitan areas where rainfall is more frequent (AAMA Standard 609 & 610-02).
- 3 Krud Kutter™, product #GR32, is manufactured by Supreme Chemicals of Georgia, 800-466-7126, sales@kruidkutter.com.

Last Updated 10/09

*No equals. No substitutes. Florence Mailboxes.
Your partner in mailbox and site solutions since 1934.*



Conditions #5, #6, #7
DEQ approvals

"Healthy environment, healthy people"



Montana Department of
ENVIRONMENTAL QUALITY

Steve Bullock, Governor
Tracy Stone-Manning, Director

Airport Business Park • 1371 Rimtop Dr. • Billings, MT 59105-9702 • Website: www.deq.mt.gov

Dayton Alsaker, PE
DOWL HKM
713 Pleasant
Miles City, Montana 59301

January 8, 2014

Re: Horizon Park Subdivision, Lot F-1 – Miles City

EQ# 13-1621

Dear Consultant:

The plans and supplemental information relating to the water supply, sewage, solid waste disposal, and storm drainage (if any) for the above referenced division of land have been reviewed as required by ARM Title 17 Chapter 36 (101-805) and have been found to be in compliance with those rules.

Two copies of the Certificate of Subdivision Plat Approval are enclosed. The original is to be filed at the office of the county clerk and recorder.

Development of the approved subdivision may require coverage under the Department's General Permit for Storm Water Discharges Associated with Construction Activity, if your development has construction-related disturbance of one or more acre. If so, please contact the Storm Water Program at (406) 444-3080 for more information or visit the Department's storm water construction website at <http://www.deq.state.mt.us/wqinfo/MPDES/StormwaterConstruction.asp>. Failure to obtain this permit (if required) prior to development can result in significant penalties.

Your copy is to inform you of the conditions of the approval. Please note that you have specific responsibilities according to the plat approval statement primarily with regard to informing any new owner as to any conditions that have been imposed.

If you wish to challenge the conditions of this Certificate of Subdivision Plat Approval, you may request a hearing before the Board of Environmental Review or the Department, pursuant to Section 76-4-126, MCA and the Montana Administrative Procedures Act.

If you have any questions, please contact this office.

Sincerely,

~~For~~ Barbara Kingery, PE, Supervisor
Subdivision Review Section

cc: City of Miles City
Custer County Sanitarian
Custer County Planning
Owner
File

BK/MWW

STATE OF MONTANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
CERTIFICATE OF SUBDIVISION PLAT APPROVAL
(Section 76-4-101 et seq., MCA)

COPY

TO: County Clerk and Recorder
Custer County
Miles City, Montana

E.Q. # 13-1621

THIS IS TO CERTIFY THAT the plans and supplemental information relating to the subdivision known as **Amended Plat Lot F-1, Horizon Park Subdivision**;

A tract of land located in the southwest $\frac{1}{4}$ of Section 2, Township 7 North, Range 47 East, PMM, Miles City, Custer County, Montana

consisting of four (4) lots, have been reviewed by personnel of the Permitting and Compliance Division, and,

THAT the documents and data required by ARM Chapter 17 Section 36 have been submitted and found to be in compliance therewith, and,

THAT the approval of the Plat is made with the understanding that the following conditions shall be met:

THAT the lot size as indicated on the Plat filed with the county clerk and recorder will not be further altered without approval, and,

THAT each lot shall be used for one commercial business, and,

THAT water supply and wastewater treatment will be provided by extension and service connection to the **City of Miles City Public Water Supply & Wastewater Treatment System (PWSID MT0000291)** according to the plans approved by the Department on March 20, 2013 (EQ # 13-1330), and,

THAT within 90 days after construction of the extensions to the public water and wastewater systems is completed, the responsible professional engineer shall provide to the Department a complete set of "as-built" drawings bearing the signature and seal of the professional engineer, and,

THAT the storm water runoff collection system for the subdivision will consist of on-site stormwater retention ponds with volumes as shown on the approved storm drainage plans prepared by **Dayton Alsaker, 5932E**, of DOWL HKM in Miles City, Montana with outlets to restrict discharge to pre-development level and valley gutters, inlet, and a retention pond for the right-of-way north of the proposed cul-de-sac as shown on the approved plans; maintenance of the storm water system is the responsibility of each lot owner with maintenance of the right-of-way storm drainage provided by the City of Miles City, and,

