



## CITY COUNCIL REGULAR MEETING AGENDA

The following is a summary of the items to come before the City Council at its regular session to be held on Monday, June 1, 2020 at **6:00 P.M.** Remotely by WebEx

To register to attend the Meeting, and provide live comment, residents should go to the following web address and register.

<https://cityofwhitefish.webex.com/cityofwhitefish/onstage/g.php?MTID=e85ac46096f4d616dc1c244e0d463c49f>

Event Number : 968 534 072

Event password: Summer2020

- You will receive a calendar invite; in most cases it will automatically be added to your calendar. The calendar invite contains the information to join the meeting. Residents will not be able to join the meeting until approximately 5 minutes prior to the meeting time. OR
- For Audio call in  
Audio conference: call the number below and enter the access code.  
United States Toll  
+1-408-418-9388  
Access code: 968 534 072
- Join the Audio Conference Only  
To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code.  
+1-408-418-9388 United States Toll  
[Global call-in numbers](#)
- We encourage individuals who wish to provide public comment; submit a letter to the City Clerk, Michelle Howke at [mhowke@cityofwhitefish.org](mailto:mhowke@cityofwhitefish.org), or deliver a letter by 5:00 at City Hall in the Utility Drop Box. Written comments should provide name, address, support or oppose, should be short and concise, courteous, and polite. All written comments received by 5:00 p.m. June 1, 2020, will be provided to the City Council, and will be appended to the packet following the meeting.
- Public comment by those attending the meeting "live" via WebEx will be limited to three minutes per individual. At the end of "live" comment, the City Clerk will read the name and address of each individual providing written comments and state whether they support or oppose the proposal/application before the City Council.

Ordinance numbers start with 20-10. Resolution numbers start with 20-16.

1) CALL TO ORDER

2) PLEDGE OF ALLEGIANCE

- 3) COMMUNICATIONS FROM THE PUBLIC — (This time is set aside for the public to comment on items that are either on the agenda, but not a public hearing or on items not on the agenda. City officials do not respond during these comments but may respond or follow-up later on the agenda or at another time. The Mayor has the option of limiting such communications to three minutes depending on the number of citizens who want to comment and the length of the meeting agenda)
- 4) COMMUNICATIONS FROM VOLUNTEER BOARDS
  - a) Update from the Whitefish Convention and Visitors Bureau on messaging and marketing entering into Phase 2 of Governor Bullocks Reopening Plan
- 5) CONSENT AGENDA
  - a) [Minutes](#) from May 18, 2020 Special Session (p.11)
  - b) [Minutes](#) from May 18, 2020 Regular Session (p.12)
  - c) [Ordinance No. 20-09](#); An Ordinance amending Title 6 – Motor Vehicles and Traffic, Chapter 1- General Traffic Provisions and Chapter 2- Stopping, Standing and Parking (Second Reading) (p.19)
- 6) PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30-minute time limit for applicant’s land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
  - a) [Resolution No. 20-](#) ; A Resolution donating the Snow Lot to the Whitefish Housing Authority and authorizing the City Manager to execute the Development Agreement with the Whitefish Housing Authority (p.46)
- 7) COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR
  - a) [Report](#) request from Council discussing WB-2 (Secondary Business) zoning permitted and conditional uses (p.64)
- 8) COMMUNICATIONS FROM CITY MANAGER
  - a) [Written report](#) enclosed with the packet. Questions from Mayor or Council? (p.69)
  - b) Other items arising between May 27th through June 1st
- 9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS
  - a) [Letter](#) from Ronnie and Sharon Kyle asking Council to reconsider Condition #11 for WCUP 20-07 located at 1515 Highway 93 West (p.75)
- 10) ADJOURNMENT (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority)



The following Principles for Civil Dialogue are adopted on 2/20/2007 for use by the City Council and by all boards, committees and personnel of the City of Whitefish:

- We provide a safe environment where individual perspectives are respected, heard, and acknowledged.
- We are responsible for respectful and courteous dialogue and participation.
- We respect diverse opinions as a means to find solutions based on common ground.
- We encourage and value broad community participation.
- We encourage creative approaches to engage public participation.
- We value informed decision-making and take personal responsibility to educate and be educated.
- We believe that respectful public dialogue fosters healthy community relationships, understanding, and problem-solving.
- We acknowledge, consider and respect the natural tensions created by collaboration, change and transition.
- We follow the rules and guidelines established for each meeting.

Adopted by Resolution 07-09  
February 20, 2007

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May 27, 2020

The Honorable Mayor Muhlfeld and City Councilors  
City of Whitefish  
Whitefish, Montana



Mayor Muhlfeld and City Councilors:

### **Monday, June 1, 2020 City Council Agenda Report**

The regular Council meeting will begin at **6:00 p.m.**

#### **CONSENT AGENDA**

- a) [Minutes](#) from May 18, 2020 Special Session (p.11)
- b) [Minutes](#) from May 18, 2020 Regular Session (p.12)
- c) [Ordinance No. 20-09](#); An Ordinance amending Title 6 – Motor Vehicles and Traffic, Chapter 1- General Traffic Provisions and Chapter 2- Stopping, Standing and Parking (Second Reading) (p.19)

**RECOMMENDATION:** Staff respectfully recommends the City Council approve the Consent Agenda.

**Items ‘a and b’ are administrative matters; Item ‘c’ is a legislative matter.**

**PUBLIC HEARINGS** (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30-minute time limit for applicant’s land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC))

- d) [Resolution No. 20-\\_\\_](#); A Resolution donating the Snow Lot to the Whitefish Housing Authority and authorizing the City Manager to execute the Development Agreement with the Whitefish Housing Authority (p.46)

From City Attorney Angie Jacobs staff report.

#### **Introduction/History**

The City has owned approximately 1.64 acres of property bordered by Depot Street and Railway Street since 1995. The property has been used for years to store snow removed from City streets and is thus referred to as the "Snow Lot."

The Downtown Master Plan designated the Snow Lot as a site suitable for housing. The 2017 Whitefish Strategic Housing Plan recommended that the City create a public/private partnership to develop the Snow Lot for workforce housing rental and/or ownership units. The Strategic Housing Plan identified development of the Snow Lot as a "Tier One" strategy for helping address the City's shortage of affordable housing. As such, the City retained Homeward, a nonprofit community development organization based out of Missoula, to draft a conceptual development design and financial feasibility analysis for the Snow Lot.

On April 16, 2018, through Ordinance No. 18-12, the City modified its Urban Renewal Plan, originally adopted in 1987, to include the Snow Lot. The City also approved the development of affordable housing on the Snow Lot as an urban renewal project pursuant to § 7-15-4217, MCA.

In the summer of 2018, the Strategic Housing Steering Committee discussed transferring ownership of the Snow Lot to the Whitefish Housing Authority to act as the developer. From August through October of 2018, the City, Homeword, and the Whitefish Housing Authority engaged the neighborhood surrounding the Snow Lot and held several public meetings at which the conceptual development design was discussed. In November of 2018, Homeword presented a conceptual design for the development of the Snow Lot with two apartment buildings and six duplexes.

Over the next 12 months, the City completed environmental testing on the Snow Lot and worked with Homeword to develop a financial analysis. In early December of 2019, Homeword presented a preliminary budget for development of the Snow Lot to the Steering Committee that revealed a significant shortfall. Due to the shortfall and various other reasons, the Steering Committee decided it would be desirable to develop the Snow Lot with permanently deed-restricted townhouses rather than a mix of ownership and rental units. In January of 2020, the Steering Committee approved a new contract with Homeword for the conceptual design and financial analysis of 24 townhomes with a phasing option.

In February of 2020, Homeword presented its revised design concept and financial analysis to the Steering Committee. The Steering Committee further discussed transferring ownership of the Snow Lot to the Whitefish Housing Authority and entering into a development agreement.

Homeword presented its revised design concept and financial analysis to the City Council at its March 2, 2020, work session. The City Council agreed to commit \$459,500 of tax increment funds to help fund development of the Snow Lot as well as \$509,000 in fees-in-lieu of which \$260,000 is immediately available.

### **Current Report**

The tax increment financing provision in the City's Urban Renewal Plan terminates on July 15, 2020. Pursuant to § 7-15-4292, MCA, the remaining tax increment funds held by the City must be distributed among the various taxing authorities upon termination. An exception exists, however, for funds related to a development agreement for an approved urban renewal project that the City entered into before the termination of the tax increment provision. Mont. Code Ann. § 7-15-4292(2)(b)(i).

Section 7-15-4258, MCA, authorizes the City to "enter into a development agreement with the owner of real property within an urban renewal area" obligating the owner to redevelop the property for a specified use consistent with the urban renewal plan. Section 7-15-4262, MCA, allows the City to donate land to a corporation for the purpose of constructing affordable housing.

The proposed Quitclaim Deed transfers ownership of the Snow Lot to the Whitefish Housing Authority in order to allow the City to enter into a development agreement with the same. It also contains a reversionary clause which provides that ownership of the Snow Lot will revert to the City if it is not used permanently to provide affordable housing.

The proposed Development Agreement requires the Whitefish Housing Authority to develop and use the Snow Lot for affordable housing, generally in accordance with the conceptual plans

provided by Homeword.<sup>1</sup> It obligates the Whitefish Housing Authority to fund and construct the project. It requires the City to contribute \$459,500 of tax increment funds and \$509,000 of cash-in-lieu funds, as available, to the project. Finally, in accordance with § 7-15-4258(2), MCA, it offers recourse to the City in the event the Whitefish Housing Authority does not develop the Snow Lot as required.

### **Financial Requirements/Impacts**

Entering into the proposed Development Agreement will impact the City through \$459,500 in tax increment funds and \$509,000 of fees-in-lieu. Additionally, the Snow Lot has been appraised at \$510,000.

**RECOMMENDATION:** Staff respectfully recommends the City Council after considering testimony at the Public Hearing and the recommendations from staff, approve Resolution No. 20-\_\_ ; A Resolution donating the Snow Lot to the Whitefish Housing Authority and authorizing the City Manager to execute the Development Agreement with the Whitefish Housing Authority.

**This item is a legislative matter.**

### COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR

- a) [Report](#) request from Council discussing WB-2 (Secondary Business) zoning permitted and conditional uses (p.64)

Please see Director Taylor's report provided in the packet.

### COMMUNICATIONS FROM CITY MANAGER

- a) [Written report](#) enclosed with the packet. Questions from Mayor or Council? (p.69)
- b) Other items arising between May 27th through June 1st

### COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) [Letter](#) from Ronnie and Sharon Kyle 1 asking Council to reconsider Condition #11 for WCUP 20-07 located at 1515 Highway 93 West (p.75)

### ADJOURNMENT

Sincerely,



Dana Smith  
City Manager, CPA

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<sup>1</sup> At the time this staff report was written, Homeword had not yet provided conceptual plans. We anticipate those plans (which are Exhibit A to the Development Agreement) will be forthcoming and will be substantially similar to those presented at the March 2, 2020, work session.

