

ADMINISTRATIVE MEETING

September 7, 2016

4:00 p.m. to 6:00 p.m.

Room 326

AGENDA

1. **Call to order, introductions, opening comments**
2. **August 17, 2016 Administrative Meeting summary**
3. **Commission comments, questions**
 - Upcoming appointments
4. **City Manager's Report**
 - Boulder Avenue Buy/Sell Agreement
5. **Department discussions**
 - Parks and Recreation**
 - Bill Roberts Golf Course – Consultant's Report
 - **Consensus Direction to Manager:**
 - City Attorney**
 - Animal Control Ordinance
 - **Consensus Direction to Manager:**
 - Open Lands**
 - 360 US Forest Service Grant Update
 - **Consensus Direction to Manager:**
 - Community Development**
 - Green Meadow Subdivision Improvement Agreement
 - **Consensus Direction to Manager:**
6. **Committee discussions**
 - a) Audit Committee, City-County Board of Health, L&C County Mental Health Advisory Committee, Montana League of Cities & Towns
– Mayor Jim Smith
 - b) Mayor Pro-Tem, Audit Committee, Helena Chamber of Commerce Liaison, Information Technology Committee, Transportation Coordinating Committee
– Commissioner Dan Ellison
 - c) ADA Compliance Committee, Audit Committee, City-County Parks Board , Civic Center Board
– Commissioner Rob Farris-Olsen
 - d) Board of Adjustment, City-County Administration Building (CCAB), Non-Motorized Travel Advisory Board, Transportation Coordinating Committee
– Commissioner Andres Haladay
 - e) Business Improvement District/Helena Parking Commission ,Montana Business Assistance Connection, Public Art Committee
– Commissioner Ed Noonan
 - f) Helena Citizens Council
7. **Review of agenda for September 12, 2016 Commission meeting**
8. **Public comment**
9. **Commission discussion and direction to City Manager**
10. **Adjourn**

City of Helena, Montana

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(406) 447- 8490

TTY Relay Service 1-800-253-4091 or 711

citycommunitydevelopment@helenamt.gov

316 North Park, Avenue, Room 440, Helena, MT 59623

City of Helena, Montana

September 6, 2016

TO: Mayor & Commissioners

FROM: Ron Alles, City Manager

Subject: Buy Sell Agreement and Purchase of Property on Boulder Avenue

Present Situation: The private property described in the buy-sell agreement is located in our transportation corridor, an important piece in our connectivity east/west under Interstate 15. The property owner has allowed vehicles to cross the property for many years, but as traffic has increased through the corridor on Boulder Avenue, the property owner has experienced issues of trespass, dust (the road is not paved), and storm water concerns. He is ready to sell the property to the city to allow the road to remain open. If the property is not obtained, the risk is that the corridor will be closed or necessarily re-routed to a less optimal location.

Proposal: Staff is recommending that the City agree to purchase the property. The county has agreed to split the cost of the property, and leave it in the City's ownership. A buy-sell agreement presented here must be signed by the city manager, and the City Commission is being asked to approve the purchase.

The purchase price of \$319,713.00 is based on the 2016 market valuation as determined by the Department of Revenue, \$289,713.00 + \$30,000 in miscellaneous legal and disposal costs incurred by the owner to remedy the current situation.

Since the property is valued at over \$100,000 section 1-4-15 of Helena City Code requires an appraisal of property. Staff is recommending that the commission waive the requirement for an appraisal pursuant to 1-4-15(C), HCC.

Objective: Purchase the property to keep the Boulder Avenue underpass access available to the public.

Advantages: With the purchase of the property, critical motorized and non-motorized transportation connectivity under Interstate 15 will remain.

Disadvantages: None noted.

Public Hearing Notification: None required.

Recommended Motion: Move to approve the purchase of Lots 1-6 in Block 121 of the Northern Pacific Second Addition and Lots 8-14 in Block 7 of the Hewins Addition and to waive the requirement for an appraisal of the property.

Attachments: Buy Sell Agreement
Map



Northern Pacific - Lots 1-4

Northern Pacific - Lots 5-6

Hewins - Lots 8-14



City of Hele



Boulder Ave

Stanley St

2201

2219

2222

2300

1120

1106

1110

1034

Interstate 15

BUY - SELL AGREEMENT Commercial
(Including Earnest Money Receipt)



1 This Agreement stipulates the terms of sale of this property. Read carefully before signing. This is a
2 legally binding contract. If not understood, seek competent advice.

3
4 Date: 08/30/2016
5 City of Helena, as

6 Joint Tenants with rights of survivorship, Tenants in common, Single in his/her own right,
7 Other _____ (hereinafter

8 called "Buyer") agrees to purchase, and the Seller agrees to sell the following described real property
9 (hereinafter referred to as "Property") commonly known as Boulder Street

10 And Stanley Street ROW in the City of Helena,
11 County of Lewis and Clark, Montana, legally described as:

12 **NORTHERN PACIFIC SECOND ADDN, S28, T10 N, R03 W, BLOCK 121, Lot 5 - 6**
13 **NORTHERN PACIFIC SECOND ADDN, S28, T10 N, R03 W, BLOCK 121, Lot 1 - 4**
14 **HEWINS ADDN, S28, T10 N, R03 W, BLOCK 7, Lot 8 - 14**

15
16 TOGETHER with all interest of Seller in vacated streets and alleys adjacent thereto, all easements and other
17 appurtenances thereto, and all improvements thereon. All existing permanently installed fixtures and
18 equipment that are attached property are included in the purchase price and transfer to the Buyer. Certain
19 fixtures and fittings are included in the purchase price and transfer to the Buyer regardless of whether they
20 are in fact permanently installed and attached to the Property are electrical, plumbing and heating fixtures,
21 unless otherwise excluded below: _____
22 _____
23 _____

24 **PERSONAL PROPERTY:** The following items of personal property and other assets are set forth hereafter
25 or per attached addendum, free of liens and without warranty of condition, are included and shall be
26 transferred by bill of sale: _____
27 _____

28 **PURCHASE PRICE AND TERMS:**

29 Total purchase price is Three Hundred Nineteen Thousand Seven Hundred Thirteen

30 U.S. Dollars (\$ 319,713.00) payable as follows:

31 \$ 1,000.00 earnest money to be applied at closing.

32 \$ 318,713.00 as additional cash payment, payable on or before closing.

33 \$ _____ balance of the purchase price will be financed as follows:
34 _____
35 _____
36 _____
37 _____
38 _____
39 _____
40 _____
41 _____
42 _____
43 _____
44 _____
45 _____
46 _____

47 **CLOSING DATE:** The date of closing shall be (date) 09/30/2016 (the "Closing Date").
48 The parties may, by mutual agreement, close the transaction anticipated by this Agreement at any time prior
49 to the date specified. The Buyer and Seller will deposit with the closing agent all instruments and funds
50 necessary to complete the purchase in accordance with this Agreement. If third party financing is required
51 by the terms of this Agreement (including assumptions, contracts for deed, and lender financing), the Closing
52 Date may be extended without amendment by not more than 5 days to accommodate delays
53 attributable solely to such third party financing.

Buyer's Initials

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Buy-Sell Agreement Commercial, February 2016

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Seller's Initials

54 **POSSESSION:** Seller shall deliver to Buyer possession of the property and allow occupancy:
55 when the closing agent is in receipt of all required, signed documents and all funds necessary for the
56 purchase; OR
57 on the date of recording the deed or Notice of Purchaser's Interest, OR
58

59 Seller shall provide keys and/or means to operate locks, mailboxes, security systems, alarms, if applicable.
60

61 **PAYMENT/RECEIPT OF EARNEST MONEY:** Buyer agrees to provide Earnest Money in the amount of
62 One Thousand U.S. Dollars (\$ 1,000.00)
63 as evidenced by Cash; OR Check, the receipt of which is acknowledged by the undersigned
64 Broker/Salesperson; OR, _____
65 _____

66
67 Buyer represents themselves.
68 (Broker/Salesperson's Printed Name and Phone Number) (Signature of Broker/Salesperson)

69 **To be signed only if in actual receipt of cash or check**
70

71 If Buyer fails to pay the Earnest Money as set forth above, Buyer will be in default of this Agreement and
72 Seller shall be entitled to immediately terminate this Agreement and declare any Earnest Money already paid
73 by Buyer to be forfeited.
74

75 **DEPOSIT OF EARNEST MONEY:** All parties to this transaction agree, unless otherwise provided herein,
76 that the earnest monies will be deposited or delivered by the Broker/Salesperson listed above within
77 (3) business days of the date all parties have signed the Agreement or _____
78 _____ and such funds will be held in a trust account by HATCO
79 _____
80

81 Parties agree that interest accruing on earnest money, if any, while deposited shall be payable to: _____
82 title company

83 If interest is payable to the Broker it is agreed that sums so paid are consideration for services rendered.
84

85 The parties authorize the holder of the earnest money to forward to the closing agent, upon its request, all or
86 any portion of the earnest money required to complete the closing of the transaction.
87

88 **BUYER'S REPRESENTATION OF FUNDS:** Buyer represents that they have sufficient funds for the down
89 payment and closing costs to close this sale in accordance with this Agreement and are not relying upon any
90 contingent source of such funds unless otherwise expressly set forth herein.
91

92 **DETECTION DEVICES:** The Property is equipped with the following detection devices:

- 93 Smoke detector(s)
94 Carbon monoxide detector(s)
95 Other fire detection device(s): _____
96 _____
97

98 **PROPERTY INSPECTIONS:** The buyer is aware that any Brokerage Firm(s) and Salespersons involved in
99 this transaction have not conducted an expert inspection or analysis of the property or its condition and make
100 no representations to the Buyer as to its condition, do not assure that the property and/or buildings will be
101 satisfactory to the Buyer in all respects, that all equipment will operate properly or that the property and/or
102 improvements comply with current building and zoning codes and ARE NOT building inspectors, building
103 contractors, structural engineers, electricians, plumbers, sanitarians, septic or cesspool experts, well drillers
104 or well experts, land surveyors, civil engineers, flood plain or water drainage experts, roofing contractors or
105 roofing experts, accountants, attorneys, or title examiners, or experts in identifying hazardous waste and/or
106 toxic materials.

Buyer's Initials

CONTINGENCIES: The contingencies set forth in this Agreement or on attached addendum shall be deemed to have been released, waived, or satisfied, and the transaction shall continue to closing, unless, by 5:00 p.m. (Mountain Time) on the date specified for each contingency, the party requesting that contingency has notified the other party or the other party's Broker/Salesperson in writing that the contingency is not released, waived, or satisfied. If a party has notified the other party on or before the release date that a contingency is not released, waived, or satisfied, the transaction is terminated, and the earnest money will be returned to the Buyer, unless the parties negotiate other terms or provisions.

INSPECTION CONTINGENCY: The Buyer's offer to purchase is contingent upon Buyer's acceptance of the property conditions identified through any inspections or advice requested below. Buyer agrees to acquire, at their own cost, independent inspections or advice from qualified inspectors or advisors of the Buyer's choice. Buyer agrees that any investigations or inspections undertaken by Buyer or on his/her behalf shall not damage or destroy the property, without the prior written consent of Seller. Further, Buyer agrees to return the property to its original condition and to indemnify Seller from any damage or destruction to the property caused by the Buyer's investigations or inspections, if Buyer does not purchase the property.

Inspections or advice requested by the Buyer, or other concerns noted, are to be CHECKED as follows:

- | | |
|--|--|
| <input type="checkbox"/> Building Inspection | <input type="checkbox"/> Zoning Determination |
| <input type="checkbox"/> Owner's Property Disclosure Statement | <input type="checkbox"/> Review and Approval of Protective Covenants |
| <input type="checkbox"/> Roof Inspection | <input type="checkbox"/> Easements |
| <input type="checkbox"/> Structural/Foundation Inspection | <input type="checkbox"/> Flood Plain Determination |
| <input type="checkbox"/> Electrical Inspection | <input type="checkbox"/> Water Sample Test |
| <input type="checkbox"/> Plumbing Inspection | <input type="checkbox"/> Septic or Cesspool Inspection |
| <input type="checkbox"/> Heating, ventilation, cooling system - Inspection | <input type="checkbox"/> Pest/Rodent Inspection |
| <input type="checkbox"/> Radon | <input type="checkbox"/> Underground Storage Tanks |
| <input type="checkbox"/> Asbestos | <input type="checkbox"/> Sanitary Approval/Septic permit |
| <input type="checkbox"/> Well Inspection for condition of Well and Quantity of Water | <input type="checkbox"/> Legal Advice |
| <input type="checkbox"/> Accounting Advice | <input type="checkbox"/> Toxic Waste/Hazardous Material |
| <input type="checkbox"/> Survey or Corner Pins located | <input type="checkbox"/> Access to Property |
| <input type="checkbox"/> Water Rights | <input type="checkbox"/> Airport Affected Area |
| <input checked="" type="checkbox"/> Other <u>anything buyer deems appropriate</u> | <input type="checkbox"/> Road Maintenance |

Release date for the above checked item(s): 09/15/2016

FINANCING CONTINGENCY:

- This Agreement is contingent upon Buyer obtaining the financing specified in the section of this Agreement entitled "PURCHASE PRICE AND TERMS". If financing cannot be obtained by the Closing Date this Agreement is terminated and the earnest money will be refunded to the Buyer; **OR**
- This Agreement is contingent upon Buyer obtaining the financing specified in the section of this Agreement entitled "PURCHASE PRICE AND TERMS." Release Date: _____.

