
CITY OF DEER LODGE

COUNCIL AGENDA

June 20, 2023, | 6:00 PM | City Hall

1. Call Meeting to Order | Pledge of Allegiance

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

3. Approval of Minutes

- a. Regular Meeting: June 5, 2023

4. Public Hearing:

- a. Request for Abandonment of City-owned Property:
Alley between Grant Kohr's Ranch and Properties Owned by Three City Residents – Jordan
 - a. Action Item: Vote on Approval of Abandonment and Authorize the Applicants to Continue the Survey Process
- b. Title 7 Fireworks Time Restrictions – Council Member Jackie Greenwood.
- c. Ordinance 2023-10: Historic Preservation Ordinance – Jordan
 - a. Action Item: Vote on 1st Reading of Ordinance 2023-10

5. Department Reports:

- a. CAO | b. Public Works | c. Police | d. Fire | e. Code Enforcement | f. Recreation Program

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

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

- a. Ordinance 2023-9: 2nd Reading Other Marijuana Business Types Zoning and Regulations - Jordan

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

- a. Award of Plaques to Deer Lodge Police Officers – Mayor Jess
- b. Liquor License Approvals – Jordan
- c. Resolution 2023-R-4: Authorization for County Election Administrator to Conduct 2023 Elections – Jordan
- d. Emery Road Pasture Lease to Wade and Lonnie Murphy – Jordan

9. Next Meeting Announcement(s)

- a. Regular Meeting – Monday July 3, 2023 – Closed Tuesday July 4th
- b. City/County Meeting Wednesday, July 19, 2023 – County Host

10. Adjournment

CITY COUNCIL

MINUTES

The City Council met on June 5, 2023, at 6 PM | City Hall

Members Present:	Rob Kersch, Gordon Pierson, John Molendyke, Jackie Greenwood, Dick Bauman, John Henderson
Members Absent:	Curt Fjelstad
Mayor:	Jim Jess
CAO:	Jordan Green
Staff:	Cyndi Thompson, Trent Freeman, Police Chief Smith, Stan Glovan, Peter Elverum
Consultants	None
Guests:	See sign in sheet

1. **Call Meeting to Order | Pledge of Allegiance**
Mayor Jess called the meeting to order at 6 PM. All present recited the Pledge of Allegiance.
2. **Public Comment.** Members of the audience may comment on any non-agenda items. State Statute limits the City Council from discussing any introduced items. The Council limits each person to three minutes to ensure there is sufficient time for all comments. The Council respects all comments and will have staff follow up any questions.
 - a. None
3. **Public Hearing**
 - a. None
4. **Approval of Minutes.**
 - a. Regular Meeting: May 15, 2023
Member Kersch motioned to approve as presented. Council President Bauman seconded the motion. 7 Ayes, 0 No's, 1 Absent. Motion passed.
5. **Committee Reports – Accepted as presented.**
 - a. Finance – Dick Bauman (Chairperson)
No Finance Meeting for May, No Quorum.

- b. Economic Growth & Development – John Henderson (Chairperson)
May 3rd - **Continued Business** – Main St. Banners: Jordan is trying to find the grant that Chamber of Commerce grant that was used last time.
New Business– Arrowstone Park Billboard: The county is offering the city the larger billboard south of town, Jordan is working with Danielle Jurcich for pictures to use on the billboard. The cost will be approximately \$1500 and should last two to four years.
Committee Comments or Concerns – Member Henderson mentioned that the city contact the Museum about doing their own mural on their retaining wall, Jordan gave updates on the living Local app and Main St. painting, Member Bauman presented the new Southwest Montana Magazine
 Next meeting is scheduled for June 7th 2023, at 5:00 PM
- c. Council Ops – Rob Kersch (Chairperson)
May 8th - Reviewed Title 7 Fireworks and Garbage Collection code. Made recommendation to add fireworks permissible start time of 9:00 Am on permitted days and add language about City residents' ability to utilize the Powell County Landfill.
- d. Public Health & Safety –Joseph Callahan (Chairperson)
May 17th - Discussed times and days of fireworks and forwarded it on for Public Hearings.
- e. Public Works – Gordon Pierson (Chair)
May 23rd – Winchester Drive Sped Limit, Univision Service Contract. Water Rights Consulting Service, Abandoned City Property Alley between Grant Kohrs Ranch and properties owned by Three City Residents. Information presented about Columbarium/Cremation Garden. Received Public Works update.

6. Board Reports – Accepted as presented.

- a. Airport Board – Gordon Pierson
 Working on the EA Report, working on acquiring 20 acres, working on a possible land swap with the State. No meetings in August. FFA grants are in the process. Looking at demolishing the Old National Guard Armory to expand that and reroute to the Golf Course, all depending on the EA Report.
- b. Powell County Parks Board –Dick Bauman
 No meeting the past two months.
- c. Chamber of Commerce – John Henderson
 Was unable to attend. Main discussion is Territorial Days Event.
- d. Headwaters RC&D – Joseph Callahan
 Haven't heard about a meeting – Jordan stated they provided updates on projects.
- e. Historic Preservation – Curt Fjelstad
 Jordan stated: Discussed Ghost Signs renovation at the Elk Tips Building. Update on commercial permits that are happening on Main Street, Working on the Federal Registrar Certification for Rob Worth Building. Cemetery passed getting on the National Registrar.
- f. Landfill – Rob Kersch
 Granite County was interested in using the landfill, we gave them a rate, they rejected it. They no longer want to pursue the landfill and will keep going to Missoula. Placed additional Security Cameras on site. Staff are now wearing Safety Vests. Placing Candlesticks around the animal burial pit. Raised wages for the landfill staff. Landfill Manger \$27PH, Equipment Operator \$22PH, Equipment Operator #1 \$20PH, Landfill Attendant \$15PH.

Hired a New Landfill Manager Dale Perkins. Upgraded the Equipment Operator #1 to Equipment Operator #2. Vacant position for Equipment Operator #1.

- g. Local Emergency Planning Committee – Dick Bauman
Meets quarterly. No meeting for May.
- h. Library – John Molendyke
Worked on amendment to Bylaws. Approved draft of 2024 budget. Changed meeting time to 5:00pm. Next meeting July 20th.
- i. Planning Board – Dick Bauman
Met May 15th, Public Hearing on Rezoning at 719 Maryland, recommendation to City Council. Heard reports from EG&D, Historic Preservation and Chamber of Commerce. Next meeting June 20th.
- j. Youth Board – Jackie Greenwood
No May report. They Meet next week.

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

- a. Ordinance 2023-2: 2nd Reading Skatepark Rules – Jordan

Member Henderson Titled Ordinance 2023-2:

AN ORDINANCE BY THE DEER LODGE CITY COUNCIL AMENDING TITLE 9 (PUBLIC PEACE, SAFETY AND MORALS) OF THE CITY OF DEER LODGE CODE OF ORDINANCES TO PROVIDE RULES AND REGULATIONS FOR THE JOHN AND DOROTHY WILSON MEMORIAL SKATEPARK.

Member Pierson motioned to approve Ordinance 2023 with amendment for an effective date of July 6, 2023. Member Kersch seconded the motion. 7 Ayes, 0 Nos, 1 Absent. Motion passed.

- b. Ordinance 2023-9: 2nd Reading Other Marijuana Business Types Zoning and Regulations

Member Kersch Titled Ordinance 2023-9:

A ZONING ORDINANCE BY THE DEER LODGE CITY COUNCIL TO CREATE ZONING REQUIREMENTS FOR CULTIVATOR, MANUFACTURING, AND TESTING LABORATORY MARIJUANA BUSINESSES, AS WELL AS PROVIDE LOCAL REQUIREMENTS FOR LICENSING OF SAID BUSINESSES PURSUANT TO 16-12-207, MCA.

There is one change Member Kersch requested was on the metering of water NOT Sewer, that was corrected. All other items in the Ordinance remained the same. Amendments to the Ordinance were attached for Council review.

- 1. The City of Deer Lodge Zoning Ordinance is amended to zone the following business types accordingly:

- Cultivator: A conditional use in the B-2, Highway Business District.
- Manufacturing: A conditional use in the I-1, Industrial and Manufacturing District.
- Testing Laboratory: A conditional use in the B-1, Central Business District, a permitted use in the B-2, Highway Business District, and a conditional use in the I-1, Industrial and Manufacturing District. .

2. A Zoning Permit is required for the issuance of a state license in accordance with 16-12-207(3(ii), MCA in order to obtain approval by local building, health, and fire officials.
3. All requirements of 16-12-207, MCA must be met for a cultivator, manufacturing, or testing laboratory marijuana business to operate in the zones authorized by this ordinance.
4. Cultivator businesses that currently or in the future will use municipal water and sewer must connect to both and be metered for water within six (6) months of business operation. Failure to do so will result in the revocation of a cultivator marijuana business license.
5. Cultivator and Manufacturing businesses must install and maintain carbon filters and fans to circulate air and mitigate odor both inside and outside the structure. The issuance of the Zoning Permit as required in item 2 of this ordinance will require verification of the installation and maintenance of carbon filters and fans. Failure to install or maintain carbon filters and fans will result in the revocation of a cultivator or manufacturing marijuana business license.
6. A copy of this zoning ordinance, and any future zoning ordinances pertaining to marijuana businesses, shall be delivered to the Department of Revenue for the purposes of providing the department the local approval criteria for marijuana business licenses.
7. Title 5: Business Licenses and Regulations of the City of Deer Lodge Code of Ordinances is amended to include the requirements, other than zoning requirements, for cultivator and manufacturing marijuana business types as listed in items 4 and 5 of this ordinance. The changes to Title 5 are attached to this Ordinance 2023-9 and are incorporated herein.
8. Title 11: Land Use of the City of Deer Lodge Code of Ordinances is amended to include the zoning requirements of adult-use and medical marijuana dispensaries as listed in item 1 of this ordinance. The changes to Title 11 are attached to this Ordinance 2023-9 and are incorporated herein.

Member Callahan brought a concern to the committee: Hydroponics grow can use a super concentrate fertilizer, how or will it effect our sewer system? 10 square feet = to 1 Acre of soil growth.

Member Callahan motioned to Table Ordinance 2023-9 for further investigation into the fertilizer and if that will have any negative effects to the sewer system. Member Pierson seconded the motion. 7 Ayes, 0 Nos, 1 Absent. Motion passed.

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

- a. Treasurer's Report | May Claims – Jordan Green. Receive the informational report. Accept the recommendation from the Finance Committee and approve the claims.

Member Pierson motioned to approve as presented. Member Henderson seconded the motion. 7 Ayes, 0 Nos, 1 Absent. Motion passed.

- b. Confirmation For New Full Time Employee for DL Police Department, William (Bill) Denend-Mayor
Per Mayor Jess, He was interviewed by the Chief of Police, presented to the Police Commission and approved.

Member Molendyke motioned to approve William (Bill) Denend to the DL Police Department. Member Kersch seconded the motion. 7 Ayes, 0 Nos, 1 Absent. Motion passed.

- c. Winchester Drive Speed Limit Change – Jordan / Chief Smith
Per Police Chief Smith, Winchester Drive is a short dead end/not a through street. It is a residential street and a dirt road. Most parking is done in driveways so that the driver must back out into the street when leaving a resident. Due to all of this I am requesting that Winchester Drive's speed limit should be reduced to 15 mph. This was approved and recommended by Public Works.

Council President Bauman motioned to approve the reduction of the speed limit on Winchester Drive. Member Kersch seconded the motion. 7 Ayes, 0 Nos, 1 Absent. Motion passed.

- d. Committee Goals – Jordan/Cyndi
Committee Goals from EG&D, Council Ops, Public Works, Public Health & Safety and Planning Board were presented.

