
CITY OF DEER LODGE

COUNCIL AGENDA

August 15, 2022, | 6:00 PM | PC Community Center

1. Call Meeting to Order | Pledge of Allegiance

2. Public Comment: Members of the audience may comment on any non-agenda item. State Statute prohibits the City Council from discussing any introduced item. The Council limits each person to three minutes to ensure there is sufficient time for all comments. The Council respects all comments and will have staff follow up any questions.

3. Approval of Minutes

a. Regular Meeting: August 1, 2022

4. Public Hearing:

a. Adopting 2021 International Building Codes into Title 15 – Jordan
Action Item: Vote on 1st Reading of Ordinance 2022-3

5. Department Reports:

a. CAO | b. Public Works | c. Police | d. Fire | e. Recreation Program

6. Mayor and Council Concerns: (ONLY Concerns that are not on Business Items). This is a time when Council Members or Mayor can bring a concern before the Council that is not otherwise listed on the Agenda. NO action can be taken at this time. If action is necessary, the item is put on the next meeting agenda.

7. Continued Business Items: The Council will act on each item after accepting public comments.

8. New Business Items: The Council will act on each item after accepting public comments.

- a. 819 Second Street Rezoning Petition – Jordan
- b. Forage Stand Purchase Contract with Michael Clasby – Jordan
- c. Resolution 2022-R-15: Adopting Public Utility and Public Access Easement at Hospital – Jordan

9. Next Meeting Announcement(s)

a. Regular Meeting – Tuesday, September 6, 2022, at 6PM as Monday, September 5th is a Holiday.

10. Adjournment

CITY COUNCIL

MINUTES

The City Council met on August 1, 2022, at 6 PM | PC Community Center

| | |
|-------------------------|---|
| Members Present: | Dick Bauman, Robert Kersch, John Henderson, Jackie Greenwood, & Curt Fjelstad |
| Members Absent: | John Molendyke, Joseph Callahan, 1 vacant |
| Mayor: | James Jess |
| CAO: | Jordan Green |
| Staff: | Police Chief Smith, Trent Freeman, Stan Glovan & Cyndi Thompson |
| Consultants | None |
| Guests: | See sign in sheet |

1. Call Meeting to Order | Pledge of Allegiance

Mayor Jess called the meeting to order at 6 PM. All present recited the Pledge of Allegiance.

2. Public Comment. Members of the audience may comment on any non-agenda items. State Statute limits the City Council from discussing any introduced items. The Council limits each person to three minutes to ensure there is sufficient time for all comments. The Council respects all comments and will have staff follow up any questions.

a. Public comment from John Greenwood was taxes being waived for city water.

3. Public Hearing.

a. 312 Missouri Avenue Conditional Use Permit – Jordan
Action Item: Vote on approval of Conditional Use Permit

Jesse and Sasha Mullen of 312 Missouri Avenue submitted a Conditional Use Permit application on June 28, 2022. The petitioners are seeking permission to live in the Silver State Post building, located at 312 Missouri Avenue, for approximately 18-24 months while they remodel the building to be suitable as an office and cafe. Currently, the structure is unfit for office use without new electric and updated plumbing. Living in the structure during renovation will reduce the time the business is vacant and save costs during the remodel. The City of Deer Lodge Zoning Ordinance requires the issuance of a Conditional Use Permit for residential and lodging uses in the Central Business District. As the Conditional Use would not change the exterior structure of the building in and of itself, there will be no impact on the regulations of the Central Business District as provided in the Zoning Code.

However, all construction required for the renovation of the property will need to follow the other zoning requirements for the Central Business District unless the applicants receive variances from the City.

Based on the information as well as the provided preliminary plan documents, the City Administration recommends the Planning Board send a favorable recommendation of the CUP application subject to the following considerations:

- The applicants are required to abide by all testimony as presented in the public hearings before the Planning Board and City Council.
- The applicants make every effort to restrict noise after business hours to decrease the adverse effect on the adjacent residential properties.
- The applicants receive all necessary permits for commercial buildings from the State Department of Labor and Industry and follow all applicable building codes and local zoning codes.
- Additional deviations from the zoning code must receive the prior approval of the City Council.
- The applicants cease using the property as a residence immediately following the completion of renovations. Use of the property as a residence is not to exceed 24 months.
- If the applicants expect renovations to take longer than 24 months, they should alert the City Administrator in writing at least 30 days in advance to request an extension.
- The applicants abide by all conditions the Planning Board and City Council attach to the approval of the Conditional Use Permit and, if not, relinquish the right to use the property as a residence until they regain approval from the City Council.

Jesse Mullan addressed the council and spoke of his business and renovations.

Public Hearing Opened at: 6:08PM – No public comments

Public Hearing Closed at: 6:09PM

Member Fjelstad motioned to approve 312 Missouri Avenue Conditional Use Permit as presented.

Member Henderson seconded the motion. 5 Ayes, 0 Nos, 2 Absent, 1 Vacant. Motion passed.

4. Approval of Minutes.

- a. Regular Meeting: July 18, 2022

Member Henderson motioned to approve minutes as presented. Member Greenwood seconded the motion. 3 Ayes, 0 Nos, 2 Abstained, 2 Absent, 1 Vacant. Motion passed.

5. Committee Reports – Accepted as presented.

- a. Council Ops – Rob Kersch (Chairperson)

July 11th – Continued discussing City Personnel Policy. Reviewed Worker’s Compensation and Computer Security. Draft policy to be presented at next meeting.

- b. Economic Growth & Development – John Henderson (Chairperson)

July 6th - Public Comment_– John Greenwood asked that tax breaks and land be put on the next agenda he also asked for charter government be put on the next agenda. Jackie Greenwood suggested that we create history center for Powell County full history

New Business– The preliminary contract with Gary Chilcott on the leasing of City Property was covered.

Continued Business – Jordan introduced a combined Vision and Mission statements. It was tabled for further study.

Committee Comments or Concerns – John Henderson brought up the idea of creating a Deer Lodge City license plate.

Next meeting is scheduled for August 3rd at 4:00 PM

c. Finance – Dick Bauman (Chairperson)

July 5th – Minutes approve for June 6 and June 21st. Continued business was budget review for FY-23. Milwaukee refueling area clean up pay application from H&H Contracting was approved. Land lease at Old Dump was discussed and is ready for review by City Council. Reviewed and signed June claims.

d. ARPA Steering Committee – Dick Bauman (Chairperson)

Next meeting Tuesday, August 2nd at 4:30pm.

e. Public Health & Safety – Vacant

No July Meeting

f. Public Works – Jackie Greenwood (Chairperson)

July 26 – Discussed City Sidewalk repair of 4-5 sidewalks per year the public works crew could do, approximately 80 hours per year. Approved a creation of an application that will be brought back to the committee to review. Approved and recommended to Council PRA 4th Pay Application. Discussed the water SCADA system.

6. Board Reports -

a. Airport Board – Vacant

No meeting till September 2022.

b. Powell County Parks Board –Joseph Callahan

Discussed Hoofing on the Ranch event.

c. Chamber of Commerce – John Henderson

Discussed Main Street decorations, meeting with the County Commissioners for additional funding.

d. Headwaters RC&D – Joseph Callahan

No July Meeting

e. Historic Preservation – Curt Fjelstad

Discussed asbestos report for 502 Main St.

f. Landfill – Rob Kersch

No July Meeting.

g. Local Emergency Planning Committee – Dick Bauman

No July Meeting.

h. Library – John Molendyke

Member absent, no report

- i. Planning Board – Dick Bauman
Voted on 312 Missouri Ave, received reports from Economic Growth & Dev, Historic Preservation and Chamber of Commerce. Continuing to work on their Mission Statement.
- j. Youth Board – Jackie Greenwood
No Meeting till September.

7. Continued Business (old/continued Business or Items Tabled)

- a. None

8. Business Items - The Council will act on each item after accepting public comments.

- a. Treasurer’s Report | July Claims – Stanley Glovan. Receive the informational report. Accept the recommendation from the Finance Committee and approve the claims.

Council President Bauman motioned to approve the claims as presented. Member Kersch seconded the motion. 5 Ayes, 0 Nos, 2 Absent, 1 Vacant. Motion passed.

- b. 4-H Pasture Lease – Jordan
This was presented and approved in the Finance Committee with a recommendation of yearly rent at \$300 per year, \$600 for the two year lease agreement. After further discussion with Suzanne Sopko and taking into consideration her request for the lease and what she’ll be using it for the Council Committee agreed to lower the cost of the pasture lease.