APPRAISAL CONTINGENCY:

- Property must appraise for at least the Purchase Price **OR** at least \$_____ . If the Property does not appraise for at least the specified amount, this Agreement is terminated and earnest money refunded to the Buyer unless the Buyer elects to proceed with closing this Agreement without regard to appraised value. Written notice of Buyer's election to proceed shall be given to Seller or Seller's Broker/Salesperson within _____ days of Buyer or Buyer's Broker/Salesperson receiving notice of appraised value; **OR**
- This agreement is contingent upon the property appraising for at least the Purchase Price **OR** at least \$_____ . Release Date: _____ .

TITLE CONTINGENCY: This offer is contingent upon Buyer's receipt and approval (to Buyer's satisfaction) of the preliminary title commitment. Release Date: 5 (five) days from Buyer's or Buyer's Representative's receipt of preliminary title commitment.

Buyer's Initials: _____ ©2016 Montana Association of REALTORS® Buy-Sell Agreement Commercial, February 2016 Page 3 of 8 *KUM* Seller's Initials

165 **INSURANCE CONTINGENCY:** This Agreement is contingent upon Buyer's ability to acquire, at a rate
166 acceptable to the Buyer, hazard insurance on the property. Release Date: _____ .

167
168 **This Agreement is contingent upon** City of Helena Commission approval.
169 _____

170 _____ Release Date: 09/30/2016
171 _____

172 **This Agreement is contingent upon** _____
173 _____

174 _____ Release Date: _____
175 _____

176 **ADDITIONAL PROVISIONS:**
177 **Seller and Buyer will split cost of installing chain link fence on south**
178 **edge of property.**

179
180 **Seller to clear property of debris prior to closing.**

181
182 **Purchase Price is based on 2016 DOR appraisal of individual parcels and**
183 **agreed seller expense reimbursement.**

184
185
186
187 **CONVEYANCE:** The Seller shall convey the real property by Warrenty Deed
188 deed, free of all liens and encumbrances except those described in the title insurance commitment, as
189 approved by Buyer. The Seller shall further convey any and all security deposits, rental agreements,
190 property condition reports and other documentation in regard to any parts of the property occupied by
191 tenants.

192
193 **WATER:** All water, including surface water or ground water, any legal entitlement to water, including
194 statements of claim, certificates of water rights, permits to appropriate water, exempt existing rights, decreed
195 basins or any ditches, ditch rights, or ditch easements appurtenant to and/or used in connection with the
196 Property are included with the Property, except NA

197
198 Filing or transfer fee will be paid by Seller, Buyer, split equally between Buyer and Seller.
199 Documents for transfer will be prepared and filed by _____

200
201 **WATER RIGHT OWNERSHIP UPDATE DISCLOSURE:** By Montana law, failure of the parties at closing or
202 transfer of real property to pay the required fee to the Montana Department of Natural Resources and
203 Conservation for updating water right ownership may result in the transferee of the property being subject to
204 a penalty. Additionally, in the case of water rights being exempted, severed, or divided, the failure of the
205 parties to comply with section 85-2-424, MCA, could result in a penalty against the transferee and rejection
206 of the deed for recording.

207
208 **MINERAL RIGHTS:** "Mineral rights" is a term used to describe the rights the owner of those rights has to
209 use, mine, and/or produce any or all of the minerals and hydrocarbons including oil, gas, coal, sand, gravel,
210 etc. lying below the surface of property. These mineral rights may be separate from the rights a property
211 owner has for the surface of a property. In some cases, these mineral rights have been transferred to a
212 party other than the property owner and as a result the subsurface mineral rights have been severed from
213 the property owner's surface rights. If the mineral rights have been severed from the surface rights, the
214 owner of the mineral rights has the right to enter the land and occupy it in order to mine the minerals even
215 though they don't own the property. The undersigned Buyer acknowledges and agrees that neither the
216 Seller nor the brokerage firms, brokers and salespersons involved in the transaction anticipated by this
217 Agreement warrant or make any representations concerning the mineral rights, if any, for this Property and
218 that neither the Seller nor the brokerage firms, brokers and salespersons involved in the Buyer's purchase of
219 the Property have conducted an inspection or analysis of the mineral rights to and for the Property.

220
221 **CLOSING AGENTS FEES:** Closing agents fee will be paid by Seller Buyer Equally Shared.

Buyer's Initials

222 **TITLE INSURANCE:** Seller, at Seller's expense and from a title insurance company chosen by Seller, shall
223 furnish Buyer with an ALTA Standard Coverage Owners Title Insurance Policy (as evidenced by a standard
224 form American Land Title Association title insurance commitment) in an amount equal to the purchase
225 price. Buyer may purchase additional owner's title insurance coverage in the form of "Extended Coverage"
226 or "Enhanced Coverage" for an additional cost to the buyer. It is recommended that buyer obtain details
227 from a title company.
228

229 **CONDITION OF TITLE:** All mortgages, judgments and liens shall be paid or satisfied by the Seller at or
230 prior to closing unless otherwise provided herein. Seller agrees that no additional encumbrances,
231 restrictions, easements or other adverse title conditions will be placed against the title to the property
232 subsequent to the effective date of the preliminary title commitment approved by the Buyer.
233

234 **SECTION 1031 LIKE-KIND EXCHANGE:** If either the Buyer or the Seller intends for this transaction to be
235 part of a Section 1031 like-kind exchange, then the other party shall cooperate in the completion of the
236 like-kind exchange provided the cooperating party does not incur any additional liability or cost in doing so.
237 Any party who intends for this transaction to be part of a Section 1031 like-kind exchange may assign their
238 rights under this Agreement to a qualified intermediary or any entity expressly created for the purposes of
239 completing a Section 1031 like-kind exchange, notwithstanding the prohibition against the Buyer's
240 assignment of this Agreement set forth in the "Binding Effect and Non-Assignability" section below.
241

242 **SPECIAL IMPROVEMENT DISTRICTS:** Special Improvement Districts (including rural SIDs), including
243 those that have been noticed to Seller by City/County but not yet spread or currently assessed, if any, will
244 be:

- 245 paid off by Seller at closing;
246 assumed by Buyer at closing; OR
247 none noted, assumed by buyer if applicable
-
- 248 All perpetual SIDs shall be assumed by Buyer.
249

250 **ASSOCIATION SPECIAL ASSESSMENTS:** Any special or non-recurring assessments of any
251 non-governmental association, including those that have been approved but not yet billed or assessed, will
252 be:

- 253 paid off by Seller at closing;
254 assumed by Buyer at closing; OR
255 none noted, assumed by buyer if applicable
-

256 **PRORATION OF TAXES AND ASSESSMENTS:** Seller and Buyer agree to prorate taxes, Special
257 Improvement District assessments for the current tax year, as well as pre-paid rents, water and sewer
258 system charges, and/or common area maintenance fees, if any, as of the date of closing unless otherwise
259 agreed and: _____
260
261

262 **CONDITION OF PROPERTY:** Seller agrees that the Property shall be in the same condition, normal wear
263 and tear excepted, from the date of the execution of this Agreement up to the time Buyer takes possession
264 of the Property. Seller agrees to leave the Property in broom clean or better condition and allow Buyer a
265 walk-through inspection of said Property prior to closing to insure that all appurtenances and appliances
266 included in the sale remain on the Property.
267

268 **NOXIOUS WEEDS DISCLOSURE:** Buyer of property in the State of Montana should be aware that some
269 properties contain noxious weeds. The laws of the State of Montana require owners of property within this
270 state to control, and to the extent possible, eradicate noxious weeds. For information concerning noxious
271 weeds and your obligations as an owner of property, contract either your local County extension agent or
272 Weed Control Board.
273

274 **MEGAN'S LAW DISCLOSURE:** Pursuant to the provisions of Title 46, Chapter 23, Part 5 of the Montana
275 Code Annotated, certain individuals are required to register their address with the local law enforcement
276 agencies as part of Montana's Sexual and Violent Offender Registration Act. In some communities, law
277 enforcement offices will make the information concerning registered offenders available to the public. If you
278 desire further information please contact the local County Sheriff's office, the Montana Department of
279 Justice, in Helena, Montana, and the probation officers assigned to the area.

Buyer's Initials

280 **RADON DISCLOSURE STATEMENT:** The following disclosure is given pursuant to the Montana Radon
281 Control Act, Montana Code Annotated Section 75-3-606. RADON GAS: RADON IS A NATURALLY
282 OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN
283 SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT
284 OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL GUIDELINES HAVE BEEN FOUND IN
285 BUILDINGS IN MONTANA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING
286 MAY BE OBTAINED FROM YOUR COUNTY OR STATE PUBLIC HEALTH UNIT. If the Property has been
287 tested for radon, the Seller will provide a copy of the test results concurrent with an executed copy of this
288 Agreement. If the Property has received radon mitigation treatment, the Seller will provide the evidence of
289 the mitigation treatment concurrent with an executed copy of this Agreement.

290
291 **BUYER'S REMEDIES:**

292 (A) If the Seller fails to accept the offer contained in this Agreement within the time period provided in
293 the BUYER'S COMMITMENT section, all earnest monies shall be returned to the Buyer. (B) If the
294 Seller accepts the offer contained in this Agreement, but refuses or neglects to consummate the
295 transaction within the time period provided in this Agreement, the Buyer may:

- 296 (1) Demand immediate repayment of all monies that Buyer has paid as earnest money, and upon the
297 return of such money, the rights and duties of Buyer and Seller under this Agreement shall be
298 terminated; OR
299 (2) Demand that Seller specifically perform Seller's obligation under this Agreement; OR
300 (3) Demand monetary damages from Seller for Seller's failure to perform the terms of this Agreement.

301
302 **SELLER'S REMEDIES:** If the Seller accepts the offer contained in this Agreement and Buyer refuses or
303 neglects to consummate the transaction within the time period provided in this Agreement, the Seller may:

- 304 (1) Declare the earnest money paid by Buyer be forfeited; OR
305 (2) Demand that Buyer specifically perform Buyer's duties and obligations under this Agreement; OR
306 (3) Demand that Buyer pay monetary damages for Buyer's failure to perform the terms of this
307 Agreement.

308
309 **BUYER'S/SELLER'S CERTIFICATION:** By entering into this Agreement, each person or persons
310 executing this Agreement as Buyer or Seller represents that he/she is eighteen (18) years of age or older,
311 of sound mind, and legally competent to own or transfer real property in the State of Montana; and, if acting
312 on behalf of a corporation, partnership, or other non-human entity, that he/she is duly authorized to enter
313 into this Agreement on behalf of such entity.

314
315 **FOREIGN PERSON OR ENTITY:** Section 1445 of the Internal Revenue Code provides for the withholding
316 of tax upon the sale of U.S. real property owned by a foreign entity or foreign person unless the amount
317 realized (usually the sales price) does not exceed \$300,000 and the Buyer intends to use the property as a
318 residence. If the Seller is a foreign entity or foreign person, Seller acknowledges and agrees that the Buyer
319 or closing agent is required to deduct and withhold the applicable tax from the proceeds of sale at closing
320 and submit the tax to the Internal Revenue Service unless the transfer of the property satisfies an exception
321 provided for in Section 1445 of the Internal Revenue Code.

322
323 **CONSENT TO DISCLOSE INFORMATION:** Buyer and Seller hereby consent to the procurement and
324 disclosure by Buyer, Seller, and Salespersons and their attorneys, representatives, and other parties
325 having interests essential to this Agreement, of any and all information reasonably necessary to
326 consummate the transaction described in this Agreement, specifically including access to escrows for
327 review of contracts, deeds, trust indentures, or similar documents concerning this property or underlying
328 obligations pertaining thereto.

329
330 **RISK OF LOSS:** All loss or damage to any of the above-described real property or personal property to any
331 cause is assumed by Seller through the time of closing unless otherwise specified.

332
333 **TIME IS OF THE ESSENCE:** Time is of the essence as to the terms and provisions of this agreement.