**Table 1: Common Motions Used in a Meeting.<sup>1</sup>**

|   | <b>Wording</b>   | <b>Interrupt another speaker</b> | <b>Requires a second</b> | <b>Debatable</b> | <b>Amendable</b> | <b>Vote Required</b> | <b>Reconsider</b> |
|---|--|----------------------------------|--------------------------|------------------|------------------|----------------------|-------------------|
| <b>Privileged Motions</b>                         |  |                                  |                          |                  |                  |                      |                   |
| Fix time for next meeting (12)                    | "I move that we meet next at..."   | No                               | Yes                      | No               | Yes              | Majority             | Yes               |
| Adjourn   | "I move that we adjourn"   | No                               | Yes                      | No               | No               | Majority             | No                |
| Take a recess (12)                                | "I move that we recess. . ."   | No                               | Yes                      | No               | Yes              | Majority             | No                |
| Raise a question of privilege                     | "I rise to a question of privilege affecting the assembly"                                     | Yes                              | No                       | No               | No               | (1)                  | No                |
| Call for the orders of the day                    | "I call for the orders of the day"   | Yes                              | No                       | No               | No               | (1) (15)*            | No                |
| <b>Subsidiary Motions</b>                         |  |                                  |                          |                  |                  |                      |                   |
| Lay on the table                                  | "I move to lay the question on the table" or "I move that the motion be laid on the table"     | No                               | Yes                      | No               | No               | Majority             | (3)*              |
| Previous question (to close debate)               | "I move the previous question" or "I move we vote immediately on the motion"                   | No                               | Yes                      | No               | No               | 2/3 of assembly      | Yes               |
| Limit-extend debate (12)                          | "I move the debate be limited to. . ." or "I move that the speaker's time be extended by. . ." | No                               | Yes                      | No               | Yes              | 2/3 of assembly      | Yes               |
| Postpone to a definite time (12)                  | "I move that the question be postponed until. . ."   | No                               | Yes                      | Yes              | Yes              | Majority             | Yes               |
| Refer to a committee (12)                         | "I move to refer the matter to the . . . committee"  | No                               | Yes                      | Yes              | Yes              | Majority             | Yes               |
| Amendment to the main motion (12)                 | "I move to amend by adding/striking the words. . ."  | No                               | Yes                      | (5)              | Yes              | Majority             | Yes               |
| Postpone indefinitely (12)                        | "I move that the motion be postponed"  | No                               | Yes                      | Yes (16)         | No               | Majority             | (4)               |
| <b>Main Motions</b>                               |  |                                  |                          |                  |                  |                      |                   |
| Main Motion                                       | "I move that we..."  | No                               | Yes                      | Yes              | Yes              | Majority             | Yes               |
| <b>Incidental Motions (11)</b>                    |  |                                  |                          |                  |                  |                      |                   |
| Suspension of rules                               | "I move to suspend the rules so that. . ."   | No                               | Yes                      | No               | No               | (9)*                 | No                |
| Request to withdraw a motion (13)                 | "I move that I be allowed to withdraw the motion"  | *                                | *                        | No               | No               | Majority*            | (3)               |
| Objection to the consideration of a question (10) | "I object to the consideration of the question"  | Yes                              | No                       | No               | No               | 2/3 of assembly (17) | (3)               |
| Point of order                                    | "I rise to a point of order" or "Point of order!"  | Yes                              | No                       | No               | No               | (1)*                 | No                |
| Parliamentary inquiry                             | "I rise to a parliamentary inquiry" or "A parliamentary inquiry, please"                       | Yes                              | No                       | No               | No               | (1)                  | No                |
| Appeal to the chairperson                         | "I appeal from the decision of the chair"  | Yes                              | Yes                      | Yes*             | No               | (7)                  | Yes               |

|                            | Wording  | Interrupt another speaker | Requires a second | Debatable | Amendable | Vote Required | Reconsider |
|----------------------------|--|---------------------------|-------------------|-----------|-----------|---------------|------------|
| Point of information       | "I rise to a point of information" or "A point of information, please"                             | Yes                       | No                | No        | No        | (1)           | No         |
| Division of assembly       | "Division!" or "I call for a division"   | Yes                       | No                | No        | No        | (14)          | No         |
| Division of a question     | "I move to divide the motion so that the question of purchasing ... can be considered separately." | No                        | Yes               | No        | Yes       | Majority      | No         |
| <b>Renewal Motions (8)</b> |  |                           |                   |           |           |               |            |
| Reconsider* (2)            | "I move to reconsider the vote on the motion relating to. . ."                                     | No*                       | Yes               | (5) (16)  | No        | Majority      | No         |
| Take from table            | "I move to take from the table the motion relating to. . ."  | No                        | Yes               | No        | No        | Majority      | No         |
| Rescind                    | "I move to rescind the motion passed at the last meeting relating to. . ."                         | No                        | Yes               | Yes (16)  | Yes       | (6)           | (3)        |
| Discharge a committee      | "I move that the committee considering . . . be discharged."                                       | No                        | Yes               | Yes (16)* | Yes       | (6)           | (3)        |

<sup>1</sup> Source: Robert, H. 2000. *Robert's Rules of Order* (Newly Revised, 10th Edition) New York: Perseus Books Group; Sturgis, A. 2000. *The Standard Code of Parliamentary Procedure* (4th Edition). New York: McGraw-Hill.

**\* Refer to Robert's Rules of Order Newly Revised**

- (1) The chair decides. Normally no vote is taken.
- (2) Only made by a member who voted on the prevailing side and is subject to times limits.
- (3) Only the negative vote may be reconsidered.
- (4) Only the affirmative vote may be reconsidered.
- (5) Debatable when applied to a debatable motion.
- (6) Majority with notice, or 2/3 without notice or majority of entire membership.
- (7) Majority or tie vote sustains the chair.
- (8) None of these motions (except Reconsider) are in order when business is pending.
- (9) Rules of order, 2/3 vote—Standing rules, majority vote.
- (10) Must be proposed before debate has begun or a subsidiary motion is stated by the chair (applied to original main motions).
- (11) The Incidental Motions have no precedence (rank). They are in order when the need arises.
- (12) A Main Motion if made when no business is pending.
- (13) The maker of a motion may withdraw it without permission of the assembly before the motion is stated by the chair.
- (14) The chair can complete a Division of the Assembly (standing vote) without permission of the assembly and any member can demand it.
- (15) Upon a call by a single member, the Orders of the Day must be enforced.
- (16) Has full debate. May go into the merits of the question which is the subject of the proposed action.
- (17) A 2/3 vote in negative needed to prevent consideration of main motion.

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**WITEFISH CITY COUNCIL**  
**May 18, 2020**  
**SPECIAL SESSION 5:30 P.M.**

**1. Call to Order**

The City Council meeting was held remotely through WebEx to follow Governor Steve Bullocks social distancing Directive to help slow the spread of COVID-19. Mayor Muhlfeld called the meeting to order. Councilors present were Qunell, Feury, Hennen, Sweeney, Norton, and Ben Davis. City Staff present were City Clerk Howke, City Manager Smith, Parks and Recreation Director Butts.

**2. Interview**

The City Council interviewed incumbents Luke Walrath, Jenny Cloutier and Mariah Joos for the Whitefish Convention and Visitors Bureau; incumbents Ray Boksich, Susan Schnee and Ron Brunk for the Board of Park Commissioners; incumbents Julia Olivares and Ken Stein for the Resort Tax Monitoring Committee and Jim Trout for the Police Commission.

**3. Public Comment**

None

**4. Appointments**

- a) **Park Board of Commissioners** – Three (3) positions advertised, received three (3) letters of interest- incumbents. Two -year terms; Mayoral appointment

**Mayor Muhlfeld reappointed Ray Boksich, Susan Schnee and Ron Brunk to the Park Board of Commissioners. The Council ratified his appointment unanimously by roll call.**

- b) **Police Commission** – One (1) position advertised, received one (1) letter of interest – incumbent. Three-year term; Mayoral appointment

**Mayor Muhlfeld reappointed Jim Trout to the Police Commission. The Council ratified his appointment unanimously by roll call.**

- c) **Resort Tax Monitoring Committee**- Two (2) positions advertised, received two (2) letters of interest – incumbents. Three-year terms; City Council appointment

**Councilor Feury made a motion, seconded by Councilor Hennen to reappoint Julia Olivares and Ken Stein to the Resort Tax Monitoring Committee. The motion passed unanimously.**

- d) **Whitefish Convention and Visitors Bureau** – Three (3) positions advertised, received three (3) letters of interest – incumbents. Three -year terms; City Council appointment

**Councilor Feury made a motion, seconded by Councilor Sweeney to reappoint Luke Walrath, Mariah Joos, and Jenny Cloutier to the Whitefish Convention and Visitors Bureau. The motion passed unanimously.**

**5. Adjourn**

**Mayor Muhlfeld adjourned the meeting at 6:48 p.m. and opened the regular session at 7:10 pm.**

\_\_\_\_\_  
Mayor Muhlfeld

Attest:

\_\_\_\_\_  
Michelle Howke, Whitefish City Clerk

**WHITEFISH CITY COUNCIL**

**May 18, 2020**

**7:10 P.M.**

**1) CALL TO ORDER**

The City Council meeting was held remotely through WebEx to follow Governor Steve Bullocks social distancing Directive to help slow the spread of COVID-19. Mayor Muhlfeld called the meeting to order. Councilors present were Qunell, Feury, Hennen, Sweeney, and Norton. City Staff present were City Clerk Howke, City Manager Smith, City Attorney Jacobs, Finance Director Dahlman, Building and Planning Director Taylor, Public Works Director Workman, Parks and Recreation Director Butts, Police Chief Dial and Senior Planner Compton-Ring.

**2) PLEDGE OF ALLEGIANCE**

Mayor Muhlfeld asked Councilor Norton to lead the audience in the Pledge of Allegiance.

**3) COUNCIL APPOINTMENT**

- a) Consideration of appointment to fill Councilor Hartman’s council position from which she resigned on May 4, 2020**

**Councilor Sweeney made a motion, seconded by Councilor Norton to appoint Ben Davis to fill Councilor Hartman’s position. The motion passed unanimously by roll call.**

- b) Administer oath of office – Mayor Muhlfeld**

Mayor Muhlfeld administered the oath of office to Ben Davis. Ben Davis attended the remainder of the meeting remotely.

- 4) COMMUNICATIONS FROM THE PUBLIC – (This time is set aside for the public to comment on items that are either on the agenda, but not a public hearing or on items not on the agenda. City officials do not respond during these comments but may respond or follow-up later on the agenda or at another time. The Mayor has the option of limiting such communications to three minutes depending on the number of citizens who want to comment and the length of the meeting agenda)**

Rhonda Fitzgerald, 412 Lupfer Avenue, spoke regarding WCUP 20-07, the property is zoned low density, resort residential. These can be separately owned condominium units, operating as mini hotels. Short term rentals are not what we need in our community. She hopes the Council will take it upon themselves not to grant the CUP.

Richard Hildner, 104 5<sup>th</sup> Street, congratulated Councilor Davis. He also recommended the Council to consider collecting the \$1.2 million affordable housing cash-in-lieu upfront at time of issuance of a building permit for WCUP 20-07.