Member Fjelstad motioned the Pasture Lease be \$100 per year, \$200 for the 2-year pasture lease with the \$200 due at the time of signing. Member Greenwood seconded the motion. 5 Ayes, 0 Nos, 2 Absent, 1 Vacant. Motion passed.

- c. Ward 4 Council Member Appointment – Mayor Jess

Council President Bauman motioned to approve the Appointment of Gordon Pierson to Ward 4. Member Kersch seconded the motion. 5 Ayes, 0 Nos, 2 Absent, 1 Vacant. Motion passed.

- d. Junk Vehicle Program Lease Changes – Jordan

This is the same lease that was presented at the council meeting July 18th. The lease has been reviewed with Chad Lanes.

Council President Bauman motion with the correction of locking the gate only when not occupied. Member Fjelstad seconded the motion with the correction added. 5 Ayes, 0 Nos, 2 Absent, 1 Vacant. Motion passed.

- e. A-OK 10 Acre Lease – Jordan

Item was tabled and will be brought back to council August 15th if Mr. Clasby presents to city staff his specific project, he wants to do with the 10 acres and within enough time to present this back to council on August 18th.

Council President Bauman motioned to table A-OK 10 Acre Lease. Member Greenwood seconded the motion. 5 Ayes, 0 Nos, 2 Absent, 1 Vacant. Motion passed.

f. Skatepark Dirt Payments – Jordan

Water table on the land was higher than expected, therefore a large amount of dirt needed to be brought in. They did not consider the extra expenditure for the dirt. The foundation is currently strapped for funds and requesting \$14,296.49 to support the cost.

Finance gave an approval of up to \$15,000 to support the cost of the dirt plus any additional funds needed for the project.

Member Kersch motioned to approve the funds of up to \$15,000 for the expenses as presented. Council President Bauman seconded the motion. 5 Ayes, 0 Nos, 2 Absent, 1 Vacant. Motion passed.

g. PRA 4th Pay Application – Trent

This is the pay application for the Milwaukee Roundhouse in the amount of \$23,373.98. This is a grant funded project. Although the project is complete this is not the final pay application. This was approved by Public Works Committee and the Finance Committee.

Member Henderson motioned to approve the PRA 4th Pay Application in the amount of \$23,373.98. Member Kersch seconded the motion. 5 Ayes, 0 Nos, 2 Absent, 1 Vacant. Motion passed.

h. Drying Bed Pay Estimate #1 – Trent

This is the 1st Pay Estimate for the Drying Beds out at the Landfill for the amount of \$72,982.80. The pay request covers the construction items on the project from July 11 Notice to Proceed through July 22, 2022. This was approved by the Finance Committee.

Member Kersch motioned to approve Drying Bed Pay Estimate #1 in the amount of \$72,982.80. Council President Bauman seconded the motion. 5 Ayes, 0 Nos, 2 Absent, 1 Vacant. Motion passed.

9. Schedule of Committee Meetings – Tentative until confirmed by Committee Chairs.

- Economic Growth & Dev – August 3rd at 4 PM
- Finance – August 1st at 4PM
- Public Health & Safety – August 11th at 5 PM
- City Council Operations – August 8th at 5 PM
- ARPA Steering Committee – August 2nd at 4:30PM
- Planning Board – August 15th at 10AM (if needed)
- Council #2 – August 15th at 6 PM
- Public Works – August 23rd at 5 PM

10. Mayor & Council Concerns: (ONLY Concerns that are not on Business Items). This is a time when Council Members or Mayor can bring a concern before the Council that is not otherwise listed on the Agenda. NO action can be taken at this time. If action is necessary, the item is put on the next meeting agenda.

- a. Member Greenwood asked about the construction workers working on the skatepark jumping the Community Garden fence. CAO Green stated this has been addressed and resolved.

11. Next Meeting Announcements

- a. Regular Meeting: Monday, August 15, 2022, at 6 PM.

12. Adjournment

Mayor Jess adjourned the meeting at 7:18PM.

Prepared By: Cyndi Thompson, City Clerk

James Jess, Mayor

Date

ORDINANCE 2022-3

AN ORDINANCE BY THE DEER LODGE CITY COUNCIL REPLACING THE EXISTING TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE CITY CODE AND ADOPTING A REVISED TITLE 15.

IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER LODGE, MONTANA:

WHEREAS, the Montana Department of Labor and Industry has adopted updated editions of building codes as amended by administrative rule, effective June 10, 2022. FURTHER, ARM 24.301.202(1) requires all certified jurisdictions to update their ordinances to adopt the new editions of these building codes that they are certified to enforce; and

WHEREAS, §7-5-108, M.C.A allows for the adoption and amendment of codes by reference; and

WHEREAS, Title 15 of the City of Deer Lodge Code of Ordinances adopts by reference the building codes it is certified to enforce, and therefore must adopt the new editions of these building codes pursuant to ARM 24.301.202(1); and

WHEREAS, §7-5-4202, M.C.A. requires a municipality to provide notice of intent to adopt technical codes by reference in publication as provided in §7-1-4127; and

WHEREAS, as part of compliance with the provisions listed in §7-5-107, M.C.A, the City of Deer Lodge has contracted with American Legal Publishing Corporation for the codification of its Code of Ordinances. FURTHER, upon receipt of first draft of the Code of Ordinances, American Legal Publishing Corporation provided a legal and editorial report containing suggested changes to be considered for adoption by the City Council.

WHEREAS, the suggested changes for Title 15 (Buildings and Construction) have been reviewed by the City Attorney and other City staff; and

WHEREAS, the City Council held duly noticed public hearings on August 15, 2022 and on September 5, 2022 to accept comments regarding the intent to adopt technical codes by reference, as well as adopting changes suggested by American Legal Publishing Corporation and reviewed by the City Attorney.

NOW, THEREFORE, BE IT RESOLVED, that the Deer Lodge City Council hereby proceeds to replace the existing Title 15 of the City Code and adopt a revised Title 15, attached to this Ordinance as Exhibit "A". This revised Title 15 contains the replacement by reference of 2018 Building Codes with 2021 Building Codes as well as the adoption of changes suggested by American Legal Publishing Corporation in their legal and editorial report.

SEVERABILITY. If any selection, subsection, sentence, clause, phrase, or word of Ordinance 2022-3 is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance 2022-3 and each section, subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or words have been declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

Passed and Approved by the City Council of the City of Deer Lodge, Montana on the first reading at a Regular Council Meeting on the 15th day of August, 2022.

| Council Member | Yea | Nay | Abstain/Present | Absent |
|---------------------------------|-----|-----|-----------------|--------|
| Dick Bauman Council President | | | | |
| Joseph Callahan | | | | |
| Curt Fjelstad | | | | |
| Jackie Greenwood | | | | |
| John Henderson | | | | |
| Robert Kersch | | | | |
| John Molendyke | | | | |
| Gordon Pierson | | | | |
| James Jess Mayor | | | | |

James Jess, Mayor

Attest:

Cyndi Thompson, City Clerk

Passed and Approved by the City Council of the City of Deer Lodge, Montana on final reading at a Regular Council Meeting on the 6th day of September, 2022.

| Council Member | Yea | Nay | Abstain/Present | Absent |
|---------------------------------|-----|-----|-----------------|--------|
| Dick Bauman Council President | | | | |
| Joseph Callahan | | | | |
| Curt Fjelstad | | | | |
| Jackie Greenwood | | | | |
| John Henderson | | | | |
| Robert Kersch | | | | |
| John Molendyke | | | | |
| Gordon Pierson | | | | |
| James Jess Mayor | | | | |

James Jess, Mayor

Attest:

Cyndi Thompson, City Clerk

The effective date of Ordinance 2022-3 is October 6, 2022.