Buyer's Initials

Seller's Initials

334 **BINDING EFFECT AND NON-ASSIGNABILITY:** The Agreement is binding upon the heirs, successors and
335 assigns of each of the parties hereto; however, unless otherwise provided for in this agreement, Buyer's
336 interest is not assignable without the Seller's express written consent.
337

338 **ATTORNEY FEES:** In any action brought by the Buyer or the Seller to enforce any of the terms of this
339 Agreement, the prevailing party in such action shall be entitled to such reasonable attorney fees as the
340 court or arbitrator shall determine just.
341

342 **COMMISSION:** The Seller's and/or Buyer's commitment to pay a commission in connection with this
343 transaction is an integral part of this Agreement.
344

345 **FACSIMILE:** The parties agree that a facsimile copy of this Agreement which contains the parties'
346 signatures may be used as the original.
347

348 **COUNTERPARTS:** A copy of this document may be executed by each individual/entity separately, and
349 when each has executed a copy thereof, such copies, taken together, shall be deemed to be a full complete
350 contract between the parties.
351

352 **ENTIRE AGREEMENT:** This Agreement, together with any attached exhibits and any addenda or
353 amendments signed by the parties, shall constitute the entire agreement between Seller and Buyer, and
354 supersedes any other written or oral agreements between Seller and Buyer. This Agreement can be
355 modified only in writing, signed by the Seller and Buyer.
356

357 **EARNEST MONEY DISPUTES:** Buyer and Seller agree that, in the event of any controversy regarding the
358 earnest money and things of value held by the Broker, closing agent, or any person or entity holding such
359 money or property, unless mutual written instructions are received by the holder of the earnest money and
360 things of value, Broker or closing agent shall not be required to take any action, but may await any
361 proceedings, or, at Broker's or closing agent's option and sole discretion, may interplead all parties and
362 deposit any monies or things of value in a court of competent jurisdiction and may utilize as much of the
363 earnest money deposit as may be necessary to advance the cost and fees required for filing such action.
364

365 **ADDENDA AND/OR DISCLOSURES ATTACHED:** (check all that apply):

- 366 Contingency for Sale of Buyer's Property
367 Addendum for Additional Provisions Back-up Offer
368 Water Rights Acknowledgement Mold Disclosure (for all inhabitable real property)
369 _____
370 _____
371 _____
372

373 **RELATIONSHIP CONFIRMATION:** The parties to this agreement confirm that the real estate licensees
374 identified hereafter have been involved in this transaction in the capacities indicated below and the parties
375 have previously received the required statutory disclosures setting forth the licensees duties and the limits
376 of their obligations to each party:
377

378 Joseph M Mueller of RE/MAX Of Helena
379 (name of licensee) (name of Brokerage company)

380 is acting as Seller's Broker/Salesperson; Dual Broker/Salesperson; Statutory Broker.
381

382 Buyer represents themselves. of _____
383 (name of licensee) (name of Brokerage company)

384 is acting as Buyer's Broker/Salesperson; Dual Broker/Salesperson; Statutory Broker;
385 Seller's Broker/Salesperson (includes Seller's Sub-Broker or Salesperson).

Buyer's Initials

KJM
Seller's Initials

386 **BUYER'S ACKNOWLEDGMENT:** Buyer acknowledges that he/she has examined the real and personal
387 property, that Buyer enters into this Agreement in full reliance upon his/her independent investigation and
388 judgment, that prior verbal representations by the Seller or Seller's agent or representatives do not modify
389 or affect this Agreement, and that by signing this Agreement Buyer acknowledges having read and
390 understood this entire Agreement.

391
392 **BUYER'S COMMITMENT:** I/We agree to purchase the above-described Property on the terms and
393 conditions set forth in the above offer and grant to said Salesperson until (date) _____,
394 at _____ am pm (Mountain Time) to secure Seller's written acceptance, whether or not that
395 deadline falls on a Saturday, Sunday or holiday. Buyer may withdraw this offer at any time prior to Buyer
396 being notified of Seller's written acceptance. If Seller has not accepted by the time specified, this offer is
397 automatically withdrawn.

398
399 The parties hereto, all agree that the transaction contemplated by this document may be conducted by
400 electronic means in accordance with the Montana Uniform Electronic Transaction Act.

401
402 **I/WE HEREBY ACKNOWLEDGE** receipt of a copy of this Agreement bearing my/our signature(s).

403
404 Buyer's Address: _____ City _____,
405
406 State _____, Zip Code _____

407
408 Buyer's Name Printed: _____ City of Helena

409
410 Dated this _____, at _____ am pm (Mountain Time).

411
412 _____
413 (Buyer's Signature) (Buyer's Signature)

414 **OFFER PRESENTATION:** This offer was presented to the Seller(s) on
415 Date: _____ Time _____ am pm By: _____
416 (Signature of person presenting the offer)

417 **SELLER'S COMMITMENT:** I/We agree to sell and convey to Buyer the above-described Property on the
418 terms and conditions herein above stated. I/We acknowledge a receipt of a copy of this Agreement bearing
419 my/our signature(s) and that of the Buyer(s) named above.

420
421 Seller's Address: _____ City _____,
422
423 State _____, Zip Code _____

424
425 Seller's Name Printed: Kermit J. Mueller President American Building Company Kermit J Mueller American Park Associates

426
427 Dated this 08/30/2016, at 12:00 am pm (Mountain Time)
428 Kermit J Mueller Pres ABC Kermit J Mueller Mgr.
429 (Seller's Signature) Kermit J. Mueller President American Building Company (Seller's Signature) Kermit J Mueller American Park Associates

430
431
432 **ACTION TAKEN, IF OTHER THAN ACCEPTANCE:**

433
434 I/We acknowledge receipt of this Agreement bearing my/our initial(s) and the signature(s) of the Buyer(s)
435 named above.

436
437 Rejected by Seller _____ Modified per Attached Counter _____
438 Seller's Initials Date Seller's Initials Date

NOTE:
Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days except
Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or a holiday can be performed on the next
business day.

August 30, 2016

TO: Ron Alles, City Manager

FROM: Amy Teegarden, Director, Parks & Recreation



Subject: Financial Feasibility Study and Review of Operations for Bill Roberts Golf Course- final report presentation.

Present Situation: In May, 2016, the City entered into a contract agreement with the National Golf Foundation (NGF) to provide planning and evaluation services resulting in business recommendations and a cost-benefit analysis of viable capital projects.

The review included a strategic review of the golf course and operations, with a primary focus on identifying ways to enhance the revenue generating capability of BRGC in light of the directive that the Golf Fund remains fully self-sustainable.

The report includes a variety findings and recommendations that range from industry best management practices, fee changes, and financial forecasting of potential capital projects. Mr. Ed Getherall, the NGF consultant will present a summary of the report and be available for questions.

Proposal: The report will supplement the existing golf course business plan. City staff and the Golf Advisory Board will reference the report for future guidance when making program, operational and capital project planning recommendations and decisions.

Advantage: NA

Disadvantage: NA

Attachments: Financial Feasibility Study and Review of Operations (report)
Golf and the Millennial Generation (report)

City of Helena, Montana

September 1, 2016

TO: Ronald J. Alles, City Manager

FROM: Thomas J. Jodoin, City Attorney

Subject: Consider first passage of an ordinance clarifying various duties and offenses with respect to dogs by amending Chapter 2 of Title 5 of the Helena City Code.

Present Situation: Chapter 2 of Title 5 of the Helena City Code currently contains the various duties and responsibilities for dog (animal) owners in the City. That chapter also includes various prohibitions such as keeping a nuisance dog. Further, the chapter contains a process for declaring dogs potentially dangerous and dangerous, depending on the severity of the actions of the dog.

The existing ordinance is, in many instances, redundant, conflicting, and creates an inefficient mix of civil and criminal enforcement processes. Generally, the proposed amendment cleans up the redundant and conflicting sections. More substantively, the amendment effects two major changes. First, it creates an offense for an animal that bites or attacks another animal or human. Second, it creates a process for the civil adjudication with regard to ownership of a dangerous dog when the owner cannot meet the requirements for keeping a dangerous dog. A third slightly less substantive change is a clarification of “nuisance animal” to incorporate the existing prosecution policy for barking dog complaints.

In terms of the first substantive change, presently if a dog bites or attacks another animal or human the only offense that can be cited is “nuisance animal” under Section 5-2-15, HCC, since the dog has caused an “annoyance” to the person by biting or attacking the person the person’s pet. “Nuisance animal” is primarily oriented towards the prohibition of prolonged barking. Because there is no specific violation for a dog that bites or attacks another animal or human, we have to rely on the “nuisance animal” provision. Rather, there is a civil “designation” and impoundment process that labels a dog “potentially dangerous” or “dangerous,” depending on the severity of the incident and prior history of the dog. This process is incredibly inefficient and lacks authorization to order relinquishment of the dangerous dog or seek restitution for damages caused by the dog. The second substantive change attempts to create a process whereby the City can petition the Helena Municipal Court to order the relinquishment of a dog independent of any criminal prosecution.

When a dog acts in a manner that results in the dog being designated “dangerous,” the dog is seized by the animal control officer and impounded at the Lewis and Clark Humane Society shelter. The owner is cited for the applicable concomitant offenses of “nuisance animal,” failure to have the dog on a leash, failure to have proof of rabies vaccination, and no city dog license, if they apply. Before the dangerous dog is released to the owner the owner must (1) obtain a dangerous dog license from the City, (2) provide proof of liability insurance covering attacks by the dangerous dog, and (3) have a secure enclosure for the dangerous dog to be kept in or keep the dangerous dog muzzled and on a leash when not in a secure enclosure.

City of Helena, Montana

Often, the dangerous dog owner does not have the resources to obtain liability insurance and provide a secure enclosure. In those situations the dangerous dog ends up remaining at the Lewis and Clark Humane Society shelter indefinitely, pending disposition of the underlying citations. The Humane Society incurs costs to board, feed, and vaccinate the dangerous dog. Because the Helena City Code does not authorize the City to petition the court to order the dog to be relinquished, the dog is kept at the shelter until the underlying criminal offenses are adjudicated. If the owner is convicted of “nuisance animal” because the dog severely attacked someone or has a previous history of acting aggressively, the City, as part of sentencing, then seeks an order for the owner to relinquish the dog to the Humane Society. Until that time, which may be upwards of 6 months, the Humane Society bears the burden of housing and caring for the dog. Since the Humane Society is not the legal owner it has no authority to determine the best solution with respect to the dog.

As to clarifications to the “nuisance animal” portion of the City Code for barking dogs, the language is amended to incorporate the policy of the City Attorney’s office with regard to prosecution of owners that keep a nuisance barking dog. A copy of that policy and barking dog log is attached.

Proposal: Adopt an ordinance to clarify various animal control regulations including the creation of an offense for any owner of a dog that bites or attacks another animal or human; and create a new civil dangerous dog designation procedure.

Advantage: Provides the animal control officers, the City Attorney’s office, and the Lewis and Clark Humane Society with an administratively efficient animal control ordinance.

Notable Energy Impact: None noted.

Disadvantage: None noted.

Notice of Public Hearing: N/A

Recommended Motion: Move to APPROVE first passage of an ordinance amending the City’s animal control regulations by amending Chapter 2 of Title 5 of the Helena City Code, and set a public hearing date of _____, 2016.

AN ORDINANCE AMENDING THE CITY'S ANIMAL CONTROL REGULATIONS BY
AMENDING CHAPTER 2 OF TITLE 5 OF THE HELENA CITY CODE

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE
CITY OF HELENA, MONTANA:

That Title 5, Chapter 2, "Animal Control" of the Helena City
Code is hereby amended as follows:

CHAPTER 2
ANIMAL CONTROL

SECTION:

- 5-2- 1: Definitions
- 5-2- 2: Vaccination Required
- 5-2- 3: Licensing ~~and Registration~~
- 5-2- 4: Tag and Collar
- 5-2- 5: Number of Dogs
- 5-2- 6: ~~Kennel~~ Multiple dog or Cat License
- ~~5-2- 7: Dog Census~~
- 5-2- ~~8~~7: Removal of Excrement
- 5-2- ~~9~~8: Rabies Control
- 5-2-~~10~~9: Reports of Bite Cases
- ~~5-2-11: Responsibilities of Veterinarians~~
- 5-2-~~12~~10: Exemptions to Licensing and Vaccinations
- ~~5-2-13: Investigation~~
- ~~5-2-14: Animals Running At Large~~
- ~~5-2-15: Animals Deemed a Nuisance~~
- 5-2-11: Control of Animals
- ~~5-2-16: Vicious Animals; Procedure~~
- 5-2-12: Potentially Dangerous and Dangerous Dogs; Civil Procedure
- 5-2-13: Duties of Owners of Dangerous Dogs
- 5-2-14: Confiscation of Dangerous Dogs
- 5-2-15: Impoundment and Redemption of Animals
- ~~5-2-17: Reserved~~

- ~~5-2-18:~~ ~~Impoundment and Disposition~~
- ~~5-2-19:~~ ~~Redemption and Destruction~~
- ~~5-2-20:~~ ~~Impoundment Fees~~
- 5-2-~~21~~16: Wild Animals; Permits and Exceptions
- ~~5-2-22:~~ ~~Wild Animals; Issuance~~
- ~~5-2-23:~~ ~~Conditions~~
- ~~5-2-24:~~ ~~Revocation~~
- ~~5-2-25:~~ ~~Cruelty To Animals~~
- 5-2-~~26~~17: Provoking Animals
- ~~5-2-27:~~ ~~Abandonment of Animals~~
- 5-2-~~28~~18: Liability of Nonowners Upon Striking an Animal with a Motor Vehicle
- ~~5-2-29:~~ ~~Copies of Regulations~~
- ~~5-2-30:~~ ~~Violation; Procedure~~
- 5-2-~~31~~19: Violation; Fine Schedule Penalties
- 5-2-~~32~~20: Violation; Licensee's Liability And Transfer
- ~~5-2-33:~~ ~~Definitions~~
- ~~5-2-34:~~ ~~Registration~~
- ~~5-2-35:~~ ~~Restraint; Declaration; Determination~~
- ~~5-2-36:~~ ~~Confiscation~~
- 5-2-~~37~~21: Application

5-2-1: DEFINITIONS: The following words and terms as used in this chapter shall have the meanings respectively ascribed to them:

ANIMAL SHELTER: Any premises provided by the city and maintained or a designated sheltering agent for impounding and caring for dogs and other animals.