**5) COMMUNICATIONS FROM VOLUNTEER BOARDS**

Councilor Sweeney mentioned the Bike/Ped Committee has been asked to look into removing a tree that is overhanging the river south of the Columbia Avenue bridge.

**6) CONSENT AGENDA**

- a) [Minutes](#) from May 4, 2020 Regular Session (p.45)**

Councilor Norton had corrections to the minutes; 1. Page 45,7th line under Hillary Hanson should read “three” not tree; 2. Page 46 Councilor Qunell... should read “cases” not cased. 3. Page 47 last line should read “just NOT the most ideal location”. **Councilor Norton made a motion, seconded by Councilor Sweeney to approve the Consent Agenda as corrected. The motion passed unanimously by roll call.**

- 7) **PUBLIC HEARINGS** (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30-minute time limit for applicant’s land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC))
- a) **Consideration of a request from Ronnie and Sharon Kyle for a Conditional Use Permit to develop a 52-unit condominium project in three buildings, located at 1515 Highway 93 West, zoned WRR-1 (Low-Density Resort Residential District) (WCUP 20-07) CONTINUED/PUBLIC HEARING CLOSED (p.53)**

The Council continued this Public Hearing from May 4, 2020, closing the Public Hearing with a number of questions. Senior Planner Compton-Ring reviewed her transmittal report provided in the packet on the website. The application was submitted March 2<sup>nd</sup>, a decision is needed by May 31<sup>st</sup>. The applicant has provided an exhibit showing the location of trees to be preserved and is addressed in Condition 10.b. The applicant has indicated garbage will be located within the underground/under building and hauled to the entrance for pick-up. This project meets four of the five circumstances identified in the Legacy Homes Program regulations. The applicant proposed to pay the fee of \$1,216,072 at the time of Certificate of Occupancy per each unit. A building permit would be obtained for the shell of the building, and then with each condominium unit.

Discussion followed between council and staff regarding the timing of the payment for cash-in-lieu for affordable housing. The intent of the Legacy Homes Program has been to require the payment prior to issuance of the building permit. This project requires the \$1.2 million upfront, the City cannot spend that money until the project is built out. The city would be holding \$1.2 million.

Councilor Norton asked Planner Compton-Ring to display the 93 LLC project site plan. This project was approved near this proposed project and will have an effect on the traffic in this area and possibly the water drainage. Councilor Norton asked and Director Workman said there could be a danger to the golf course if the stormwater management systems for either project fail. The city requires an engineered stormwater management plan certified by a professional engineer; built per plan; and inspected. The city has records of the drawings and require maintenance for the plans. Director Workman also stated the number of trips per day would not warrant a signal.

Mayor Muhlfeld invited the applicant to share new information or clarify any questions that have been asked.

Eric Mulcahy, Sands Surveying, provided a letter in the packet on the website that addresses the concerns at the last meeting. Regarding the payment of the cash in lieu, their preference is to do it by unit, maybe at building permit for each unit. Because this project is going to require intensive groundwork and buildings 2 & 3 are connected by underground parking. The foundation system happens at one time. They do not have a lot of phasing going on with the three buildings. A compromise would be at the building permit for each unit, which would be comparable to the impact fees.

Sharon Kyle, applicant, stated the condo market is very difficult from a financing standpoint. It is a big price tag to pay up front. Their proposal to pay per unit at time of certificate of occupancy per each unit makes sense. They can satisfy the financing markets and satisfy the program.

**Councilor Feury made a motion, seconded by Councilor Qunell to approve WCUP 20-07, the findings of fact in the staff report, amending Condition #11 – Compliance with the Legacy Homes Program approved housing mitigation plan will be met through the payment of \$23,386/unit at the issuance of building permit for each unit.** Councilor Feury stated his preference is to get the \$1.2 million upfront but understanding that money cannot be used until the units are built, there needs to be that direct tie. His concern payment at the time of each building, if they do not finish out the units, we are going to have to give it back and not be able to use it until the units are built. That becomes problematic. If they build a shell, they probably are going to build that thing out. We have direct access to the money at that point. We can put that money to work as soon as the building permit is issued.

**Councilor Sweeney made a motion, seconded by Councilor Qunell to add Condition #13 – on-site management shall be required upon the build-out of any buildings or unit. The motion passed unanimously by roll call.**

More discussion followed regarding the cash-in-lieu; upon a pulling of a permit for building any unit in any building, they should be required to pay the cash in lieu for that building at issuance of the building permit or within one year of the issuance of permit. Phasing it by building gives incentive to market and complete the units. If not for the direct tie of being able to use the money to the unit actually being created, Councilor Feury would agree with Councilor Sweeney. Given the economic conditions of the development industry the City is being asked to be a financing partner. The City does not do it for any other cash in lieu programs. Other cash-in-lieu is paid at building permit. Councilor Sweeney believes once a building permit is pulled within that development the impacts are made. Regardless of how many are finished, the building is committed, and we are not getting any affordable units. That seems to be the time we could take and spend that money. Attorney Jacobs agreed and could see either way working.

Councilor Norton is uncomfortable the applicant is getting the benefit of the Legacy Homes Program in terms of increased density, and increased heights. She still has concerns of the traffic and the wetlands and does not feel positive of this project.

Councilor Qunell echoes Councilor Norton's concerns of the impact to the neighborhood, and how the underground parking is going to work in this location. He struggles with how we get the money for the Legacy Homes Program; it seems to him like a building permit for each building is the time to pay the cash in lieu.

Councilor Davis stated whether the cash-in-lieu is collected when it is the shell or the unit, he does not have any particularly strong feelings.

**Councilor Feury made a motion, seconded by Councilor Qunell to amend his amendment to Condition #11 and have the cash in lieu be paid at the issuance of the building permit for the building shell. The motion to approve as amended passed 5-1, Councilor Norton voting in opposition.**

- b) **[Ordinance No. 20-09](#); An Ordinance amending Title 6 – Motor Vehicles and Traffic, Chapter 1-General Traffic Provisions and Chapter 2- Stopping, Standing and Parking (First Reading) (p.154)**

City Attorney Jacobs gave her staff report that is provided in the packet on the website. After some discussion Council asked Attorney Jacobs to make the following changes; add recreation trailer to 6-2-

D; correct typo on 6-2-5 (G)(1)(c) Start and end date; and simplify the wording referencing delineated angled parking (52°) in 6-2-4 (A).

Mayor Muhlfeld opened the Public Hearing.

Chris Schustrom, 504 Spokane Avenue, commented about the re-parking section. In reading the Parking Management Plan, at the same time a new ordinance was enacted there should be options identified where people could move their cars. This might be a case of the cart ahead of the horse. It is a good idea but there should be an option identified before the no re-parking is enacted and enforced.

There being no further public comment, Mayor Muhlfeld closed the Public Hearing and turned the matters over to the Council for their consideration.

**Councilor Qunell made a motion, seconded by Councilor Norton to adopt [Ordinance No. 20-09](#); An Ordinance amending Title 6 – Motor Vehicles and Traffic, Chapter 1-General Traffic Provisions and Chapter 2- Stopping, Standing and Parking (First Reading). The motion passed 5-1, Councilor Hennen voting in opposition by roll call.**

- c) **[Resolution No. 20-15](#); A Resolution expressing support for the Flathead County Board of Commissioners to refer to the Flathead Communications Center Special District to a vote pursuant to the terms of Title 7, Chapter 11, Part 11, Part 10, MCA (2019) (p.170)**

Police Chief Dial gave his staff report that is provided in the packet on the website.

Mayor Muhlfeld opened the Public Hearing.

Katie Williams, 427 West 2<sup>nd</sup> Street is a representative on the Funding Board. Representatives from all the municipalities in the county have come together to figure out what the best method for creating a new special district for assessing value throughout all of Flathead County. The County needs to raise about \$3.5 million each year for the Flathead Emergency Service Center. The burden falls on the municipalities each budget season. This ballot initiative supports the 9-1-1 infrastructure, specifically the technology, to receive 9-1-1 calls; locate 9-1-1 callers; page and dispatch emergency responders; and the ability to communicate between dispatch and the responders in the form of mountain talk repeaters. This is to find the long-term sustainable funding mechanism for the valley and to ensure we can provide the best emergency service possible and the public safety sector is top-notch as this valley continues to grow.

There being no further comment, Mayor Muhlfeld closed the Public Hearing and turned the matters over to the Council for their consideration.

**Councilor Sweeney made a motion, seconded by Councilor Hennen to approve [Resolution No. 20-15](#); A Resolution expressing support for the Flathead County Board of Commissioners to refer to the Flathead Communications Center Special District to a vote pursuant to the terms of Title 7, Chapter 11, Part 11, Part 10, MCA (2019). The motion passed unanimously by roll call.**

## 8) COMMUNICATIONS FROM CITY MANAGER

- a) **[Written report](#) enclosed with the packet. Questions from Mayor or Council? (p.178)**

Councilor Norton asked and Manager Smith reported the Wave is taking every precaution possible for reopening.

**b) Other items arising between May 13th through May 18th**

Manager Smith reported Director Dahlman sent out the FY21 Proposed Budget and the FY20-25 Capital Improvement Program. The budget work session is May 26<sup>th</sup> at 5:30 via WebEx. She also announced Jay Barranger, Street Supervisor is retiring at the end of the month after 40 years of service. On behalf of the staff she wished him well and thanked him for his many years.

Director Butts gave an update on the operations of the parks. The department is operating under Phase 1 of the reopening plan. All bike and pedestrian paths and most open space parks are open. The boat launches at City Beach and State Park are open and performing regular inspections and decontaminations are also available. Tennis and pickleball courts are open with gate spray, hand sanitizer and hand-washing stations at each location. Playgrounds, public restrooms and public facilities, the dog park and skate park continued to be closed as well as garbage continues to be pack in and pack out. All picnic tables have currently been removed from parks. Recreational programming is cancelled, but staff are making plans for a Phase 2 Summer Day Camp as well as some new recreational programming with capacity limits, smaller ratios of children to the staff, social distancing protocols and sanitation guidelines in place. We are also finalizing plans for public facility cleaning protocols and standards. All plans are being made in coordination with the city county health department as well as state and federal guidelines. The ambassador program serves to help educate the public on the various rules of each park and park amenity and gather data on park use, social distancing in parks and compliance with park and park amenity closures. The ambassador program has made 102 data entries from 25 different parks and park amenity locations. Ambassadors sanitize garbage lid handles, and refill spray bottles and hand sanitizer as part of their rounds. She has received concerns of patrons not physical distancing, the data gathered from the ambassadors, the majority of citizens are distancing and obeying park rules. Additional ambassadors have been training for the reopening of the Wag Park which will happen in phase 2. Staff have begun to field more phone calls when the dog park and the skate park will open, however most individuals understand the need to follow the complexity of the federal, state, and local guidelines.

**9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS**

**a) Consideration of appointments to volunteer boards and committees not made during the Special Session preceding tonight's meeting**

Appointments were made during the Special Session.