THAT water supply systems, sewage treatment systems and storm drainage systems will be located as shown on the approved plans, and,

THAT all sanitary facilities must be located as shown on the attached lot layout, and,

THAT the developer and/or owner of record shall provide the purchaser of property with a copy of the plat, approved location of water supply and sewage treatment system as shown on the attached lot layout, and a copy of this document, and,

COPY

THAT instruments of transfer for this property shall contain reference to these conditions, and,

THAT departure from any criteria set forth in the approved plans and specifications and Title 17, Chapter 36, Sub-Chapters 1, 3, and 6 ARM when erecting a structure and appurtenant facilities in said subdivision without Department approval, is grounds for injunction by the Department of Environmental Quality.

THAT pursuant to Section 76-4-122 (2)(a), MCA, a person must obtain the approval of both the reviewing authority under Title 76, Chapter 4, MCA, and local health officer having jurisdiction, before filing a subdivision plat with the county clerk and recorder.

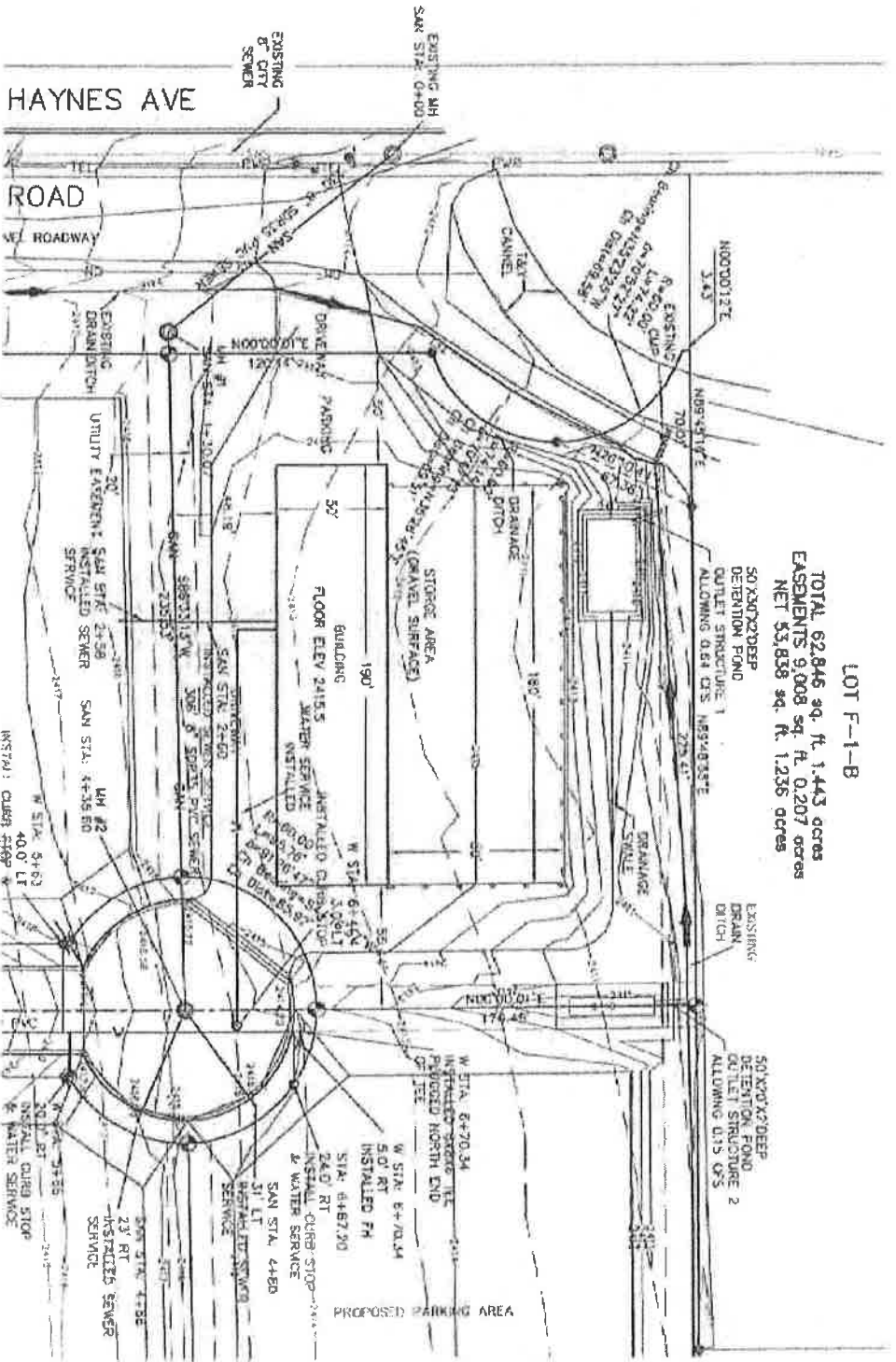
YOU ARE REQUESTED to record this certificate by attaching it to the plat filed in your office as required by law.