Member Callahan motioned to approve as presented. Member Greenwood seconded the motion. 7 Ayes, 0 Nos, 1 Absent. Motion passed.

- e. Univision Service Contract – Jordan
They have created a separate service, called Velocity Basic, that is geared towards smaller organizations that may require less on-demand or break fix support, but still require assistance from Univision. This plan includes all the security features in Velocity Complete, but no additional IT services. i.e. any support work is billable at our standard hourly rates.

Moreover, they have introduced an Advanced Security Package for clients such as the City of Deer Lodge. This was created in response to many of the compliance requirements surrounding Cyber Security insurance and industry regulations (HIPAA, PCI, FTC, FDIC, CJIN, etc.). They highly recommend this package for us given the compliance required from law enforcement and government.

All the improvements of the Velocity Complete and Basic Plans, and heightened labor expenses have required them to increase our prices. As our IT provider they feel these plans will provide the best value for providing what customers need with IT Management, Support, and Security.

Here is a cost breakdown of our current plan Vs Velocity Complete:

- **Your current price on our legacy services is - \$628/Month**
- **Your New price on Velocity Complete Remote is - \$1787/Month**
- **Your New price on Velocity Basic is \$794/Month – Please note, this would not include any labor for support.**
- **(Optional) The advanced Security Package is an additional - \$560/month**

Recommendation from Finance Committee to Council to approve the Velocity Basic at \$794/month.

Council President Bauman motioned to approve the Velocity Basic at \$794/Month. Member Callahan seconded the motion. 7 Ayes, 0 Nos, 1 Absent. Motion passed.

- f. Water Rights Consulting Services Approval – Trent
Hydro Solutions has provided you with this *Confirmation of Authorization (COA)* to provide water right services associated with Montana Department of Natural Resources and Conservation (DNRC) Water Right Re-examination and Water Court Adjudication. During re-examination, the DNRC adds issue remarks if it finds factual errors or legal matters that require resolution. The City has one issue remark that was added to water right 76G 10395-00 because it appears the City and the State of Montana Department of Corrections claimed the same historical water right. This matter will likely require the City to participate in a Water Court case to determine which entity is correctly associated with the historical water right.

After re-examination concludes, the DNRC sends a report to the Water Court and then it will issue a Preliminary Decree that will contain all water rights with pre-1973 priority dates within the Upper Clark Fork River Basin (76G). The DNRC will likely send its report to the Court in the next 1-2 months and the Preliminary Decree will be issued sometime this Summer.

City of Deer Lodge Historical (pre-1973) Water Rights

WATER RIGHT NUMBER	PRIORITY DATE	SOURCE	DIVERSION	PURPOSE	FLOW RATE	VOLUME (af)	ACRES IRRIGATED
76G 10392 00	7/1/1934	GROUNDWATER	WELL	MUNICIPAL	700 GPM	1128.93	
76G 10393 00	10/24/1946	GROUNDWATER	WELL	MUNICIPAL	1500 GPM	2419.14	
76G 10394 00	10/5/1946	GROUNDWATER	WELL	MUNICIPAL	1750 GPM	2515.49	
76G 10395 00	3/19/1864	TIN CUP JOE CREEK	HEADGATE	MUNICIPAL	2 CFS	1448	
76G 10396 00	9/19/1931	GROUNDWATER	WELL	MUNICIPAL	500 GPM	807.26	
76G 30122584	5/31/1879	TIN CUP JOE CREEK	HEADGATE	IRRIGATION	224.4 GPM	96	160

TASKS

- Research historical documentation (District Court decrees, deeds etc) and water right files to determine correct party associated with historical water right.
- Review all City of Deer Lodge historical water rights to identify errors that could be corrected with the Water Court.
- Compile research material and summarize in a memo with recommendations.

COST ESTIMATE

To provide the suggested services, we estimate it will take us approximately 32 hours to perform the research and review and another 16 hours to compile the memo. My billing rate is **\$138 per hour**, so the estimated cost is around **\$6600**.

To assist with research, it may be necessary to have someone obtain documents from the County Courthouse. If possible, a City employee could visit the Courthouse and obtain those documents. Otherwise, one of our technicians could obtain the documents at **\$63/hour**.

Additional work outside of this scope of services can be completed on a time and material basis with your prior approval.

This was approved by Public Works and Finance Committee with recommendations to City Council.

City Attorney Elverum discussed the process of water rights court and the process of defending the City's Water Rights. City Attorney Elverum will reach out to a couple water rights attorneys for representation and working with the City.

Member Pierson motioned to table Water Rights Consulting Services from Hydro Solutions and readdress at the next City Council Meeting. Member Kersch seconded the motion. 7 Ayes, 0 Nos, 1 Absent. Motion passed.

- g. Request for Abandonment of City-owned Property:
- o Alley between Grant Kohr's Ranch and Properties Owned by Three City Residents – Jordan

Jerry and Debra Persons, Kathryn Mitchell, and David Roberts, all residents of the City of Deer Lodge, each submitted a Request for Abandonment of City Owned Property to City Hall on September 6, 2022. The applicants request that the city abandon and deed to them the City alley rights-of-way between their properties and Grant Kohr's Ranch National Historic Site (GKRO). The purpose of said abandonment request is to be able to aggregate the abandoned land into their properties.

The sell prices were calculated as an average of the value per square foot of the applicant's properties. The adjacent properties were selected on Montana Cadastral, which specifies every property's square footage. The 2022 appraisals of the land value for each property were divided by the number of square feet to calculate the value per square foot for each applicant's property. The average of these values was taken and applied to the square footage of the requested property abandonments. These calculations are shown below.

Adjacent Property	Square Feet	Land Taxable Value	Value/SF
815 W Missouri Ave	19600	29834	1.522
818 W Missouri Ave	12500	24228	1.938
Lots 10-12	9000	20830	2.314

Average value/SF	1.925
130' x 20' alleys	\$5,005
140' x 20' alleys	\$5,390

Staff Recommendation:

Staff recommends the abandonment of the City owned property as described herein to the applicants at the following values:

Jerry and Debra Persons:
\$5,005

Kathryn Mitchell:
\$5,005

David Roberts:
\$5,390

Staff also recommends the Public Works Committee and City Council require the petitioners to give to the City proof in writing from Northwest Energy that the proposed abandonments will have no impact on their ability to access the power line over the rights-of-way before the abandonment is approved.

Requiring a different sale price is at the discretion of the Public Works Committee and City Council.

Upon recommendation by the Public Works Committee, the petitions will be scheduled for a duly noticed public hearing before the City Council in accordance with §7-1-4127, MCA. All public notice fees will be paid by the applicants. Should the Council resolve to sell the property by a two-thirds vote as required by §7-8-4201(2)a, MCA, the applicants will be responsible for contracting a licensed surveyor to file a Certificate of Survey aggregating the properties and the abandoned rights-of-way, as well as a Quitclaim deed with the Powell County Clerk and Recorder. These documents must be

approved by the City and be in full adherence to City of Deer Lodge subdivision review exemption requirements. All surveyors, survey review, and filing fees will be the sole cost of the applicant.

This was approved from Public Works with recommendations to City Council to move forward with a Public Hearing.

Member Callahan motioned to approve as presented and move forward with a Public Hearing. Member Henderson seconded the motion. 7 Ayes, 0 Nos, 1 Absent. Motion passed.

- h. Appreciation for Skatepark Cleaning Volunteer- Jordan/Cyndi
This was presented and approved by the Finance Committee with recommendation to City Council to proceed with \$150 allowance to purchase a plaque, flowers, and a card to show our appreciation.

Member Greenwood motioned to approve as presented. Council President Bauman seconded the motion. 7 Ayes, 0 Nos, 1 Absent. Motion passed.

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

- Economic Growth & Dev – June 7th at 5 PM
- Finance – June 5th at 4PM
- Public Health & Safety – June 8th at 5 PM
- City Council Operations – June 12th at 5 PM
- Planning Board – June 20th at 10AM (Tuesday, Closed Monday)
- Council #2 – June 20th at 6 PM (Tuesday, Closed Monday)
- Public Works – June 22nd at 5 PM (Moved this month's meeting to a Thursday)

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

- a. Member Greenwood talked about Johnson Creek redirected (period of time??). Member Greenwood will investigate further should she need to bring this to City Council.
- b. Member Kersch final deadline for council seats upcoming. Ward 3 has no runners currently.

11. Next Meeting Announcements

- a. Regular Meeting: June 20, 2023, at 6PM Held on Tuesday the 20th as Monday the 19th City Hall closed.

12. Adjournment

Mayor Jim Jess adjourned the meeting at 7:12PM.

Prepared By: Cyndi Thompson, City Clerk

Mayor Jim Jess

Date

Mayor
James Jess
Chief Administrative Officer
Jordan Green
City Attorney
Peter Elverum
City Clerk
Cyndi Thompson
Compliance Officer
Kody Ryan
Public Works Superintendent
Trent Freeman
Treasurer
Stanley Glovan
City Services Coordinator
Gena Micu



City Council
Dick Bauman
Joseph Callahan
Curt Fjelstad
Jackie Greenwood
John Henderson
Robert Kersch
John J. Molendyke
Gordon Pierson

REQUEST FOR ABANDONMENT OF CITY OWNED PROPERTY REPORT

Requested Abandonment: Three sections of a 20' wide alleyway between three private properties and Grant Kohr's Ranch National Historic Site that are 130', 130', and 140' feet in length, respectively.

Requests by: Jerry and Debra Persons, Kathryn Mitchell, and David Roberts.

Prepared by: Jordan Green – City of Deer Lodge Chief Administrative Officer

Prepared for: City of Deer Lodge Public Works Committee

May 23, 2023

Request:

Jerry and Debra Persons, Kathryn Mitchell, and David Roberts, all residents of the City of Deer Lodge, each submitted a Request for Abandonment of City Owned Property to City Hall on September 6, 2022. The applicants request that the city abandon and deed to them the City alley rights-of-way between their properties and Grant Kohr's Ranch National Historic Site (GKRO) (see exhibit below). The purpose of said abandonment request is to be able to aggregate the abandoned land into their properties.

Site Analysis:

The alley rights-of-way lie between GKRO and the applicant's properties. Each alley right-of-way and the adjacent property are described below:

815 West Missouri Avenue, owned by Jerry and Debra Persons: The alley right-of-way requested for abandonment is approximately 130 feet by 20 feet, travels north to south, and lies between the Persons' property and GKRO. The Persons' property is legally described as Lots 10-14 of Block 7 of the Northwest Townsite, Section 32, Township 08 North, Range 09 West, and is classified as Improved Property - Urban. The property is zoned as the R-2, Residential, Single-family and Manufactured Home District. The property holds the Persons' home and is approximately 19,600 square feet. There is a gated access road into GKRO off W Missouri Ave to the immediate south of the subject property. Currently, a power line operated by Northwest Energy runs through the alley. However, the alley right-of-way does not see any current or anticipated usage for vehicular or pedestrian traffic.

818 West Missouri Avenue, owned by Kathryn Mitchell: The alley right-of-way requested for abandonment is approximately 130 feet by 20 feet, travels north to south, and lies between Mitchell's

property and GKRO. Mitchell's property is legally described as Lots 7-9 of Block 18 of the Northwest Townsite, Section 32, Township 08 North, Range 09 West, and is classified as Improved Property - Urban. The property is zoned as the R-2, Residential, Single-family and Manufactured Home District. The property holds Mitchell's home and is approximately 12,500 square feet. There is a gated access road into GKRO off W Missouri Ave to the immediate north of the subject property. There is an unused alley right-of-way directly to the south of the property, and the northern boundary of the property is the W Missouri Ave right-of-way. Currently, a power line operated by Northwest Energy runs through the alley. However, the alley right-of-way does not see any current or anticipated usage for vehicular or pedestrian traffic.

