



COUNCIL AGENDA

Monday, November 1, 2021 - 6 PM

The City Council will hold the meeting at the Community Center, 416 Cottonwood Avenue to allow social distancing protocols as part of the City of Deer Lodge's Coronavirus (COVID-19) transmission mitigation efforts.

1. Call Meeting to Order | Pledge of Allegiance

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

3. Special Agenda Item -Headwaters Speakers

a. Headwaters Update – Joe Willauer & Julie Jaksha

4. Public Hearing

a. 215 Kentucky St Conditional Use Permit – CAO Green
Action Item: Vote on approval of Conditional Use Permit

b. Marijuana Dispensary Zoning and Local Regulations – CAO Green
Action Item: Vote on Ordinance 2021-9

5. Approval of Minutes

a. Regular Meeting: October 18, 2021

6. Committee Reports

- a. City Council Operations – Rob Kersch
- b. Economic Growth & Development – Mary Hathaway
- c. Finance Committee – Dick Bauman
- d. Parks & Recreation – Amanda Bohrer
- e. Public Health & Safety – Anthony Savalla
- f. Public Works – John Molendyke

7. Board Reports

- a. Airport Board – John Skibsrud
- b. Arrowstone Park – John Molendyke
- c. Chamber of Commerce – John Henderson
- d. Headwaters RC&D – Amanda Bohrer
- e. Historic Preservation – Mary Hathaway
- f. Landfill – Anthony Savalla
- g. LEPC – Rob Kersch
- h. Library – Amanda Bohrer
- i. Planning Board – Dick Bauman
- j. Youth Board – Amanda Bohrer

8. Continued Business (Continued or Tabled)

- a. Ordinance 2021-8 Adopting the R-5 Zoning: 2nd Reading – CAO Green

9. New Business - The Council will act on each item after accepting public comments.

- a. Treasurer’s Report | October Claims - Judi Whitney. Receive the informational report. Accept the recommendation from the Finance Committee and approve the claims.
- b. Final Brookside Pay Estimate – Trent Freeman
- c. Titles 10,11,15 Review – CAO Green and Council President Kersch

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

- Board of Adjustment – No Meeting
- City Council Operations – November 8th at 5 PM
- Economic Growth & Dev – November 3rd at 1 PM
- Finance – November 1st at 3PM
- Historic Preservation – TBD at 6PM
- Parks and Recreation – November 9th at 4 PM
- Planning Board – November 15th at 10AM
- Public Health & Safety – November 10th at 5 PM
- Public Works – November 23rd at 5 PM

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

12. Next Meeting Announcement(s)

- a. Regular Meeting November 15, 2021, at 6 PM.

13. Adjournment

**Deer Lodge City Council meets in the PC Community Center
416 Cottonwood Ave, Deer Lodge, MT 59722
For Further Information Contact: Cyndi Thompson, City Clerk
cthompson@cityofdeerlodgemt.gov | 406.846.2238**

CITY OF DEER LODGE

CITY COUNCIL MINUTES

The City Council met on Monday, October 18, 2021, at 6 PM | PC Community Center

Members Present:	Rob Kersch, Dick Bauman, John Henderson, John Molendyke, Mary Hathaway, John Skibsrud, & Amanda Bohrer
Members Absent:	Anthony Savalla
Mayor:	Diana Solle
CAO:	Jordan Green
Staff:	Police Chief Smith, Trent Freeman, Judi Whitney, Suzan Callahan, Cyndi Thompson & Peter Elverum
Consultants	None
Guests:	See Sign in Sheet

1. Call Meeting to Order | Pledge of Allegiance.

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

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

a. None

3. Approval of Minutes

a. Regular Meeting: September 20, 2021, and October 4, 2021

Member Bohrer motioned to approve minutes as corrected. Member Hathaway seconded the motion. 6 ayes, 0 no's, 1 abstained, 1 absent.