ANNOYING NOISE: Barking, howling, meowing, yelping, whining, baying, or any other noises that annoy a person or neighborhood to an unreasonable degree.

BITE: Means any abrasion, scratch, puncture, lacerations, bruise,

tear or piercing of the skin by the teeth of an animal.

CONTINUOUSLY:

Any annoying noise that is repeated with less than one minute of silence between the annoying noises.

DANGEROUS DOG:

Any dog that according to the records of the city of Helena: a) has inflicted severe injury on a human being without provocation on public or private property, b) has killed a domestic animal without provocation while off the owner's property, or c) has been previously found to be potentially dangerous, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals.

ENCLOSURE:

A vehicle, pen, cage, kennel or other similar object surrounded on all sides sufficient to prevent an animal from escaping.

Comment [TJJ1]: Is this term needed considering "kennel?"

EXPOSED TO RABIES:

~~A dog~~ An animal has been exposed to rabies if it has been bitten by or been exposed to any animal known to be or suspected of being infected with rabies.

KENNEL:

A building, enclosure or portion of any premises in or at which dogs or cats are boarded or kept for hire or for sale; in or at which dogs or cats are kept or maintained by any person other

than the owner thereof; or in or at which three (3) or more cats ~~and/or~~ three (3) or more dogs over the age of six (6) months are kept or maintained.

NUISANCE ANIMAL:

Any animal that on three separate occasions over a seven day period: (1) makes annoying noises continuously for a period time greater than 30 minutes; or (2) makes annoying noises continuously for period of time that accumulate to a period of time that is greater than 60 minutes out of any 12 hour period.

OWNER:

Any person, corporation, or firm owning, keeping, having control of, possession of, or harboring a dog or other animal ~~who is presumed to be the adult head of the household owning, keeping or harboring such an animal.~~

POTENTIALLY DANGEROUS DOG:

Any dog that when unprovoked: a) inflicts bites on a human or a domestic animal either on public or private property, or b) charges or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise threaten the safety of humans or domestic animals.

PROPER ENCLOSURE OF A DANGEROUS DOG:

An enclosed and locked structure that is suitable to prevent the

entry of young children and designed to prevent the animal from escaping. Such structure must have secure sides and top, and must also provide protection from the elements for the dog. If it has no bottom secured to the sides the sides must be imbedded in the ground no less than two feet (2').

SEVERE INJURY: Any physical injury consisting of multiple bite wounds, broken bones, muscle tears, deep puncture wounds, or disfiguring lacerations.

Comment [TJJ2]: Existing language. Moved from 5-2-33.

SPAYED FEMALE /NEUTERED: Any ~~bitch~~ animal which has undergone surgery to prevent conception, whose owner can provide suitable proof of such surgery.

STRAY ANIMALS: Any animal, the owner of which cannot be ascertained.

VACCINATION: The inoculation of a dog or cat with antirabies "avianized flury" strain vaccine, ~~having an effective immunity of at least two (2) years, and administered under the direction of the public health officer by a licensed veterinarian or with any other vaccine approved by the public health officer and the state veterinarian.~~ in accordance with procedures of the Administrative Rules of Montana and the latest version of the US Public Health Compendium. (Ord. 2193, 8-10-1981; amd. Ord. 2488, 1-23-1989; Ord. _____, __-__-__)

WILD ANIMAL:

Any animal which is not a domesticated animal but does not include canaries, parakeets, chinchillas, chipmunks, gophers, finches, guinea pigs, hamsters, marmoset monkeys, parrot type birds, rabbits, squirrel monkeys, turtles, tropical fish (except caribe), nonpoisonous reptiles (where permitted by state and federal law), white mice and white rats. (Ord. 2193, 8-10-1981; amd. Ord. 2488, 1-23-1989; Ord. 3123, 7-12-2010; Ord. 3178, 6-24-2013)

5-2-2: VACCINATION REQUIRED: It is unlawful for any person to keep, maintain or harbor any dog or cat over six (6) months of age unless it has a currently valid ~~"vaccination," as defined in section 5-2-1 of this chapter.~~ Proof of valid vaccination ~~will be~~ is required at the time of licensing or upon demand by the animal control officer or a police officer of the city. (Ord. 2488, 1-23-1989; Ord. _____, __-__-__)

5-2-3: LICENSING AND ~~REGISTRATION:~~

A. No person ~~shall~~ may own, keep, or harbor any dog within the city limits, unless such dog is licensed as herein provided. Application for such annual license shall be made to the administrative services director, or such agent as shall be designated by the administrative services director. Such application ~~shall~~ must state the name and address of the owner and the name, breed, color and sex of the dog. The license fee ~~shall~~ must be paid at the time of making application, a numbered receipt given to the applicant, and a numbered metallic or plastic tag ~~shall be~~ issued to the owner. Every person engaged in operating a dog or cat "kennel", as defined in this chapter, ~~shall~~ must pay an annual kennel license fee. All dog licenses and kennel licenses ~~shall be issued~~ are valid for one year, beginning January 1. Any license issued for any dog for the year immediately preceding ~~shall be~~ is valid to, but not including, March 1 of the current year. No application for

a dog license ~~shall~~ will be accepted until the applicant has produced satisfactory evidence that the dog for which the license is to be issued has ~~a currently valid "avianized flury" strain rabies vaccine~~ been vaccinated as of the date of the application. Any person licensing a dog on or after March 1 of any year ~~shall~~ must pay an additional fee with the ordinary license fee unless such person can present evidence satisfactory to the administrative services director that the animal being licensed has not been kept, held, or owned within the city for a period in excess of one week immediately prior to the date on which application is made.

B. In the event that a license tag issued for a dog ~~shall be~~ is lost, the owner may obtain a duplicate tag upon the payment of a duplicate tag fee. (Ord. 3177, 6-10-2013, eff. 7-15-2013; Ord. _____, __-__-__)

C. If there is a change of ownership of a dog or kennel during the license year, the new owner may have the current license transferred to ~~his~~ their name upon application to the ~~treasurer~~ administrative services director.

D. No person ~~shall~~ may use for any dog a license, receipt of license tag or evidence of vaccination for rabies, issued for any other dog. (Ord. 2193, 8-10-1981; Ord. _____, __-__-__)

~~E. Any person keeping any unlicensed dog shall be deemed guilty of a misdemeanor and shall, upon conviction therefor, be punished by a fine of not less than thirty five dollars (\$35.00), nor more than one hundred dollars (\$100.00). (Ord. 2565, 9-10-1990)~~

Comment [TJJ3]: Moved to violations section.

E. Dog licenses are void if the rabies vaccination expires. Owners are not entitled to a refund of the license fee.

5-2-4: TAG AND COLLAR: The license tag provided for by ~~section 5-2-3~~ of this chapter shall be stamped with the number and year for which issued. The shape, design or color of such tag shall be changed from year to year. Every licensed dog shall, at all times, wear a choke chain, collar or harness to which is attached its license tag. (Ord. 2193, 8-10-1981; Ord. _____, __-__-__)

5-2-5: NUMBER OF DOGS OR CATS: It is unlawful for any person, persons, ~~or~~ family, or household to keep, harbor or maintain in or on the same premises, ~~three (3) or more dogs~~ more than two (2) dogs or more than two (2) cats over six (6) months of age, without first obtaining a ~~kenel~~ multiple dog or cat license, as provided in section 5-2-6 of by this chapter. (Ord. 2193, 8-10-1981; Ord. _____, __-__-__)

5-2-4: ~~KENNEL~~ MULTIPLE DOG OR CAT LICENSE:

A. A ~~kenel~~ multiple dog or cat license is required by any person, ~~or~~ family, or household to keep, ~~owning or harboring~~ or maintain ~~three (3) or more dogs or cats more than two(2) dogs or more than two (2) cats over six (6) months of age on any premises.~~ The following conditions must be met before such a license will be issued: (Ord. 3177, 6-10-2013, eff. 7-15-2013)

1. The intended facilities must be inspected by the animal control officer, ~~such inspection to include the physical facilities, as well as the effect on the neighborhood. The permit shall not be issued unless the inspection reveals that the following have been met and must continue to be complied with:~~

1. There is an adequate enclosure of the dogs or cats on the premises,

2. The owner uses suitable means of disposing of the dog excreta so that it does not become a nuisance or a health hazard,

4. That in the animal control officer's opinion, the dogs or cats will receive proper food, water, shelter and general care.

5. There have been no valid nuisance animal or animal large complaints lodged for this owner within the past two years.

6. The owner agrees to manage the dogs or cats such that the dogs or cats will not be nuisance animals. If found guilty of a permitting or keeping a nuisance animal the multiple dog permit shall be immediately revoked for a period of one year. In such circumstances the person, family, or household may not be permitted to keep more than two dogs or cats.

~~7.~~ Following the inspection, the animal control officer will recommend to the ~~licensing authority~~ either approval or disapproval of the application. (Ord. 2193, 8-10-1981)

~~8.~~ The applicant must pay the required kennel fee. (Ord. 3177, 6-10-2013, eff. 7-15-2013)

~~4B. Commercial kennels, as defined by Title 11, will be~~ are permitted only in areas of the city ~~zoned for such usage, as defined in Title 11 the city zoning ordinance.~~ (Ord. 2193, 8-10-1981)

B. All ~~kennel~~ multiple animal licenses will expire on December 31 of each year, unless sooner revoked. The animal control officer will investigate all complaints concerning licensed or ~~improperly operated kennels~~ premises and may recommend revocation of the license if it is deemed necessary. The licensee will be given at least five (5) days' written notice of such recommendation, during which time ~~he~~ they may appeal the animal control officer's recommendation. ~~The licensing authority will then take action as required.~~ (Ord. 2312, 8-8-1983)

~~C. Any person keeping or maintaining any unlicensed kennel shall be deemed guilty of a misdemeanor and shall, upon conviction therefor, be punished by a fine of not less than thirty five dollars (\$35.00) or more than one hundred dollars (\$100.00).~~ (Ord. 2565, 9-10-1990)

~~5-2-7: DOG CENSUS: At least once every five (5) years, a complete census may be taken of all dogs in the city and anyone found to be harboring an unlicensed dog required to be licensed by the provisions of this chapter shall be required immediately to obtain a license for such dog or shall be cited into court to answer to charges of violation of this chapter.~~ (Ord. 2193, 8-10-1981)

5-2-87: REMOVAL OF EXCREMENT:

A. ~~It is unlawful for any person in control of an animal to cause or permit such animal to be on any property, public or private, not owned or possessed by such person, to fail to remove excrement left by such animal.~~ The owner or custodian of an animal is responsible for the immediate removal of any excreta deposited by their animal on any public walk, park, boulevard, trail, recreation area, conservation area or other public right-of-way, or any private property outside the owner's or custodian's own property. The owner or custodian of an animal is responsible for periodic removal of excreta on the owner's or custodian's property.

B. ~~The provisions of this section shall not apply to the ownership or use of seeing eye dogs by blind persons, dogs when used in police activities by the city, or tracking dogs when used by or with the permission of the city. This sub-section does not apply to the ownership or use of service animals by visually impaired persons or law enforcement when such animals are in immediate service use.~~ (Ord. 2193, 8-10-1981; Ord. _____, __-__-__)

5-2-98: RABIES CONTROL:

A. Every animal which bites a person ~~shall~~ must be promptly reported to the animal control officer and shall thereupon be securely quarantined at the direction of the animal control officer for a period of not less than ten (10) days, and ~~shall~~ may not be released from such quarantine except by ~~written~~ written permission of the animal control officer. At the direction of the animal control officer, ~~such~~ the quarantine may be on the premises of the owner, in a veterinary hospital or veterinarian's office of the owner's choice, all at the expense of the owner. In the case of stray animals or in the cases of animals whose ownership is not known, such quarantine shall be at a veterinary hospital, a veterinarian's office, or at such place designated and deemed appropriate by the animal control officer. (Ord. 2478, 8-8-1988; Ord. _____, __-__-__)

B. The owner, upon demand by the animal control officer, shall forthwith surrender any animal which has bitten a human or which is suspected as having been exposed to rabies, for

supervised quarantine which expense shall be borne by the owner and may be reclaimed by the owner if adjudged free of rabies, upon payment of fees as set forth in section _____ of this chapter, and upon compliance of licensing provisions set forth in section _____ of this chapter. (Ord. 2193, 8-10-1981)

C. When an animal under quarantine has been diagnosed as being rabid or suspected by a licensed veterinarian as being rabid, and dies while under such observation, the veterinarian or the animal control officer shall immediately send the head of such animal to a competent laboratory for pathological examination, and shall notify the proper public health office of reports of human contacts and the diagnosis made of the suspected animal. (Ord. 2478, 8-8-1988)

~~D. When one or both reports gives a positive diagnosis of rabies, the animal control officer shall recommend a city wide quarantine for a period of thirty (30) days, and upon the invocation of such quarantine, no animal shall be taken into the streets or permitted to be in the streets during such period of quarantine.~~

~~E. Every unvaccinated animal bitten by an animal showing positive symptoms of rabies shall be forthwith destroyed, or shall, at the owner's option and expense, be held under not less than fifteen (15) days quarantine, and thereafter, in the discretion of the veterinarian, said animal may be quarantined for a period of not less than ninety (90) days.~~

~~F. In the event there are additional positive cases of rabies occurring during the period of the quarantine, such period of quarantine may be extended, in the interest of the public safety, for additional periods of thirty (30) days, at the discretion of the animal control officer.~~

Comment [TJJ4]: Controlled by state public health authorities.