**b) Appointments of City Council Members to Various Boards, Commissions and Committees**  
**i) Whitefish Climate Action Plan Standing Committee – replace Councilor Hartman – Mayoral appointment (p. 186)**

**Mayor Muhlfeld appointed Councilor Davis to the Whitefish Climate Action Plan Committee. Council ratified his appointment unanimously by roll call.**

**ii) Whitefish Strategic Housing Plan Steering Committee – currently Mayor Muhlfeld and Councilor Norton serve; replace Councilor Hartman – Mayoral appointment (p.187)**

**Mayor Muhlfeld appointed Councilor Davis to the Whitefish Strategic Housing Plan Steering Committee. Council ratified his appointment unanimously by roll call.**

**iii) Legacy Land Advisory Committee and Whitefish Trails Operations Committee – currently Councilor Qunell serves on Legacy Land Advisory Committee, Councilor Feury is an alternate; replace Councilor Hartman on both committees -Council appointment (p. 188)**

**Councilor Sweeney made a motion, seconded by Councilor Qunell to appoint Councilor Feury to the LLAC and the Whitefish Trails Operations Committee. The motion passed unanimously by roll call.**

**iv) Tree Committee – replace Councilor Hartman – Council appointment (p.189)**

**Councilor Sweeney made a motion, seconded by Councilor Qunell to appoint Councilor Norton to the Tree Committee. The motion passed unanimously by roll call.**

### **Councilor Comments**

Councilor Sweeney asked if we have the ability to prevent camping at the trailheads. Director Butts stated camping is prohibited at Lion Mountain, she spoke with DNRC camping is allowed on DNRC land for two weeks. She will check into what we can do about camping at trailhead. Councilor Sweeney asked and Attorney Jacobs stated that building located at Second Street and O'Brien Avenue has been in litigation. She does not know if there is any way while in litigation to force them to finish the building, it could be considered relation of evidence. Councilor Sweeney would also like to look at ordinances that are a result of lessons learned, such as cash-in-lieu of affordable housing. We should have some mechanism to penalize people that fail to complete or timely finish buildings or project and leave them in such dilapidated state. He is concerned the wearing of masks and social distancing in some of our commercial areas is not happening as he would like to see. He would entertain a regular outreach to our businesses where this is important.

Councilor Feury welcomed Ben Davis. He asked Director Workman to keep an eye on The Quarry development hauling piles of dirt down LaBrie Drive, driving over the sidewalk and boulevard and dumping in the field. The boulevard has been destroyed, possibly the sidewalk, and all that material could have noxious weeds.

Councilor Norton is still working on doing a "Mask Our City Program". It might normalize the use of masks. It is a brand-new skill for all of us. She is glad we are progressing out of the lockdown but also feels we could do better with the social distancing and mask wearing in the community.

Councilor Qunell stated it made feel good hearing the word "community" during the interviews tonight. It gave him a good feeling listening to the volunteers talk about how many years they have been helping the city and it made him reflect on how much we rely on those people to give us good information and to keep the wheels of our government turning.

Councilor Davis thanked everybody for the kind words. He is happy to be here, and he feels very welcome. He appreciates it.

Mayor Muhlfeld addressed Councilor Sweeney's comment in regard to the tree in the river; the city does not have jurisdiction over bed or banks of Whitefish River. It is either DNRC or FWP and they were unwilling to assist in the removal of that tree. The private landowner needs to file a permit with the Conservation District. He reached out to John Phelps and encouraged him to apply with the landowner. Secondly, at one-point council discussed an option as a community is to set a threshold or a cap by zoning district in terms of the number short term rentals within a district. He would like to see some options presented in a staff report, that gives some tools to help address this issue. Director Taylor stated there is a limited amount of resort residential property that is undeveloped, right now it is a use by right in those zoning districts. Council unanimously agreed to look into it. Lastly point Mayor Muhlfeld would like to review the types of uses allowed by right as well as conditionally within the 93-south corridor (WB-2). The use by right caused him some concern and citizens are asking why council is not doing something about it. The council agreed unanimously by roll call.

City Manager Smith reported in the budget staff is proposing to increase the part time customer service clerk at the front desk to full time, to improve the timeliness of investigation and enforcement efforts for short term rentals instead of using the current program software

**10) ADJOURNMENT** (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority)

Mayor Muhlfeld adjourned the meeting at 9:38 p.m.

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Mayor Muhlfeld

Attest:

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Michelle Howke, Whitefish City Clerk

**ORDINANCE NO. 20-09**

**An Ordinance of the City Council of the City of Whitefish, Montana, amending Title 6 – Motor Vehicles and Traffic, Chapter 1 - General Traffic Provisions, and Chapter 2 – Stopping, Standing and Parking, of the Whitefish City Code.**

WHEREAS, the City of Whitefish contracted with Dixon Resources Unlimited to review existing parking conditions, analyze previous reports, and create actionable parking management recommendations for the downtown area; and

WHEREAS, Dixon Resources Unlimited drafted a Parking Management Plan that was adopted by the City Council on October 21, 2019, through Resolution No. 19-33; and

WHEREAS, in the Parking Management Plan, Dixon Resources Unlimited made several recommendations for updating and modifying the City's parking regulations; and

WHEREAS, City staff has made several recommendations for updating and modifying the City's parking regulations; and

WHEREAS, it will be in the best interests of the City and its inhabitants to adopt the recommendations of Dixon Resources Unlimited and City staff and to thereby modify the City's parking regulations.

NOW, THEREFORE, be it ordained by the City Council of the City of Whitefish, Montana, as follows:

Section 1: All of the recitals set forth above are hereby adopted as Findings of Fact.

Section 2: The amendments to Title 6, Motor Vehicles, Chapter 1, General Traffic Provisions, and Chapter 2, Stopping, Standing and Parking, of the Whitefish City Code, as set forth in Exhibit A attached hereto are hereby adopted.

Section 3: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

Section 4: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF  
WHITEFISH, MONTANA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020.

\_\_\_\_\_  
John M. Muhlfeld, Mayor

ATTEST:

\_\_\_\_\_  
Michele Howke, City Clerk

## EXHIBIT A

### Whitefish City Code Title 6 – Motor Vehicles and Traffic Chapter 1 – General Traffic Provisions

#### 6-1-2: DEFINITIONS:

The words and phrases herein used, unless the same are clearly contrary to or inconsistent with the context of the ordinance or of the section in which used, shall be construed as follows:

**ARTERIAL HIGHWAY:** That portion of Spokane Avenue from the south city limits to Second Street, and that portion of Second Street from Spokane Avenue to the west city limits.

**COMMERCIAL VEHICLES:** A motor vehicle or other vehicle designed for the carrying of freight or merchandise.

~~**CONGESTED TRAFFIC AREAS:** Those areas within the city, wherein the flow of traffic and the parking, standing, loading and unloading of vehicles is greater than in other portions of the city, to such an extent as to require regulation and control as provided by the terms of this title. For the purpose of this title, the congested traffic areas in the city are determined and declared by the city council to be as follows, subject to change from time to time on motion by the city council:~~

~~Central Avenue from the south side of Railway Street to the north side of Third Street on both sides of Central Avenue.~~

~~Second Street from the east side of Spokane Avenue to the west side of Lupfer Avenue on both sides of Second Street.~~

**CROSSWALK:** The area included in extension of sidewalk lines at all intersections.

**CURB:** The boundary of that portion of the street open to the public for the use of vehicles.

**DOUBLE PARKING:** The standing of a vehicle upon a street alongside of or parallel to another vehicle which is parked at the curb.

**DRIVER:** Applies to the rider, driver or leader of any animal or a person who pushes, draws, propels, operates or who is in charge of a vehicle.

**EMERGENCY VEHICLE:** Applies to fire department apparatus, police patrols or ambulances.

**INDIVIDUAL PARKING SPACE:** A portion of the surface of a public street or highway of sufficient length and depth from the sidewalk curb to accommodate a vehicle to be parked, and shall be specified and marked off by the street department of the city.

**INTERSECTION:** The space where streets or avenues or both intersect, bounded by an extension of the curb lines of the intersecting streets or avenues or both.

**LIMITED PARKING ZONE OR RESTRICTED PARKING AREA:** Those areas within the city, where parking is in any way restricted or prohibited to an extent greater than ordinary parking zones or areas.

**MOTOR VEHICLE:** Includes all vehicles propelled by any power other than muscular power, except road rollers, traction engines and railroad cars, and motor cars running upon stationary rails or tracks.

**MOTORCYCLE:** A motor vehicle having but two (2) wheels in contact with the ground and a saddle on which the operator sits astride, or a platform on which he stands, and bicycles having a motor attached thereto, and a driving wheel in contact with the ground in addition to the wheels of the vehicle itself, but a motorcycle may carry one or more attachments in the seat for the conveyance of a passenger.

**OPERATOR:** Any person who operates or drives a motor vehicle.

**PARKING:** Includes any standing of a vehicle upon any public highway of the city, without regard to the length of time, and whether at an angle to the curb or parallel thereto, or in the highway away from the curb, whether the engine is running or not, and whether or not someone is in the vehicle capable of moving the same.

**THROUGH STREET:** Any street or avenue, or any portion of any street or avenue where motor vehicles are required to come to a stop before entering such street or avenue.

**TRAILER:** Any vehicle which is attached to another vehicle for the purpose of being drawn or propelled by such other vehicle.

**TRANSPORTATION NETWORK COMPANY:** Any company that provides prearranged transportation services for compensation using an on-line application or platform to connect drivers using their personal vehicles with passengers.

**VEHICLE:** Includes all carriages moving on land, whether on wheels or runners, and whether drawn or pushed or propelled by animals or humans, or propelled by motive power, excepting a baby carriage.

**Whitefish City Code Title 6 – Motor Vehicles and Traffic  
Chapter 2 – Stopping, Standing and Parking**

**6-2-1: SIGNS, SIGNALS AND MARKINGS:**

**A. Authority to Install:** The city manager or designee is authorized to place and maintain, or cause to be placed and maintained, official traffic control devices when and as required to make the provisions of this chapter effective. The city manager or designee is authorized to place and maintain signage and curb markings prohibiting stopping, standing, or parking a vehicle.

B. Signs Required for Enforcement: No provision of this chapter for which signs are required will be enforced against an alleged violator unless appropriate signage is in place giving notice of such provision.

C. Hours of Operation: The city manager or designee is authorized to determine the hours and days during which any traffic control device or parking regulation will be in effect, except in those cases where such hours or days are specified in this chapter.

D. Marking of Parking Spaces:

1. The city manager or designee is authorized to install and maintain parking space markings adjacent to curbing to indicate where parking is permitted.