4. Public Hearing.

a. Proposed Title 1: CAO Green- Action Item: Vote on Acceptance of Proposed Title 1

CAO Green stated the change in Title 1 is in section 1.08.010 General Penalty. (blue reflects changes)

1.08.010: GENERAL PENALTY

- A. *Whenever in any provision of this Code or other ordinance of the City any act is prohibited or is made or declared to be unlawful, a misdemeanor or an offense, or whenever in any such provision or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided therefor, any person upon conviction for the violation of any such provision of this Code or ordinances shall be punished by a fine not exceeding five hundred dollars (\$500.00) for the first or second like violation or in the event of a third or subsequent like violation by imprisonment not to exceed six (6) months or by both such fine and imprisonment, for each such offense.*
 - 1. *Each day any violation of any provision of any ordinance shall continue, shall constitute a separate offense.*
 - a. *Provisions for first, second, third, or subsequent violations as described in A. above do not apply in the event of a continuation of offense as described in A.1. above.*
- B. *In the construction and interpretation of this section, the revocation of a license or permit shall not be considered as a recovery or penalty so as to bar any other penalty being enforced.*

Public Hearing opened at 6:08PM.

Member of the public asked about the Titles being posted on the website for public view. City Clerk responded stating the Titles were posted under Public Notices on the website for the public to access.

Public Hearing closed at 6:10PM.

Council President Kersch motioned to accept City Code Title 1; General Provisions as presented. Member Henderson seconded the motion. 7 ayes, 0 no's, 1 absent. Motion passed.

- b. Proposed Title 7: CAO Green- Action Item: Vote on Acceptance of Proposed Title 7
CAO Green stated the changes in Title 7 is in the following section. (blue reflects changes)

7.01.050: WEEDS AND GRASS(ES) - PROHIBITED

- A. *It shall be unlawful for any person or property owner to knowingly permit any grass or herbaceous plants to grow that might create a fire hazard, blight, or public safety hazard.*
 - 1. *Grasses and herbaceous plants (excluding cultivated gardens) shall not be allowed to exceed eight (8) inches in height.*
- B. *It is unlawful for property owners to permit noxious weeds to propagate. (MCA 7-22-2116)*
- C. *Property owners are responsible for caring for and maintaining their property, to include the area adjacent to their property (i.e., boulevards) up to the middle of the alley and the street.*
- D. *Notice of violations will be posted at the violating property or sent via (certified) mail to the registered property owner. Failure to correct the violation within 14 days may result in a citation which includes a flat fee per violation as set by resolution and the City taking corrective action and charging any cost to the property owner.*
 - 1. *Fee for violation correction to be set by resolution.*

2. *This fee will be based on a base rate per square footage of correction.*

7.03.010: OUTSIDE BURNING PROHIBITED

- A. *It shall be unlawful to burn any garbage or any other refuse outside of any building at any time in the City. No person shall start or maintain any outdoor burning or open burning and no materials shall be burned upon any street, curb, gutter, or sidewalk except as described in 7.03.020: Burning for Personal Enjoyment.*

(Ordinance 150 – 6/18/2012: Effective 7/18/2012 [Repeals/Replaces all Title 7])

7.03.020: BURNING FOR PERSONAL ENJOYMENT

- A. *Outdoor fire pits, fireplaces, and chimneys for cooking, ceremonies, or recreation are allowed provided they are contained in an enclosed area, such as a pit or a ring and should include a fire screen.*
- B. *Outdoor fire pits, fireplaces, and chimneys should be located at least a minimum of twenty (20) feet of any building or property line.*
- C. *Restrictions*
 1. *Uncontained (not enclosed within an adequate fire ring) campfires are not allowed at any time.*
 2. *Whenever Powell County adopts Stage 2 or higher Fire Restrictions, any wood burning fire pits within the City Limits of Deer Lodge shall not be permitted until the Fire Restrictions are decreased below Stage 2.*