Lots 10-12 of Block 18 of the Northwest Townsite, owned by David Roberts: The alley right-of-way requested for abandonment is approximately 140 feet by 20 feet, travels north to south, and lies between Robert's property and GKRO. Robert's property is legally described as Lots 10-12 of Block 18 of the Northwest Townsite, Section 32, Township 08 North, Range 09 West, and is classified as Vacant Land - Urban. The property is zoned as the R-2, Residential, Single-family and Manufactured Home District. The property is currently vacant of any use and is approximately 9,000 square feet. An unused alley right-of-way exists to the north of the property, and the southern boundary of the property is the W Milwaukee Ave right-of-way. Currently, a power line operated by Northwest Energy runs through the alley. However, the alley right-of-way does not see any current or anticipated usage for vehicular or pedestrian traffic.

Exhibit showing location of proposed alley abandonments and the applicants' properties.



Abandonment Analysis:

As there has been no historic use of the alley right-of-way for public transportation, there would be no impact on City services, transportation, or future land use resulting from granting the abandonments. Since the proposed abandonments keep intact the east-west rights-of-way, there would be no impact on access to GKRO or other private properties that use the east-west alleys. Currently, the right-of-way is not used for any water or service utilities. However, there is a power line that runs through the alley right-of-way that is owned and operated by Northwest Energy. City Staff finds a potential conflict with the petitioner's request and Northwest Energy due to access for this line, which would need to be resolved before the property could be abandoned. From previous staff experience, Northwest Energy maintains their easement under state law, even if the land is abandoned and deeded to another individual. However, the applicants should provide the City with proof in writing that Northwest Energy does not have concerns with the proposed abandonments.

§7-14-4114, MCA requires property owners seeking abandonment to receive written support from greater than 50% of adjacent property owners. The only adjacent property owner is the National Parks Service. The applicants received confirmation from the Acting Superintendent of the Grant Kohn's Ranch National Historic Site that they have no concerns with the proposed abandonment. That written confirmation is attached to this staff report and incorporated herein.

Besides the potential conflict with Northwest Energy, City Staff finds no undue reason to deny the request based off current or potential uses of the property by the City. However, the approximately 19,600, 12,500, and 9,000 square foot properties are the property of the taxpayers of the City of Deer Lodge, and the City should require compensation for the abandonment of public land. Staff recommends sale costs, as calculated below, be attached to the deeds for the benefit of the Public Works Committee and the City Council to recoup the loss of the public property.

This sell prices were calculated as an average of the value per square foot of the applicant's properties. The adjacent properties were selected on Montana Cadastral, which specifies every property's square footage. The 2022 appraisals of the land value for each property were divided by the number of square feet to calculate the value per square foot for each applicant's property. The average of these values was taken and applied to the square footage of the requested property abandonments. These calculations are shown below.

Adjacent Property	Square Feet	Land Taxable Value	Value/SF
815 W Missouri Ave	19600	29834	1.522
818 W Missouri Ave	12500	24228	1.938
Lots 10-12	9000	20830	2.314

Average value/SF	1.925
130' x 20' alleys	\$5,005
140' x 20' alleys	\$5,390

Staff Recommendation:

Staff recommends the abandonment of the City owned property as described herein to the applicants at the following values:

Jerry and Debra Persons: \$5,005

Kathryn Mitchell: \$5,005

David Roberts: \$5,390

Staff also recommends the Public Works Committee and City Council require the petitioners to give to the City proof in writing from Northwest Energy that the proposed abandonments will have no impact on their ability to access the power line over the rights-of-way before the abandonment is approved.

Requiring a different sale price is at the discretion of the Public Works Committee and City Council.

Upon recommendation by the Public Works Committee, the petitions will be scheduled for a duly noticed public hearing before the City Council in accordance with §7-1-4127, MCA. All public notice fees will be paid by the applicants. Should the Council resolve to sell the property by a two-thirds vote as required by §7-8-4201(2)a, MCA, the applicants will be responsible for contracting a licensed surveyor to file a Certificate of Survey aggregating the properties and the abandoned rights-of-way, as well as a Quitclaim deed with the Powell County Clerk and Recorder. These documents must be approved by the City and be in full adherence to City of Deer Lodge subdivision review exemption requirements. All surveyor, survey review, and filing fees will be the sole cost of the applicant.

Signed,

A handwritten signature in black ink, appearing to read 'Jordan Green', is written over a horizontal line.

Jordan Green – Chief Administrative Officer
May 19, 2023

Request for Abandonment of City Owned Property

ABANDONMENT: "TO NO LONGER HAVE ANY RIGHT TO A PROPERTY"

The giving up of ownership and any present or future rights to real property by the lawful owner. Governing entities have the power to abandon publicly owned property if it is determined that the best interest of the public will be served by transferring ownership from the public sector to the private sector or from one entity to another. If abandonment is granted, the deed will be filed with the Powell County Clerk and Recorder.

Name of Applicant: Jerry and Debra Persons

Address of Applicant: 205 Dixon St Deer Lodge MT 59722

Telephone Number: (406) 846-~~3873~~ 3241

Property description of land requesting to be abandon: A portion of unnamed alley between Missouri and the alley to the North and adjacent to lot 10 Block 7 of the Northwest Townsite (Deer Lodge)

Ownership of adjoining property: US National Park Service

Letters that there are no objections to the abandonment must be received from at least 51% of adjoining property owners.

Provide a site map indicating the property in question, with appropriate dimensions.

The city is required to publish a public notice in the local newspaper twice prior to the council meeting that action will be taken.

[Signature]
Signature of Applicant

Sept 6, 2022
Date

[Signature]
Received by

Sept 6/22
Date

Forwarded to Public Works Committee on May 23
Sept 27, 20 23

Note: Request will not be considered without proper information
Please allow at least four weeks lead time for preliminary review by the committee.
Advertising and filing fees will be billed to the applicant

City of Deer Lodge
300 Main Street
Deer Lodge MT 59722-1098

Exhibit 1 Jerry and Debra Persons Abandonment Request

The requested area is denoted in red below and is 20' wide by _____



Request for Abandonment of City Owned Property

ABANDONMENT: "TO NO LONGER HAVE ANY RIGHT TO A PROPERTY"

The giving up of ownership and any present or future rights to real property by the lawful owner. Governing entities have the power to abandon publicly owned property if it is determined that the best interest of the public will be served by transferring ownership from the public sector to the private sector or from one entity to another. If abandonment is granted, the deed will be filed with the Powell County Clerk and Recorder.

Name of Applicant: Katherine Ann Mitchell

Address of Applicant: 818 W Missouri Deer Lodge MT 59722

Telephone Number: (406) 846-3041 3873

Property description of land requesting to be abandon: A portion of unnamed alley between Missouri and the alley to the south and adjacent to lot 9 Block 18 of the Northwest Townsite (Deer Lodge)

Ownership of adjoining property: _____

US National Park Service

Letters that there are no objections to the abandonment must be received from at least 51% of adjoining property owners.

Provide a site map indicating the property in question, with appropriate dimensions.

The city is required to publish a public notice in the local newspaper twice prior to the council meeting that action will be taken.

Signature of Applicant Katherine Ann Mitchell

Date 9-6-2022

Received by [Signature]

Date 9/6/22

Forwarded to Public Works

Committee on May 23

2023

Note: Request will not be considered without proper information
Please allow at least four weeks lead time for preliminary review by the committee.
Advertising and filing fees will be billed to the applicant

City of Deer Lodge
300 Main Street
Deer Lodge MT 59722-1098

Exhibit 1 Katherine Ann Mitchell Abandonment Request

The requested area is denoted in red below and is 20' wide by _____



Request for Abandonment of City Owned Property

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Name of Applicant: David O Roberts

Address of Applicant: P.O. Box 54 Deer Lodge MT 59722

Telephone Number: (406) 360-4962

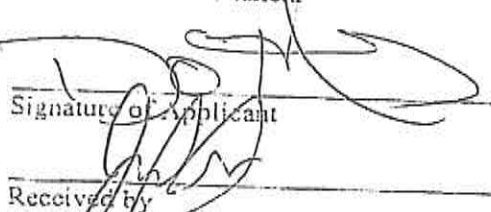
Property description of land requesting to be abandon: A portion of unnamed alley between Milwaukee and the alley to the north and adjacent to lot 10 Block 18 of the Northwest Townsite (Deer Lodge)

Ownership of adjoining property: US National Park Service

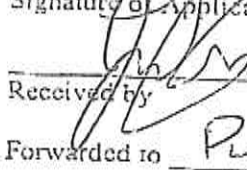
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Provide a site map indicating the property in question, with appropriate dimensions.

The city is required to publish a public notice in the local newspaper twice prior to the council meeting that action will be taken.

Signature of Applicant 

Date 9/6/2022

Received by 

Date 9/6/22

Forwarded to Public Works

Committee on May 23

2023

Note: Request will not be considered without proper information.
Please allow at least four weeks lead time for preliminary review by the committee.
Advertising and filing fees will be billed to the applicant.

City of Deer Lodge
300 Main Street
Deer Lodge MT 59722-1098

Exhibit 1 David Roberts Abandonment Request

The requested area is denoted in red below and is 20' wide by _____



NOTICE

Public Hearing

The City Council of the City of Deer Lodge is holding a public hearing on June 20, 2023 at 6 PM in the City Council Chambers at 300 Main Street in Deer Lodge to receive comments regarding potential revisions to the times residents are allowed to use fireworks within the City limits. *Currently, residents are allowed to use fireworks from June 30-July 3 until 10PM and on July 4 until 1AM the next day. Residents are also allowed to use fireworks on December 31 until 1AM the next day.* At the May 1st City Council meeting, Councilmember Jackie Greenwood proposed additional restrictions on the times residents are allowed to use fireworks. Councilmember Gordon Pierson motioned to send the item to the Public Health and Safety Committee. The Committee has thus provided the City Council with three alternatives concerning time restrictions. *Alternative 1:* No changes to the time restrictions. *Alternative 2:* Only permit July 3 until 10PM and on July 4 until 1AM the next day and on December 31 until 1AM the next day. *Alternative 3:* Only permit on July 4 until 1AM the next day and on December 31 until 1AM the next day.

The City Council has the responsibility to hear public comments regarding additional restrictions such as these before their enactment. Interested parties may contact the City's Administrator, Jordan Green at (406) 846-2238 or jgreen@cityofdeerlodgemt.gov for further information regarding the amendment or submit comments to Mr. Green before June 15th. All members of the public are invited to attend the City Council's public hearing to provide comments on the matter.

ORDINANCE 2023-10

A ZONING ORDINANCE BY THE DEER LODGE CITY COUNCIL TO AMEND TITLE 11: ZONING OF THE CITY OF DEER LODGE CODE OF ORDINANCES TO PROVIDE FOR ORDINANCES RELATED TO HISTORIC PRESERVATION

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

WHEREAS, the City of Deer Lodge Planning Board has the responsibility to review zoning regulations for the City of Deer Lodge; and

WHEREAS, the Historic Preservation Commission and the Planning Board identified the need to update and provide further language to Title 11: Zoning related to Historic Preservation in Deer Lodge and the roll of the Historic Preservation Commission; and

WHEREAS, the Historic Preservation Commission reviewed the draft ordinance and recommended to forward the ordinance to the Planning Board at their March 8, 2023 meeting; and

WHEREAS, the Planning Board discussed the proposed zoning amendments at their April 17, 2023 meeting, and determined through a vote of six to zero with one absent forward the proposed zoning amendments to the City Council; and

WHEREAS, the Deer Lodge City Council discussed the proposed zoning amendments at their May 1, 2023 meeting and elected to send the proposed zoning amendments to public hearing through a vote of six to zero with two members absent; and

WHEREAS, the Deer Lodge City Council conducted a duly noticed public hearing at their regularly scheduled Council meeting on June 20, 2023 at 6:00 PM to accept comments regarding the proposed Ordinance 2023-10, which contained the propositions forwarded by the Planning Board from their April 17, 2023 meeting; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER LODGE MONTANA:

Title 11: Zoning of the City of Deer Lodge Code of Ordinances is hereby amended to provide further language related to Historic Preservation in Deer Lodge and the roll of the Historic Preservation Commission.