DATED this 8th day of January 2014.

Tracy Stone-Manning
Director

By: Matt Warts
For Barbara Kingery, PE, Supervisor
Subdivision Review Section
Permitting and Compliance Division
Department of Environmental Quality

Owner's Name: Vision Enterprises, LLC

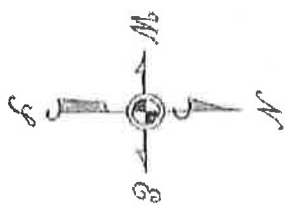


LOT F-1-B
 TOTAL 62,846 sq. ft. 1.443 acres
 EASEMENTS 9,008 sq. ft. 0.207 acres
 NET 53,838 sq. ft. 1.236 acres



LOT LAYOUT LOT F-1-B
 Amended Plat Lot F-1
 Horizon Park Subdivision

- LEGEND**
- Property corner found as noted
 - ⊕ 5x24" Rubber w/yellow plastic cap Marked DOWL 15KM 7155LS Set
 - ⊙ Fire Hydrant
 - ⊕ Water Main Valve
 - ⊙ Curb Stop
 - ⊙ Manhole
 - ⊙ Tele Pad
 - ⊙ Power Pole



APPROVED
 Montana Department of
 Environmental Quality
 Permitting and Compliance Division
 M. Daulton
 Reviewer
 1-8-2014
 Date

E013-1621

DOWL HKM

412425374201 2-04-2013

HWY 59 S. HAYNES AVE

FRONTAGE ROAD

EXISTING GRAVEL ROADWAY

EXISTING
8" CITY
SEWER

DRIVEWAY
E.I.E.
120' x 14'

PARKING

BUILDING
FLOOR ELEV 2415.5

WATER SERVICE
INSTALLED
CURE STOP

STA: 6+67.20
24.0' RT
ASPHALT CURB STOP
& WATER SERVICE

E013-1621

LOT F-1-A

TOTAL 60,102 sq. ft. 1.389 acres
EASEMENTS 2,631 sq. ft. 0.004 acres
NET 57,471 sq. ft. 1.326 acres

APPROVED

Mississippi Department of
Environmental Quality
Sanitizing and Compliance Division

1-8-2011
Date

Reviewer



LEGEND

- Properly corner found as noted
- ◊ #5x25" Rebar w/ yellow plastic cap
- ◊ Marked DOWL HKM 7155LS Set
- Fire Hydrant
- Water Main Valve
- Curb Stop
- Manhole
- Tole Post
- Power Pole

RECEIVED

FEB 12 2013

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
SANITIZING AND COMPLIANCE DIVISION