7.04.020: RESTRICTED SITES AND TIME LIMITATION FOR RETAIL SALE AND USE OF FIREWORKS

- A. *Any temporary trailer, building, or structure used for the sale or storage of fireworks must conform to general permissible safety standards and be approved by the city Fire Chief or law enforcement agency.*
- B. *No structure may be placed upon an approved site prior to June 28 and such structure must be removed on or before July 6.*
- C. *No structure shall be allowed to be placed within 10 feet of an adjoining property line.*
- D. *No fireworks shall be discharged or fired within 200 feet of a licensed structure and signs reading "It shall be unlawful to discharge or fire or cause to be fired any fireworks within 200 feet of this building" shall be displayed.*
- E. *The sale at retail or use of fireworks will only be permissible between June 30 and July 5, both dates inclusive.*
- F. *Permitted use of fireworks will also be permissible on December 31st and January 1st, both dates inclusive.*
- G. *No fireworks will be permitted to be fired after 10:00 p.m. on permitted days.*
- H. *Exceptions:*
 1. *July 4th – July 5th.*
 - a. *No fireworks will be permitted to be fired after 1:00 a.m. on July 5th.*
 2. *December 31st – January 1st.*
 - a. *No fireworks will be permitted to be fired after 1:00 a.m. on January 1st.*

Public Hearing opened at 6:16PM.

Member of the public, I feel stage 2 fire restrictions and any wood burning fire pits being restricted needs to be removed. The county cannot regulate the City Ordinances.

Public Hearing closed at 6:17PM.

Council President Kersch discussed the open burn pits and the concerns of the Fire Chief.

Mayor Solle asked about the 8-inch grass height and if that has always been there.

Council President Kersch stated, No we established the 8-inches.

Member Bauman asked the Code Enforcement Officer if the Definitions in section 7.01.010 is that enough definition for the work that you do?

Code Enforcement Officer Callahan stated, yes, it is adequate.

Member Bohrer asked about stage 2 fire restrictions, public comments and what the Fire Chief wants to implement.

CAO Green stated, the day after the County adopted the stage 2 fire restrictions, Fire Chief Pierson spoke with me and the Mayor about us adopting similar measures as municipalities are specifically exempted from what a county passes in fire restrictions. So, we presented that saying we are going to adopt stage 2 fire restrictions through an Ordinance to City Council that basically every time stage 2 occurs we'll adopt the same. Through public comment and Council discussion what we came across was County restrictions applies more to what happens out in the forest/rural areas that are more detrimental. You all had decided as a Council to not accept stage 2 fire restrictions. We presented an Emergency Ordinance at the next Council meeting, per the Fire Chiefs request to just prohibit the fire pits, because of exceptional dryness or high winds are very dangerous with sparks. We did pass the emergency ordinance at that time, which was also rescinded about 2 weeks later. We did get this into place as that was about a month-long process to try and get something [passed](#) to restrict fires in town and to protect the health and safety of the community. By having something like this in place, we adopt those restrictions on fire pits when stage 2 is happening during an exceptional period of drought, and this would decrease the time council would need to approve such a restriction.

Council President Kersch stated, we went less restricted than the resolution we adopted, so we limited it to the fire pits. The original resolution was more restrictive.

Member of the public had a concern for the Code Enforcement Officer about nuisance or public nuisance and what law he was breaking.

Member Hathaway motioned to accept City Code Title 7, Health and Welfare as presented. Member Molendyke seconded the motion. 4 ayes, 3 no's, 1 absent. Motion passed.

5. Department Reports: Composed Reports are in the packets.

- a. CAO Report – Report was accepted as presented.
- b. Public Works – Report was accepted as presented.
- c. Police - Report was accepted as presented.
- d. Code Enforcement - Report was accepted as presented.
- e. Fire Department– No report.

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

Member Skibsrud asked about council compensation and stated we never voted on it as a council. Council President Kersch answered we did a public budget review and went over line by line and yes that section was discussed.

Member Skibsrud asked about why did we have to have a special council meeting when we have already budgeted for it. If we have budget approval, then why do you need a council? CAO Green answered, it was a considerable amount in the grant application, per the grant specifications you need have council approval for applying. Which is why a special meeting was called on short notice.