2. No vehicle may be stopped, left standing, or parked other than within a single parking space.

**6-2-12: STANDING RESTRICTIONS:**

A. Use Of Public Ways:

1. The city ~~council manager or designee~~ is authorized to, ~~by motion,~~ designate such places upon the streets, avenues or highways of the city, ~~as it may deem necessary, desirable or proper for pushcarts, lunch, popcorn or ice cream stands or wagons, and also for public and private hacks, buses, and taxicabs, and transportation network companies to stand when not employed in carrying passengers;~~ ~~no pushcart, lunch, popcorn, ice cream stand or wagon shall stand in or upon or be operated in or upon any public street, highway or other roadway in any place other than that so designated by the city council, and n~~ No public or private hack, bus, or taxicab, or transportation network company shall stand or park upon any street in any business district at any place other than at the bus stop or taxicab or hack stand location so designated by the city council manager or designee, except that this provision shall not prevent the operator of any such vehicle from temporarily stopping in accordance with other parking regulations for the purpose of and while actually engaged in letting passengers into or out of such vehicle. ~~It is unlawful for any driver of any taxicab to seek employment or passengers by persistently driving his vehicle back and forth in a short space so as to interfere with proper and orderly access to or egress from any theater, hall, hotel, public resort, railway station or any place of public gathering, but any driver of any automobile or taxicab may solicit employment by driving through any public street or avenue without stops other than those due to obstruction of traffic or requirement of this title, and may pass or repass any of such places hereinbefore referred to, provided that after passing such public place he shall not turn and repass the same until he shall have gone a distance of two (2) blocks beyond such place.~~

2. ~~The city clerk and the police department shall keep on file and open to inspection a record showing~~ The city manager or designee is authorized to place and maintain signage designating the location upon the streets or highways ~~set apart and designated as~~

~~stands~~ where public or private ~~hacks, buses, and taxicabs~~ and transportation network companies may stand when not employed in the actual carrying of passengers.

B. Specific Areas: It is unlawful, at any time, to permit any vehicle to stand in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device.

1. In any intersection;
2. In any crosswalk;
3. At any place where the vehicle would block the use of a driveway;
4. On any sidewalk, parkway or curb area between any sidewalk and street curb line;
5. Within any alley in such a manner or under such conditions as ~~to leave available less than sixteen feet (16') of the width of the alleyway for~~ prohibit the free movement of vehicular traffic, ~~and no person shall stop, stand or park a vehicle within an alley in such a position as or~~ to block the driveway entrances to any abutting property;
6. At any place where official signs prohibit parking;
7. On any private property without the consent of the owner of the property.

~~8. For purposes of this title, "compact and subcompact motor vehicles" shall include only vehicles having a length of less than one hundred ninety inches (190").~~

C. Violation; Penalty: A person who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, be subject to a fine as provided in the general penalty in section 1-4-1 of this Code. A person who violates this section shall also be deemed to have committed a Municipal infraction, and shall be assessed the civil penalty described in section 1-4-1 of this Code. For each separate incident, the City shall elect to treat the violation as a misdemeanor or a Municipal infraction, but not both. If a violation is repeated, the City may treat the initial violation as a misdemeanor and the repeat violation as a Municipal infraction, or vice versa. Each day that a violation remains shall constitute a separate violation.

~~6-2-23:~~ **PARKING RESTRICTIONS:**

- A. Obstruction Prohibited: No automobile or vehicles of any kind shall be so parked as to obstruct traffic.
- B. Leaving Vehicles On Streets: It is unlawful for any person to store or leave upon the streets any motor vehicle, trailer, or trash receptacle for indefinite periods of time; it is the intent hereof that no motor vehicle shall be parked or left on such streets unless it is in constant use. Any motor vehicle not used at least once every twenty-four (24) hours shall be deemed to be stored in violation hereof. Any person leaving upon any street any

motor vehicle not in running condition shall be deemed prima facie guilty of a violation hereof, which may be rebutted only by showing that such motor vehicle had just broken down and such person had not yet had time to remove it from the street. The owner of such a vehicle shall be responsible for a violation hereof as well as the person so leaving it.

C. It is unlawful for any motor vehicle to be stopped or parked on any city street, highway, alley, city-owned parking lot, or city-owned structure, and be used as a place of residence, including stopping or parking for more than three hours and using the street, highway, alley, city-owned parking lot, or city-owned structure as a place to camp or reside.

D. It is unlawful for any person to store or leave upon any city street, highway or alley any camper, trailer or recreational vehicle for longer than twenty-four (24) hours.

C.E. Removal Of Illegally Parked Vehicles: Any motor vehicle parked or left in violation of this section or any other provision of this title or other ordinance of the City regulating the stopping, standing or parking of vehicles may be moved by or under the authority of any police officer who shall certify that cost thereof to the City Judge who shall add the amount thereof to any fine assessed against the owner or operator of such vehicle for the violation thereof. Such motor vehicle may be moved to any parking lot provided by the police or to a local garage for outdoor storage.

D.F. Street Maintenance Activities:

1. Alternate-Side Parking: To assist with roadway maintenance activities such as snow removal, leaf pickup, and sweeping, the following restrictions shall be in place from five o'clock (5:00) A.M. to five o'clock (5:00) P.M. from October 1 through April 30 of each year:

a. On even-numbered calendar days, vehicles shall be parked on the side of the street adjacent to lots and houses which have been assigned even-numbered addresses - generally the north and east sides. On odd-numbered calendar days, vehicles shall be parked on the side of the street adjacent to lots and houses which have been assigned odd-numbered addresses - generally the south and west sides. Alternate-side parking rules shall be determined by the calendar date falling after twelve o'clock (12:00) midnight. For example, if a person parks at six o'clock (6:00) P.M. on December 3 and does not plan to move the vehicle until seven o'clock (7:00) A.M. the next morning, the person would park on the even side of the street because it will be December 4 after five o'clock (5:00) A.M. and alternate-side parking will go into effect before the person plans to move the vehicle.

b. This section shall not apply to streets where alternate side parking is not available, including but not limited to cul-de-sacs and streets, where no parking is allowed on one or both sides of the street at any time.

2. Vehicles Shall Be Moved: Any vehicles parked on any public streets, avenues, boulevards, cul-de-sacs or highways within the City in violation of this section shall be moved at once upon notification by any police officer or public works employee of the City that the same must be moved for the purpose of snow removal. Failure to immediately move the vehicle upon request of any police officer or public works employee of the City shall constitute a violation of this section. If, after reasonable inquiry, the police officer or public works employee of the City is unable to locate the person who owns, leases or has control of a vehicle left parked in violation of this section, then the vehicle may be removed by the City at the expense of the owner, lessee or person in control of the vehicle.

3. Right-Of-Way: All street maintenance equipment shall have the right-of-way on all public streets, alleys and highways within the City during maintenance operations and all vehicular traffic shall give way to the same.

- a. Temporary No Parking Areas: No vehicle shall be parked on any public street, highway, or alley within the City where temporary no parking signs have been placed or posted.
- b. Violation; Penalty: A person who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, be subject to a fine as provided in the general penalty in section 1-4-1 of this Code. A person who violates this section shall also be deemed to have committed a Municipal infraction and shall be assessed the civil penalty described in section 1-4-4 of this Code. For each separate incident, the City shall elect to treat the violation as a misdemeanor or a Municipal infraction, but not both. If a violation is repeated, the City may treat the initial violation as a misdemeanor and the repeat violation as a Municipal infraction, or vice versa. Each day that a violation remains shall constitute a separate violation

6-2-~~34~~: **MANNER OF PARKING:**

- A. All motor vehicles shall park on the right hand side of the street with the outer edge of the motor vehicle parallel with the curb and within twelve inches (12") thereof, ~~except motor vehicles parking on Central Avenue between Railway Street and Third Street and on the west side of Spokane Avenue between Railway Street and Second Street where such or as marked by parking stalls or designated signage. In delineated angled parking stalls, motor vehicles shall park at an angle of fifty two degrees (52°) to the curb within the designated lines~~ with the right front wheel as close to the curb as possible.
- B. Only compact and subcompact motor vehicles shall park in those parking areas specifically marked for such motor vehicles. ~~No motor vehicle shall, when so parked in any authorized and marked parking space, extend into or encroach upon the driving lane as so painted and marked on any street or public right-of-way, nor shall any motor vehicle when so parked in any authorized and marked parking space extend into or encroach upon any adjacent parking space as so marked. For purposes of this title, "compact and subcompact motor vehicles" shall include only vehicles having a length of less than one hundred ninety inches (190").~~

- C. ~~Nothing contained in this section shall authorize the parking of motor vehicles in "no parking" zones or the infringement of regulations governing the parking of motor vehicles in limited parking areas. No motor vehicle shall, when so parked in any authorized and marked parking space, extend into or encroach upon the driving lane as so painted and marked on any street or public right-of-way, nor shall any motor vehicle when so parked in any authorized and marked parking space extend into or encroach upon any adjacent parking space as so marked.~~
- D. A person who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, be subject to a fine as provided in the general penalty in section 1-4-1 of this Code. A person who violates this section shall also be deemed to have committed a Municipal infraction, and shall be assessed the civil penalty described in section 1-4-4 of this Code. For each separate incident, the City shall elect to treat the violation as a misdemeanor or a Municipal infraction, but not both. If a violation is repeated, the City may treat the initial violation as a misdemeanor and the repeat violation as a Municipal infraction, or vice versa. Each day that a violation remains shall constitute a separate violation.

~~6-2-45:~~        **PROHIBITED AND RESTRICTED PARKING:**

- A. No Parking Zones: ~~The following zones or areas are designated by the City Council to be no parking zones wherein the parking of vehicles is prohibited except at the times and under the circumstances therein set forth. The City Council may from time to time, on motion, create other and further no parking zones within the City. The no parking zones designated by the City Council are as follows: The City Council shall establish no parking zones. No parking zones shall be designated by signage and/or curb markings and it is unlawful for any owner or operator of any vehicle to violate the provisions of city-signed restrictions~~

~~1. No automobile or vehicle shall be parked on the north side of Second Street, between Spokane Avenue and Kalispell Avenue; no automobile or vehicle except school buses when actually engaged in loading or unloading pupils shall be parked within a distance of one hundred feet (100') south of that part of the east side of Spokane Avenue extending from directly in front of the west entrance of the public school building, the distance of one hundred feet (100') shall be measured from the north side of the west entrance of the building and the area created shall be designated a no parking zone, and reserved exclusively for the use of school buses, loading and unloading pupils transported by such buses to and from the Whitefish Public School; this no parking area shall not apply during the summer months when school is not in session.~~

~~2. No automobile or vehicle shall be parked on either side of Doger Lane.~~

~~3. No automobile or vehicle shall be parked on either side of Flathead Avenue between Baker Avenue and the City's Emergency Services Center.~~

~~4. No automobile or vehicle shall be parked on the east side of Shiloh Avenue between JP Road and Lena Joy Drive.~~

~~5. All no parking zones must be either posted with a suitable sign or marked with a yellow curb.~~

B. ~~Limited Parking/Vehicle Operation Areas: The City Council declares the following to be limited parking/vehicle operation areas in which certain restrictions are established, and it shall constitute a violation of this title for the owner or operator of any vehicle to violate the provisions hereof. The City Council may, from time to time by motion, when it determines it advisable to do so, establish other and different limited parking areas within the City. The limited parking/vehicle operation areas established which are in effect are as follows:~~

~~1. The area on the south side of Second Street extending from the northeast corner of the intersection of Second Street and Lupfer Avenue for a distance of fifty feet (50') from the fire hydrant located on the corner of the intersection is created a limited parking area and the parking of automobiles and other vehicles within said parking area hereby created for a period of more than twelve (12) minutes is forbidden and prohibited; provided, however, that parking within twelve feet (12') of said fire hydrant is expressly prohibited and forbidden. Limited parking areas will be designated by signage and/or curb markings and it is unlawful for the owner or operator of any vehicle to violate the provisions of city-signed restrictions.~~