LOT LAYOUT LOT F-1-A
Amended Plat Lot F-1
Horizon Park Subdivision

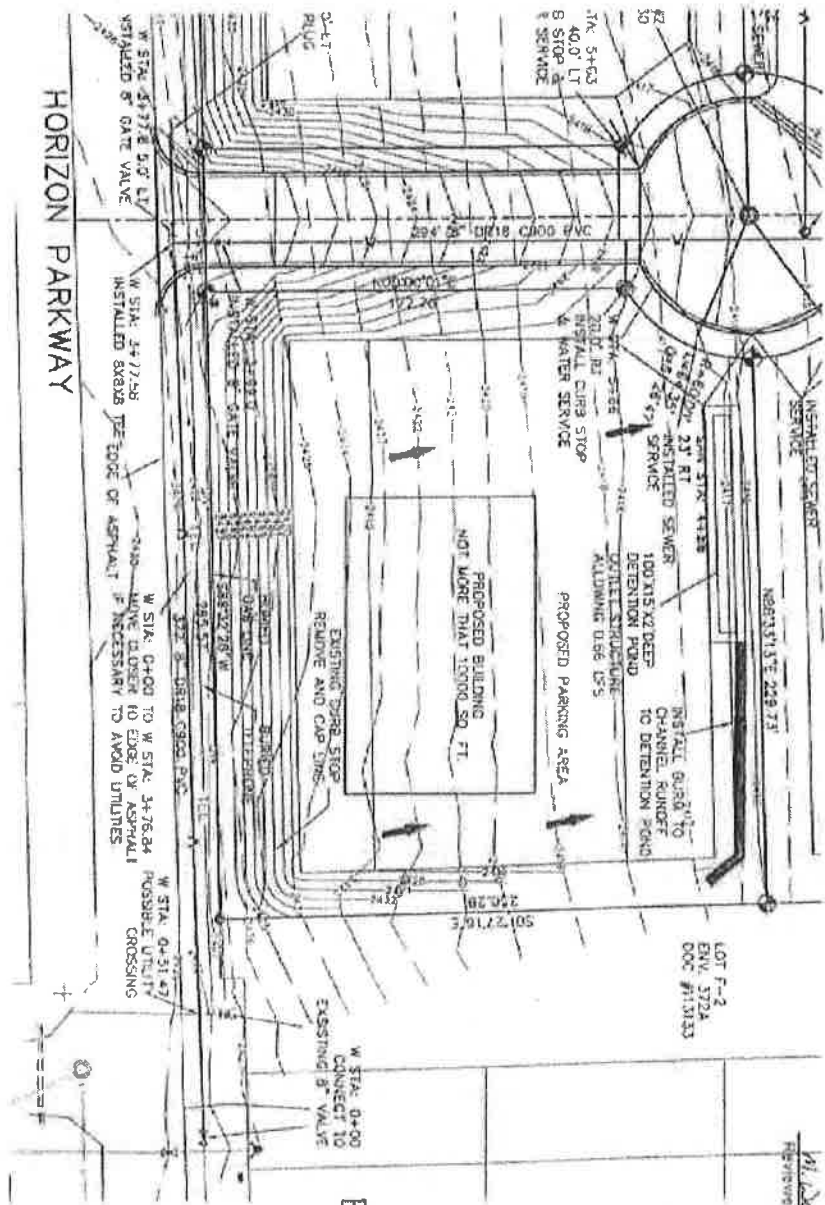
DOWL HKM

4/26/2017/1.01 2-01-2013

LOT F-1-D
 TOTAL 59,363 sq. ft. 1.363 acres
 EASEMENTS 2,302 sq. ft. 0.053 acres
 NET 57061 sq. ft. 1.315 acres

APPROVED
 Montana Department of
 Environmental Quality
 Permitting and Compliance Division
 M. A. D. O. E.
 1-8-2017
 Date

E013-1621



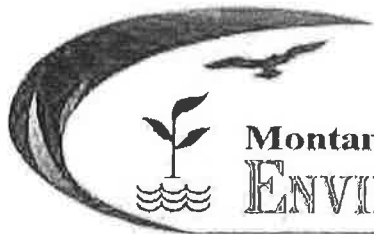
LEGEND

- Property corner found as noted
- ◆ 3/4" x 2 1/4" Keeler w/ yellow plastic cap
Marked DOWL HKM 7155LS Set
- ▲ Fire Hydrant
- ◻ Water Main Valve
- Curb Stop
- Manhole
- ⊗ Tele Pad
- ⊛ Power Pole



LOT LAYOUT LOT F-1-D
 Amended Plat Lot F-1
 Horizon Park Subdivision

DOWL HKM
 4/27/2007/14 09 3-4-04-2013



"Healthy environment, healthy people"

Montana Department of
ENVIRONMENTAL QUALITY

Steve Bullock, Governor
Tracy Stoue-Manning, Director

Airport Business Park • 1371 Rimtop Dr. • Billings, MT 59105-9702 • Website: www.deq.mt.gov

Andrew Marum, PE
DOWL HKM
713 Pleasant
Miles City, Montana 59301

March 20, 2013

Re: Horizon Park Sub. Lot F-1 Water & Sewer Extension – Miles City

EQ# 13-1330

Dear Mr. Marum:

Plans and specifications for the subject project have been reviewed by personnel of the Public Water Supply Section and were found to be satisfactory. Approval of these plans is hereby given; a copy of the plans bearing the approval stamp of the Department is enclosed. Approval is based on plans originally received October 9, 2012 with revisions received November 5, 2012, the as-built drawings received February 12, 2013 under the seal of Andrew T. Marum, 11611PE, and revised Sheet 2 (additional sanitary sewer extension) received March 20, 2013 under the seal of Dayton Alsaker, 5932E. The plans were reviewed in accordance with Department design standards DEQ-1 and DEQ-2. This project approval includes the extension of water and sanitary sewer to serve Lot F-1 of Horizon Park Subdivision in Miles City.