Member Skibsrud asked, City Attorney Elverum said you can hire anyone you want with council approval. We did not approve the last three hires. City Attorney Elverum stated, it does depend on the job position and what's specified in the MCA. Some are hired by the mayor with council approval and other positions are positions councils creates and funds but does not approve. It really does depend on the job title. Member Hathaway stated, I don't want to use my time to approve every single position that comes through and that's were we rely on the council. We need to approve good people in the staff leadership to do their job.

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

- a. Title Review—CAO Green and Council President Kersch

These will be online when we do hold a public hearing for these titles.

- i. CAO Green presented changes to Title 4 Sewer and Water.

Section 4.04.120 Records of Sewer Installations was reviewed.

Section 4.12.060 Service Connections was reviewed.

Section 4.12.140 Apartment Tenant and Property Owners was reviewed.

Section 4.13.040 Fees was reviewed.

Member Bauman motioned to approve Title 4 Sewer and Water and move to a Public Hearing. Member Hathaway seconded the motion. 7 ayes, 0 no's 1 absent. Motion passed.

- ii. CAO Green presented changes to Title 8 Animals.

Section 8.02.010 Definitions (spayed and neutered) was reviewed.

Council President Kersch motioned to approve Title 8 Animals and move to a Public Hearing. Member Bohrer seconded the motion. 7 ayes, 0 no's 1 absent. Motion passed.

- iii. CAO Green presented new section to Title 9 Public Peace, Safety and Morals

Section 9.02.010 Findings and Declaration of Necessity was reviewed.

Section 9.02.020 Public Disturbance Noise Defined was reviewed.

Section 9.02.030 Public Disturbance Noise Forbidden was reviewed.

Section 9.02.040 Specific Noises Prohibited was reviewed.

Section 9.02.050 Disturbing Noise Factors was reviewed.

Section 9.02.060 Exemptions was reviewed.

Section 9.02.070 Noise Permit and Parada Permit as Exceptions was reviewed.

Section 9.02.080 Exceptions, Violations and Penalty was reviewed.

Member Bauman motioned to approve Title 9 Public Peace, Safety and Morals and move to a Public Hearing. Council President Kersch seconded the motion. 7 ayes, 0 no's 1 absent. Motion passed.

8. **New Business** (Old Business or Items Tabled)

- a. Mt. Powell Tap Room Liquor License Approval – CAO Green

CAO Green, there is a new tap business in the old brewery site. Everything is up and running and they have provided a copy of their beer. and wine license application along with the completed AACEA online alcohol server training certificate. They would like to do a soft opening on Friday and fully open on Saturday.

Member Bauman, what they are requesting is a beer and wine license and not a liquor license.

Council President Kersch motioned we approve the application for beer and wine license for Mt. Powell Tap Room. Member Henderson seconded the motion. 7 ayes, 0 no's 1 absent. Motion passed.

- b. Ordinance 2021-8, 1st Reading: Adopting the R-5, Northside Residential District – CAO Green

Member Henderson titled the Ordinance 20201-8 by reading

AN ORDINANCE BY THE DEER LODGE CITY COUNCIL ADDING A NEW CHAPTER 19, R-5 NORTHSIDE RESIDENTIAL DISTRICT, TO THE CITY OF DEER LODGE ZONING ORDINANCE AND AMENDING THE CURRENT CHAPTER 19 AND SUBSEQUENT CHAPTERS WITH UPDATED CHAPTER NUMBERS

CAO Green, summarized Ordinance 2021-8, R-5, Northside Residential District. We did remove the section 2 (h) language "*newer and at least as large*".

Member Bohrer motioned to approve the 1st reading adopting Ordinance 2021-8 as presented. Member Hathaway seconded the motion. 7 ayes, 0 no's 1 absent. Motion passed.

9. Next Meeting Announcements

- a. November 1, 2021 at 6PM.

10. Adjournment

Mayor Solle adjourned the meeting at 7:25PM.

Prepared By: Cyndi Thompson, City Clerk

Diana Solle, Mayor

Date