TITLE 15

BUILDINGS AND CONSTRUCTION

CHAPTERS:

15.02 BUILDING REGULATIONS

15.04 UNIFORM FIRE CODE

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Chapter 15.02: BUILDING REGULATIONS

SECTIONS:

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 - [15.02.040 Inspections](#)
 - [15.02.050 Qualifications and Duties of Building Inspector](#)
 - [15.02.060 Factory Built Buildings](#)
 - [15.02.070 \(Reserved\)](#)
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 - [15.02.090 Jurisdictional Area](#)
 - [15.02.100 Board of Appeals](#)
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-

15.02.010: Adoption of Building Codes

- A. The City of Deer Lodge adopts and incorporates by reference the following codes, copies of which are on file and are open for inspection of the public in the office of the Deer Lodge City Clerk, 300 Main Street, Deer Lodge, Montana, being marked and designated as:
1. **International Building Code, ~~2021~~2018 Edition, IBC**
 - a. IBC Appendix Chapters
Board of Appeals
Group U - Agriculture Buildings
 - b. The IBC, as modified and amended by the following Administrative Rules of Montana (ARM): ARM 24.301.131 ~~(1) through (3); ARM 24.301.146 (1) through (37)~~
 2. **International Energy Conservation Code, ~~2021~~2012 Edition IE~~C~~BC**, as modified and amended by Building Codes Bureau Rule: ARM 24.301.161 ~~and ARM 24.301.162 and Section 50-60-803 MCA~~
 3. **International Existing Building Code, ~~2021~~2012 Edition, IEBC**, as modified and amended by Building Codes Bureau Rule: ARM 24.301.171
 4. **International Swimming Pool and Spa Code, ~~2021~~2018 Edition, ISPSC**, as modified and amended by Building Codes Bureau Rule: ARM 24.301.175.
 5. **International Residential Code, ~~2021~~2018 Edition, IRC** ~~not including Chapters 11 through 46, inclusive~~, as modified and amended by Building Codes Bureau Rule: ARM 24.301.154 ~~(1) through (9)~~

(Ordinance 1 – 1/17/1980: Effective 1/17/1980; Ordinance 16 – 3/21/1983: Effective 3/21/1983; Ordinance 65 – 9/21/1992: Effective 9/21/1992; Ordinance 82 – 9/3/1996: Effective 9/3/1996; Ordinance 87 – 12/7/1998: Effective 12/7/1998; Ordinance 89 – 6/10/1999: Effective 6/10/1999; Ordinance 101 – 3/18/2002: Effective 4/17/2002; Ordinance 104 – 12/2/2002: Effective 1/6/2003; Ordinance 106 – 7/6/2004: Effective 7/6/2004; Ordinance 108 – 2/22/2005: Effective 3/24/2005; Ordinance 113 – 6/18/2007: Effective 6/18/2007; Ordinance 132 –

6/7/2010: Effective 6/7/2010; Ordinance 138 – 11/1/2010: Effective 11/1/2010; Ordinance 161 – 4/4/2016: Effective 5/4/2016; Ordinance 2020-2 – 7/20/2020; Effective 8/18/2020; Ordinance 2022-3 – 9/5/2022; Effective 10/6/2022)

15.02.020: Building Applications and Permits

- A. Before any person, firm, partnership, or corporation shall begin the construction or placing of any housing unit or type of building or structure upon any lot or lots within the city, an application for a permit for such placing or construction shall be submitted to the City Clerk; that upon receipt of such application, the Clerk shall thereupon present the application for such placement and erection or construction to the Building Inspector, and said Building Inspector shall within thirty (30) days of said application being presented to him, act upon said application, and shall immediately notify the Clerk of his decision. Upon approval of the application by the inspector, the Clerk shall immediately issue a written permit for the construction, erection, or placing of said housing unit or structure and shall notify the Building Inspector of the issuance of said permit and provide him with a copy thereof. Said permit shall require that the construction of the building must comply with the Uniform Code as adopted herein and be certified by the Official Building Inspector.

(Ordinance 1 – 1/17/1980: Effective 1/17/1980; Ordinance 101 – 3/18/2002: Effective 4/17/2002; Ordinance 106 – 7/6/2004: Effective 7/6/2004; Ordinance 108 – 2/22/2005: Effective 3/24/2005)

15.02.030: Building Inspector to Review Plans

- A. The Building Inspector shall be responsible for plan review coordination and for issuance of certification of occupancy.
- B. Upon application by any person for a building permit, the Building Inspector shall review the plans for compliance with the Code. The Building Inspector shall submit the plans to any other affected city department for review and approval by that department before issuance of a permit.
- C. Building plan review shall be completed by the Building Inspector within thirty (30) working days of submittal by the applicant.
- D. The Building Inspector may, in proper cases, request the aid of the Building Codes Bureau, other state agencies, or professional consultants to aid in coordination of review. In such cases, the Building Official may lengthen the completion time for review by ten (10) working days when necessary.
- E. The Building Inspector may establish setback lines in residential areas shall prohibit construction of any building within four (4) feet of its exterior boundary lines.

(Ordinance 1 – 1/17/1980: Effective 1/17/1980; Ordinance 42 – 11/16/1997: Effective 11/16/1997; Ordinance 57 – 3/18/1991: Effective 3/18/1991; Ordinance 101 – 3/18/2002: Effective 4/17/2002; Ordinance 106 – 7/6/2004: Effective 7/6/2004; Ordinance 108 – 2/22/2005: Effective 3/24/2005)

15.02.040: Inspections

- A. Inspections shall be conducted by the Building Inspector. Where other departments require inspection, the Building Inspector shall insure that they are conducted within the time frame allowed in **Section 15.02.030**. Final inspections and issuance of Certificates of Occupancy shall be conducted in accordance with **Sections 304 through 306 of the Code**.

(Ordinance 1 – 1/17/1980: Effective 1/17/1980; Ordinance 101 – 3/18/2002: Effective 4/17/2002; Ordinance 106 – 7/6/2004: Effective 7/6/2004; Ordinance 108 – 2/22/2005: Effective 3/24/2005)

15.02.950: Qualifications and Duties of Building Inspector

- A. Certification at time of hiring or obtained within six (6) months from hiring date. Such certification shall be by a recognized entity and meet Montana administrative rules.

(Ordinance 1 – 1/17/1980: Effective 1/17/1980; Ordinance 57 – 3/18/1991: Effective 3/18/1991; Ordinance 101 – 3/18/2002: Effective 4/17/2002; Ordinance 106 – 7/6/2004: Effective 7/6/2004; Ordinance 108 – 2/22/2005: Effective 3/24/2005)

15.02.060: Factory Built Buildings

- A. Factory built buildings which are approved by the Montana Building Codes Bureau, Department of Labor & Industry, shall be subject to local government inspection and fees for only zoning, utility connections and foundations.

(Ordinance 1 – 1/17/1980: Effective 1/17/1980; Ordinance 57 – 3/18/1991: Effective 3/18/1991; Ordinance 101 – 3/18/2002: Effective 4/17/2002; Ordinance 106 – 7/6/2004: Effective 7/6/2004; Ordinance 108 – 2/22/2005: Effective 3/24/2005)

15.02.070: (Reserved)

(Ordinance 1 – 1/17/1980: Effective 1/17/1980; Ordinance 57 – 3/18/1991: Effective 3/18/1991; Ordinance 101 – 3/18/2002: Effective 4/17/2002; Ordinance 106 – 7/6/2004: Effective 7/6/2004; Ordinance 108 – 2/22/2005: Effective 3/24/2005)

15.02.080: Building Permit Fee Schedule

- A. Building permit fees shall be based upon the evaluation of the work being done. Evaluation shall be construction bid or bids, square foot costs as allowed by Montana Administrative Rules or actual construction costs. Such fees shall be reviewed on an annual basis by the Deer Lodge City Council and may be adjusted to generate sufficient revenues to cover the actual expenses of the building department.

(Ordinance 1 – 1/17/1980: Effective 1/17/1980; Ordinance 48 – 8/7/1989: Effective 8/7/1989; Ordinance 57 – 3/18/1991: Effective 3/18/1991; Ordinance 92 – 12/18/2000: Effective 12/18/2000; Ordinance 101 – 3/18/2002: Effective 4/17/2002; Ordinance 106 – 7/6/2004: Effective 7/6/2004; Ordinance 108 – 2/22/2005: Effective 3/24/2005)

15.02.090: Jurisdictional Area

- A. The jurisdictional area of the City Building Department shall be the corporation limits of the City of Deer Lodge.

(Ordinance 1 – 1/17/1980: Effective 1/17/1980; Ordinance 101 – 3/18/2002: Effective 4/17/2002; Ordinance 106 – 7/6/2004: Effective 7/6/2004; Ordinance 108 – 2/22/2005: Effective 3/24/2005)

15.02.100: Board of Appeals

- A. In order to provide for reasonable interpretations of the provisions of this Code, there shall be and is hereby created a Board of Appeals, consisting of the three (3) City Council members on the Public Safety and Zoning Committee, with the remaining (5) five City

Council members as alternates. The Building Inspector shall be an ex officio member and shall act as Secretary of the Board.