This approval is given with the following conditions:

1. Approval of these plans by the Public Water Supply Section does not constitute approval of the submitted subdivision application pursuant to the Sanitation in Subdivisions Act (Title 76, Chapter 4, MCA). Final approval of the proposed development under the Sanitation Act is still required.
2. No portion of the project may be placed into operation until the project engineer certifies by letter to the Department that the activated portion of the project was inspected and found to be constructed in accordance with the approved plans and specifications.
3. Any deviations from the approved plans and specifications must be submitted to the Department prior to modification.
4. Within 90 days after construction completion, the project engineer must submit a complete set of certified as-built drawings for the project.
5. Construction of this project must be completed within three years of the date of this letter. If more than three years elapse before completing construction, plans and specifications must be resubmitted and approved before construction begins. This three-year expiration period does not extend any compliance schedule requirements pursuant to enforcement action against a public water/sewage system.
6. A stormwater permit may be required for this project. Contact the Department of Environmental Quality Water Protection Bureau at 444-3080 for more information.

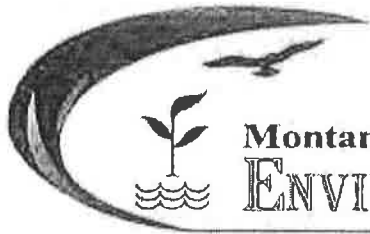
Failure to abide by the above conditions is considered a significant violation of the Montana Public Water Supply Laws (PWSL), and the administrative rules promulgated there under. The applicant is responsible for compliance with all other applicable federal, state, local, and tribal law, regulations, and ordinances, including but not limited to, the Montana Water Use Act, Mont. Code Ann. Title 85, Chapter 2.

If I can offer any further information or assistance, please feel free to contact me at (406) 247-4455.

Sincerely,

Matthew Waite, PE
Permitting and Compliance Division
Billings Regional Office

cc: Vision Enterprises, LLC, Owner
Allen Kelm, City of Miles City
Mike Rinaldi, Miles City Sanitarian
Custer County Sanitarian
File



"Healthy environment, healthy people"

Montana Department of
ENVIRONMENTAL QUALITY

Steve Bullock, Governor
Tracy Stone-Manning, Director

Airport Business Park • 1371 Rimtop Dr. • Billings, MT 59105-9702 • Website: www.deq.mt.gov

Andrew Marum, PE
DOWL HKM
713 Pleasant
Miles City, Montana 59301

March 20, 2013

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EQ# 13-1330

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3. Any deviations from the approved plans and specifications must be submitted to the Department prior to modification.
4. Within 90 days after construction completion, the project engineer must submit a complete set of certified as-built drawings for the project.
5. Construction of this project must be completed within three years of the date of this letter. If more than three years elapse before completing construction, plans and specifications must be resubmitted and approved before construction begins. This three-year expiration period does not extend any compliance schedule requirements pursuant to enforcement action against a public water/sewage system.
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Failure to abide by the above conditions is considered a significant violation of the Montana Public Water Supply Laws (PWSL), and the administrative rules promulgated there under. The applicant is responsible for compliance with all other applicable federal, state, local, and tribal law, regulations, and ordinances, including but not limited to, the Montana Water Use Act, Mont. Code Ann. Title 85, Chapter 2.

If I can offer any further information or assistance, please feel free to contact me at (406) 247-4455.