5-2-109: REPORTS OF BITE CASES: It shall be the duty of every physician or other practitioner to report to the animal control officer the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control. (Ord. 2193, 8-10-1981)

~~**5-2-11: RESPONSIBILITIES OF VETERINARIANS:** It shall be the duty of every licensed veterinarian to report to the animal control~~

~~officer his diagnosis of any animal observed by him as a rabies suspect. (Ord. 2193, 8-10-1981)~~

5-2-1210: EXEMPTION TO LICENSING AND VACCINATION: Hospitals, clinics, and other premises operated by licensed veterinarians for the care and treatment of animals, and the City of Helena and its designated shelter agent are exempt from the provisions of this chapter, except where such duties are expressly stated. The licensing and vaccination requirements of this chapter shall do not apply to any animal belonging to a nonresident of the city and kept within the city limits for ~~not longer~~ less than thirty (30) days, provided all such ~~dogs~~ animals shall, at all times while in the city, ~~be kept within a building, enclosure or vehicle, or be under restraint by the owner~~ comply with the leash provisions of this chapter. (Ord. 2193, 8-10-1981)

5-2-11: CONTROL OF ANIMALS:

- A. A person is guilty of a misdemeanor if any animal under their control bites a human or other domestic animal either on public or private property without the permission of the owner of that property or if the animal charges or approaches a person upon any public right-of-way, park, open space, or other public facility in a menacing fashion or in an apparent attitude of attack. It is an affirmative defense to this sub-section if the animal was responding to a provocation, an offense upon the animal's owner, or unreasonable trespass upon the property of the animal's owner.
- B. No person shall leave any animal unattended or picketed upon any public right of way, city park, open space, or other public facility; or picketed on private property in such a way that the animal can enter public right of way, city park, open space, or other public facility.
- C. No person shall permit an animal in their possession to be a nuisance animal.
- D. All animals not confined within an enclosure or on the owner's property must be kept on a leash not more than ten feet (10') long that is physically held by a responsible

person, or must be securely held by a responsible person so as to prevent the animal from running at large, with the following exceptions: All dogs must be kept under control, either on a leash or within sight and under voice control of their owners or other responsible persons when they are within any "natural park" as defined in section 7-12-1 of this code and as designated by the city commission or within a fenced area of a dog park as designated by the city commission. Dogs must be kept on a leash as described above within one hundred (100) yards of any trailhead to any natural park. Any person who owns, harbors or keeps an animal, or the parent or guardian of any such person under the age of eighteen (18) years, is strictly liable for any violation of this section.

~~**5-2-13. INVESTIGATION:** For the purpose of discharging the duties imposed by this chapter and to enforce its provisions, the animal control officer, or any police officer, is empowered to enter upon any premises upon which a dog is kept or harbored and to demand the exhibition by the owner of such dog, or the license for such dog. It is further provided that the officer may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and to take possession of such animal when, in his opinion, it requires humane treatment. No person shall interfere with, hinder or molest the animal control officer in the performance of any duty of his office, or seek to release any animal in the custody of the animal control officer, except as herein provided.~~

~~It shall be the duty of the animal control officer to keep, or cause to be kept, accurate and detailed records of the licensing, impoundment and disposition of all animals coming into his custody. It shall be the duty of the animal control officer to keep, or cause to be kept, accurate and detailed records of all bite cases reported to him and his investigation of the same. It shall be the duty of the animal control officer to keep, or cause to be kept, accurate and detailed records of all monies belonging to the city, which records shall be open to inspection at reasonable times by such persons responsible for similar records of the city, and shall be audited by the city annually in the same manner as other city records are audited.~~

~~5-2-14: ANIMALS RUNNING AT LARGE:~~

~~A. Any person who owns, harbors or keeps an animal, or the parent or guardian of any such person under the age of eighteen (18) years, is strictly liable for any violation of this section. All animals not confined within an enclosure or on the owner's property must be kept on a leash not more than ten feet (10') long that is physically held by a responsible person, or must be securely held by a responsible person so as to prevent the animal from running at large, with the following exceptions: All dogs must be kept under control, either on a leash or within sight and under voice control of their owners or other responsible persons when they are within any "natural park" as defined in section 7-12-1 of this code and as designated by the city commission or within a fenced area of a dog park as designated by the city commission. Dogs must be kept on a leash as described above within one hundred (100) yards of any trailhead to any natural park. (Ord. 3178, 6-24-2013)~~

~~5-2-15: ANIMALS DEEMED A NUISANCE: It is unlawful for any person to own, harbor, keep, or maintain any animal that causes annoyance to any person by prolonged barking, howling, yelping, or other means. All female dogs or other animals in heat (estrus) shall be kept in a confined area or enclosure not accessible to male animals. (Ord. 3178, 6-24-2013)~~

Comment [TJJ5]: Moved to "behavior" regulations

~~5-2-16: VICIOUS ANIMALS; PROCEDURE~~

~~A. Whenever an affidavit is made before the animal control officer or the judge that any dog or other animal has bitten a person and that the person bitten was not at the time trespassing upon the property of, or injuring or attempting to injure the person, family or the property of the owner, the animal control officer or judge shall issue an order requiring the owner of such dog or other animal to surrender the same to a licensed veterinarian for~~

~~quarantine within twenty four (24) hours after service of the order. Such order may be served by the animal control officer or any law enforcement officer, and, if the owner cannot be found at his place of residence, the order may be served by leaving it with a person of suitable age and discretion at, or by placing it in a prominent place at the front door of such residence. It is unlawful for any person to refuse or neglect to surrender any such vicious animal within twenty four (24) hours after the service of such order as provided in this section, and the animal control officer shall forthwith seize and impound such animal at a licensed veterinarian office at the owner's expense. In the event that the owner is unknown, upon the making of such affidavit, the animal control officer or any law enforcement officer shall seize and impound such animal without notice. All dogs or other animals impounded under this section shall be quarantined at a licensed veterinarian hospital in the city for the period and under the same conditions as stated in section 5-2-9 of this chapter. Nothing in this section or any other provision of this chapter shall be deemed to abrogate any of the rights of the city or its citizens as announced in sections 5-2-33 through 5-2-36 of this chapter. (Ord. 3121, 1-11-2010, eff. 3-1-2010)~~

5-2-12: POTENTIALLY DANGEROUS AND DANGEROUS DOGS; CIVIL PROCEDURE:

- A. A dog that when unprovoked bites a human or a domestic animal either on public or private property, charges or approaches a person upon any public right of way, city park, open space, or other public facility in a menacing fashion or apparent attitude of attack, or any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise threaten the safety of humans or domestic animals the animal control officer is a potentially dangerous dog.

- B. A dog that has inflicted severe injury on a human being without provocation on any property, or has killed a domestic animal without provocation while off the owner's property, or has been previously found to be potentially dangerous, the owner having received notice of such and the dog again bites, attacks, or endangers the safety of humans or domestic animals is a dangerous dog.

- C. Dogs may not be declared potentially dangerous or dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing an unreasonable trespass upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.
- D. The animal control officer must give notice to the owner of a dog that is potentially dangerous or dangerous. Notification may be accomplished through the regular mail or by personal delivery of the notice to the owner. Upon the initial declaration of a dog as dangerous by the animal control officer and pending the determination on appeal by the owner, the owner of the dog must immediately relinquish the dog to the animal control officer for impoundment at a licensed veterinarian hospital or animal shelter in the city.
- E. If the owner disputes the classification of the dog as potentially dangerous or dangerous the owner may, within ten (10) business days of the notification, request a hearing. The request must be filed with the clerk of municipal court and a copy must be served on the city attorney the same day the request is filed. Service on the city attorney must be accomplished by either mailing the copy through the regular United States mail or by personal service. Within thirty (30) business days of the request, a hearing must be held before the municipal court judge unless continued as provided in this section.
- E. Pending the outcome of the aforementioned appeal process, a dog designated must be impounded at a licensed veterinarian hospital or the animal shelter in the city. A dangerous dog may only be released to the owner upon either a determination by the municipal court judge that the dog is not dangerous or that the owner has met the requirements for the keeping of a dangerous dog as required by this chapter.

5-2-13: DUTIES OF OWNERS OF DANGEROUS DOG: In order for any person to own, keep, or harbor a dangerous dog the following requirements must be followed at all times:

A. The owner must obtain a dangerous dog license from the city.

B. The city may issue a certificate of registration to the owner of a dangerous dog if the owner presents to the city sufficient evidence that:

1. The owner has and will maintain a proper enclosure on their premises to confine the dangerous dog and the owner has posted the premises in a conspicuous manner with a clearly visible warning sign and symbol that there is a dangerous dog on the property;

2. A surety bond issued by a surety insurer qualified under the laws of the state in a form acceptable to the city in the sum of at least one hundred thousand dollars (\$100,000.00), payable to any person injured by the dangerous dog or a policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under the laws of the state in the amount of at least one hundred thousand dollars (\$100,000.00), insuring the owner for any personal injuries inflicted by the dangerous dog.

Comment [TJJ6]: Increased from \$50,000 due to costs of medical care.

4. The payment of annual fee to register a dangerous dog. That fee is in addition to regular dog licensing fees.

5. The dangerous dog is microchipped and the owner must present proof of such to the animal control officer.

C. A dangerous dog must be kept in a proper enclosure on their premises. If the dog is outside of the proper enclosure the dog must be muzzled and restrained by a substantial chain or leash and under control of a responsible person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but must prevent it from biting any person or animal. (Ord. _____, __-__-20__)

D. The owner of a dangerous dog must, within twenty four (24) hours, notify the animal control officer if there is a

change in ownership, address, or death of the dangerous dog.

5-2-14: CONFISCATION AND RELINQUISHMENT OF DANGEROUS DOGS:

A. The owner of dog that has been previously declared dangerous dogs must be immediately relinquished to the animal control officer if the:

1. Dog is not validly registered under this chapter;

2. Owner has not secured the liability insurance coverage required under this chapter and kept such liability insurance coverage up to date;

3. Dog is not maintained in a proper and secure enclosure;

4. Dog is outside of the proper enclosure and is not muzzled and restrained by a substantial chain or leash and the leash held to keep the animal under the immediate, continuous and effective control of its owner or some other competent person.

5. The dog that again bites, attacks, or endangers the safety of humans or domestic animals.

B. If the owner of the dangerous dog refuses to immediately relinquish the dangerous dog to the animal control officer under one of the scenarios above, the animal control officers may petition the Helena Municipal Court for a seizure order.

C. All dogs impounded under this section must be kept physically separate from any other animal at a licensed veterinarian hospital or animal shelter in the city.

D. The city may petition the Helena Municipal Court for an order requiring the owner(s) of the dangerous dog impounded under this section to relinquish ownership of the dog to the Lewis and Clark Humane Society or other responsible shelter. A hearing on such a petition shall be held within ten (10) days of the petition unless continued by the owner.

E. Any owner of a dangerous dog who violates any provision of this section is guilty of a misdemeanor and shall be fined a minimum fine of five hundred dollars (\$500.00) and be ordered to relinquish ownership of the dangerous dog. (Ord. ____, __-__-20__)

5-2-15: IMPOUNDMENT AND REDEMPTION OF ANIMALS

A. Any animal found running at large or left unattended or picketed upon any public right of way, city park, open space, or other public facility; or picketed on private property in such a way that the animal can enter public right of way, city park, open space, or other public facility may be taken by the animal control officer and impounded in the animal shelter or veterinarians office and there confined in a humane manner. Upon impounding any animal, the animal control officer shall make a reasonable effort to notify the owners of the impounded animal, and inform the owner of the conditions whereby they may regain possession of the animal.

D. The owners of any dog or animal that has been impounded are entitled to regain possession of any dog or animal impounded pursuant to this section, except as hereinafter provided in the cases of certain dangerous dogs, upon compliance with the license provisions and the payment of the fees and charges provided for in this chapter. Any animal impounded and not claimed by the owner at the expiration of three (3) days become the property of the Lewis and Clark Humane Society and the owner forfeits all rights to the animal.

E. Any animal impounded under this section may be reclaimed as herein provided upon payment of an impoundment fee by the owner to the animal control officer or animal shelter personnel and an additional fee for each day such animal has been kept in the animal shelter. Said daily fee is determined by the board of directors of the Lewis and Clark County Humane Society using reasonable accounting practices to establish a reasonable charge per day for keeping each animal in the animal shelter. The daily fee may be changed no more than once each year by the board. The adoption of any new fee must be preceded by notice to the city and the county. The board shall also take reasonable steps to ensure the public dissemination of said new fee.