(Ordinance 1 – 1/17/1980: Effective 1/17/1980; Ordinance 101 – 3/18/2002: Effective 4/17/2002; Ordinance 106 – 7/6/2004: Effective 7/6/2004; Ordinance 108 – 2/22/2005: Effective 3/24/2005)

15.02.110: Violations; Penalty

- A. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, equip, use, occupy or maintain any building or structure in the City of Deer Lodge, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this chapter.
- B. Upon notice from the building inspector that work on any residential building or structure is being executed contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped.
 - 1. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's authorized agent or to the person performing the work and shall state the conditions under which work will be permitted to resume. (IRC ~~2021~~2018 Section R114)
- C. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe conditions, shall be subject to penalties as prescribed by this ordinance. (IRC ~~2021~~2018 Section R114)
- D. The issuance of a stop work order will require the owner of the property involved or the owner's authorized agent to apply for a building permit from the building inspector. The fee for the issuance of the building permit following the stop work order will be double the fee as set in the fee schedule for the work being done.
- E. Any contractor who performs work without a permit when a permit is required will be issued a stop work order under the process described above.
 - 1. Upon the issuance of a second stop work order to the same contractor within a year from the first, the business license for the contractor will be suspended for one (1) year.
 - 2. The issuance of a third stop work order will cause that contractor's business license to be suspended indefinitely.
- F. Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted, and upon first conviction of any such violation such person shall be punishable by fine of not more than three hundred dollars (\$300.00). Upon second and subsequent conviction of any such violation such person shall be punishable by fine of not more than five hundred dollars (\$500.00).

(Ordinance 1 – 1/17/1980: Effective 1/17/1980; Ordinance 101 – 3/18/2002: Effective 4/17/2002; Ordinance 106 – 7/6/2004: Effective 7/6/2004; Ordinance 108 – 2/22/2005: Effective 3/24/2005)

Effective 3/24/2005; Ordinance 2021-16 – 12/20/21: Effective 01/21/2022; Ordinance 2022-3 – 9/5/2022: Effective 10/6/2022)

Chapter 15.04: UNIFORM FIRE CODE

SECTIONS:

15.04.10 ADOPTION OF FIRE CODE CONSISTENT WITH STATE FIRE MARSHAL FIRE CODE

15.04.10: ADOPTION OF FIRE CODE CONSISTENT WITH STATE FIRE MARSHAL FIRE CODE

- A. The City of Deer Lodge does hereby adopt the Fire Code that is Consistent with that utilized by the State Fire Marshal.

(Ordinance 1 – 1/17/1980: Effective 1/17/1980; Ordinance 107 – 7/6/2004: Effective 7/6/2004; Ordinance 157 – 5/19/2014: Effective 6/18/2014; Ordinance 2019-12 – 9/16/2019: Effective 10/15/2019)

CITY OF DEER LODGE

CAO REPORT

August 2022

PROJECT SUMMARIES

Municipal Budget

- Finance meetings have wrapped up. Working on amendments before bringing to City Council. Expecting to bring budget draft to City Council in September. Revenues vs. Expenditures amounts are a similar ratio to last year.
- Stan and I are trying to coordinate with either MMIA or previous City Treasurer for budget review guidance.

City Planning

- County Parks Board Trails Subcommittee is refocusing on using City/County Parks and Trails for events. Anyone who is interested in joining the Park/Trail subcommittee should contact the Powell County Planning Department. Have prioritized events with the subcommittee to start working on.
- Evergreen Skateparks working on installation of skatepark. We have helped by providing fill, vehicles, time, and contacts for subcontractors. Expecting completion last week of August. Have received a quote for rules and regulations signage and am working on receiving a security camera quote for skatepark and Jaycee Park facilities.
- Planning Board is working on recommendations to changes to the Zoning Ordinance to reduce some of the regulatory barriers that are disincentivizing housing development. Expect to bring these recommendations to City Council in September.
- I am City contact for the State Regional Disaster Mitigation Planning process. The state is funding for a 5-year update to the regional disaster plans, which will be disbursed to municipalities upon completion. I have submitted City of Deer Lodge Hazard Data Collection Guide to the Montana Disaster and Emergency Services Mitigation Division.
- Working with a few different property owners on feasibility for placing several homes on larger lots in town. Also working on the preliminary steps for a housing subdivision to be annexed into City limits.
- Working on draft historic preservation ordinance with Historic Preservation Commission to bring to Council for consideration of adoption.
- Planning Board working on adoption of Mission Statement.

Grants

- Performing limited solicitation for Growth Policy update using Request for Proposals approved by Planning Board. Four planning firms are submitting proposals. Due date for proposals is September 15th. They will then get reviewed by planning board to recommend a firm to City Council.
- Submitted Reclamation and Development Grant (RDGP). Will need to be approved by 2023 Legislature.

- Applied for Targeted Brownfield Assessment (TBA) Grant for Hotel Deer Lodge. Expecting assessment in next few months.
- Applying for EPA Brownfields Cleanup Grant for Hotel Deer Lodge. Working with Powell County Planning Director on application, with support from EPA representative for our region.
- Demolition has completed on 233 5th Street as part of FEMA PDM-17 grant cycle. I have had a meeting with another property owner to acquire their flood-prone property. Stahly Engineering is working on the Notice of Intent to apply for funding for the next PDM grant cycle.
- Received preliminary sign designs for wayfinding kiosks from Stahly Engineering and have held meeting with Fastsigns representative for final designs and quotes. Fastsigns has not been communicative since meeting, so engineers are also reaching out to other businesses to get competitive quotes. Still awaiting quotes.
- DEQ has received a brownfields planning grant for the Milwaukee Roundhouse and Passenger refueling area and will begin working with the county and myself on administration of those funds.
- ARPA Steering Committee has had several meetings and is in the process of ranking the applications from City business and nonprofits for recommendation to City Council. We have received 24 applications and plan on recommending grants to all of them in some capacity. Total funding just under \$50,000.
- Received Advisory Committee rankings for I&I and Well ARPA Competitive Grant applications. Our I&I project ranked #3 for priority funding in the state. Well project was ranked lower due to scoring mechanism. Have received final approval and Stahly is working on grant startup conditions.
- Trent and I are working on finding grant funding for signage improvements throughout town now that city-wide signage is digitalized in our system. Spoke with MDT Vision Zero coordinator and Stahly for potential grant opportunities.
- Reapplied for Minimum Allocation funding through DNRC for the well project. Expecting approximately \$600,000 for the project from this program.
- Working with Commissioners on reallocation of their Minimum Allocation Grant funding to supplement our well project for \$607,444. Commissioners have approved the resolution to give us authority to apply for their funding.

City Hall & Employees

- Had Youth Room electrical inspection completed and am waiting on a quote from DeSilva. I have reached out to Ray Peterson Electric in Anaconda who will be doing an inspection in the next few weeks as well.
- Ricci (City Hall Trustee) and I are working on transitioning City Hall to LED lightbulbs to reduce costs and receive rebate from Northwest Energy.
- Reposted Code Enforcement Officer position. Have received quite a few applications and will begin sorting through them for potential interviews this week. We have closed the job posting and are working on creating an interview board and ranking applications.

- Provided recommendations to amendments to City Personnel Policy to Council Operations Committee. Currently being reviewed by MMIA and City Attorney before recommendation to City Council.

Floodplain Administration

- Received first draft of new floodplain boundaries from DNRC. So far, very minor changes to floodplain boundaries in Deer Lodge. City should expect final updated maps in 2025.
- Had 5-year Community Assistance visit with DNRC Floodplain representatives, which went very well. The DNRC is currently reviewing our floodplain ordinance to see if they recommend any changes.
- Attended National Floodplain Conference May 16-20.

Economic Development

- Applied for a Rural Reimagined grant with County Planning Director and Extension to aid in local business and tourism education. Received notice we were awarded grant funding and will be working with the two of them on how to administer funding for this project.
- Economic Growth and Development Committee looking at how to work more closely with local organizations. Met with Chamber of Commerce and Discover Deer Lodge to figure out future goals and roles.
- Coordinating with Discover Deer Lodge on placing bike racks throughout town.
- I have met with Discover Deer Lodge and Discover Anaconda to determine how we can best mirror Discover Anaconda's economic and housing development practices. I have made some great contacts with them which will provide us a lot of guidance in the future. Will be meeting with them and again in next several weeks.
- Coordinating with county on several potential industrial park projects in and around the city.
- Attorney and I are working on draft contract for Gary Chilcott's requested lease of City land. Will bring to City Council once draft is completed. We also have another interested party in leasing land for a warehouse adjacent to Gary's site.
- Member of the Ted Rule Memorial Football Field Committee, which is working to achieve funding through donations and grants for a complete renovation of the School District Track and Field Complex. Have wrote grants to the Foster Foundation and the Northwest Farm Credit Services Rural Community Grant Program. We have heard back from the Northwest Farm Credit Services and have been awarded \$2,500 for the project. No news from other application.
- Prison Discussion Committee met for the first time on August 10 to discuss rumors and strategies for prison retention. Will meet again in a few weeks after we have gathered some preliminary data.
- Economic Growth and Development Committee has adopted both Vision and Mission Statements to guide the priority of projects for the Committee.