Sincerely,

Matthew Waite, PE
Permitting and Compliance Division
Billings Regional Office

cc: Vision Enterprises, LLC, Owner
Allen Kelm, City of Miles City
Mike Rinaldi, Miles City Sanitarian
Custer County Sanitarian
File

Condition #5
Water Supply to 3 lots

John Muggli Contracting

Roger Lothspeich
3711 Batchelor Street
Miles City, MT 59301

02.24.2014

To Whom It May Concern,

This letter is sent to inform you that John Muggli Contracting LLC, PO Box 67; #1 Baker Hwy, Miles City, Montana, will install, for Roger Lothspeich, of Bobcat of Miles City, Three water systems into/onto the three lots located South and East of the Bobcat of Miles City building located on South Haynes Ave. Miles City, Montana. This work will be done as soon as the weather permits it to be done, in the spring of 2014. This work will include all of the Equipment, Manpower and Supplies that will be required for this turn-key project. We will not be providing any permitting, engineering, testing or inspections on or for this work, this will be provided by others.

Should you have any questions or concerns, please feel free to contact John at 406-232-6630 Office, 406-951-4031 Cell, or 406-232-4031 Shop.

Sincerely yours,



Michelle Muggli

V.P. John Muggli Contracting LLC

John Muggli Contracting

P.O. Box 67: #1 Baker Hwy.
Miles City, MT 59301

Quote

Date	Quote #
2/23/2014	139549

Customer
Lothspelch, Roger 3 Water Services 3711 Batchelor Miles City MT 59301

Federal Tax ID 81-0506479

Item	Description	Qty	Total
Bld Work	Bid work to supply all of the equipment, manpower, and supplies to install 3 (Three) water services in the 3 (Three) platted lots South and East of the Bobcat of Miles City Building on South Haynes Ave, Miles City, MT.	3	3,876.00
NOTE	***NOTE***This bid does NOT include any engineering, testing or permitting that may be required on or within these structures or sites***NOTE***		

Total	\$3,876.00
--------------	-------------------

Date _____ Signature _____

Bid is good for 30 days from the date of this estimate. Please sign date and return this form as acceptance of this bid price.

JPM

VISION ENTERPRISES, LLC
2823 S. HAYNES AVE
MILES CITY, MT 59901-5806

1611

DATE 2-26-14

93-524-929

PAY TO THE ORDER OF

John Mussli Contracting

\$ 3876.00

Three thousand eight hundred seventy six and 00/100

DOLLARS

Stockman Bank

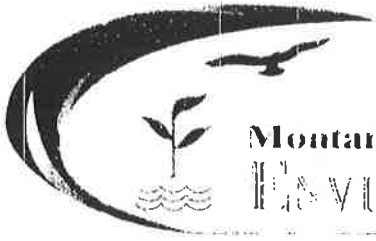
250 Main Street, 2nd Floor, Miles City, Montana 59701-0205
93-224-222 FAX 93-224-2770

FOR 13959

⑆001611⑆ ⑆092905219⑆ ⑆1010018620⑆



Condition #8
Storm Water Pollution Prevention Plan
(SWPPP)



Montana Department of
ENVIRONMENTAL QUALITY

Steve Bullock, Governor
Tracy Stone-Manning, Director

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • Website: www.deq.mt.gov

May 13, 2014

MICHELLE MUGGLI
JOHN MUGGLI CONTRACTING LLC
PO BOX 67
MILES CITY MT 59301

RE: **Confirmation Letter, Notice of Intent (NOI) Number MTR105549**
JOHN MUGGLI CONTRACTING - HORIZON PARKWAY SUBDIVISION LOT F-1

Dear MICHELLE MUGGLI:

The Department of Environmental Quality (DEQ) is acknowledging receipt on 5/12/2014 of your complete Notice of Intent (NOI) for permit coverage under the January 1, 2013, *General Permit for Storm Water Discharges Associated with Construction Activity* (General Permit). For administrative purposes, you have been assigned permit number MTR105549. Please include this permit number on any future correspondence with DEQ regarding this site.

This letter acknowledges receipt of the complete NOI and does not provide a DEQ determination of the validity of the information you provided. Your eligibility for coverage under the General Permit is based on the validity of the certification you provided. Your signature on the NOI certifies that you have read, understood, and are implementing all of the applicable requirements.

The General Permit requires you to implement the Storm Water Pollution Prevention Plan (SWPPP) and defines inspection and record keeping requirements. Records defined in Part 2.5 are required to be maintained on-site with the designated SWPPP Administrator. An electronic copy of the Permit and additional guidance materials can be viewed and downloaded at <http://deq.mt.gov/wqinfo/mpdes/stormwaterconstruction.mcp.x>.