The language of the amendments is provided in Attachment "A" of this Ordinance 2023-10 and is incorporated herein.

SEVERABILITY. If any selection, subsection, sentence, clause, phrase, or word of Ordinance 2023-10 is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance 2023-10 and each section, subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or words have been declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

Passed and approved by the City Council of the City of Deer Lodge, Montana on first reading at a regular Council meeting this 20th day of June, 2023.

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

James Jess, Mayor

Attest:

Cyndi Thompson, City Clerk

Passed and approved by the City Council of the City of Deer Lodge, Montana on final reading at a regular Council meeting this 3rd day of July, 2023.

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

James Jess, Mayor

Attest:

Cyndi Thompson, City Clerk

The effective date of Ordinance 2023-10 is August 4, 2023

ORDINANCE 2023-10 ATTACHMENT "A"

HISTORICAL DOWNTOWN PRESERVATION OVERLAY DISTRICT

§ 11.01.240.010 INTENT.

The intent of this special District is to protect and preserve the character and historic appeal of the ~~downtown~~-area encompassing the downtown core of the city and ensure compatibility between the old and the new.

(Prior Code, § 11.01.240.010) (Ord. 2021-15, passed 12-20-2021; Ord 2023-10, passed 07-03-2023, effective 08-04-2023)

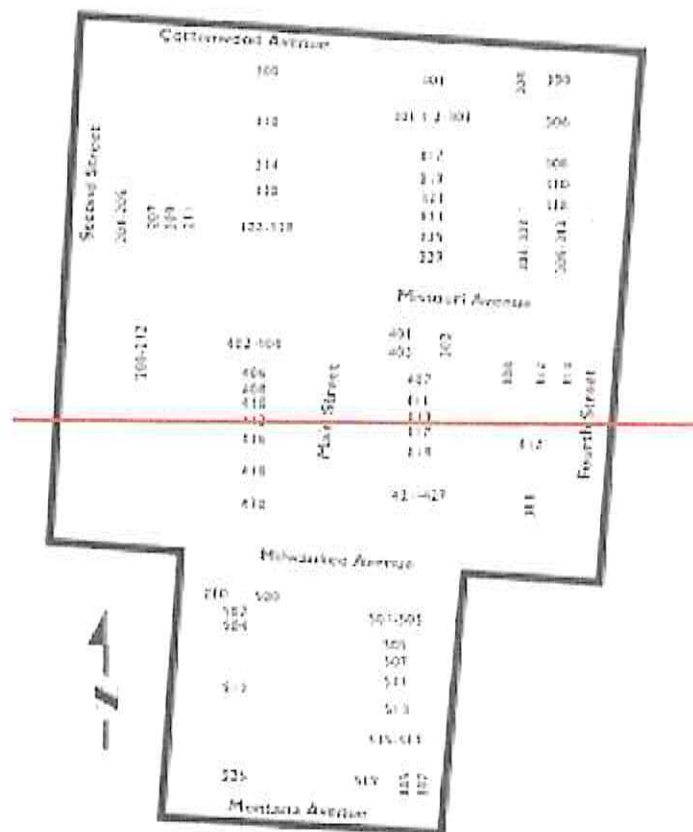
§ 11.01.240.020 DESIGNATION AND LOCATION OF ~~THE HISTORICAL DOWNTOWN PRESERVATION DISTRICT~~ DEER LODGE CENTRAL BUSINESS HISTORIC DISTRICT

The following map illustrates the boundaries of ~~the the Deer Lodge Central Business Historic District~~ Historical Downtown Preservation District. Furthermore, the National Register of Historic Places nomination, approved by the National Parks Service August 13, 2008, Places continuation sheet dated November 2007 provides a comprehensive description of the buildings and their significance within the District.

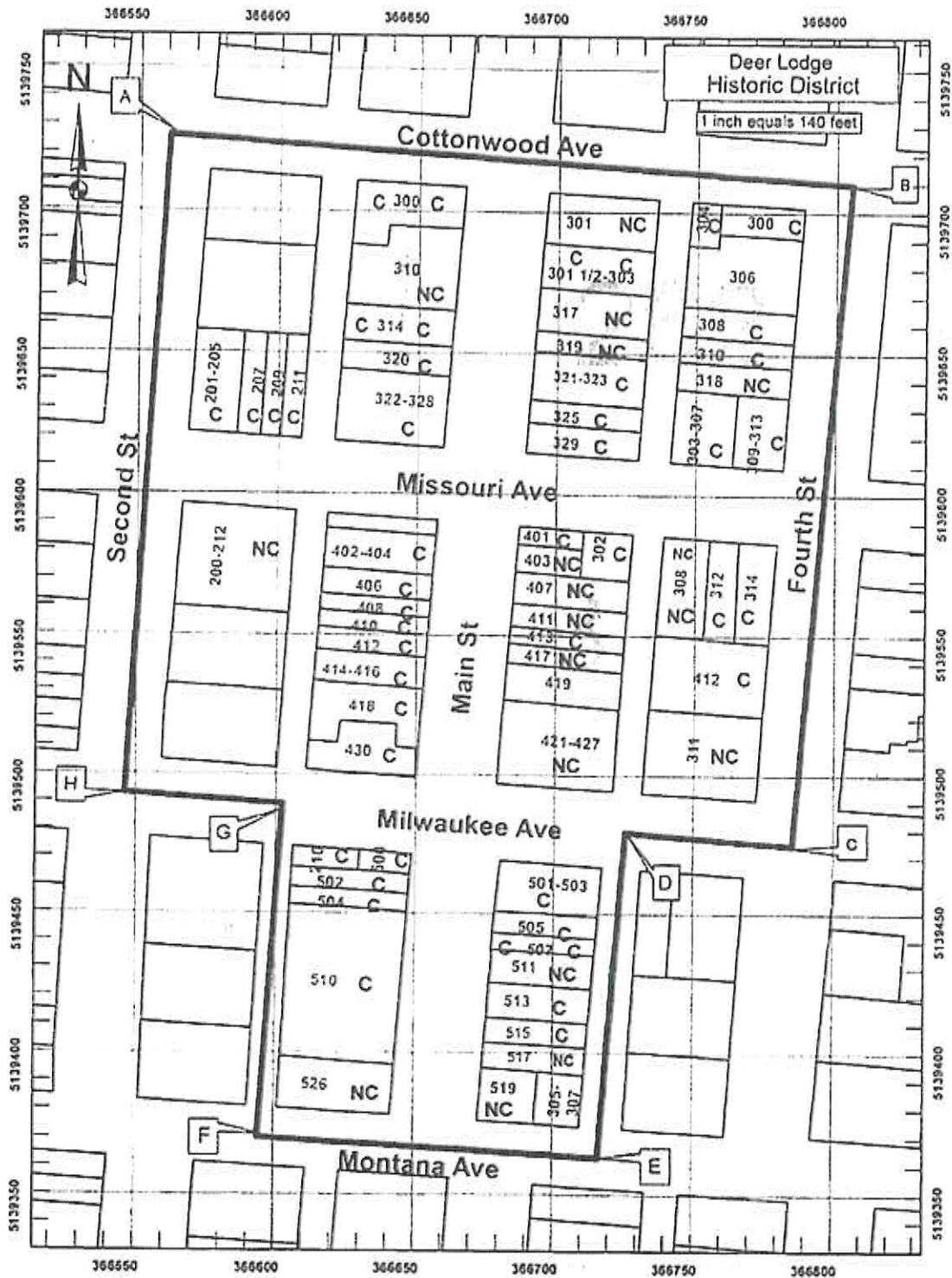
(A) The boundaries of the Historic Downtown Preservation Overlay District generally follow the boundaries as illustrated in the following map. However, § 11.01.240.050 of this code authorizes the City Council to amend the boundaries of the Historic Downtown Preservation Overlay District beyond the district specified by the National Register of Historic Places.

ORDINANCE 2023-10 ATTACHMENT "A"

Historical Downtown Preservation District



ORDINANCE 2023-10 ATTACHMENT "A"



(Prior Code, § 11.01.240.020) (Ord. 2021-15, passed 12-20-2021; Ord. XXXX-XX, passed XX-XX-XXXX)

ORDINANCE 2023-10 ATTACHMENT "A"

§ 11.01.240.030 CONFORMANCE AND PROTECTION OF THE HISTORICAL DOWNTOWN PRESERVATION DISTRICT.

(A) All remodeling, replacement and new construction within the Historical Downtown Preservation Overlay District that is funded in whole or part from grants, stipends or free services from local, state or federal government sources must adhere to the requirements of those funds and this section to preserve and protect the historic character of the structure(s) worked on and if required the other structures within the Historical District.

(B) The Planning Board will support the building and architectural requirements of local, state and federal funding supporting these projects and act accordingly under §§ 11.01.270.010 through 11.01.270.080, if the provisions of § 11.01.240.030 are not met and the violations are well supported by the funding agency.

(Prior Code, § 11.01.240.030) (Ord. 2021-15, passed 12-20-2021; Ord 2023-10, passed 07-03-2023, effective 08-04-2023)

§ 11.01.240.040 ADDITIONAL REQUIREMENTS FOR REMODELING, REPLACEMENT AND NEW CONSTRUCTION WITHIN THE HISTORICAL DOWNTOWN PRESERVATION OVERLAY DISTRICT.

(A) Renovations and new construction proposed for the Historical Downtown Preservation Overlay District should be designed and implemented as to preserve the architectural features, the unique use of materials and the overall historic character of the individual structure, as well as the District.

(B) In reviewing a proposal to renovate or build new, the Planning Board shall consider any potential changes in scale and massing that do not have a negative effect upon the overall unity, consistency and cohesiveness of the streetscape and the District.

(1) Upon receipt of a building permit application of planning application for a property that is located within the Historic Downtown Preservation Overlay District, the Planning Board will request a report from the Historic Preservation Commission, established in § 11.01.250.010.

(2) The Historic Preservation Commission shall provide a report to the Planning Board concerning the historic characteristics of the property in question within one (1) month of the application.

(3) The report shall consist of information concerning the historic importance or architectural character of the property and may provide voluntary design guidelines for the benefit of the Planning Board and the applicant.

(4) The report shall be made available to the Planning Board, the applicant and the general public.

ORDINANCE 2023-10 ATTACHMENT "A"

(C) The review process of the Historic Preservation Commission consists of examining scale, materials, setbacks, massing, sightlines, architectural style, and historic features, ghost signs, and design, in compliance with Secretary of Interior Standards for Historic Preservation, as a means to preserve, as much as possible, the intent of the Historical Downtown Preservation Overlay District.

(Prior Code, § 11.01.240.040) (Ord. 2021-15, passed 12-20-2021; Ord 2023-10, passed 07-03-2023, effective 08-04-2023)

§ 11.01.240.050 EXPANDING THE AREA OF THE HISTORICAL DOWNTOWN PRESERVATION OVERLAY DISTRICT.