INTEREST ITEMS FOR CITY COUNCIL

- City news will now be incorporated into advertisements on 96.9FM, The River. Updates weekly. Let me know if you have any City news that I can relay to Marci at the station to be included in the broadcast.
- Currently in legal and editorial review process on draft code provided by American Legal for codification project. Review notes are due August 19. We will need to adopt updates after review notes have been sent back to American Legal.

CITY OF DEER LODGE

Public Works Report

July 2022/August 2022

PROJECT SUMMARIES

Street Maintenance

- 2022 Street Maintenance Project will be delayed due to maintenance issues with the asphalt oil supplier
- Golf Course Rd. has been milled in place by the County Road Dept. and the City Public Works Crew graded and compacted the roadway
- Street Sweeping streets prior to Maintenance Project

Sewer Utility

- Landfill Drying Bed Project pads have been poured
- AUMA Inc. serviced bioreactor Air Actuators and replaced the control panels on four valves and replaced internal components on another valve
- Two manholes have been lowered prior to the Street Maintenance Project. One on Hollenbeck Ln. and one at the intersection of Oregon and W. Pennsylvania

Parks and Rec

- Parks Cleanup
- New VFD installed for Higgins St. Well so we can start watering and mowing again

Water

- Repairing Leaks
- Installing new services

Solid Waste

- Fuel Tank leak on the Peterbilt. New tank installed

Mosquito Abatement

- Continuing to spray PermaSease Adulticide
- Adapco here for yearly calibration of the fogger

INTEREST ITEMS FOR CITY COUNCIL

- Cottonwood Street Drainage Project will go out to bid this winter. Northwest Energy has new pipe ordered and will be here this winter for this coming spring installation. The gas line lowering will be at no cost due to the franchise agreement.
- PRA Soil Remediation Project complete for this Scope of Work other than seeding in the fall
- Attended Rate Structure/Water Loss and Emergency Preparedness seminar from Montana Rural Water Systems (MRWS)

COVID-19 RESPONSE

Currently the Public Works Crew is moving forward on anticipated projects while working safely, practicing enhanced hygiene, and using personal protective equipment as directed.



Deer Lodge Police Department

July 2022

Police CFS= Total 289

Alarm
Alarm - Medical
Alarm - Non Residential
Assault
Break-in - Attempted
Burglar Alarm
Child Abuse
Civil Standby
Courtesy Ride
Criminal Mischief
Disturbance
Domestics
DUI
Electrical Hazard
Elder Abuse
Fire
Gas Leak
Hit and Run
Medical Alarm
Noise Complaint
Parking Complaint
Partner Family Member Assault
Probation Officer Check
Property Stolen
Public Safety
Reckless Driving
Request Ambulance
Request Officer
Request to Speak to Officer
Sexual Assault
Suicidal Adult - Female

Suspicious Activity
Suspicious Person(s)
Suspicious Vehicle(s)
Theft
Traffic Accidents
Traffic - Hazard
Traffic Stop
Traffic - Stranded Motorist
TRO Violation
Unattended Juvenile(s)
Unwanted Person(s)
VIN Inspection
Walk Through/Security Check
Weapon(s) Brandished
Weapon(s) Discharged
Welfare Check

Code CFS= 14

Animal Calls
Fireworks Complaint
Fireworks Violation
Recreational Fire Complaint

Citations Issued = 28

Out of Town Calls= 6 none more than 5 miles out



FIRE DEPARTMENT REPORT

JULY 2022

HIGHLIGHTS

8 Calls for Service:

- 1 small wild land caused by lightning in a hay field. Residents had it contained mostly before we arrived.
- 1 fire at the landfill in a rubbish pile. Fire was on the surface of the pile. We had it contained that night and shuffled water to it a few times the next day to make sure nothing re-ignited.
- 2 arching power line calls. Both of which Northwestern Energy took over and handled.
- 1 call to help reset industrial fire alarm.
- 1 call to protect a fuel spill. We used floor dry to dam the spread and detergent to mask the fire hazard. Hazmat spill from Hanser's Towing took over upon arrival.
- 1 electrical fire in a cooking stove. Resident had it out upon our arrival.
- 1 car accident extrication assist. We helped stabilize the car and remove victim.

INTEREST ITEMS FOR CITY COUNCIL

Department Happenings

- Just completed Traffic Incident Management System training to help teach crews how to set up protection on roadways for fires and accidents. Some crew members from Racetrack Valley Dept joined.
- Annual hose testing will be completed by the end of August. All hose on all trucks.



RECREATION PROGRAM REPORT

JULY 2022

HIGHLIGHTS

- Soccer and coed softball end next week.
- Football and volleyball will start soon after kids get back in school.

PROJECT SUMMARIES

None.

INTEREST ITEMS FOR CITY COUNCIL

None.

STAFFING CONCERNS

None.

COVID-19 RESPONSE

No update.

REZONING STAFF REPORT

Jordan Green – June 21, 2022

Introduction –

Kimberly Fisk submitted a Rezoning Application on May 23, 2022 to request a rezoning of her property at 819 2nd Street in Deer Lodge to the R-2, Single Family and Manufactured Home District to accommodate the placement of a 1980 double-wide manufactured home to be operated as a rental. The property is currently zoned as R-3, High Density Residential, which does not allow any type of mobile or manufactured home. The property is located in Section 04, Township 07 North, Range 09 West, Block 48 and the west 84 feet of Lots 9 and 10. Directly to the east of the property at the address 207 Pennsylvania Avenue is the Mountain Sage Herbal Tea Shop, a business operated by Ms. Fisk. To the south is the Old Montana Prison Museum. To the north and west are more residential properties in the R-3, High Density Residential District.

Analysis of Application –

The analysis of this rezoning followed the requirements specified in Chapter 28 of the City of Deer Lodge Zoning Ordinance. The requirements and staff comments used in this analysis follow.

The zoning amendment is made in accordance with the Growth Policy

City Administration: City Administration feels that this rezoning is in accordance with the Growth Policy as it provides more housing, specifically rental housing, in the City of Deer Lodge. A lack of affordable rental housing is identified in the Growth Policy as a concern within the City. Objective 9.2 of the Growth Policy states that the City should “increase and preserve affordable housing options for people of all ages, abilities, and backgrounds and Objective 9.2 references the need to allow greater flexibility of housing options through amendments to the zoning code. By allowing the placement of a manufactured home on this lot, the City increases housing stock available to those who need rental properties in town.

The zoning amendment is designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements

City Administration: There is no expected impact on the provision of transportation networks, water, sewerage, schools, parks, and other public requirements from the proposed rezoning. As the site is currently zoned for residential uses, a rezoning to another residential zone to allow for a manufactured home will have no additional impact on these systems.

The zoning amendment considers the effect on motorized and non-motorized transportation systems

City Administration: There is no expected effect on motorized and non-motorized transportation systems. As the site is currently zoned for residential uses, and is adjacent to other residential uses, there is no additional impact on transportation systems by rezoning as a different type of residential to accommodate the petitioner’s request.

The zoning amendment considers the promotion of compatible urban growth

City Administration: The site is adjacent to other single-family residential structures, including several manufactured homes. Therefore, the rezoning is compatible with the surrounding urban patterns.

The zoning amendment is designed to promote public health, public safety, and the general welfare

City Administration: There is no impact on public health, public safety, and the general welfare expected from this proposed rezoning. There is the potential to promote greater public health and welfare by providing a high-quality rental home in the City, which currently has a shortage of such units.

The zoning amendment considers the reasonable provision of adequate light and air

City Administration: There is no expected impact on the provision of adequate light and air on adjacent properties due to the proposed rezoning.

The zoning amendment conserves the value of buildings and encourages the most appropriate use of the land throughout the jurisdictional area

City Administration: The rezoning will have little to no impact on the value of adjacent buildings. It encourages an appropriate use of the land in the City, as it is located adjacent to other single-family homes.