Coverage under the General Permit remains effective until you submit a complete Notice of Termination (NOT). Your signature on the NOT certifies that you have achieved final stabilization, removed your temporary Best Management Practices, and have paid all applicable fees. Failure to submit a complete NOT will result in the assessment of additional annual permit fees, which must be paid by the owner or operator.

Coverage under this General Permit does not waive your obligation to obtain coverage under other applicable permits.

If you have any questions regarding the requirements of the General Permit, please feel free to contact the Water Protection Bureau at (406) 444-3080.

Sincerely,

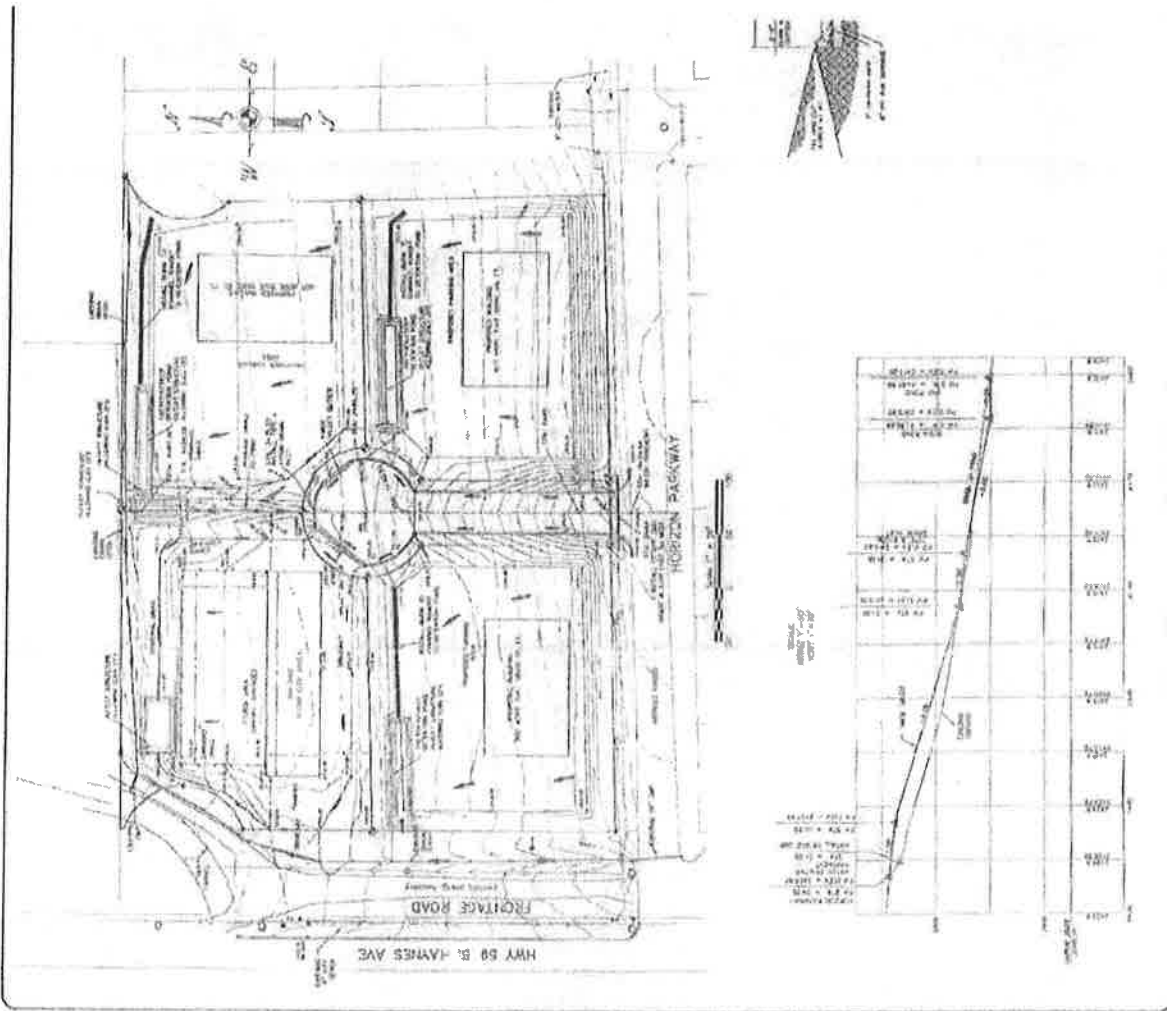
Janie Petaja
Data Control Tech
Water Protection Bureau
jpetaja@mt.gov