Through recommendation by the Planning Board and Zoning Commission, and a majority vote of the City Council, the area encompassing SD-1 defined in § 11.01.240.020 can be expanded to include other contiguous areas of the B-1 District.

(A) If a property becomes registered on the National Register of Historic Places and is adjacent to the District, the City Council may decide through a majority vote to include the property in the Downtown Historic Preservation Overlay District.

(Prior Code, § 11.01.240.050) (Ord. 2021-15, passed 12-20-2021; Ord 2023-10, passed 07-03-2023, effective 08-04-2023)

HISTORIC PRESERVATION COMMISSION

§ 11.01.250.010 ESTABLISHMENT OF HISTORIC PRESERVATION COMMISSION

The Deer Lodge Historic Preservation Commission was established by the City Council of the City of Deer Lodge through the adoption of Resolution No. 979 and approved by the Mayor on February 5, 2001.

(Ord 2023-10, passed 07-03-2023, effective 08-04-2023)

§ 11.01.250.020 INTENT

The Historic Preservation Commission is a City of Deer Lodge board affiliated with the Montana Main Street Program that works closely with the Montana State Historic Preservation Office. The mission is to engage in activities that promote the preservation of the unique historical character of Deer Lodge. This is done through education and through the procurement of historic preservation resources.

ORDINANCE 2023-10 ATTACHMENT "A"

(A) The Commission shall serve in an advisory capacity to the City of Deer Lodge, the City Planning Board, and other pertinent bodies or organizations.

(B) The Commission shall have the powers and duties as directed in the City of Deer Lodge Resolution No. 979 and the contents of this section.

(Ord 2023-10, passed 07-03-2023, effective 08-04-2023)

§ 11.01.250.030 BYLAWS

The Commission shall adopt bylaws as approved by a majority vote of the Commission members. The Bylaws shall be approved by the City Council and kept on file with the City of Deer Lodge City Clerk. Bylaws shall be reviewed annually by the Commission to determine the necessity of alterations.

(Ord 2023-10, passed 07-03-2023, effective 08-04-2023)

§ 11.01.250.040 APPOINTMENTS AND TERMS

The Commission shall consist of a minimum of five (5) members. The Mayor, with approval of the City Council, will make all appointments to the Commission. Terms of office will be three (3) years, unless the member vacates the Commission by sending a written letter of resignation or if the member is not in compliance with the Bylaws established in § 11.01.250.030.

(A) A member of the Historic Preservation Commission shall also be appointed to the Planning Board by the Mayor with the consent of the City Council. A member of the Historic Preservation Commission shall be represented on the Planning Board at all times. If that member vacates either the Planning Board or the Historic Preservation Commission by resignation or expiration of term, the Historic Preservation Commission shall elect a representative to the Planning Board pursuant to the approval by the Mayor with the consent of the City Council.

(Ord 2023-10, passed 07-03-2023, effective 08-04-2023)

§ 11.01.250.050 POWERS AND DUTIES

The powers and duties of the Historic Preservation Commission were established in Resolution No. 979 and supplemented by § 11.01.240.040 and this section. The powers and duties are as follows.

(A) Maintain a system for the survey and inventory of historic and prehistoric properties. The Commission shall maintain this inventory of identified districts, sites, buildings, and structures within the City of Deer Lodge and make this information available to the public. However, the Commission shall withhold

ORDINANCE 2023-10 ATTACHMENT "A"

information about the locations, character, or ownership of historic or prehistoric resources if that disclosure may (1) cause a significant invasion of privacy, (2) risk harm to the resource, or (3) impede the use of a traditional religious site by practitioners (Sec 304 of the National Preservation Act, as amended).

- (B) Use the "National Register of Historic Places Criteria for Evaluation" for local designation of historic and prehistoric properties.
- (C) Participate in the process of nominating places to the National Register of Historic Places according to the Montana State procedures for Certified Local Governments, including reviewing and commenting on any National Register nominations within the City of Deer Lodge.
- (D) Review and comment to the Planning Board, the City Council, and the general public on building and planning applications received by the City for properties located in the Historical Downtown Preservation District as required by § 11.01.240.040.
- (E) Consult with City, County, State, and Federal agencies on all applications, environmental assessments, and other documents pertaining to historic districts, landmark sites, landmarks, or properties.
- (F) Review the City's zoning regulations for their applicability to issues of historic preservation and make appropriate recommendations to the City Council concerning any changes or modifications to zoning regulations or zoning district boundaries that relate to the management of historic districts, landmark sites, landmarks, and properties.
- (G) Participate in, encourage, promote, and conduct public informational, educational, and interpretive programs pertaining to historic preservation including potential tax incentives and Federal and/or State grants that may be available.
- (H) Take action to ensure compliance with federal and state guidelines regarding the Certified Local Government Program.
- (I) Submit an annual report to the State Historic Preservation Office describing projects, activities, recommendations and decisions made, projects reviewed, recommendations to the National Register of Historic Places, revised resumes of Historic Preservation Commission members and member attendance records.
- (J) Provide that at least one (1) member of the Commission shall attend at least one (1) training session each year that complies with the Certified Local Government program requirements and review any orientation materials provided by the State Historic Preservation Office.
- (K) Provide information, advice, and guidance, upon request by property owners, as to the restoration, rehabilitation, landscaping, and/or maintenance of potentially historic buildings, structures, and districts. The Commission may recommend voluntary design guidelines, which will be made available to the public for assistance in preservation projects.

ORDINANCE 2023-10 ATTACHMENT "A"

(L) The Commission will make monthly reports to the Planning Board discussing its activity and accomplishments.

(M) Distribute and manage funding from the State Historic Preservation Office and other Federal, State, and local grants for eligible historic properties to improve and protect the character of historic districts, landmark sites, landmarks, and properties.

(Ord 2023-10, passed 07-03-2023, effective 08-04-2023)

CITY OF DEER LODGE

CAO REPORT

June 2023

PROJECT SUMMARIES

Municipal Budget

- Stan and I are in regular meetings with Financial Advisor over budget requirements, Annual Financial Reporting, and other topics. We have contracted with a retired City Treasurer for key GASB topic education.
- Finance Committee and Council Operations Committee are currently reviewing fee schedule. Changes have been recommended to Council.
- Beginning the FY24 budget prep process. Requesting budget asks from department heads.

City Planning

- I am City contact for the State Regional Disaster Mitigation Planning process. The state is funding for a 5-year update to the regional disaster plans, which will be disbursed to municipalities upon completion. First draft of Pre-Disaster Mitigation Plan has been released.
- Code Enforcement Officer is inventorying abandoned residential properties throughout town to apply for CDBG housing stabilization funding for renovations, demolition, and reconstruction.
- Received my American Institute of Certified Planners Certification.

Grants

- Received notice of recommendation of \$342,500 for the Reclamation and Development Grant (RDGP) cycle for remediation at the Passenger Refueling Area. Bill has been signed and we are awaiting contract.
- Applied for EPA Brownfields Cleanup Grant for Hotel Deer Lodge. In communications with Headwaters RC&D about match funding. EPA is currently contracting with 501(c)3 for cleanup procedures.
- DEQ has received a brownfields planning grant for the Milwaukee Roundhouse and Passenger refueling area and will begin working with the county and myself on administration of those funds. Contract has been signed.
- Received Advisory Committee rankings for I&I and Well ARPA Competitive Grant applications. Our I&I project ranked #3 for priority funding in the state. Well project was ranked lower due to scoring mechanism. Grant contracts have been completed.
- Applied for grant through Montana Main Street Program to receive help in planning Business Improvement District. Did not receive funding.
- Testified to legislature for Montana Historic Preservation Grant Application. We were ranked 43 out of 48. Bill has been signed and we are awaiting contract.

- Applying for two FEMA property acquisitions to reduce flooding in town. Hoping to acquire two properties this year should both grants be accepted. Match money did not change with the additional application. Grants are submitted but are being held up. Expecting to resubmit in September.
- Submitted application for FEMA grant for stormwater study.
- Transportation Alternatives grant submitted. Will keep Council updated on status of application. Received 24 letters of support from local organizations.
- HB 355 will allocate approximately \$250,000 for local infrastructure projects in Deer Lodge. Kudos to Representative Fitzpatrick for his sponsorship of the bill and continued updates to City staff.
- NRDP has allocated \$500,000 for upper (and potentially lower) Cottonwood Creek natural resource protection projects. Will work with Clark Fork Coalition to find match funding.
- NRDP has awarded \$200,000 to Powell County as match funding for their RAISE grant for cross-county trail.
- Last week I sat on a selection committee with Headwaters RC&D staff to review and select an engineering firm for Headwaters Brownfields grants in Fiscal Year 2024.

City Hall & Employees

- Ray Peterson Electric has toured City Hall for electric improvements to Youth Board room. Awaiting quote. Have also contacted several other electricians for quotes.
- City Clerk and I looking at ways of improving Council agenda flow. We are also pursuing online software to upload meeting minutes to the internet.
- Understanding and implementing changes to local government record keeping and public notices as required by HB 890 and HB 724.

Floodplain Administration

- Received first draft of new floodplain boundaries from DNRC. So far, very minor changes to floodplain boundaries in Deer Lodge. City should expect final updated maps in 2025. Tentative first draft date is August 5, 2023. Afterwards will follow study walk through and public open houses.
- In talks with local DES coordinator and state floodplain agency to monitor potential for flooding in town. Waters have receded.

Economic Development

- Coordinating with Discover Deer Lodge on placing bike racks throughout town.
- Member of the Ted Rule Memorial Football Field Committee, which is working to achieve funding through donations and grants for a complete renovation of the School District Track and Field Complex. The Complex received substantial funding from Les Schwab and Rock Creek Cattle Company.
- Working with MSU Engineering student capstone team and Deer Lode Medical Center on housing project in town on hospital-owned property.
- Working on finding grant funding for city street art murals and have begun to research RFPs for said work. Attended webinar where other Montana communities presented their experience.

- Received quote for splash park from a designer. Have presented to Chamber of Commerce members the potential for local fundraising for the project.
- County Commissioners signed the contract for the first year of the Living Local community App. App is finalizing development and should roll out soon.
- Met with Mayor and President of the Senior's Center to discuss the reopening of services and reorganization.
- Attended a meeting led by DEQ, EPA, and a contractor engineer to discuss remediation at Arrowstone Park over the next few years and how to align with future land use goals. DEQ will have an open house at Territorial Days.
- First draft of MSU Extension Community Development Agent has been reviewed by Extension Regional Director. He is sending it off to legal team for review and potential changes before presentation to City Council/Commission.

INTEREST ITEMS FOR CITY COUNCIL

- City news will now be incorporated into advertisements on 96.9FM, The River. Updates weekly. Let me know if you have any City news that I can relay to Marci at the station to be included in the broadcast.
- American Legal changes have been codified. Code currently online is up to date.
- Great West will hold open house at a booth on Territorial Days to gather public response to proposed action items for Growth Policy Update.