~~2. The parking of trucks and commercial vehicles in excess of twenty feet (20') overall length is prohibited anywhere on Second Street between Spokane Avenue and Lupfer Avenue and also on Central Avenue between Railway Street and Fifth Street. The city manager or designee may establish limited parking areas within the City in accordance with the following:~~

~~a. A notice to establish the proposed limited parking area will be sent to all addresses on the same "block face" (defined for purposes of these regulations as the block in which a vehicle is parked, bordered by an intersection on each end) as the proposed area.~~

~~b. A notice of such proposed limited parking area will be posted in the proposed area. The notice must state the purpose of the proposed limited parking area, the tentative boundaries of the area, and that any interested persons shall be entitled to submit comments within a month of the posted notice.~~

~~c. A notice of the proposed limited parking area will be published in a newspaper published within Flathead County.~~

~~d. Within the month period, the city manager or designee will consider comments and thereafter will determine the effectiveness of the proposed limited parking area.~~

~~3. The Operation of thru tractor trailer traffic is prohibited on Arielle Way from Shiloh Avenue to JP Road.~~

- C. ~~Two-Hour Parking Time Restricted Parking:~~ It is unlawful for any person to park any "vehicle," as defined in section 6-1-2 of this title, for more than the posted time as designated by signage~~, or in excess of two (2) continuous or consecutive hours at any one time during the hours from eight o'clock (8:00) A.M. to six o'clock (6:00) P.M. in any one (1) parking space on the following described streets within the City:~~

~~Baker Avenue from Railway Street to East Third Street;~~

~~Central Avenue from Railway Street to East Fourth Street;~~

~~Spokane Avenue from Railway Street to East Second Street;~~

~~East First Street from Spokane Avenue to Baker Avenue;~~

~~East Second Street from Spokane Avenue to Lupfer Avenue;~~

~~East Third Street from Spokane Avenue to Baker Avenue;~~

~~provided; however, if a more restricted and/or limited parking time is posted therein then such more restricted and/or limited time period for parking any vehicle shall apply. The provisions of this section shall not apply on any Sunday or legal holiday; and further provided; however, that nothing herein contained shall be construed as to permit all night parking where prohibited by law in the congested traffic areas.~~

- D. Alley Parking Restrictions: No person may stop, stand or park a vehicle for any purpose other than for active loading or unloading of persons or materials in any alley. Vehicles engaged in active loading or unloading shall stand as close as possible to one side of the alley and in any case will so stand as to permit other vehicles to pass.

~~1. — All parking of vehicles in the alleys between Railroad and Third Streets and between Spokane and Lupfer Avenues shall be parallel parking only and all such vehicles shall stand as close as possible to one (1) side of the alley and in any case shall so stand as to permit other vehicles to pass, and all parking shall be restricted to a duration of fifteen (15) minutes only.~~

~~2. — The sidewalks on the easterly side of the alley running north and south between Second and Third Streets and Central and Baker Avenues are designated as a pedestrian lane and parking is prohibited in the pedestrian lane.~~

~~3. — Vehicles in alleys shall comply with the directions and orders of police officers.~~

- E. Parking Restrictions For The City Parking Facility Located At East Second Street And Baker Avenue:

1. It shall be unlawful for any person to park any vehicle in any parking space designated as a "leased" space in the City parking facility between the hours of

six o'clock (6:00) A.M. and six o'clock (6:00) P.M., Monday through Friday (excluding City holidays), without a valid lease parking permit.

2. It shall be unlawful for any person to park any large commercial vehicle in any parking space in the City parking facility at any time.

3. It shall be unlawful for any person to allow any vehicle to remain in any parking space in the City parking facility for more than seven (7) calendar days. Any vehicle remaining in any parking space in the City parking facility shall be deemed abandoned and may be removed at the owner's expense.

4. It shall be unlawful for any vehicle to remain in any parking space that is not designated as a "leased" space for more than three (3) hours between the hours of six o'clock (6:00) A.M. and six o'clock (6:00) P.M., Monday through Friday (excluding City holidays).

F. No Re-parking:

1. No person may stop, stand or park any vehicle for a period longer than that designated by signs.

2. A vehicle will be deemed to have been parked longer than the posted time limit if it has not been moved at least "out of the block face" or out of the parking lot after expiration of the time limit indicated on the posted signage. A vehicle may not return to the initial "block face" or parking lot sooner than two hours following the expiration of the initial time period.

G. Temporary On-Street Parking Permits: Contractors, moving companies, service vendors, and other entities may need to park in the downtown area, on-street, in excess of the two-hour time limit, in order to complete a job or service. For these situations, a permit may be obtained with the following restrictions.

1. A permit application must be completed that includes:

a. Applicant name (business or individual) and contact information.

b. Client name and address at which construction, moving, or other service is being provided.

c. Start and end date.

d. Type of service being provided.

e. Vehicle License Plate Numbers, as applicable.

f. Reason the permit is necessary.

2. Licensed contractors, trades, and other service businesses are eligible for a "Temporary On-Street Parking Permit."

3. Permit applications are limited to one permit per job site, and/or destination facility.

4. A permit holder must use traffic devices approved by the Manual for Uniform Traffic Control Devices (MUTCD) in order to 'reserve' specific parking space(s). This includes barricades, traffic candles, traffic cones, delineators, etc. Such traffic devices must be at least 36 inches high, in good condition, made with a high visibility color, and display a copy-of the valid permit.

5. A permit may be issued for a maximum of thirty calendar days after which a new application must be filed.

6. Permits are only for use with on-street parking, within the time limited parking areas, during the posted hours for enforcement. The permit is not for use within any other parking area, and does not provide exemption from other parking regulations (restricted zone, disabled parking, etc.). The permit does not entitle the permit holder to engage in retail or other commercial activity.

7. Permits must be displayed at all times, as directed, or the vehicle may be cited for overtime violations.

8. Fees for Temporary On-Street Parking Permits will be adopted and adjusted by the Whitefish City Council.

FH. Violation; Penalty: A person who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, be subject to a fine as provided in the general penalty in section 1-4-1 of this Code. A person who violates this section shall also be deemed to have committed a Municipal infraction, and shall be assessed the civil penalty described in section 1-4-4 of this Code. For each separate incident, the City shall elect to treat the violation as a misdemeanor or a Municipal infraction, but not both. If a violation is repeated, the City may treat the initial violation as a misdemeanor and the repeat violation as a Municipal infraction, or vice versa. Each day that a violation remains shall constitute a separate violation.

**ORDINANCE NO. 20-09**

**An Ordinance of the City Council of the City of Whitefish, Montana, amending Title 6 – Motor Vehicles and Traffic, Chapter 1 - General Traffic Provisions, and Chapter 2 – Stopping, Standing and Parking, of the Whitefish City Code.**

WHEREAS, the City of Whitefish contracted with Dixon Resources Unlimited to review existing parking conditions, analyze previous reports, and create actionable parking management recommendations for the downtown area; and

WHEREAS, Dixon Resources Unlimited drafted a Parking Management Plan that was adopted by the City Council on October 21, 2019, through Resolution No. 19-33; and

WHEREAS, in the Parking Management Plan, Dixon Resources Unlimited made several recommendations for updating and modifying the City's parking regulations; and

WHEREAS, City staff has made several recommendations for updating and modifying the City's parking regulations; and

WHEREAS, it will be in the best interests of the City and its inhabitants to adopt the recommendations of Dixon Resources Unlimited and City staff and to thereby modify the City's parking regulations.

NOW, THEREFORE, be it ordained by the City Council of the City of Whitefish, Montana, as follows:

Section 1: All of the recitals set forth above are hereby adopted as Findings of Fact.

Section 2: The amendments to Title 6, Motor Vehicles, Chapter 1, General Traffic Provisions, and Chapter 2, Stopping, Standing and Parking, of the Whitefish City Code, as set forth in Exhibit A attached hereto are hereby adopted.

Section 3: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

Section 4: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF  
WHITEFISH, MONTANA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020.

\_\_\_\_\_  
John M. Muhlfeld, Mayor

ATTEST:

\_\_\_\_\_  
Michele Howke, City Clerk

## EXHIBIT A

### Whitefish City Code Title 6 – Motor Vehicles and Traffic Chapter 1 – General Traffic Provisions

#### 6-1-2: DEFINITIONS:

The words and phrases herein used, unless the same are clearly contrary to or inconsistent with the context of the ordinance or of the section in which used, shall be construed as follows:

**ARTERIAL HIGHWAY:** That portion of Spokane Avenue from the south city limits to Second Street, and that portion of Second Street from Spokane Avenue to the west city limits.

**COMMERCIAL VEHICLES:** A motor vehicle or other vehicle designed for the carrying of freight or merchandise.

~~**CONGESTED TRAFFIC AREAS:** Those areas within the city, wherein the flow of traffic and the parking, standing, loading and unloading of vehicles is greater than in other portions of the city, to such an extent as to require regulation and control as provided by the terms of this title. For the purpose of this title, the congested traffic areas in the city are determined and declared by the city council to be as follows, subject to change from time to time on motion by the city council:~~

~~Central Avenue from the south side of Railway Street to the north side of Third Street on both sides of Central Avenue.~~

~~Second Street from the east side of Spokane Avenue to the west side of Lupfer Avenue on both sides of Second Street.~~

**CROSSWALK:** The area included in extension of sidewalk lines at all intersections.

**CURB:** The boundary of that portion of the street open to the public for the use of vehicles.

**DOUBLE PARKING:** The standing of a vehicle upon a street alongside of or parallel to another vehicle which is parked at the curb.

**DRIVER:** Applies to the rider, driver or leader of any animal or a person who pushes, draws, propels, operates or who is in charge of a vehicle.

**EMERGENCY VEHICLE:** Applies to fire department apparatus, police patrols or ambulances.

**INDIVIDUAL PARKING SPACE:** A portion of the surface of a public street or highway of sufficient length and depth from the sidewalk curb to accommodate a vehicle to be parked, and shall be specified and marked off by the street department of the city.

**INTERSECTION:** The space where streets or avenues or both intersect, bounded by an extension of the curb lines of the intersecting streets or avenues or both.

LIMITED PARKING ZONE OR RESTRICTED PARKING AREA: Those areas within the city, where parking is in any way restricted or prohibited to an extent greater than ordinary parking zones or areas.

MOTOR VEHICLE: Includes all vehicles propelled by any power other than muscular power, except road rollers, traction engines and railroad cars, and motor cars running upon stationary rails or tracks.

MOTORCYCLE: A motor vehicle having but two (2) wheels in contact with the ground and a saddle on which the operator sits astride, or a platform on which he stands, and bicycles having a motor attached thereto, and a driving wheel in contact with the ground in addition to the wheels of the vehicle itself, but a motorcycle may carry one or more attachments in the seat for the conveyance of a passenger.

OPERATOR: Any person who operates or drives a motor vehicle.

PARKING: Includes any standing of a vehicle upon any public highway of the city, without regard to the length of time, and whether at an angle to the curb or parallel thereto, or in the highway away from the curb, whether the engine is running or not, and whether or not someone is in the vehicle capable of moving the same.