The zoning amendment considers the character of the district and its peculiar suitability for particular uses

City Administration: As the site is currently adjacent to other single-family homes and manufactured homes, the proposed rezoning is suitable for the character of the district. However, the petitioner should make efforts to place the structure in a way that makes it cohesive with the surrounding homes.

Recommendation –

Based on the above requirements, City Administration recommends the Planning Board recommend to City Council the rezoning of the subject property from the R-3 High Density Residential District to the R-2, Single Family and Manufactured Home District to accommodate the placement of a 1980 double-wide manufactured home.



Chief Administrator/ City Planner


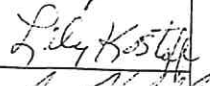

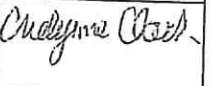
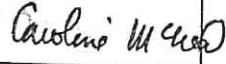

6/21/22

Date

Petition to revoke Rezoning Application on 819 2nd street.

Petition to revoke Rezoning Application on 819 2nd street. This rezoning will accommodate a 1980 doublewide trailer. Work began on the site well before we even had a meeting. I called Jordan Green back directly following the meeting and he said he would voice my complaint. Jordan explained In order for this petition to be considered we need 25% our neighbors within 150 feet of the property. The work continues to take place. This property has never allowed a mobile or manufactured home before this. This opens the avenue for more of this to happen on our street. By allowing the placement of a manufactured home on this lot, the city increases housing stock for those who need rental properties in town. We would be happy if a new property was being built or a business.

Please consider signing this petition to revoke this rezoning.

| Name | Address | City and State | Phone | Signature |
|-----------------|-------------------|----------------|--------------|---|
| Jessie Kostoff | 820 Second Street | Deer Lodge, MT | 406-565-0176 |  |
| Lily Kostoff | 820 Second Street | Deer Lodge, MT | 406-491-4794 |  |
| Lauren Kostoff | 820 Second Street | Deer Lodge, MT | 406-220-2270 |  |
| Chelynne Clark | 816 Second Street | Deer Lodge, MT | 406-565-0866 |  |
| Caroline McNeal | 813 Second St | Deer Lodge MT | 775-293-1177 |  |
| Joshua Holt | 813 Second St | Deer Lodge MT | 547 301 2439 |  |

**STANDING FORAGE PURCHASE AGREEMENT
BETWEEN THE CITY OF DEER LODGE AND MICHAEL D. CLASBY**

THIS PURCHASE AGREEMENT entered into this 15th day of August, 2022 between the City of Deer Lodge ("Owner") and Michael D. Clasby ("Operator").

THE PARTIES AGREE AS FOLLOWS:

1. **PROPERTY DESCRIPTION.** The Owners in consideration of the terms specified herein, sell to the Operator the standing forage on the following described property ("REAL ESTATE"):

The REAL ESTATE, known as the "City-owned Park Land North and East of the AOK Camping on the Clark Fork Campground," is located in Block 1, Lots 1-10; Block 2, Lots 1-5; and Block 4, Lots 1-10 of the Stuart Addition to the City of Deer Lodge along with all adjacent City of Deer Lodge Right-of-Ways, and the 13.705 Acres of the City Park Adjoining Grant Kohrs, all located in the SW ¼ of Section 33, Township 8 North, Range 9 West, Powell County, Montana.

Containing 17 acres, more or less, and subject to all easements now existing or which the Owner may grant in the future. These Premises are further described on the Map attached to and hereby incorporated into this Purchase Agreement.

The Owner shall be responsible for determining and identifying the boundaries of the REAL ESTATE and Fields to the satisfaction of the Operator.

2. **TERM OF PURCHASE AGREEMENT.** The term of this Agreement shall be for the period beginning August 15, 2022 and ending October 31, 2022. Extension of this Agreement beyond the end date shall occur with written agreement only.
3. **PURPOSES OF THE AGREEMENT.** The Operator shall have the right to harvest the standing forage from REAL ESTATE as shown on the Map subject to the following specifications:

All cut materials must be removed from the fields within two weeks of cutting.

No bales may be left standing in the fields for more than seven (7) days and must be removed from the field within that time.

Spoiled windrows may be chopped back into the field using a shear bar type forage harvester.

No field work may be conducted when soil is wet enough for ruts to form.

No cutting may occur after October 17, 2022.

Pest control will be the responsibility of the Operator, if necessary. All applications of pesticides must be approved PRIOR to application by Powell County – MSU Extension Services.

The Owners make no guarantee as to the volume, condition, or quality of the standing forage.

The use of any equipment or buildings which are the property of the Owners is not included in the terms of this Agreement.

4. PAYMENT. Payment is to be made in the consideration of one dollar (\$1.00), payable to the Owner by the Operator upon signing of the Agreement.

5. OPERATOR DUTIES AND CONDITIONS. Operator agrees to:

Assume all liability for any damage or injury to persons or property, real or personal, resulting from the Operator's actions under this contract, and will hold Owners harmless from the same.

Pay the appraised value for unnecessary damage to the residual forage stand and shall pay for any damages which are the direct result of the Operator's actions.

Debris resulting from harvesting and transporting is to be disposed of by the Operator prior to termination of the Agreement. Operator shall repair damage to existing roads, fields, and fences to the approval of the Owners.

Comply with all local, state, and federal laws and regulations governing all activities related to the application of pesticides, the cultivation of crops, and the compliance thereof. Follow label directions in the handling and application of all chemicals used on the REAL ESTATE and follow all applicator's licensing requirements. Comply with local, state, and federal laws and regulations pertaining to potential groundwater contamination.

6. OPERATOR EXPENSES. All materials and services related to the harvest and transportation of the forage shall be supplied by the Operator.

7. RIGHT OF ENTRY AND INSPECTION. The Owners' may enter the REAL ESTATE at any reasonable time for the purpose of consulting with the Operator, viewing the property, making repairs or improvements, or for other reasonable purposes that do not interfere with the Operator's ability to carry out regular operations.

8. TRANSFER OF INTEREST. The Operator agrees not to lease or sublet any part of the REAL ESTATE nor assign this Agreement to any other person, nor sublease any or all of the property described herein without prior written permission of the Owner.
9. NO PARTNERSHIP CREATED. This purchase agreement shall not be deemed to give rise to a partnership relation, and neither party shall have authority to obligate the other without written consent.
10. INDEMNIFICATION. The Operator agrees to protect, indemnify and save harmless the Owners and the Owners' employees and agents from and against all causes of action, claims, demands, suits, liability or expense by reason of loss or damage to any property or bodily injury to any person, including death, as a direct or indirect result of operations under this Agreement or in connection with any action or omission of the Operator, who shall defend the Owners and the Owners' employees and agents in any cause of action or suit.
11. CHANGES IN AGREEMENT TERMS. The conduct, representation, or statement of either party, by act or omission, shall not be construed as a material alteration of this Agreement until such provision is reduced to writing and executed by both parties as an addendum to this Agreement.

It is further understood that both parties have read the terms and provisions of this Agreement and have agreed to abide by the terms and provision herein.

As to the Owner this _____ day of _____, 2022.

James Jess
Mayor, City of Deer Lodge

As to the Operator this _____ day of _____, 2022.

Michael D. Clasby

ADDENDUM: Map of the REAL ESTATE Described in the Agreement.



RESOLUTION 2022-R-15

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF DEER LODGE ADOPTING A PUBLIC UTILITY AND PUBLIC ACCESS EASEMENT THROUGH A TRACT OF LAND LOCATED IN MORTGAGE PARCEL M1 OF CERTIFICATE OF SURVEY 740ME, COMMONLY KNOWN AS 1100 HOLLENBACK LANE.