CITY OF DEER LODGE

Public Works Report

May 2023/June 2023

PROJECT SUMMARIES

Street Maintenance

- Street Sweeping
- Pothole patching
- 2023 Street Maintenance Project milling, paving, and crack sealing is completed. Chip Sealing is the only work activity remaining to complete the project
- Grading Alleyways

Sewer Utility

- Jetting problem sewers
- Reviewing Rates
- Inflow and Infiltration project preconstruction meeting scheduled in July

Parks and Rec

- Skatepark Sprinkler system scheduled. Waiting for the backflow preventer

Water

- Repaired water main leak on Main St. Project is not completed currently. Waiting for the flowable fill to cure to drive on it. Then asphalt work must be completed
- Reviewing Rates
- New Water SCADA System is in place

Solid Waste

- Reviewing Rates

Mosquito Abatement

- Larvicide and Adulticide work activities

INTEREST ITEMS FOR CITY COUNCIL

- Abnormally high groundwater has caused flows to peak into the plant at over 4 million gallons per day.
- Electrical issues at the WWTP have been repaired. Bioreactor Train 3 and Train 2 had to be rewired
- Preparing Public Works Budget
- New poles and lights installed in each corner of the skatepark
- 2022 Street Maintenance Project will finish in mid-June

COVID-19 RESPONSE

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



Deer Lodge Police Department

May 2023

Police CFS

Total Calls For Service: 245

Citations Issued: 38

Been interviewing for officer, offer made to Bill Denend,

Starting on June 19th

Ron Slauson promoted to sergeant

Highlighted Calls:

79-Traffic Stops

8- 911 Calls

1-Sexual Assault

2- DUI

1-Minor in Possession of Tobacco

3- runaway, located

6- Partner Family Member Assaults/Domestics

4- Traffic Accidents

5- Vandalisms

3- Custodial Interference

2- Child Abuse

3-Thefts

10-Trespass/Unwanted Persons

8-Welfare Checks

5-Medical Assists

1-CPR/Narcan Revived

1-Indecent Exposure

1-Hit and Run



FIRE DEPARTMENT REPORT

MAY 2023

HIGHLIGHTS

4 Call for Service:

- 2 grass fires. 1 caused by permitted control burn getting out of hand and the other caused by malfunction equipment at the sawmill.
- 1 structure fire. Contained in the kitchen area. Caused by cutting board left on the oven top. Checked for other heat and helped ventilate the house before we left.
- 1 car accident MM 180 Westbound. Truck was showing smoke on arrival. We checked for other hazards and left the scene.

INTEREST ITEMS FOR CITY COUNCIL

Department Happenings:



CODE COMPLIANCE REPORT

MAY 2023

HIGHLIGHTS

- 6 Citizen Complaints
- Daily Patrols
- 10 Dogs at Large Calls
- 171 Dog Tags Sold Year to Date
- 1 Dog at Shelter
- Grass Monitoring Begins
- 3 Property Cleanups
- Monthly Culvert Inspections
- 1 Citation Issued

INTEREST ITEMS FOR CITY COUNCIL

None



RECREATION PROGRAM REPORT

MAY 2023

HIGHLIGHTS

- Coed Softball started June 6th. Looks like 10 teams will play this year.
- Cornhole Tournaments will be at Territorial Days.
- Cornhole Tournaments will be at the Draft Horse Expo.

PROJECT SUMMARIES

None.

INTEREST ITEMS FOR CITY COUNCIL

None.

STAFFING CONCERNS

None.

COVID-19 RESPONSE

No update.

ORDINANCE 2023-9

A ZONING ORDINANCE BY THE DEER LODGE CITY COUNCIL TO CREATE ZONING REQUIREMENTS FOR CULTIVATOR, MANUFACTURING, AND TESTING LABORATORY MARIJUANA BUSINESSES, AS WELL AS PROVIDE LOCAL REQUIREMENTS FOR LICENSING OF SAID BUSINESSES PURSUANT TO 16-12-207, MCA.

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

WHEREAS, the citizens of the State of Montana voted to approve Constitutional Initiative 118 and Initiative No. 190 (I-190) in November 2020, which became effective January 1, 2021 and legalized recreational marijuana use and limited possession for adults over the age of 21 and provided a framework for commercial licensing, taxation, decriminalization, and expungement of criminal convictions related to marijuana amongst other provisions; and

WHEREAS, the Montana Legislature passed, and Governor Gianforte signed into law, House Bill 701 ("HB 701") which revised, amended, and supplemented the text of I-190 and established the Montana Regulation and Taxation Act (16-12-101, MCA et seq. (the "Act")); and

WHEREAS, a codified purpose of the Act pursuant to Section 37 amending Section 16-12-101(2j), MCA is to provide local governments authority to allow for the operation of marijuana businesses in their community and establish standards for the sale of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions; and

WHEREAS, Section 59 of the Act pursuant to Section 16-12-301, MCA, provides that to protect the public health, safety, or welfare, a local government may by ordinance or otherwise regulate a marijuana business that operates within the local government's jurisdictional area; and

WHEREAS Section 54 of the Act pursuant to Section 16-12-207, MCA, provides a locality may require marijuana businesses be a greater distance from schools and places of worship than required by state law; and

WHEREAS, Section Two, Part Three 76-2-301 et. Seq. of the Montana Code Annotated (MCA) authorizes the City of Deer Lodge to adopt and enforce local zoning regulations to promote the public health, safety, morals, and the general welfare of the community; and

WHEREAS, on December 5, 2011, the City of Deer Lodge City Council passed and adopted Ordinance #144, which provided restrictions so that the proximity of growing, processing, distribution, and/or any other commercial activity related to medical marijuana must be greater than 1,000 feet from certain uses within the City of Deer Lodge City Limits; and

WHEREAS, the City of Deer Lodge Planning Board has the responsibility to review zoning regulations for the City of Deer Lodge; and

WHEREAS, the Planning Board identified the need to determine the most adequate locations and local regulations of marijuana businesses to protect the health, safety, and general welfare of the City of Deer Lodge; and

WHEREAS, the Planning Board saw that Ordinance #144 contained language that referenced vacated MCA regulations related to medical marijuana, and saw the need to supersede this Ordinance and provide an update to the City of Deer Lodge regulations regarding marijuana facilities. FURTHER, after public input, the Planning Board recognized the value of adopting parts of the regulations of Ordinance #144 into the new regulations contained in this ordinance; and

WHEREAS, the Planning Board discussed the proposed regulations and zoning amendments at their September 20, 2021 meeting, and determined through a vote of four to zero with two absent to hold a public hearing to gather comments regarding the proposed regulations.

WHEREAS, the Planning Board held a duly noticed public hearing on October 18, 2021 to consider the proposed regulations and zoning amendment. FURTHER, the Planning Board after receiving a summary from the City Administrator/Planner, elected to forward the propositions to the City Council through a vote of five to zero with none absent; and

WHEREAS, the Deer Lodge City Council conducted a duly noticed public hearing at their regularly scheduled Council meeting on November 1, 2021 at 6:00 PM to accept comments regarding the proposed Ordinance 2021-9, which contained the propositions forwarded by the Planning Board from their October 18, 2021 meeting; and

WHEREAS, the Deer Lodge City Council, after receiving public comments, elected to table the recommended ordinance in favor of a revised ordinance with altered land use requirements. FURTHER, the City Council recognized the importance of adopting such an Ordinance as an Interim Zoning Ordinance to provide interim regulations while the City Council puts to an election by qualified electors in the municipality on whether to opt-out of approving marijuana businesses in accordance with 16-12-301, MCA.

WHEREAS, Interim Zoning Ordinance 2022-1, authorized by 76-2-306, MCA was passed on January 3, 2022 and placed the marijuana businesses as identified in 16-12-301(1)(d), MCA as conditional uses in the B-1, Central Business District and B-2, Highway Business District, required a Zoning Permit for the approval of a marijuana business Conditional Use Permit, and required a distance of at least 1,000 feet as measured in a straight line from property line to property line from parks, day-cares, schools, postsecondary schools, and buildings used exclusively as a church, synagogue, or other place of worship. FURTHER, said Interim Zoning Ordinance 2022-1 was to be in effect until such a time as the electors of the City of Deer Lodge were allowed to vote on whether to permanently prohibit the marijuana businesses as identified in 16-12-301(1)(d), MCA, as authorized by HB 701, at which time the City of Deer Lodge City Council would create a new Zoning Ordinance that regulates any marijuana businesses that were not prohibited by the electors of the City of Deer Lodge; and

WHEREAS, Resolution 2022-R-12, passed on March 21, 2022, submitted the issue to the electors of whether to permanently prohibit the categories of marijuana businesses at an election on

November 8, 2022. FURTHER, said Resolution was also passed and signed by the Powell County Board of County Commissioners after the passage of the Resolution by the City Council; and

WHEREAS, the results of the ballot issue at the November 8, 2022 election prohibited marijuana transporter facilities within the city limits of the City of Deer Lodge, but kept as authorized the following business types: cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, combined-use marijuana licensee, and testing laboratory; and

WHEREAS, the Planning Board at their November 21, 2022 meeting discussed zoning regulations pertinent to the following marijuana business types: cultivator, manufacturer, and testing laboratory; and

WHEREAS, the Public Health and Safety Committee at their December 14, 2022 and January 11, 2023 meetings discussed zoning regulations and other regulations pertinent to the following marijuana business types: cultivator, manufacturer, and testing laboratory; and

WHEREAS, the Public Health and Safety Committee at their February 8, 2023 reviewed the potential zoning regulations and other regulations and elected through a vote of three to zero to forward the proposed zoning regulations to the City Council; and

WHEREAS, on April 17, 2023, the City Council of the City of Deer Lodge reviewed the proposed zoning regulations and other regulations and, after revisions, elected through a vote of seven to zero with one member absent to move the items to public hearing; and

WHEREAS, at their regularly scheduled meeting on May 15, 2023, the City Council of the City of Deer Lodge held a duly noticed public hearing concerning the proposed zoning regulations and other regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER LODGE MONTANA:

1. The City of Deer Lodge Zoning Ordinance is amended to zone the following business types accordingly:
 - o Cultivator: A conditional use in the B-2, Highway Business District.
 - o Manufacturing: A conditional use in the I-1, Industrial and Manufacturing District.
 - o Testing Laboratory: A conditional use in the B-1, Central Business District, a permitted use in the B-2, Highway Business District, and a conditional use in the I-1, Industrial and Manufacturing District. .
2. A Zoning Permit is required for the issuance of a state license in accordance with 16-12-207(3(ii), MCA in order to obtain approval by local building, health, and fire officials.
3. All requirements of 16-12-207, MCA must be met for a cultivator, manufacturing, or testing laboratory marijuana business to operate in the zones authorized by this ordinance.
4. Cultivator businesses that currently or in the future will use municipal water and sewer must connect to both and be metered for water within six (6) months of business operation. Failure to do so will result in the revocation of a cultivator marijuana business license.
5. Cultivator and Manufacturing businesses must install and maintain carbon filters and fans to circulate air and mitigate odor both inside and outside the structure. The issuance of the

Zoning Permit as required in item 2 of this ordinance will require verification of the installation and maintenance of carbon filters and fans. Failure to install or maintain carbon filters and fans will result in the revocation of a cultivator or manufacturing marijuana business license.

6. A copy of this zoning ordinance, and any future zoning ordinances pertaining to marijuana businesses, shall be delivered to the Department of Revenue for the purposes of providing the department the local approval criteria for marijuana business licenses.
7. Title 5: Business Licenses and Regulations of the City of Deer Lodge Code of Ordinances is amended to include the requirements, other than zoning requirements, for cultivator and manufacturing marijuana business types as listed in items 4 and 5 of this ordinance. The changes to Title 5 are attached to this Ordinance 2023-9 and are incorporated herein.
8. Title 11: Land Use of the City of Deer Lodge Code of Ordinances is amended to include the zoning requirements of adult-use and medical marijuana dispensaries as listed in item 1 of this ordinance. The changes to Title 11 are attached to this Ordinance 2023-9 and are incorporated herein.