THROUGH STREET: Any street or avenue, or any portion of any street or avenue where motor vehicles are required to come to a stop before entering such street or avenue.

TRAILER: Any vehicle which is attached to another vehicle for the purpose of being drawn or propelled by such other vehicle.

TRANSPORTATION NETWORK COMPANY: Any company that provides prearranged transportation services for compensation using an on-line application or platform to connect drivers using their personal vehicles with passengers.

VEHICLE: Includes all carriages moving on land, whether on wheels or runners, and whether drawn or pushed or propelled by animals or humans, or propelled by motive power, excepting a baby carriage.

## Whitefish City Code Title 6 – Motor Vehicles and Traffic Chapter 2 – Stopping, Standing and Parking

### 6-2-1: SIGNS, SIGNALS AND MARKINGS:

A. Authority to Install: The city manager or designee is authorized to place and maintain, or cause to be placed and maintained, official traffic control devices when and as required to make the provisions of this chapter effective. The city manager or designee is authorized to place and maintain signage and curb markings prohibiting stopping, standing, or parking a vehicle.

B. Signs Required for Enforcement: No provision of this chapter for which signs are required will be enforced against an alleged violator unless appropriate signage is in place giving notice of such provision.

C. Hours of Operation: The city manager or designee is authorized to determine the hours and days during which any traffic control device or parking regulation will be in effect, except in those cases where such hours or days are specified in this chapter.

D. Marking of Parking Spaces:

1. The city manager or designee is authorized to install and maintain parking space markings adjacent to curbing to indicate where parking is permitted.

2. No vehicle may be stopped, left standing, or parked other than within a single parking space.

**6-2-12: STANDING RESTRICTIONS:**

A. Use Of Public Ways:

1. The city ~~council manager or designee~~ is authorized to, ~~by motion,~~ designate such places upon the streets, avenues or highways of the city, ~~as it may deem necessary, desirable or proper for pushcarts, lunch, popcorn or ice cream stands or wagons, and also for public and private hacks, buses, and taxicabs, and transportation network companies to stand when not employed in carrying passengers;~~ ~~no pushcart, lunch, popcorn, ice cream stand or wagon shall stand in or upon or be operated in or upon any public street, highway or other roadway in any place other than that so designated by the city council, and n~~ No public or private hack, bus, or taxicab, or transportation network company shall stand or park upon any street in any business district at any place other than at the bus stop or taxicab or hack stand location so designated by the city council manager or designee, except that this provision shall not prevent the operator of any such vehicle from temporarily stopping in accordance with other parking regulations for the purpose of and while actually engaged in letting passengers into or out of such vehicle. ~~It is unlawful for any driver of any taxicab to seek employment or passengers by persistently driving his vehicle back and forth in a short space so as to interfere with proper and orderly access to or egress from any theater, hall, hotel, public resort, railway station or any place of public gathering, but any driver of any automobile or taxicab may solicit employment by driving through any public street or avenue without stops other than those due to obstruction of traffic or requirement of this title, and may pass or repass any of such places hereinbefore referred to, provided that after passing such public place he shall not turn and repass the same until he shall have gone a distance of two (2) blocks beyond such place.~~

2. ~~The city clerk and the police department shall keep on file and open to inspection a record showing~~ The city manager or designee is authorized to place and maintain signage designating the location upon the streets or highways ~~set apart and designated as~~

~~stands~~ where public or private ~~hacks, buses, and taxicabs~~ and transportation network companies may stand when not employed in the actual carrying of passengers.

B. Specific Areas: It is unlawful, at any time, to permit any vehicle to stand in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device.

1. In any intersection;
2. In any crosswalk;
3. At any place where the vehicle would block the use of a driveway;
4. On any sidewalk, parkway or curb area between any sidewalk and street curb line;
5. Within any alley in such a manner or under such conditions as ~~to leave available less than sixteen feet (16') of the width of the alleyway for~~ prohibit the free movement of vehicular traffic, ~~and no person shall stop, stand or park a vehicle within an alley in such a position as or~~ to block the driveway entrances to any abutting property;
6. At any place where official signs prohibit parking;
7. On any private property without the consent of the owner of the property.

~~8. For purposes of this title, "compact and subcompact motor vehicles" shall include only vehicles having a length of less than one hundred ninety inches (190").~~

C. Violation; Penalty: A person who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, be subject to a fine as provided in the general penalty in section 1-4-1 of this Code. A person who violates this section shall also be deemed to have committed a Municipal infraction, and shall be assessed the civil penalty described in section 1-4-1 of this Code. For each separate incident, the City shall elect to treat the violation as a misdemeanor or a Municipal infraction, but not both. If a violation is repeated, the City may treat the initial violation as a misdemeanor and the repeat violation as a Municipal infraction, or vice versa. Each day that a violation remains shall constitute a separate violation.

~~6-2-23:~~ **PARKING RESTRICTIONS:**

- A. Obstruction Prohibited: No automobile or vehicles of any kind shall be so parked as to obstruct traffic.
- B. Leaving Vehicles On Streets: It is unlawful for any person to store or leave upon the streets any motor vehicle, trailer, or trash receptacle for indefinite periods of time; it is the intent hereof that no motor vehicle shall be parked or left on such streets unless it is in constant use. Any motor vehicle not used at least once every twenty-four (24) hours shall be deemed to be stored in violation hereof. Any person leaving upon any street any

motor vehicle not in running condition shall be deemed prima facie guilty of a violation hereof, which may be rebutted only by showing that such motor vehicle had just broken down and such person had not yet had time to remove it from the street. The owner of such a vehicle shall be responsible for a violation hereof as well as the person so leaving it.

C. It is unlawful for any motor vehicle to be stopped or parked on any city street, highway, alley, city-owned parking lot, or city-owned structure, and be used as a place of residence, including stopping or parking for more than three hours and using the street, highway, alley, city-owned parking lot, or city-owned structure as a place to camp or reside.

D. It is unlawful for any person to store or leave upon any city street, highway or alley any camper, trailer or recreational vehicle for longer than twenty-four (24) hours.

C.E. Removal Of Illegally Parked Vehicles: Any motor vehicle parked or left in violation of this section or any other provision of this title or other ordinance of the City regulating the stopping, standing or parking of vehicles may be moved by or under the authority of any police officer who shall certify that cost thereof to the City Judge who shall add the amount thereof to any fine assessed against the owner or operator of such vehicle for the violation thereof. Such motor vehicle may be moved to any parking lot provided by the police or to a local garage for outdoor storage.

D.F. Street Maintenance Activities:

1. Alternate-Side Parking: To assist with roadway maintenance activities such as snow removal, leaf pickup, and sweeping, the following restrictions shall be in place from five o'clock (5:00) A.M. to five o'clock (5:00) P.M. from October 1 through April 30 of each year:

a. On even-numbered calendar days, vehicles shall be parked on the side of the street adjacent to lots and houses which have been assigned even-numbered addresses - generally the north and east sides. On odd-numbered calendar days, vehicles shall be parked on the side of the street adjacent to lots and houses which have been assigned odd-numbered addresses - generally the south and west sides. Alternate-side parking rules shall be determined by the calendar date falling after twelve o'clock (12:00) midnight. For example, if a person parks at six o'clock (6:00) P.M. on December 3 and does not plan to move the vehicle until seven o'clock (7:00) A.M. the next morning, the person would park on the even side of the street because it will be December 4 after five o'clock (5:00) A.M. and alternate-side parking will go into effect before the person plans to move the vehicle.

b. This section shall not apply to streets where alternate side parking is not available, including but not limited to cul-de-sacs and streets, where no parking is allowed on one or both sides of the street at any time.

2. Vehicles Shall Be Moved: Any vehicles parked on any public streets, avenues, boulevards, cul-de-sacs or highways within the City in violation of this section shall be moved at once upon notification by any police officer or public works employee of the City that the same must be moved for the purpose of snow removal. Failure to immediately move the vehicle upon request of any police officer or public works employee of the City shall constitute a violation of this section. If, after reasonable inquiry, the police officer or public works employee of the City is unable to locate the person who owns, leases or has control of a vehicle left parked in violation of this section, then the vehicle may be removed by the City at the expense of the owner, lessee or person in control of the vehicle.

3. Right-Of-Way: All street maintenance equipment shall have the right-of-way on all public streets, alleys and highways within the City during maintenance operations and all vehicular traffic shall give way to the same.

- a. Temporary No Parking Areas: No vehicle shall be parked on any public street, highway, or alley within the City where temporary no parking signs have been placed or posted.
- b. Violation; Penalty: A person who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, be subject to a fine as provided in the general penalty in section 1-4-1 of this Code. A person who violates this section shall also be deemed to have committed a Municipal infraction and shall be assessed the civil penalty described in section 1-4-4 of this Code. For each separate incident, the City shall elect to treat the violation as a misdemeanor or a Municipal infraction, but not both. If a violation is repeated, the City may treat the initial violation as a misdemeanor and the repeat violation as a Municipal infraction, or vice versa. Each day that a violation remains shall constitute a separate violation

6-2-34: **MANNER OF PARKING:**

- A. All motor vehicles shall park on the right hand side of the street with the outer edge of the motor vehicle parallel with the curb and within twelve inches (12") thereof, ~~except motor vehicles parking on Central Avenue between Railway Street and Third Street and on the west side of Spokane Avenue between Railway Street and Second Street where such or as marked by parking stalls or designated signage.~~ In delineated angled parking stalls, motor vehicles shall park at an angle of fifty two degrees (52°) to the curb within the designated lines with the right front wheel as close to the curb as possible.
- B. Only compact and subcompact motor vehicles shall park in those parking areas specifically marked for such motor vehicles. ~~No motor vehicle shall, when so parked in any authorized and marked parking space, extend into or encroach upon the driving lane as so painted and marked on any street or public right-of-way, nor shall any motor vehicle when so parked in any authorized and marked parking space extend into or encroach upon any adjacent parking space as so marked. For purposes of this title, "compact and subcompact motor vehicles" shall include only vehicles having a length of less than one hundred ninety inches (190").~~

- C. ~~Nothing contained in this section shall authorize the parking of motor vehicles in "no parking" zones or the infringement of regulations governing the parking of motor vehicles in limited parking areas. No motor vehicle shall, when so parked in any authorized and marked parking space, extend into or encroach upon the driving lane as so painted and marked on any street or public right-of-way, nor shall any motor vehicle when so parked in any authorized and marked parking space extend into or encroach upon any adjacent parking space as so marked.~~
- D. A person who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, be subject to a fine as provided in the general penalty in section 1-4-1 of this Code. A person who violates this section shall also be deemed to have committed a Municipal infraction, and shall be assessed the civil penalty described in section 1-4-4 of this Code. For each separate incident, the City shall elect to treat the violation as a misdemeanor or a Municipal infraction, but not both. If a violation is repeated, the City may treat the initial violation as a misdemeanor and the repeat violation as a Municipal infraction, or vice versa. Each day that a violation remains shall constitute a separate violation.