Impoundment fees set forth herein and such additional sums as herein provided for keeping animals shall be collected by the animal control officer or animal shelter personnel for the city. Proof of valid city license will be required before the animal will be released to those with a residence within the city.

Comment [TJJ7]: From 5-2-20

F. The animal control office, licensed veterinarian, or the humane society may destroy any sick or injured animal which has been impounded without holding it for three (3) days, if its condition is such as makes its earlier destruction necessary or desirable.

~~5-2-17: RESERVED:~~

~~**5-2-18: IMPOUNDMENT AND DISPOSITION:** All unlicensed dogs found running at large and dogs and other animals at large that are sick, injured or that constitute a public nuisance, shall be taken by the animal control officer and impounded in the animal shelter and there confined in a humane manner for a period of not less than three (3), nor more than five (5) days. Dogs and other animals impounded and not claimed by their owners at the expiration of three (3) days may be disposed of at the discretion of the said animal control officer, except as hereinafter provided in the cases of certain dogs and cats. When dogs are found running at large, and their ownership is known to the animal control officer, such dogs need not be impounded, but the animal control officer may, at his discretion, cite the owners of such dogs to appear in court to answer charges of violation of this chapter. Immediately upon impounding dogs or other animals, the animal control officer shall make every possible effort to notify the owners of such dogs or other animals so impounded, and inform such owners of the conditions whereby they may regain possession of such animals. (Ord. 2193, 8-10-1981)~~

Comment [TJJ8]: Moved to 5-2-12 above

~~**5-2-19: REDEMPTION AND DESTRUCTION:** The owners shall be entitled to regain possession of any impounded dog, except as hereinafter provided in the cases of certain dogs, upon compliance with the license provisions contained in section 5-2-3 of this chapter and the payment of the fees and charges provided for in section 5-2-3 of this chapter. Any other animal impounded under the provisions of this chapter may be reclaimed by the owner upon~~

~~the payment of the fees and charges provided for in section 5-2-20 of this chapter. Any animal impounded under the provisions of this chapter and not reclaimed by its owner within three (3) days may be humanely destroyed by the animal control officer or placed in the custody of some person deemed to be a responsible and suitable person to be the owner of such animal. The animal control officer may destroy any sick or injured animal which has been impounded without holding it for three (3) days, if its condition is such as makes its earlier destruction necessary or desirable. All animals destroyed shall be destroyed by a lethal injection of sodium pentobarbital, by carbon monoxide or other poisonous gas and not by shooting. (Ord. 2193, 8-10-1981)~~

~~**5-2-20: IMPOUNDMENT FEES:** Any animal impounded hereunder may be reclaimed as herein provided upon payment of an impoundment fee by the owner to the animal control officer or animal shelter personnel and an additional fee for each day such animal has been kept in the animal shelter. Said daily fee is determined by the board of directors of the Lewis And Clark County Humane Society using reasonable accounting practices to establish a reasonable charge per day for keeping each animal in the animal shelter. The daily fee may be changed no more than once each year by the board. The adoption of any new fee must be preceded by notice to the city, the county, and their animal control officers. The board shall also take reasonable steps to ensure the public dissemination of said new fee. Impoundment fees set forth herein and such additional sums as herein provided for keeping animals shall be collected by the animal control officer or animal shelter personnel for the city. Proof of valid license will be required before the animal will be released. (Ord. 2849, 8-24-1998; amd. Ord. 3177, 6-10-2013, eff. 7-15-2013)~~

~~**5-2-2116: WILD ANIMALS; PERMITS AND EXCEPTIONS:** It shall be is unlawful for any person to keep or maintain, or cause to be kept or maintained, any wild animal without first applying for and receiving a permit from the animal control officer except that ~~no permit is required to keep or maintain the following wild animals: canaries, parakeets, chinchillas, chipmunks, gophers, finches, guinea pigs, hamsters, marmoset monkeys, parrot type birds, rabbits, squirrel monkeys, turtles, tropical fish (except caribe), nonpoisonous reptiles (where permitted by state and federal law), white mice and white rats.~~ The provisions of this section shall not prohibit the keeping or maintaining of the following wild animals:~~

- A. Any wild animals which are kept confined in zoos, museums or any other place where they are kept as live specimens for the public to view.

- B. Any wild animals which are kept confined and placed on exhibit in a circus, carnival or any other type of exhibit or show.

- C. Wild animals in bona fide, licensed veterinary hospitals for treatment. (Ord. 2193, 8-10-1981)

~~5-2-22: WILD ANIMALS; ISSUANCE:~~

- ~~A. The animal control officer shall issue a permit for the keeping or maintaining of a wild animal if he finds the following:~~
 - ~~1. That a nonrefundable fee, as established by resolution of the city commission, has been paid to the department of finance;~~

 - ~~2. That the wild animal is at all times kept or maintained in a safe manner and that it is at all times confined securely so that the keeping of such animal will not constitute a danger to human life or the property of others;~~

 - ~~3. That adequate safeguards are made to prevent unauthorized access to such animal by members of the public;~~

 - ~~4. That the health or well being of the animal is not in any way endangered by the manner of keeping or confinement;~~

 - ~~5. That the keeping of such animal does not constitute a nuisance and will not harm the surrounding neighborhood;~~

~~6. That the keeping of such animal will not create or cause offensive odors or constitute a danger to public health;~~

~~7. That the quarters in which such animal is kept or confined are adequately lighted and ventilated and are so constructed that they may be kept in clean and sanitary condition;~~

~~8. That the applicant proves his ability to respond in damages to and including the amount of one hundred thousand dollars (\$100,000.00) bodily injury to or death of any person or persons or for damages to property owned by any other person which may result from the ownership, keeping or maintenance of such animal. Proof of liability to respond in damages may be given by filing with the animal control officer, in a form approved by the city attorney, a certificate of insurance, issued by a solvent corporation holding a certificate of authority to do business in the state, or a bond from a responsible and solvent corporation authorized to issue bonds shall provide that no cancellation of the insurance or bond will be made unless thirty (30) days' written notice is first given to the animal control officer;~~

~~9. That the applicant has proof of state and/or federal permits for the species or specimen when so required by law.~~

~~B. In no event shall a permit be issued for the keeping of more than two (2) wild animals over the age of two (2) months at any single location.~~

~~C. Any applicant denied a permit pursuant to these provisions may appeal to the city commission. (Ord. 2193, 8 10 1981)~~

~~**5-2-23: CONDITIONS:** If, at any time, it appears to the animal control officer that there are grounds for denial or revocation of the wild animal permit, but that such grounds could be eliminated by the imposition of conditions, or of additional conditions, he may notify the applicant or permittee, in writing, that he intends to improve or amend such conditions. (Ord. 2193, 8 10 1981)~~

~~5-2-24: REVOCATION: A wild animal permit may be revoked on any one or more of the following grounds:~~

~~A. Any fact exists which would be a reason for denial of the permit.~~

~~B. The permittee, or any agent or employee of the permittee, has violated, or has been convicted of violating, any provision of this or any other ordinance, or of any of the state now, or hereafter in force regulating the activity for which the permit was issued.~~

~~C. The permittee obtained the permit by false or fraudulent representations.~~

~~Prior to any such revocation, the animal control officer shall provide the permittee with written notice by United States mail, of his intent to revoke the permit and advising the permittee of his right to appeal such decision. Any permittee aggrieved by a decision to revoke the permit may appeal to the city commission. (Ord. 2193, 8-10-1981)~~

~~5-2-25: CRUELTY TO ANIMALS:~~

~~A. It is unlawful for any person to wilfully and cruelly inflict pain upon or injure any animal. It is unlawful for any person to lay out or expose any poison for the purpose of killing any dog or other animal, or to aid or abet any person in so doing. Any animal whose owner has been charged with cruelty to that animal may be retained at the animal shelter until disposition of the charge, if the animal control officer believes that returning the animal to the owner may endanger its life. At the hearing if the owner is convicted, the judge shall determine whether the animal will be returned to the owner or placed for adoption by the animal shelter.~~

~~B. A person commits the offense of cruelty to animals if he knowingly or negligently subjects an animal to mistreatment or neglect by:~~

~~1. Overworking, beating, tormenting, injuring or killing any animal; carrying any animal in a cruel manner.~~

~~2. Failing to provide an animal in his custody with proper food, drink or shelter.~~

~~3. Promoting, sponsoring, conducting or participating in a horse race of more than two (2) miles; or promoting, sponsoring, or conducting or participating in any fight between any animals.~~

~~4. A person violating the provisions of this section shall be guilty of a misdemeanor. (Ord. 2278, 11-15-1982)~~

Comment [TJJ9]: Duplicates state law.

5-2-~~26~~17: PROVOKING ANIMALS:

It is unlawful for any person to provoke, harangue, tease, torment, or in any way disturb a dog or other animal with the intent to cause it to bark or attack any person. (Ord. 2193, 8-10-1981)

~~5-2-27: ABANDONMENT OF ANIMALS:~~

~~It is unlawful for any person to abandon any animal within the city. Any person violating this section shall bear all expenses incurred by the city in caring for said animal and shall reimburse the city for all said costs, as determined by the department of finance.~~

Comment [TJJ10]: Animal cruelty.

5-2-~~28~~18: LIABILITY OF NONOWNERS UPON STRIKING AN ANIMAL WITH A MOTOR VEHICLE: Every operator of a ~~self propelled~~ motorized vehicle upon the streets and ways ~~of the city shall~~ open to the public, immediately upon injuring, striking, maiming or running down any animal, give aid to such animal or immediately notify the ~~animal control officer or police officer~~ law enforcement, furnishing sufficient facts relative to such ~~injury~~ incident. (Ord. 2193, 8-10-1981)

~~5-2-29: COPIES OF REGULATIONS:~~

~~A copy of this chapter and of all regulations applicable to the control of animals shall be made available to all persons procuring a dog license and to all other persons who demand the same from the animal control officer at the prescribed charge. (Ord. 2193, 8-10-1981)~~

5-2-30: VIOLATION; PROCEDURE: Upon observing an animal running at large in the city, the animal control officer or other law enforcement officer will attempt to determine the owner by noting the animal's license number if possible, or by following the animal home. A citation will be issued to the owner for

~~failure to comply with applicable sections of this chapter. If the owner cannot be determined, the animal will be taken to the city animal shelter. Any dangerous or vicious animal may be subdued by the use of reasonable means, including lethal means if necessary, by the animal control officer or other law enforcement officer. The animal control officer will keep a complete register of every dog or other animal impounded, showing time and place of capture, breed, color, sex and distinguishing marks, and, if licensed, the number of the license and the name and address of the owner. Licensed animals will be kept separate from unlicensed, and males will be kept separate from females. (Ord. 3047, 12-5-2005; Ord. _____, ___-___-___)~~

Comment [TJJ11]: Duplicate of impoundment for running at large section.

5-2-319: VIOLATION; FINE SCHEDULE PENALTIES:

~~A progressive schedule of fines shall be assessed against any animal owner found to be in violation of the provisions of this chapter within a year, that is not specifically provided for in another section:~~

First offense	\$35.00 to \$100.00
Second offense	\$100.00 to \$250.00
Third and subsequent offenses	\$250.00 to \$500.00

~~The court may allow an animal owner found in violation of this chapter to perform community service in satisfaction of all or part of the fine assessed under this section. A violation of this chapter is a misdemeanor. Any person who fails to comply with the requirements of this chapter, except those requirements related to the keeping of dangerous dogs, may, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) for each violation, and, in addition, may be ordered to pay restitution. (Ord. 3115, 11-2-2009) (Ord. 2906, 2-26-2001; Ord. _____, ___-___-___)~~

5-2-320: VIOLATION; LICENSEE'S LIABILITY AND TRANSFER:

In all prosecutions for violations of this chapter, the person who applied for and obtained the license for the dog in question

~~shall~~ is be deemed the person responsible for the violation unless there has been a transfer of ownership prior to the violation. Any transfer of ownership must be evidenced by a transfer license issued by the administrative services director. A transfer license may be obtained by furnishing the name and address of the transferee to the administrative services director and paying a fee. (Ord. 3177, 6-10-2013, eff. 7-15-2013; Ord. _____, __-__-__)

~~5-2-33: DEFINITIONS: Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.~~

~~DANGEROUS DOG: Any dog that according to the records of the city of Helena: a) has inflicted severe injury on a human being without provocation on public or private property, b) has killed a domestic animal without provocation while off the owner's property, or c) has been previously found to be potentially dangerous, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals.~~

~~POTENTIALLY DANGEROUS DOG: Any dog that when unprovoked: a) inflicts bites on a human or a domestic animal either on public or private property, or b) charges or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or~~

~~otherwise threaten the safety of humans or domestic animals.~~

~~PROPER ENCLOSURE OF A DANGEROUS DOG:~~

~~While on the owner's property, a dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, and shall also provide protection from the elements for the dog. If it has no bottom secured to the sides the sides must be imbedded in the ground no less than two feet (2').~~

~~SEVERE INJURY:~~

~~Any physical injury consisting of multiple bite wounds, broken bones, muscle tears, deep puncture wounds, or disfiguring lacerations. (Ord. 2452, 9-14-1987; amd. Ord. 3102, 9-22-2008)~~

Comment [TJJ12]: Moved to general definitions

~~5-2-34: REGISTRATION:~~

~~A. It is unlawful for an owner to have a dangerous dog in the city without a certificate of registration issued under this section. This section shall not apply to dogs used by law enforcement officials for police work.~~

~~B. The city shall issue a certificate of registration to the owner of a dangerous dog if the owner presents to the city sufficient evidence of:~~

~~1. A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog;~~

~~2. A surety bond issued by a surety insurer qualified under the laws of the state in a form acceptable to the city in the sum of at least fifty thousand dollars (\$50,000.00), payable to any person injured by the vicious dog; or~~

~~3. A policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under the laws of the state in the amount of at least fifty thousand dollars (\$50,000.00), insuring the owner for any personal injuries inflicted by the dangerous dog.~~

~~4. The city will charge an annual fee to register dangerous dogs. Said fee is in addition to regular dog licensing fees. (Ord. 3177, 6-10-2013, eff. 7-15-2013)~~

Comment [TJJ13]: Moved up.