SEVERABILITY. If any selection, subsection, sentence, clause, phrase, or word of Ordinance 2023-9 is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance 2023-9 and each section, subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or words have been declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

Passed and approved by the City Council of the City of Deer Lodge, Montana on first reading at a regular Council meeting this 15th day of May, 2023.

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

James Jess, Mayor

Attest:

Cyndi Thompson, City Clerk

Passed and approved by the City Council of the City of Deer Lodge, Montana on final reading at a regular Council meeting this 5th day of June, 2023.

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

James Jess, Mayor

Attest:

Cyndi Thompson, City Clerk

The effective date of Ordinance 2023-9 is June 6, 2023

ATTACHMENT A: AMENDMENTS TO TITLE 5: BUSINESS LICENSES AND REGULATIONS

THE FOLLOWING SECTION IS ADDED TO TITLE 5: BUSINESS LICENSES AND REGULATIONS AS CHAPTER 5.12 MARIJUANA BUSINESS REGULATIONS.

CHAPTER 5.2212: MARIJUANA BUSINESS REGULATIONS

§ 5.22.010 LICENSE REQUIRED.

Pursuant to the provisions of the MCA §16-12-2, all marijuana businesses located in the city limits of the City of Deer Lodge must receive and maintain a license to operate from the State.

(A) A local business license is also required to operate all marijuana businesses within the city limits of the City of Deer Lodge. The fee of said business license shall be set by resolution.

(B) Marijuana businesses shall only be licensed to operate within the city limits of the City of Deer Lodge pursuant to the zoning regulations found in Title 11 of this code.

(Ord. 2023-3, passed XX-XX-XXXX, effective XX-XX-XXXX)

§ 5.22.020 ADDITIONAL REQUIREMENTS FOR MARIJUANA BUSINESSES.

The following regulations apply to marijuana businesses located within the city limits of the City of Deer Lodge. Failure to abide by the following regulations will result in the revocation of a license pursuant to MCA §16-12-301.

(A) Marijuana Cultivator businesses:

- a. That currently or in the future will use municipal water and sewer must connect and be metered for water within six (6) months of business operation.
- b. Must install and maintain carbon filters and fans to circulate air and mitigate odor both inside and outside the structure.

(B) Marijuana Manufacturer businesses:

- a. Must install and maintain carbon filters and fans to circulate air and mitigate odor both inside and outside the structure.

(Ord. 2023-3, passed XX-XX-XXXX, effective XX-XX-XXXX)

ATTACHMENT B: AMENDMENTS TO TITLE 11: LAND USE

§ 11.01.200.020 USES.

(A) *Accessory uses.* A category not permitted to serve as the principal use. These uses are incidental to and customary in connection with the principal building or use and located on the same lot with such principal building or use.

Major home occupation	Conditional use
Outdoor seating	Permitted

(B) *Civic uses.* A category related to fulfilling the needs of day-to-day community life, congregation and social interaction. Retail space shall be in the front of the building and shall occupy a minimum of 25% of the gross floor area.

Assembly	Permitted
Fire/police	Permitted
Houses of worship	Permitted
Library/museum	Permitted
Post office	Permitted
Schools	Permitted
Uses requiring more than 5,000 square feet of gross floor area	Conditional use

(C) *Craftsman.* A category involving small scale manufacturing, production, assembly and/ or repair with little to no noxious by-products that includes a showroom or small retail outlet.

Brewery/distillery	Permitted
Contractor shop/yard	Conditional use
Fabrication	Permitted
Galleries	Permitted
<u>Marijuana Testing Laboratories (issuance of a Zoning Permit Required)</u>	<u>Conditional Use</u>
Uses requiring more than 5,000 square feet of gross floor area	Conditional use
Woodworking	Permitted

(D) *Infrastructure uses.* A category for the provision of public and private infrastructure to support other uses. Infrastructure uses typically do not include a principal building.

Park/playground	Conditional use
Public/private utility and services	Conditional use
Surface parking as a principal use	Conditional use
Telecommunications towers and antennas	Conditional use

(E) *Office uses.* A category of businesses that involve the transaction of affairs of a profession, service, industry or government.

Residential and lodging: a category that include several residence types	
Hotel/inn	Conditional use
Residential	Conditional use
Residential care	Conditional use
Uses requiring more than 5,000 square feet of gross floor area	Conditional use
Uses with drive-thru windows and/or service windows	Conditional use

(F) *Retail uses.* A category involving the sale of goods or merchandise to the public for personal or household consumption.

Liquor stores	Conditional use
Taverns and eateries (less than 5,000 square feet of gross floor area)	Permitted
Uses with drive-thru windows and/or service windows	Conditional use
Uses requiring more than 5,000 square feet of gross floor area	Conditional use
Uses typically found and associated with downtown	Permitted
<u>Adult-use and Medical Marijuana Dispensaries (a total maximum of two (2) Dispensaries will be permitted. Issuance of a Zoning Permit required)</u>	<u>Conditional use</u>

(Prior Code, § 11.01.200.020) (Ord. 2019-1, passed 4-1-2019; Ord. 2021-15, passed 12-20-2021; Ord. 2022-7, passed 1-3-2023, effective 2-4-2023; Ord. 2023-3, passed XX-XX-XXXX, effective XX-XX-XXXX)

§ 11.01.210.020 PERMITTED USES.

The following are permitted uses:

(A) Adult-use and medical marijuana dispensaries (issuance of a Zoning Permit required)

- (~~BA~~) Antique shops;
- (~~CB~~) Art and music supply shops;
- (~~DC~~) Barber and beauty shops;
- (~~ED~~) Bars, taverns and cocktail lounges;
- (~~EE~~) Bowling alleys;
- (~~GF~~) Car washes;
- (~~HG~~) Clinics;

(~~IH~~) Conditional uses as provided in [§ 11.01.210.090](#) and subject to conditions and requirements prescribed;

- (~~JI~~) Equipment sales and services;
- (~~KJ~~) Food and drug stores;
- (~~LK~~) Frozen food storage and locker rental;
- (~~ML~~) Furniture stores;
- (~~NM~~) Gasoline service stations;
- (~~ON~~) Hotels and motels;
- (~~PO~~) Hospitals;
- (~~QP~~) Laundries and dry-cleaning establishments;
- (~~RQ~~) Liquor stores;

(S) Marijuana Testing Laboratories (issuance of a Zoning Permit required)

- (~~TR~~) Mortuaries;
- (~~US~~) Newspaper offices;
- (~~VT~~) Nursing homes;
- (~~WU~~) Open space;
- (~~XV~~) Plant nurseries;
- (~~YW~~) Post offices;
- (~~ZX~~) Printing shops;
- (~~AAZ~~) Professional and business offices;
- (~~BBZ~~) Public buildings and uses;

- (~~CCAA~~) Research and development institutions;
- (~~DDBB~~) Restaurants, cafés and drive-in eating establishments;
- (~~EEGG~~) Shopping centers;
- (~~FFDD~~) Signs;
- (~~GGEE~~) Sporting goods stores;
- (~~HHFF~~) Temporary buildings for and during constructions only;
- (~~IIGG~~) Theaters;
- (~~JJHH~~) Uses customarily accessory to those listed;
- (~~KKII~~) Vehicle and boat sales, showrooms and service areas;
- (~~LLJJ~~) Veterinary clinics-small animal hospital; and
- (~~MMKK~~) Churches.

(Prior Code, § 11.01.210.020) (Ord. 2021-15, passed 12-20-2021; Ord. 2022-7, passed 1-3-2023, effective 2-4-2023; Ord. 2023-3, passed XX-XX-XXXX, effective XX-XX-XXXX)

§ 11.01.210.090 PERMITTED CONDITIONAL USES.

The following uses may be permitted as conditional uses in the B-2 Highway Business District:

- (A) Adult bookstores not to be located within 1,000 feet of the following uses:
 - (1) Churches;
 - (2) Schools, public or private;
 - (3) Residential uses; and
 - (4) Establishments which sell alcohol or consumption of site.
- (B) Amusement and recreational activities;
 - ~~(C) — (C)~~ Caretaker's residence;
 - (D) Marijuana Cultivators (issuance of a Zoning Permit required)
 - (~~ED~~) Recreational vehicle parks;
 - (~~FE~~) Retail uses in addition to those permitted uses listed;
 - (~~GF~~) Wholesale distributors with on premise retail outlets; provided warehousing is limited to commodities which are sold on premises; and
 - (~~HG~~) Casinos.

(Prior Code, § 11.01.210.090) (Ord. 2021-15, passed 12-20-2021; Ord. 2023-3, passed XX-XX-XXXX, effective XX-XX-XXXX)

§ 11.01.230.080 PERMITTED CONDITIONAL USES.

The following uses may be permitted as conditional uses in the I-1 Industrial and Manufacturing District:

(A) Adult bookstores not to be located within 1,000 feet of the following uses:

- (1) Churches;
- (2) Schools, public or private;
- (3) Residential use; and
- (4) Establishments which sell alcohol or consumption of site.

~~(B)~~—~~(B)~~—Automobile and motor vehicle salvage yards; ~~and~~

(C) Marijuana Manufacturing (issuance of a Zoning Permit required);

(D) Marijuana Testing Laboratories (issuance of a Zoning Permit required); and

~~(E)~~ Retail uses.

(Prior Code, § 11.01.230.080) (Ord. 2021-15, passed 12-20-2021; Ord. 2023-3, passed XX-XX-XXXX, effective XX-XX-XXXX)

Jordan Green

From: Eric Hallstrom <HallstromE@ci.missoula.mt.us>
Sent: Thursday, June 8, 2023 9:21 AM
To: cmanagers@sympa.montana.edu
Subject: RE: Marijuana Cultivators Wastewater Requirements

Some feedback from Missoula's Wastewater Lab & Pretreatment Manager Nate Gordon. The considerations could be different for Deer Lodge given their much lower flows which could be impacted by a single large discharger....

From Nate:

I investigated this a couple years ago and concluded that the volume and nutrient concentrations of wastewater were not a threat to the processes at the treatment plant. In general, the growers waste as little nutrient solution as possible, because it costs money. The small volumes that do go down the drain are at concentrations of nitrogen and phosphorous that are negligible compared to raw sewage or other industrial wastewater.

From: schmidk@midrivers.com <schmidk@midrivers.com>
Sent: Tuesday, June 6, 2023 11:23 AM
To: cmanagers@sympa.montana.edu
Subject: RE: Marijuana Cultivators Wastewater Requirements

We do not allow marijuana stores in the city limits but we have 6 (I think) in West Glendive and all of their wastewater comes through our treatment plant per contract with Dawson County. To date, we have not seen any variances, but is definitely something to keep in mind.

Good Luck!

Kitty Schmid
Director of Operations
City of Glendive
300 S. Merrill Ave.
Glendive, MT 59330
406-377-3318 Ext 17

From: Jordan Green <jgreen@cityofdeerlodgemt.gov>
Sent: Tuesday, June 6, 2023 10:22 AM
To: cmanagers@sympa.montana.edu
Subject: Marijuana Cultivators Wastewater Requirements

Hi all,

It has come to my attention that very high concentrations of fertilizer are often used during the hydroponic cultivation of marijuana. Some members of my council have concerns about higher levels of fertilizer in our wastewater discharge if this business type is licensed in the city.

Have any of you dealt with this potential concern? Or, could you point me in the direction of someone in your departments that may be familiar with local ordinances concerning marijuana cultivator wastewater discharge?