WHEREAS, §7-1-4124(3), MCA authorizes municipalities with general powers to hold and manage any interest in real or personal property, including easements; and

WHEREAS, Certificate of Survey 740ME, on file with the Powell County Clerk and Recorder and certified August 11, 2010, delineates a public utility and public access easement as existing through a tract of land located in Mortgage Parcel M1 of Certificate of Survey 740ME, being a part of Parcel A-2C, Amended Plat of Country Village Sites II, Parcels A-3A and A-2B, all located in the Southeast quarter of Section 28, Township 8 North, Range 9 West, Principal Meridian Montana, City of Deer Lodge, Powell County, Montana; and

WHEREAS, this easement has been accepted as existing since the filing of said Certificate of Survey 740ME, but had never been formally adopted by the City of Deer Lodge City Council; and

WHEREAS, the Powell County Memorial Hospital Association, Inc. is the current owner of the above-described real estate; and

WHEREAS, an addition to the Powell County Memorial Hospital constructed in 2021 and 2022 encroached upon this easement approximately five feet. FURTHER, on June 7, 2021, the City of Deer Lodge City Council approved a right-of-way encroachment application submitted by the Powell County Memorial Hospital Association, Inc. through a vote of 7 yeas and 0 no's with 1 absent to allow the Hospital to begin construction within the easement with the assumption that the approximately 5 feet of easement would be vacated by the City of Deer Lodge; and

WHEREAS, after research, surveyors contracted by the Powell County Memorial Hospital Association, Inc. determined that the portion of easement could not be vacated since it was never formally adopted by the City of Deer Lodge. FURTHER, the surveyors requested the City of Deer Lodge and the Powell County Memorial Hospital Association, Inc. formally adopt an amended public utility and public access easement that did not include the 5 feet encroached upon by the hospital addition; and

WHEREAS, "Exhibit 'A,'" attached to and hereby incorporated into this resolution, identifies the legal description of the amended public utility and public access easement. FURTHER, "Exhibit 'B,'" attached to and hereby incorporated into this resolution, contains the terms of the public utility and public access easement.

NOW, THEREFORE, BE IT RESOLVED THAT:

The City of Deer Lodge City Council adopts the attached Public Access and Public Utility Easement Agreement ("Agreement") between the City of Deer Lodge and the Powell County Memorial Hospital Association, Inc., along with the Exhibit showing the legal description of the Easement.

The City of Deer Lodge City Council authorizes the Mayor of the City of Deer Lodge to sign the Agreement on behalf of the City of Deer Lodge. The easement and Agreement will be filed with the Powell County Clerk and Recorder's Office upon signing by both parties.

Passed and approved by the City Council of the City of Deer Lodge, Montana on first and final reading at a regular Council meeting this 15th day of August, 2022

The effective date of Resolution 2022-R-15 is August 15, 2022.

| Council Member | Yea | Nay | Abstain/Present | Absent |
|-----------------------|------------|------------|------------------------|---------------|
| Dick Bauman | | | | |
| Joseph Callahan | | | | |
| Curt Fjelstad | | | | |
| Jackie Greenwood | | | | |
| John Henderson | | | | |
| Robert Kersch | | | | |
| John Molendyke | | | | |
| Gordon Pierson | | | | |
| James Jess Mayor | | | | |

James Jess, Mayor

Attest:

Cyndi Thompson, City Clerk

EXHIBIT 'B'

PUBLIC UTILITY AND PUBLIC ACCESS EASEMENT

This Public Utility and Public Access Easement Agreement (“Agreement”) is made and entered into this ____ day of _____, 2022 by and between the Powell County Memorial Hospital Foundation, Inc., with an address of 1100 Hollenbeck Lane, Deer Lodge, Montana 59722 (“Grantor”) and the City of Deer Lodge, a Montana municipal corporation, with an address of 300 Main Street, Deer Lodge, Montana 59722 (“Grantee”).

Recitals

WHEREAS, Grantor owns Mortgage Parcel M1 of Certificate of Survey 740ME, being a part of Parcel A-2C, Amended Plat of Country Village Sites II, Parcels A-3A and A-2B, all located in the Southeast quarter of Section 28, Township 8 North, Range 9 West, Principal Meridian Montana, City of Deer Lodge, Powell County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Powell County, Montana (the “Servient Tenement”); and

WHEREAS, Grantee requires an access and utility easement over, across, and through the Servient Tenement for the possible future connectivity and extension of an existing City Street to provide for continuation of that local street for the convenient movement of traffic, effective provision of emergency services, and efficient provision of utilities and Grantor desires to grant such easement according to the terms and conditions of this Agreement; and

WHEREAS, Grantor reserves the right to utilize the area of the Servient Tenement described as the Public Utility and Public Access Easement, as further provided herein, unless and until a future City Street is developed thereon; and

NOW, THEREFORE, the parties agree as follows:

1. Grant of Public Utility and Public Access Easement; Location; Scope; Reservation

Grantor hereby grants to Grantee, its successors and assigns, a non-exclusive right-of-way easement and utility easement for possible future City Street connectivity and extension and placement or extension of underground electric, cable, telephone, and other utilities over, under, through, and across the Servient Tenement (the “Public Utility and Public Access Easement” or “Easement”).

The location and dimensions of the Easement are more particularly shown, described, depicted, and dimensioned on the attached Exhibit A, which is incorporated by this reference as if set forth in full. The location and dimension of the Easement shall not be increased nor relocated without the express written consent of Servient Tenement owner.

The scope of use of the Easement is expressly for future connectivity and extension of a City Street, for public access, ingress and egress, placement of or extension of underground

EXHIBIT 'B'

utilities therein, and future use thereof by the public if and when such City Street is developed within the Public Utility and Public Access Easement.

Unless and until such time as the area of the Servient Tenement described as the Public Utility and Public Access Easement, and as shown, described, depicted, and dimensioned on the attached Exhibit A, is developed, Grantor reserves the right to use the Easement granted herein, and Grantee shall not interfere, unreasonably hinder, burden, or prevent Grantor's reasonable use and enjoyment of the area of the Servient Tenement over which the Easement is granted.

2. Nature of Easement; Assignment

Except as otherwise provided herein, the Public Utility and Public Access Easement herein granted and given shall be and is perpetual in nature.

This grant of a Public Utility and Public Access Easement is non-exclusive and benefits and burdens attaching shall extend to and be binding on and inure to the benefit of the Grantee, its successors and assigns, including the public, in perpetuity and Grantee may dedicate and assign the Easement to the public without the express written consent of the Grantors.

3. Miscellaneous

The Grantor states they are lawfully seized and possessed of the real property described above as the Servient Tenement, and that they have a lawful right to grant an easement thereon.

The terms, covenants, and provisions of this easement shall extend to and be binding upon the successors and assigns of the parties hereto.

This Agreement may not be amended except by a written instrument signed by the Parties.

The Parties agree that this Agreement shall be governed by, construed, and enforced in accordance with the law of the State of Montana.

The effective date of this Agreement shall be the last date that this Agreement is executed either by Grantee or Grantor.

EXHIBIT 'B'

IN WITNESS WHEREOF, the Parties have signed this Agreement on the date set forth after the signatures below.

POWELL COUNTY MEMORIAL HOSPITAL ASSOCIATION, INC.

_____ Date: _____

Name:

Its:

STATE OF MONTANA)

:ss.

County of Powell)

On this _____ day of _____, 2022, before me the undersigned, a Notary Public for the State of Montana, personally appeared _____, known to me to be _____ of the Powell County Memorial Hospital Foundation, Inc., and the person whose name is subscribed to the within instrument and acknowledge to me that he executed the within instrument for and on behalf of the Powell County Memorial Hospital Foundation.

Notary Public for the State of Montana

Printed Name: _____

Residing at: _____

My commission expires: _____

EXHIBIT 'B'

CITY OF DEER LODGE

Date: _____

Name:

Its:

ATTEST:

City of Deer Lodge City Clerk

STATE OF MONTANA)

:ss.

County of Powell)

On this _____ day of _____, 2022, before me the undersigned, a Notary Public for the State of Montana, personally appeared _____, known to me to be _____ of the City of Deer Lodge, and the person whose name is subscribed to the within instrument and acknowledge to me that he executed the within instrument for and on behalf of the City of Deer Lodge.