Attachments: General Permit

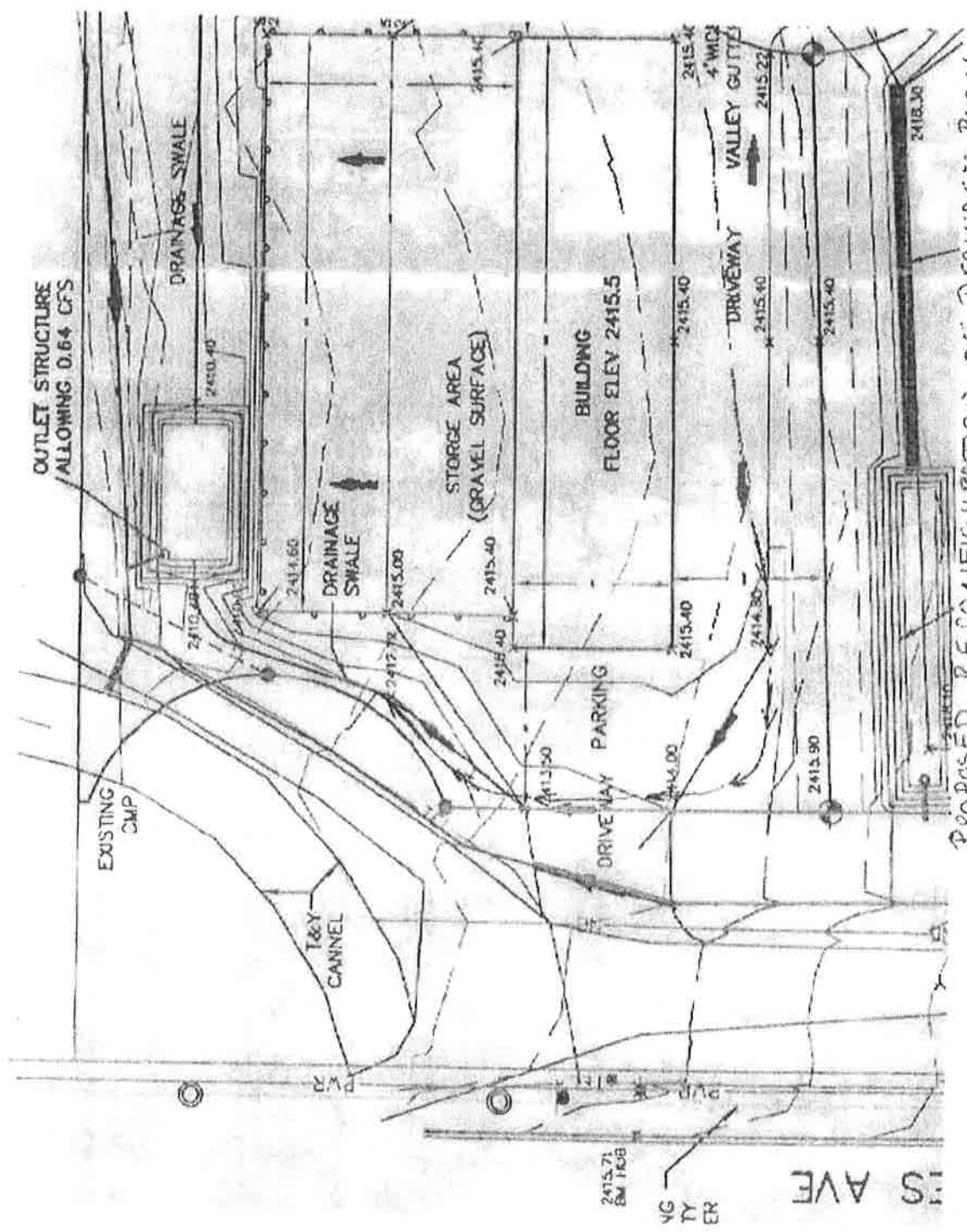
Condition #15 Bobcat Lane Design

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Condition #19 Landscaping/Site Drainage Plan



DATE: 10/15/08 11:00 AM



PROPOSED RECONFIGURATION OF DRAINAGE PLAN