Thank you for any help,

Jordan Green

From: Tom Radcliffe <tradcliffe@BOZEMAN.NET>
Sent: Wednesday, June 7, 2023 9:54 AM
To: Jordan Green
Cc: Jeff Mihelich; Kira Peters; John Alston; Jon Kercher; Chuck Raymond
Subject: Marijuana Cultivators Wastewater Requirements
Attachments: Procedure for IDing New SIU.pdf; Bozeman Industrial User Survey.pdf; Pretreatment letter questionnaire.pdf; ATT00001.txt; ATT00002.htm

You don't often get email from tradcliffe@bozeman.net. [Learn why this is important](#)

Jordan,

I have attached three things the City of Bozeman does to identify industrial users. The two nutrients the DEQ and EPA are concerned about in relationship to fertilizer are nitrogen and phosphorus. Although the City of Bozeman does have Local Limits on what can be discharged into the city sewer. The city currently does not address nitrogen and phosphorus in the Local Limits. The City of Bozeman Water Reclamation Facility does have permitted limits on how much nitrogen and phosphorus it can discharge into the river. The flow and concentration of the discharge would have to be calculated into your permitted limits. I hope this was helpful. Please let me know if I can be of further assistance.

Thank you,

Tom Radcliffe
Superintendent
City of Bozeman Water Reclamation Facility (WRF)
2245 Spring hill Rd. Bozeman MT 59718
Office PH: 406-582-2928 Cell:406-579-1489

BOZEMAN MT
Water Reclamation Facility

BLACK MOUNTAIN SOFTWARE BUSINESS LICENSING

CITY OF DEER LODGE

BUSINESSES BY TYPE

Business Type Codes

16:47:33 - 04/27/23

Business Type Code	Description
BEVERAGE	BEVERAGE LICENSE
	: 4B'S ORIGINAL CAFE - BEVERAGE NO
	: B.P.O.E. DEER LODGE #1737 - BEVERAGE ✓
	: BAR H SALOON, LLC-BEVERAGE ✓
	: BROKEN ARROW- BEVERAGE ✓
	: CELL BLOCK TAVERN - BEVERAGE ✓
	: CORNER OFFICE BAR - BEVERAGE ✓
	: DINO-MART - BEVERAGE ✓
	: FAMILY DOLLAR - BEVERAGE
	: FICS PLAZA - BEVERAGE ✓
	: GOLDEN SPIKE CASINO - BEVERAGE ✓
	: LUCKY LIL'S CASINO - BEVERAGE ✓
	: MONTANA BAR - BEVERAGE ✓
	: MOUNT POWELL TAP ROOM - BEVERAGE ✓
	: SAFEWAY - BEVERAGE ✓
	: TOWN PUMP OF DEER LODGE - BEVERAGE ✓
	: VALLEY FOODS - BEVERAGE ✓
	: VICTORY LANES - BEVERAGE ✓

4B'S is being transferd to new owner. Not ready yet.

Family Dollar sent multiple notices.
Still pending

RESOLUTION 2023-R-4

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEER LODGE, MONTANA ACKNOWLEDGING THE HOLDING OF MUNICIPAL ELECTIONS IN 2023.

WHEREAS, the election laws for municipalities shall provide for an election to be held every odd-numbered year; and

WHEREAS, the term of office for two Aldermen in Ward 1, one Alderman in Ward 2, one Alderman in Ward 3, and two Alderman in Ward 4 of the City of Deer Lodge will expire on December 31, 2023; and

WHEREAS, the individuals elected as Alderman in Ward 1 (one of two) and in Ward 4 (one of two) will serve a term of two years; and

WHEREAS, the individuals elected as Alderman in Ward 1 (one of two), Ward 2, Ward 3, and Ward 4 (one of two) will serve terms of four years; and

NOW, THEREFORE, LET IT BE RESOLVED, that the Powell County Election Administrator conduct such municipal elections in a nonpartisan manner as governed by the State of Montana to elect the described officials for the City of Deer Lodge for the stated terms.

Passed and approved this 20th day of June, 2023 at a regular session by the Deer Lodge City Council. The effective date of Resolution 2023-R-4 is June 20, 2023.

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

James Jess, Mayor

Attest:

Cyndi Thompson, City Clerk

The effective date of Resolution 2023-R-4 is June 20, 2023.

**MONTANA REAL PROPERTY LEASE AGREEMENT
CITY OF DEER LODGE – PASTURE “1E”**

THIS LEASE AGREEMENT (the “Agreement”) effective the 20th day of June 2023, by and between the City of Deer Lodge, 300 Main Street, Deer Lodge, Montana 59722, (the “Lessor”), and Wade and Lonnie Murphy, 814 Deer Haven Drive, Deer Lodge, Montana 59722, (the “Lessee”).

WITNESSETH:

WHEREAS, Lessor is the fee owner of certain real property being, lying and situated in Powell County, Montana, described as: Area consisting of approximately 32.3 acres, located in the Southeast half of the Southeast Quarter (SE ¼ SE ¼) of Section 35, Township 8 North, Range 8 West, P.M.M., beginning on the section corner of 35 and 36 going in a Westerly direction 1,120 feet to a point where it meets the Junk Car Graveyard fence, thence North along said fence 1,259 feet to a point on said fence along the County Road, thence East 1,120 feet to a point on Section line fence between Section 35 and 36, thence South 1,259 feet to the point of beginning (the “Property”).

Attachment #1: Map depicting Pasture “1E.”

WHEREAS, Lessor desires to lease the Property to Lessee upon the terms and conditions of this Agreement; and

WHEREAS, Lessee desires to lease the Property from Lessor on the terms and conditions of this Agreement;

NOW THEREFORE, for and in consideration of the covenants and obligations contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Lessor and Lessee agree as follows:

1. TERM. Lessor leases to Lessee and Lessee leases from Lessor the above described Property together with any and all appurtenances thereto, beginning July 1, 2023 and ending at 12 o'clock midnight on June 30, 2025.
2. RENT. The total rent for the term is the sum twelve-hundred dollars (\$1,200.00), receipt of same being acknowledged by Lessor as prepaid by Lessee at the beginning of the term of the Agreement.
3. USE OF PROPERTY. The Property is leased for grazing purposes. Lessee agrees not to abuse the Property by overgrazing and shall observe the ordinary rules for good pasture management consistent with the conservation of the land resources and the perpetuation of its productivity, including the control of noxious weeds. Lessee shall not allow any other person to use or occupy the property without obtaining Lessor's written consent.

4. **BINDING EFFECT.** The covenants, obligations and conditions contained in this Agreement shall be binding on and inure to the benefit of the heirs, legal representatives, and assigns of the parties.
5. **ASSIGNMENT AND SUBLETTING.** Lessee shall not assign this Agreement, or sublet or grant any license to use the Property or any part of the property without the prior, written consent of Lessor. A consent by Lessor to one such assignment, subletting or license shall not be deemed to be consent to any subsequent assignment, subletting or license. An assignment, subletting or license without the prior written consent of Lessor or an assignment of subletting by operation of law shall be absolutely null and void and shall, at Lessor's option, terminate this Agreement.
6. **ALTERATIONS AND IMPROVEMENTS.** Lessee shall make no alterations or improvements on the Property or construct any building or make any other improvements on the Property without the prior written consent of Lessor. Any and all alterations, changes, and/or improvements built, constructed or placed on the property by Lessee shall, unless otherwise provided by written agreement between Lessor and Lessee, be and become the property of Lessor and remain on the Property at the expiration or earlier termination of this Agreement.
7. **NON-DELIVERY OF POSSESSION.** In the event Lessor cannot deliver possession of the Property to Lessee upon the commencement of the lease term, through no fault of Lessor or its agents, then Lessor or its agents shall have no liability. Lessor or its agents shall have thirty (30) days in which to give possession, and if possession is tendered within such time, Lessee agrees to accept the Property. In the event possession cannot be delivered within such time, through no fault of Lessor or its agents, then this Agreement shall terminate.
8. **HAZARDOUS MATERIALS.** Lessee shall not keep on the Property any items of a dangerous, flammable or explosive character that might unreasonably increase the danger of fire or explosion or that might be considered hazardous or extra hazardous by any reasonable insurance company.
9. **UTILITIES.** Lessee shall be responsible for arranging for and paying for any utility services provided to the Property.
10. **MAINTENANCE AND REPAIR.** Lessee will, at its sole expense, keep and maintain the Property, including fences and gates and appurtenances, in good condition and repair during the term of this Agreement.
11. **INSPECTION OF PROPERTY.** Lessor and Lessor's agents shall have the right at all reasonable times during the term of this Agreement to enter the Property for the purpose of inspecting the Property and all buildings and improvements thereon. The

right of entry shall likewise exist for the purpose of removing placards, signs, fixtures, alterations or additions that do not conform to this Agreement or to any restrictions, rules or regulations affecting the Property.

12. SUBORDINATION OF LEASE. This Agreement and Lessee's interests are and shall be subordinate, junior and inferior to any and all mortgages, liens or encumbrances now or hereafter place on the Property by Lessor.
13. QUIET ENJOYMENT. Lessee, upon the execution of this Agreement and Lessee's performance of all Lessee's Agreements contained herein and Lessee's observance of all rules and regulations, shall and may peacefully and quietly have, hold and enjoy said Property for the term of this Agreement.
14. INDEMNIFICATION. Lessor shall not be liable for any damage or injury of or to the Lessee, Lessee's family, guests, invitees, agents or employees or to any person entering the Property, or to animals, goods, or equipment, and Lessee agrees to indemnify, defend and hold Lessor harmless from any and all claims or assertions of any kinds and nature.
15. TERMINATION OPTION. At the option of Lessor, upon thirty (30) days written notice to Lessee, this Agreement may be terminated and upon such termination Lessee shall evacuate the Property.
16. ABANDONMENT. If at any time during the term of this Agreement, Lessee abandons the Property or any part thereof, Lessor may, at Lessor's option, obtain possession of the Property in the manner provided by law, and without becoming liable to Lessee for damages or for any payment of any kind whatever. Lessor may, at Lessor's discretion, as agent for Lessee, re-let the Property or any part hereof, for the whole or any part of the then unexpired term.
17. ATTORNEYS FEES. Should it become necessary for Lessor to employ an attorney to enforce any of this Agreement's conditions or covenants, including gaining possession of the Property, Lessee agrees to pay all expenses so incurred, including a reasonable attorney's fee.
18. GOVERNING LAW. The Agreement shall be governed, construed and interpreted by, through and under the laws of the State of Montana.
19. SEVERABILITY. If any provision of the Agreement shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Agreement nor the application of the provision to other persons, entities, or circumstances shall be affected, but instead shall be enforced to the maximum extent permitted by law.

20. **BINDING EFFECT.** The covenants, obligations and conditions contained in this Agreement shall be binding on and inure to the benefit of the heirs, legal representatives, and assigns of the parties.
21. **DESCRIPTIVE HEADINGS.** The descriptive headings used in this Agreement are for convenience of reference only and they are not intended to have any effect whatsoever in determining the rights or obligations of the Lessor or Lessee.
22. **MODIFICATION.** The parties hereby agree that this document contains the entire agreement between the parties and this Agreement shall not be modified, changed, altered or amended in any way except through a written amendment signed by all of the parties.
23. **NOTICE.** Any notice required or permitted under this Lease or under state law shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

If to Lessor to: City of Deer Lodge
 300 Main Street
 Deer Lodge, MT 59722

If to Lessee to: Wade and Lonnie Murphy
 814 Deer Haven Drive
 Deer Lodge, MT 59722

Lessor and Lessee shall each have the right from time to time to change the place notice is to be given by written notice to the other party.

As to the Lessor this _____ day of _____ 2023.

James Jess
Mayor, City of Deer Lodge

As to the Lessee this _____ day of _____ 2023.

Wade and Lonnie Murphy

Attachment #1: Pasture 1E

Ranchview Ln

Lnery I

Pasture 1E

08.06.18