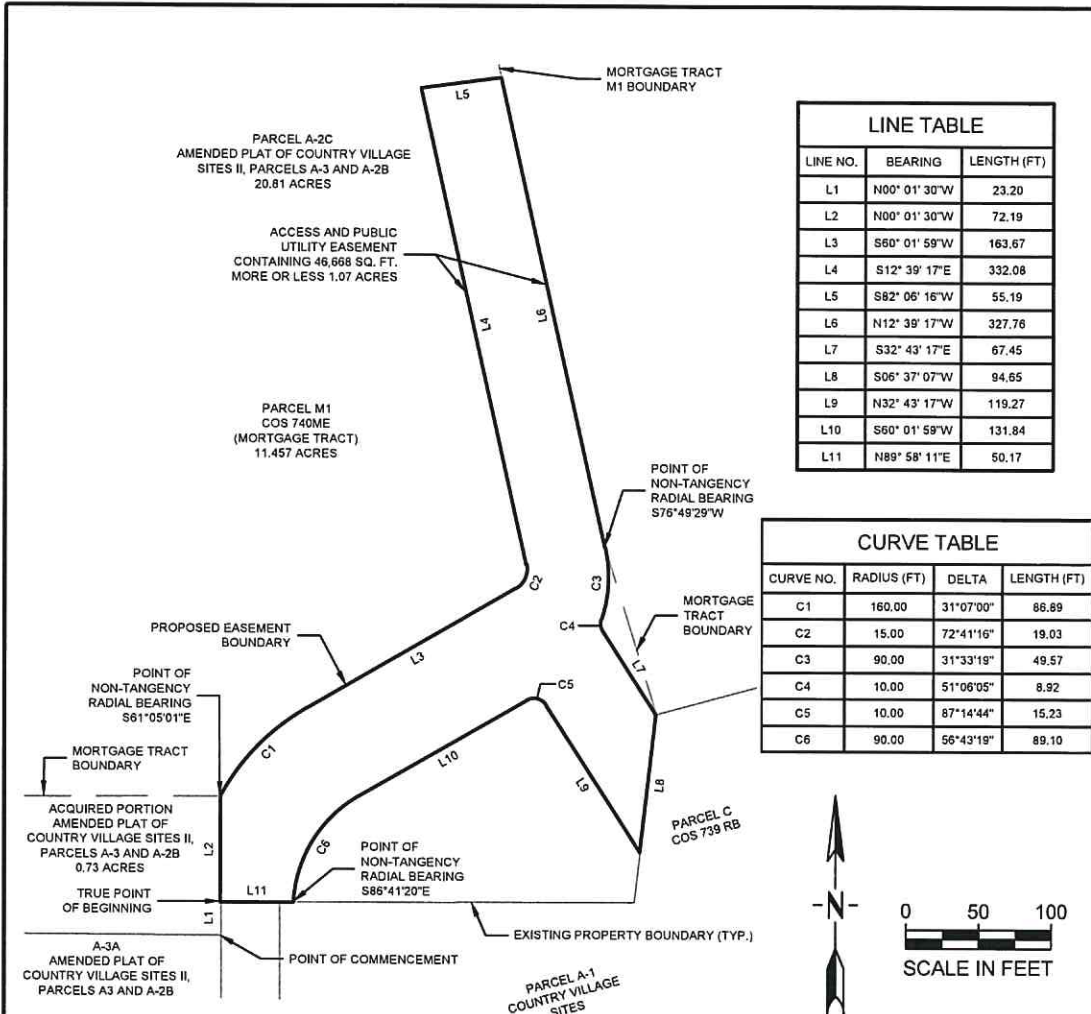
Notary Public for the State of Montana

Printed Name: _____

Residing at: _____

My commission expires: _____

EXHIBIT 'A'



| LINE TABLE | | |
|------------|---------------|-------------|
| LINE NO. | BEARING | LENGTH (FT) |
| L1 | N00° 01' 30"W | 23.20 |
| L2 | N00° 01' 30"W | 72.19 |
| L3 | S60° 01' 59"W | 163.67 |
| L4 | S12° 39' 17"E | 332.08 |
| L5 | S82° 06' 16"W | 55.19 |
| L6 | N12° 39' 17"W | 327.76 |
| L7 | S32° 43' 17"E | 67.45 |
| L8 | S06° 37' 07"W | 94.65 |
| L9 | N32° 43' 17"W | 119.27 |
| L10 | S60° 01' 59"W | 131.84 |
| L11 | N89° 58' 11"E | 50.17 |

| CURVE TABLE | | | |
|-------------|-------------|-----------|-------------|
| CURVE NO. | RADIUS (FT) | DELTA | LENGTH (FT) |
| C1 | 160.00 | 31°07'00" | 88.89 |
| C2 | 15.00 | 72°41'16" | 19.03 |
| C3 | 90.00 | 31°33'19" | 49.57 |
| C4 | 10.00 | 51°06'05" | 8.92 |
| C5 | 10.00 | 87°14'44" | 15.23 |
| C6 | 90.00 | 56°43'19" | 89.10 |

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN MORTGAGE PARCEL M1 OF CERTIFICATE OF SURVEY 740ME, BEING A PART OF PARCEL A-2C, AMENDED PLAT OF COUNTRY VILLAGE SITES II, PARCELS A-3A AND A-2B, ALL LOCATED IN THE SOUTHEAST 1/4 OF SECTION 28, TOWNSHIP 8 NORTH, RANGE 9 WEST, PRINCIPAL MERIDIAN MONTANA, CITY OF DEER LODGE, POWELL COUNTY, MONTANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF PARCEL A-3A, AMENDED PLAT OF COUNTRY VILLAGE SITES II, PARCELS A-3 AND A-2B; THENCE N00°01'30"W, A DISTANCE OF 23.20 FEET TO THE TRUE POINT OF BEGINNING; THENCE N00°01'30"W, A DISTANCE OF 72.19 FEET TO A POINT OF NON-TANGENCY; THENCE ALONG A NON-TANGENTIAL CURVE CONCAVE TO THE SOUTHWEST WITH A RADIUS OF 160.00 FEET, RADIAL BEARING OF S61°05'01"E, INTERIOR ANGLE OF 31°07'00", AND AN ARC LENGTH OF 88.89 FEET; THENCE N60°01'59"E, A DISTANCE OF 163.67 FEET; THENCE ALONG A TANGENTIAL CURVE CONCAVE TO THE NORTHWEST WITH A RADIUS OF 15.00 FEET, INTERIOR ANGLE OF 72°41'16" AND AN ARC LENGTH OF 19.03 FEET; THENCE N12°39'17"W, A DISTANCE OF 327.76 FEET; THENCE ALONG A TANGENTIAL CURVE CONCAVE TO THE WEST WITH A RADIUS OF 90.00 FEET, INTERIOR ANGLE OF 31°33'19", RADIAL BEARING OF S76°49'29"W, AND AN ARC LENGTH OF 49.57 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG SAID REVERSE CURVE WITH A RADIUS OF 10.00 FEET, INTERIOR ANGLE 51°06'05", AND AN ARC LENGTH OF 8.92 FEET; THENCE S32°43'17"E, A DISTANCE OF 67.45 FEET TO A POINT ON THE EASTERN BOUNDARY OF SAID PARCEL M1; THENCE S06°37'07"W, ALONG THE EASTERN BOUNDARY OF SAID PARCEL M1, A DISTANCE OF 94.65 FEET; THENCE LEAVING SAID EASTERN BOUNDARY OF SAID PARCEL M1, N32°43'17"W, A DISTANCE OF 119.27 FEET; THENCE ALONG A TANGENTIAL CURVE CONCAVE TO THE SOUTH WITH A RADIUS OF 10.00 FEET, INTERIOR ANGLE 87°14'44" AND AN ARC LENGTH OF 15.23 FEET; THENCE S60°01'59"W A DISTANCE OF 131.84 FEET; THENCE ALONG A TANGENTIAL CURVE CONCAVE TO THE SOUTHWEST WITH A RADIUS OF 90.00 FEET, AN INTERIOR ANGLE OF 56°43'19" AND AN ARC LENGTH OF 89.10 FEET; THENCE S89°58'11"E, A DISTANCE OF 50.17 FEET TO THE TRUE POINT OF BEGINNING, SAID AREA CONTAINING 46,668 SQUARE FEET MORE OR LESS.

CERTIFICATE OF SURVEYOR

I, KEITH BELDEN, PROFESSIONAL ENGINEER AND LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS DESCRIPTION WAS PREPARED UNDER MY SUPERVISION DURING THE MONTH OF JULY, 2022.

DATED THIS 25TH DAY OF JULY, 2022.

BY: Keith S. Belden
 CRAIG SCHAEFFER
 MONTANA REGISTRATION NO. 14388ES



BASIS OF BEARING
 BASIS OF BEARING IS PER AMENDED
 PLAT OF COUNTRY VILLAGE SITES II,
 PARCELS A-3 AND A-2B

| | | | | |
|---|---|---|--|-------------------------|
| <p>Morrison Maierle engineers - surveyors - planners - scientists</p> | <p>1055 Mount Avenue Missoula, MT 59801 Phone: 406.542.8880 www.m-m.net</p> | DRAWN BY: WEH FLD WK BY: WEH CHK BY: CAS DATE: 04/2022 | CITY OF DEER LODGE DEER LODGE MONTANA | PROJECT NO. 0347.036 |
| | | PUBLIC UTILITY AND PUBLIC ACCESS EASEMENT | SHEET NUMBER EX-A | |

Plotted by lev stubblefield on Jul/25/2022