~~5-2-35: RESTRAINT, DECLARATION, DETERMINATION:~~

~~A. It is unlawful for an owner of a dangerous dog to permit the dog to be outside the property enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under control of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.~~

~~B. Dogs may not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a wilful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.~~

~~C. If a dog is determined to be a dangerous dog or a potentially dangerous dog the animal control officer will notify the owner of the dog of said status. Notification will either be accomplished through the regular United States mail or by personal delivery of the notice to the owner. If the owner disputes the classification of the dog, the owner may, within three (3) business days of receipt of the notification, request a hearing. The request must be filed with the clerk of municipal court and a copy must be served on the animal control officer the same day the request is filed. Service on the animal control officer must be accomplished by either mailing the copy through the regular United States mail or by personal service. Within ten (10) business days of the request, a hearing must be held before the municipal court unless continued as provided in this section. Pending the outcome of the aforementioned appeal process, the dog shall remain securely confined on the premises of the owner as hereinabove set forth. However, if the dog is in the possession of the city or the local humane society, it will remain in impoundment at the expense of the owner. The judge may continue the hearing if the dog is:~~

~~1. In the possession of the owner and is confined; or~~

~~2. Impounded and the owner pays the expenses of maintaining the dog in impoundment during the continuance period. (Ord. 3121, 1-11-2010, eff. 3-1-2010)~~

~~5-2-36: CONFISCATION:~~

~~A. Any dangerous dog shall be immediately confiscated by an animal control officer if the:~~

~~1. Dog is not validly registered under this chapter;~~

~~2. Owner does not secure the liability insurance coverage required under this chapter;~~

~~3. Dog is not maintained in the proper enclosure;~~

~~4. Dog is outside of the dwelling of the owner, or outside of the proper enclosure and not under physical restraint of the owner.~~

~~B. If a dangerous dog of any owner with a prior conviction under this chapter attacks or bites a person or another domestic animal, the dangerous dog shall be confiscated immediately by an animal control officer, placed in quarantine for the proper length of time, or immediately destroyed in an expeditious and humane manner.~~

~~C. Any dog that aggressively attacks and causes severe injury or death of any human, whether the dog has previously been declared potentially dangerous or dangerous, shall be confiscated immediately by an animal control officer, placed in quarantine for the proper length of time, or immediately destroyed in an expeditious and humane manner.~~

~~D. Any owner of any dog who violates any provision of sections 5-2-33 through 5-2-36 of this chapter shall be guilty of a misdemeanor and shall be fined a minimum fine of five hundred dollars (\$500.00). Further, the owner of any dog that aggressively attacks and causes severe injury to or death of any human, whether the dog has previously been declared a potentially dangerous or dangerous dog, shall be guilty of a misdemeanor and shall be fined a minimum of five hundred dollars (\$500.00). Further, the owner of a dangerous dog with a prior conviction under this chapter which attacks or bites any person or other domestic animal, shall be guilty of a misdemeanor and fined a minimum of five hundred dollars (\$500.00). In addition to any fine imposed hereunder, any violation of this chapter, as announced herein, may result in incarceration in the city jail for a term not to exceed ninety (90) days. (Ord. 2452, 9-14-1987)~~

5-2-3721: APPLICATION: If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter is not affected. (Ord. 2452, 9-14-1987; Ord. _____, __-__-__)

FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA,
MONTANA, THIS ____ DAY OF OCTOBER, 2016.

MAYOR

ATTEST:

CLERK OF THE COMMISSION

FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA,
MONTANA, THIS ____ DAY OF OCTOBER, 2016.

MAYOR

ATTEST:

CLERK OF THE COMMISSION



City of Helena

Helena Police Department
Troy McGee, Chief of Police
221 Breckenridge
Helena, MT 59601

Phone: (406) 447-8479 Fax: (406) 442-3965

E-Mail: tmcgee@ci.helena.mt.us

City of Helena

Barking Dog Complaints

The City of Helena understands that barking dogs can be a problem for its citizens. Dogs bark by nature and will bark for various reasons (deer, dogs, people, cars, etc.). But if a dog barks incessantly, continually or for an extended period of time, it could be a Quality of Life issue for a neighbor or neighborhood and it may be unlawful.

We suggest that neighbors speak to each other and try to work things out. The owner may not know their dog's barking is a problem. If this is not a possibility or you have tried without success, you may pursue charges for a Nuisance Animal violation.

What does the City currently require in order to prosecute someone for a nuisance animal violation?

*A nuisance animal is any animal that on **three separate occasions** over the course of a **seven day period** (1) makes annoying noises continuously for a period of time greater than **30 minutes** ; or (2) makes annoying noises continuously for periods of time that accumulate to a period of time that is greater than **60 minutes** out of any **12 hour period**. The term "annoying noises" includes, but is not limited to, barking, howling, meowing, yelping, whining, baying or any other noises that annoy any person or neighborhood to an unreasonable degree. "Continuously" means any noise that is repeated with less than one minute of silence between the annoying noises.*

In order to pursue charges, you will need to complete a "Barking Dog Log." You must fill this log out completely. You must be willing to sign a complaint. You may also need to be present in court and provide testimony to a judge or a jury.

A nuisance animal case will be stronger if supported by more than one neighbor. Each offended neighbor needs to either keep a log or be in close contact with someone who is keeping one, and they would need to be available for court if necessary. It is also helpful if you have recordings of the barking and you would need to bring them to court for trial if necessary.

When filling out the log include:

- Specific Dates and Times
- Duration of the barking and if it was **constant** or **intermittent**
- Any **causes** of the barking or other annoying sound
- Location of the animal and **which animal** if more than one on the same premise
- Was there anyone home
- Did you observe the animal

If you are willing to sign a complaint, and you complete a "Barking Dog Log," and that log meets the criteria mentioned above, the City Prosecutor will review your log to see if a nuisance animal charge is viable. Please keep in mind that whether to prosecute is entirely within the discretion of the City Attorney's Office.

August 29, 2016

TO: Ron Alles, City Manager

FROM: Amy Teegarden, Director, Parks & Recreation
Brad Langsather, Open Lands Manager

AT

Subject: Capital 360 Initiative

Present Situation: On October 16, 2015 the Montana Department of Natural Resources hosted the kickoff meeting of the Capital 360 Initiative that is focused on mitigating the high potential for disastrous wildfire events in the greater Helena area. The defined mission of the Capital 360 is to take an “all hands, all lands” approach towards meeting the three goals of the National Cohesive Wildfire Management Strategy: Resilient Landscapes, Fire Adapted Communities and Safe and Effective Wildfire Response. To accomplish this task, the Capital 360 has identified the need to promote partnership and coordination, streamline processes, eliminate duplication of effort, procure resources to complete worthwhile projects, and share equally in the efforts collective success.

In January 2016, the Helena-Lewis and Clark National Forest sought and received funding for a variety of fuel reduction activities that support the Capital 360 Initiative. A portion of the proposed projects were slated to occur in the maintenance corridor of the South Helena trail system. In an effort to increase efficiency and combine resources to treat fuels and weeds across boundaries, the U. S. Forest Service chose to assign approximately \$850,000.00 in funding to the city of Helena through the use of a Participating Agreement (Capital 360).

The Capital 360 Agreement presented to the City by the U.S. Forest Service proposes to fund forest fuel reduction and weed management activities completed by the city of Helena within the maintenance corridor of the South Helena trail maintenance area for a period of five years. Funded activities will include fuels and weeds reduction maintenance work within previously treated City Open Space System Lands, felling and/or removal of hazardous fuels occurring within National Forest System Lands positioned adjacent to property owned by the City, and hazardous tree treatment and/or removal along National Forest and City trails located within the identified project area.

The Capital 360 project provides the opportunity to implement a heightened level of fuel and weed reduction management activities within publically owned properties positioned in close proximity to Helena’s residential neighborhoods and frequented daily by area recreationalists.

Proposal: City staff will present at the September 12, 2016 City Commission meeting to request approval for authorization for the City Manager to enter into the Participating Agreement with the US Forest Service.

Advantage: NA

Disadvantage: NA

City of Helena, Montana

Attachments: NA

City of Helena, Montana

6238 GOLDEN EAGLE WAY
BILLINGS MT 59106

AGREEMENT FOR SATISFACTION OF ANNEXATION CONDITIONS

THIS AGREEMENT is made and entered into this _____ day of _____, by and between GREEN MEADOW HELENA, LLC, (address), Montana _____ (“Owner”), and the CITY OF HELENA, MONTANA, a municipal corporation organized and existing under the laws of the State of Montana, 316 North Park Avenue, Helena, Montana 59623 (“City”).

RECITALS

1. Property Benefited: The property being benefited by the improvements (“Property”) is described as follows:

Lot 4A shown on Certificate of Survey No. 3035465, in Lewis and Clark County, Montana,

2. Annexation Conditions: Owner applied for annexation into the City for a twenty (20) acre Property, more specifically defined as Lot 4A on Certificate of Survey No. 3035465. Pursuant to Resolution of Intention No. 20217, Owner is required to install the following infrastructure, or enter into an agreement acceptable to the City that defines the timing of dedication of public rights-of-way and deferment of the installation of improvements relative to Lots 1-3 of the Green Meadow Subdivision approved preliminary plat (exhibit A), prior to annexation:

- a. Sign a waiver of right to protest an SID for future street improvements.
- b. Dedicate and install public right-of-way for the northward extension of Benton Avenue across the subject property. The property owner is responsible for costs of surveying and dedication.
- c. Install two five foot (5’) wide, east-west sidewalks or a ten foot (10’) wide combination bike/pedestrian path (or some combination thereof) that connects Green Meadow Drive to Benton Avenue and from Benton Avenue to the open space park to city engineering standards as part of a combined total twenty feet (20’) wide non-motorized public access easement. The property owner is responsible for costs of surveying and dedication.
- d. Dedicate a twenty foot (20’) wide non-motorized public access easement to connect Sandstone Way to the above mentioned east-west non-motorized public access easement. Install a ten foot (10’) wide combination bike/pedestrian path to city engineering standards within this easement. The property owner is responsible for costs of surveying and dedication.

3. **Completed conditions:**

Sign a waiver of right to protest an SID for future street improvements.

4. **Deferral of Installation of Infrastructure:** Owner and City desire to bifurcate and defer some of the above described infrastructure into two distinct phases. Phase I consists of Lots 2 and 3 and Phase II consists of Lot 1 shown on Exhibit A the Green Meadow Subdivision preliminary plat. Phase I and II are currently proposed for annexation at this time. This Agreement defines the requirements and timing of infrastructure for each phase.

AGREEMENT

1. **Binding Covenant:** Owner agrees that this Agreement constitutes covenants that run with the property described above, and the benefits and burdens hereof are binding upon and inure to the benefit of all successors in interest to all parties hereto. Owner agrees that this Agreement may be recorded with the Clerk and Recorder of Lewis & Clark County, Montana, and encumbers the Property.

2. **Phase I Infrastructure Improvements:** Owner agrees to the financial responsibility for the installation and construction of the following infrastructure to City standards relative to Phase I:

- a. If a special improvement district is formed to finance the initial construction of the street improvements, Owner consents to the creation of the special improvement district and waives the right to protest the creation of the special improvement district.
- b. Dedicate and install public right-of-way for the northward extension of Benton Avenue across the subject property. The property owner is responsible for costs of surveying and dedication.
- c. Install two five foot (5') wide, east-west sidewalks or a ten foot (10') wide combination bike/pedestrian path (or some combination thereof) that connects the western boundary of Lot 2 to Benton Avenue and from Benton Avenue to the open space park to city engineering standards as part of a combined total twenty feet (20') wide non-motorized public access easement. The property owner is responsible for costs of surveying and dedication.
- d. Dedicate a twenty foot (20') wide non-motorized public access easement to connect Sandstone Way to the above mentioned east-west non-motorized public access easement. Install a ten foot (10') wide combination bike/pedestrian path to city engineering standards within this easement. The property owner is responsible for costs of surveying and dedication.

3. **Timing of Phase I Infrastructure Installation:** The installation and final acceptance of the Phase I infrastructure improvements may be deferred until such time Owners apply for an above ground building permit for any structures on Phase I. The Owner agrees and understands that no development beyond those improvements associated with the issuance of a city approved foundation permit can occur until all Phase I infrastructure requirements describe above are completed.

4. **Phase II Infrastructure Improvements:** Owner agrees to the financial responsibility for the installation and construction of the following infrastructure to City standards relative to Phase II:

a. If a special improvement district is formed to finance the initial construction of the street improvements, Owner consents to the creation of the special improvement district and waives the right to protest the creation of the special improvement district.

b. Install two five foot (5') wide, east-west sidewalks or a ten foot (10') wide combination bike/pedestrian path (or some combination thereof) that connects Green Meadow Drive to Benton Avenue and from Benton Avenue to the open space park to city engineering standards as part of a combined total twenty feet (20') wide non-motorized public access easement. The property owner is responsible for costs of surveying and dedication.

5. **Timing of Phase II Infrastructure Installation:** The installation and final acceptance of the Phase II infrastructure improvements may be deferred until such time as a foundation permit is requested. ~~No foundation permit will be issued for Phase II until all of the Phase II infrastructure has been completed.~~

The owner and the City further agree that the filing of the final plat can be deferred until December 15, 2016. No above ground building permits for any structures on the above referenced property (including Phases I & II) can be applied or issued by the City until all of the conditions of the preliminary plat have been met or guaranteed through a development agreement as outlined in HCC 12-2-16 and the final plat is filed.

6. **Solid Waste:** Owner hereby petitions the City for municipal garbage service for all of Lot 4A shown on Certificate of Survey No. 3035465. The parties agree that municipal garbage service will be extended to the Property as soon as legally possible.

7. **Additional Instruments:** Whenever so requested, Owner or Owner's successors and assigns will sign additional petitions or other instruments required by the City to establish a special improvement district or other procedure for financing installation of the required improvements described above.

8. **Notices:** Written notices between the City and Owners shall be deemed given if sent by first-class mail, postage prepaid, to the principal address of each party. The City may use

Final Building

* NOTE (IN ORDER TO ALLOW A LITTLE MORE FLEXIBILITY IN CASE OF WEATHER IF NEEDED)

the name and address of the most recent Owner of the Property as shown by the records in the office of the Clerk and Recorder of Lewis & Clark County for notice.

9. Default: Failure of or unreasonable delay by either party to perform any term or provision of this Agreement shall constitute a default hereunder. In the event of any alleged default or breach of any term or condition of this Agreement, the party alleging such default or breach shall give the other party not less than thirty (30) days' written notice specifying the nature of the alleged default and the manner in which it may be satisfactorily cured. During any such 30-day period, the party charged shall not be considered in default for purposes of termination or instigation of legal proceedings.

If either party fails to perform a condition of this Agreement, the other party, after providing the defaulting party a 30-day written notice demanding a default be cured, is entitled to all of the remedies provided by law or by this Agreement, including but not limited to damages and specific performance.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

(Owner)

By _____
(Insert name and position)

CITY OF HELENA, MONTANA

By _____
Ronald J. Alles, City Manager

ATTEST:

By _____
Debbie Havens, City Clerk

APPROVED AS TO FORM:

By _____
Thomas J. Jodoin, City Attorney

STATE OF MONTANA)
) ss.
)

On this ____ day of _____, 201____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared _____, the president, known to me or proved to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same in such capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

(Print Name)
Notary Public for State of Montana
Residing at _____
My Commission expires _____

STATE OF MONTANA)
) ss.
COUNTY OF LEWIS & CLARK)

On this ____ day of _____, 201____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared **Ronald J. Alles and Debbie Havens**, the City Manager and City Clerk of the City of Helena, Montana, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same in such capacities.

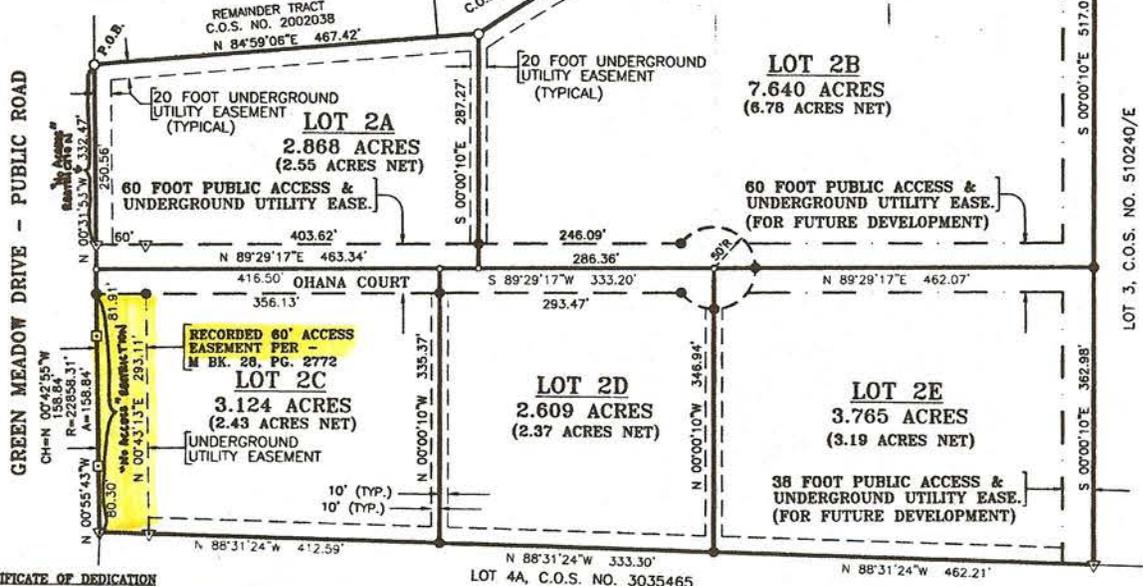
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Kimberly Ann Sell
Notary Public for State of Montana
Residing at Helena, Montana
My Commission expires 4/30/2019.

AMENDED PLAT OF LOT 2 TO ANDERSON SUBDIVISION

FOR: DAVID J. NICKOL & PATRICIA YIRSA NICKOL
PURPOSE: FIVE LOT MINOR SUBDIVISION

NOTE: DISTANCES SHOWN ARE THE TOTAL LENGTH OF LOT LINES, UNLESS OTHERWISE SHOWN NOT TO BE.



CERTIFICATE OF DEDICATION

WE, THE UNDERSIGNED PROPERTY OWNERS, DO HEREBY CERTIFY THAT WE HAVE CAUSED TO BE SURVEYED, SUBDIVIDED AND PLATTED INTO LOTS AND EASEMENTS, AS SHOWN BY THE PLAT HERETO ANNEXED; THE FOLLOWING DESCRIBED LAND IN LEWIS AND CLARK COUNTY TO WIT:

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE SE1/4 OF SECTION 12, TOWNSHIP 10 NORTH, RANGE 4 WEST, AND THE NE1/4 OF SECTION 13, TOWNSHIP 10 NORTH, RANGE 4 WEST, P.M. MONTANA LEWIS AND CLARK COUNTY, SAID TRACT BEING LOT 2, C.O.S. NO. 501240; MORE PARTICULARLY DESCRIBED AS FOLLOWS; BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 2;

THENCE N 84°59'06"E, 467.42 FEET ALONG THE NORTHERLY LINE OF SAID LOT 2;
THENCE ALONG A 1301.61 FOOT RADIUS NONTANGENT CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 797.26 FEET, A CHORD BEARING N 72°28'05"E AND A CHORD LENGTH 784.85 FEET ALONG SAID LINE;
THENCE S 00°00'10"E, 879.99 FEET ALONG THE EASTERLY LINE OF SAID LOT 2;
THENCE N 88°31'24"W, 1208.10 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 2;
THENCE N 00°55'43"W, 80.30 FEET ALONG THE EASTERLY RIGHT OF WAY LIMIT OF GREEN MEADOW DRIVE.
THENCE ALONG A 22,858.31 FOOT RADIUS NONTANGENT CURVE TO THE LEFT HAVING ARC LENGTH OF 158.84 FEET, A CHORD BEARING N 00°42'55"W AND A CHORD LENGTH 158.84 FEET ALONG SAID R/W LIMIT;
THENCE N 00°31'53"W, 332.47 FEET ALONG SAID R/W LIMIT TO THE POINT OF BEGINNING.
THE TRACT CONTAINS 20.006 ACRES MORE OR LESS. THE SAID DESCRIBED TRACT OF LAND IS TO BE KNOWN AND DESIGNATED AS "AMENDED PLAT OF LOT 2 - ANDERSON MINOR SUBDIVISION".

NOTATION: (1) THE UNDERSIGNED HEREBY GRANTS UNTO ALL PUBLIC UTILITY COMPANIES, AS SUCH ARE DEFINED AND ESTABLISHED BY MONTANA LAW, AN UNDERGROUND EASEMENT FOR THE CONSTRUCTION, MAINTENANCE REPAIR AND REMOVAL OF THEIR LINES; UNDER THE DESIGNATED AREAS ON THIS PLAT AS "UNDERGROUND UTILITY EASEMENT" TO HAVE AND HOLD FOREVER. (1A) LOTS ARE SUBJECT TO UNDERGROUND UTILITY AND ROAD EASEMENTS, ALL LINES ACCORDING TO THE PLAT.

NOTATION: (2) THE UNDERSIGNED HEREBY ESTABLISHES THE PUBLIC ACCESS EASEMENTS AS SHOWN AND DESCRIBED ON THE PLAT.

David J. Nickol
OWNER: DAVID J. NICKOL

Patricia Yirsa Nickol
OWNER: PATRICIA YIRSA NICKOL

ON THIS 18 DAY OF January, 2005, BEFORE ME A NOTARY PUBLIC FOR THE STATE OF MONTANA, PERSONALLY APPEARED THE ABOVE NAMES KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE WITHIN INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

Tessa Campbell
NOTARY PUBLIC FOR THE STATE OF MONTANA
NAME: Tessa Campbell
RESIDING AT Helena
MY COMMISSION EXPIRES 8-17-2007

RESTRICTIVE COVENANTS:

BOOK 132, PAGE 135
BOOK _____, PAGE _____

CERTIFICATE OF FINAL PLAT APPROVAL

THE COUNTY COMMISSION OF LEWIS AND CLARK COUNTY, MONTANA, DOES HEREBY CERTIFY THAT IT HAS EXAMINED THIS SUBDIVISION PLAT AND HAVING FOUND THE SAME TO CONFORM TO LAW, APPROVES IT, THIS THE 15th DAY OF February, 2005.

Ed Smaly
COMMISSIONER

K. D. St. L.
COUNTY ATTORNEY

Michael M. ...
COMMISSIONER

John ...
COUNTY PLANNER

Patricia Yirsa Nickol
COMMISSIONER

ATTEST: COUNTY CLERK AND RECORDER

DATE: JANUARY 18, 2005
DRAFTED BY: CJR
JOB No. 04122

LEGEND

- FND. 5/8" REBAR W/Y.P.C. (DUNCAN-4123S)
- ▽ FND. 5/8" REBAR W/Y.P.C. (GORTON-7686S)
- ALUMINUM CAP (HWY-DEPARTMENT)
- ◻ CALCULATED POSITION, NOTHING FOUND OR SET
- SET 5/8" REBAR W/Y.P.C. (RIES-4125S)

CERTIFICATE OF COUNTY TREASURER

I HEREBY CERTIFY, PURSUANT TO SECTION 76-3-611 (1)(B) OF MCA, THAT ALL REAL PROPERTY TAXES AND SPECIAL ASSESSMENTS ASSESSED AND LEVIED ON THE LAND DESCRIBED ON THIS PLAT AND ENCOMPASSED BY THE PROPOSED "AMENDED PLAT OF LOT 2 TO ANDERSON MINOR SUBDIVISION" HAVE BEEN PAID.

GEOCODE 05188713101010000

DATED THIS 26th DAY OF January, 2005.

Pauline De Hart, Jr.
TREASURER, LEWIS AND CLARK COUNTY, MONTANA

CERTIFICATE OF EXAMINING LAND SURVEYOR

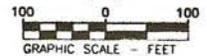
REVIEWED FOR ERRORS AND OMISSIONS THIS 24 DAY OF JAN., 2005, PURSUANT TO SECTION 76-3-611(2)(A), MCA.

Stephen J. Ries
EXAMINING LAND SURVEYOR
REG. No. 9962-LS

CERTIFICATE OF SURVEYOR



STEPHEN J. RIES P.L.S. (4125LS)
PROFESSIONAL LAND SURVEYOR
DATE: Jan 18-05
PREPARED BY RIES SURVEYING
6850 GREEN MEADOW DR.
HELENA, MT 59602



GRAPHIC SCALE - FEET
BASIS OF BEARINGS:
C.O.S. NO. 501240/E
CARY DUNCAN P.L.S. - 4123S

1/4	SEC.	T.	R.
12	10N	4W	
13	10N	4W	

P.M. MONTANA,
LEWIS & CLARK COUNTY

SHEET 1 OF 1
DOCUMENT NO.