~~6-2-45:~~        **PROHIBITED AND RESTRICTED PARKING:**

- A. No Parking Zones: ~~The following zones or areas are designated by the City Council to be no parking zones wherein the parking of vehicles is prohibited except at the times and under the circumstances therein set forth. The City Council may from time to time, on motion, create other and further no parking zones within the City. The no parking zones designated by the City Council are as follows: The City Council shall establish no parking zones. No parking zones shall be designated by signage and/or curb markings and it is unlawful for any owner or operator of any vehicle to violate the provisions of city-signed restrictions~~

~~1. No automobile or vehicle shall be parked on the north side of Second Street, between Spokane Avenue and Kalispell Avenue; no automobile or vehicle except school buses when actually engaged in loading or unloading pupils shall be parked within a distance of one hundred feet (100') south of that part of the east side of Spokane Avenue extending from directly in front of the west entrance of the public school building, the distance of one hundred feet (100') shall be measured from the north side of the west entrance of the building and the area created shall be designated a no parking zone, and reserved exclusively for the use of school buses, loading and unloading pupils transported by such buses to and from the Whitefish Public School; this no parking area shall not apply during the summer months when school is not in session.~~

~~2. No automobile or vehicle shall be parked on either side of Doger Lane.~~

~~3. No automobile or vehicle shall be parked on either side of Flathead Avenue between Baker Avenue and the City's Emergency Services Center.~~

~~4. No automobile or vehicle shall be parked on the east side of Shiloh Avenue between JP Road and Lena Joy Drive.~~

~~5. All no parking zones must be either posted with a suitable sign or marked with a yellow curb.~~

B. ~~Limited Parking/Vehicle Operation Areas: The City Council declares the following to be limited parking/vehicle operation areas in which certain restrictions are established, and it shall constitute a violation of this title for the owner or operator of any vehicle to violate the provisions hereof. The City Council may, from time to time by motion, when it determines it advisable to do so, establish other and different limited parking areas within the City. The limited parking/vehicle operation areas established which are in effect are as follows:~~

~~1. The area on the south side of Second Street extending from the northeast corner of the intersection of Second Street and Lupfer Avenue for a distance of fifty feet (50') from the fire hydrant located on the corner of the intersection is created a limited parking area and the parking of automobiles and other vehicles within said parking area hereby created for a period of more than twelve (12) minutes is forbidden and prohibited; provided, however, that parking within twelve feet (12') of said fire hydrant is expressly prohibited and forbidden. Limited parking areas will be designated by signage and/or curb markings and it is unlawful for the owner or operator of any vehicle to violate the provisions of city-signed restrictions.~~

~~2. The parking of trucks and commercial vehicles in excess of twenty feet (20') overall length is prohibited anywhere on Second Street between Spokane Avenue and Lupfer Avenue and also on Central Avenue between Railway Street and Fifth Street. The city manager or designee may establish limited parking areas within the City in accordance with the following:~~

~~a. A notice to establish the proposed limited parking area will be sent to all addresses on the same "block face" (defined for purposes of these regulations as the block in which a vehicle is parked, bordered by an intersection on each end) as the proposed area.~~

~~b. A notice of such proposed limited parking area will be posted in the proposed area. The notice must state the purpose of the proposed limited parking area, the tentative boundaries of the area, and that any interested persons shall be entitled to submit comments within a month of the posted notice.~~

~~c. A notice of the proposed limited parking area will be published in a newspaper published within Flathead County.~~

~~d. Within the month period, the city manager or designee will consider comments and thereafter will determine the effectiveness of the proposed limited parking area.~~

~~3. The Operation of thru tractor trailer traffic is prohibited on Arielle Way from Shiloh Avenue to JP Road.~~

- C. ~~Two-Hour Parking Time Restricted Parking:~~ It is unlawful for any person to park any "vehicle," as defined in section 6-1-2 of this title, for more than the posted time as designated by signage~~, or in excess of two (2) continuous or consecutive hours at any one time during the hours from eight o'clock (8:00) A.M. to six o'clock (6:00) P.M. in any one (1) parking space on the following described streets within the City:~~

~~Baker Avenue from Railway Street to East Third Street;~~

~~Central Avenue from Railway Street to East Fourth Street;~~

~~Spokane Avenue from Railway Street to East Second Street;~~

~~East First Street from Spokane Avenue to Baker Avenue;~~

~~East Second Street from Spokane Avenue to Lupfer Avenue;~~

~~East Third Street from Spokane Avenue to Baker Avenue;~~

~~provided; however, if a more restricted and/or limited parking time is posted therein then such more restricted and/or limited time period for parking any vehicle shall apply. The provisions of this section shall not apply on any Sunday or legal holiday; and further provided; however, that nothing herein contained shall be construed as to permit all night parking where prohibited by law in the congested traffic areas.~~

- D. Alley Parking Restrictions: No person may stop, stand or park a vehicle for any purpose other than for active loading or unloading of persons or materials in any alley. Vehicles engaged in active loading or unloading shall stand as close as possible to one side of the alley and in any case will so stand as to permit other vehicles to pass.

~~1. — All parking of vehicles in the alleys between Railroad and Third Streets and between Spokane and Lupfer Avenues shall be parallel parking only and all such vehicles shall stand as close as possible to one (1) side of the alley and in any case shall so stand as to permit other vehicles to pass, and all parking shall be restricted to a duration of fifteen (15) minutes only.~~

~~2. — The sidewalks on the easterly side of the alley running north and south between Second and Third Streets and Central and Baker Avenues are designated as a pedestrian lane and parking is prohibited in the pedestrian lane.~~

~~3. — Vehicles in alleys shall comply with the directions and orders of police officers.~~

- E. Parking Restrictions For The City Parking Facility Located At East Second Street And Baker Avenue:

1. It shall be unlawful for any person to park any vehicle in any parking space designated as a "leased" space in the City parking facility between the hours of

six o'clock (6:00) A.M. and six o'clock (6:00) P.M., Monday through Friday (excluding City holidays), without a valid lease parking permit.

2. It shall be unlawful for any person to park any large commercial vehicle in any parking space in the City parking facility at any time.

3. It shall be unlawful for any person to allow any vehicle to remain in any parking space in the City parking facility for more than seven (7) calendar days. Any vehicle remaining in any parking space in the City parking facility shall be deemed abandoned and may be removed at the owner's expense.

4. It shall be unlawful for any vehicle to remain in any parking space that is not designated as a "leased" space for more than three (3) hours between the hours of six o'clock (6:00) A.M. and six o'clock (6:00) P.M., Monday through Friday (excluding City holidays).

F. No Re-parking:

1. No person may stop, stand or park any vehicle for a period longer than that designated by signs.

2. A vehicle will be deemed to have been parked longer than the posted time limit if it has not been moved at least "out of the block face" or out of the parking lot after expiration of the time limit indicated on the posted signage. A vehicle may not return to the initial "block face" or parking lot sooner than two hours following the expiration of the initial time period.

G. Temporary On-Street Parking Permits: Contractors, moving companies, service vendors, and other entities may need to park in the downtown area, on-street, in excess of the two-hour time limit, in order to complete a job or service. For these situations, a permit may be obtained with the following restrictions.

1. A permit application must be completed that includes:

a. Applicant name (business or individual) and contact information.

b. Client name and address at which construction, moving, or other service is being provided.

c. Start and end date.

d. Type of service being provided.

e. Vehicle License Plate Numbers, as applicable.

f. Reason the permit is necessary.

2. Licensed contractors, trades, and other service businesses are eligible for a "Temporary On-Street Parking Permit."

3. Permit applications are limited to one permit per job site, and/or destination facility.

4. A permit holder must use traffic devices approved by the Manual for Uniform Traffic Control Devices (MUTCD) in order to 'reserve' specific parking space(s). This includes barricades, traffic candles, traffic cones, delineators, etc. Such traffic devices must be at least 36 inches high, in good condition, made with a high visibility color, and display a copy-of the valid permit.

5. A permit may be issued for a maximum of thirty calendar days after which a new application must be filed.

6. Permits are only for use with on-street parking, within the time limited parking areas, during the posted hours for enforcement. The permit is not for use within any other parking area, and does not provide exemption from other parking regulations (restricted zone, disabled parking, etc.). The permit does not entitle the permit holder to engage in retail or other commercial activity.

7. Permits must be displayed at all times, as directed, or the vehicle may be cited for overtime violations.

8. Fees for Temporary On-Street Parking Permits will be adopted and adjusted by the Whitefish City Council.

FH. Violation; Penalty: A person who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, be subject to a fine as provided in the general penalty in section 1-4-1 of this Code. A person who violates this section shall also be deemed to have committed a Municipal infraction, and shall be assessed the civil penalty described in section 1-4-4 of this Code. For each separate incident, the City shall elect to treat the violation as a misdemeanor or a Municipal infraction, but not both. If a violation is repeated, the City may treat the initial violation as a misdemeanor and the repeat violation as a Municipal infraction, or vice versa. Each day that a violation remains shall constitute a separate violation.

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**RESOLUTION NO. 20-\_\_**

**A Resolution of the City Council of the City of Whitefish, Montana, donating the Snow Lot to the Whitefish Housing Authority and authorizing the City Manager to execute the Development Agreement with the Whitefish Housing Authority.**

WHEREAS, pursuant to Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43 and Ordinance No. 87-3, the City created an urban renewal district and approved the City of Whitefish Urban Renewal Plan for the district which contained a tax increment finance provision; and

WHEREAS, on April 16, 2018, through Ordinance No. 18-12, the City modified the Urban Renewal Plan to include City-owned property commonly referred to as the "Snow Lot," the legal description of which follows:

Depot Square Amd. L4&5 & BLK 29 WFSH, S36, T31N, R22W

WHEREAS, in Ordinance No. 18-12, the City also approved the development of affordable housing on the Snow Lot as an urban renewal project; and

WHEREAS, the City desires to use tax increment financing funds and cash-in-lieu funds to assist in the development of affordable housing on the Snow Lot; and

WHEREAS, the tax increment financing provision in the City's Urban Renewal Plan terminates on July 15, 2020; and

WHEREAS, § 7-15-4292(2)(a), MCA, provides that all remaining tax increment financing funds held by the City must be distributed among the various taxing bodies upon termination of the tax increment financing provision; and

WHEREAS, § 7-15-4258, MCA, allows the City to enter into a development agreement with the owner of real property located within its urban renewal area to undertake activities to prepare the property for redevelopment, including the provision of affordable housing; and

WHEREAS, § 7-15-4292(2)(b)(i), MCA, allows the City to retain and use in accordance with its Urban Renewal Plan tax increment financing funds related to a binding development agreement for an urban renewal project that the City entered into before the termination of its tax increment provision; and

WHEREAS, § 7-15-4262, MCA, allows the City to donate land to a corporation for the purpose of constructing affordable housing; and

WHEREAS, the City desires to donate the Snow Lot to the Whitefish Housing Authority, a Montana corporation, for the purpose of constructing affordable housing via the Quitclaim Deed attached hereto as Exhibit A; and

WHEREAS, pursuant to § 7-8-4201, MCA, the donation of City-owned property must be made by an ordinance or resolution passed by a two-thirds vote of all members of the City Council; and

WHEREAS, the City desires to enter into a Development Agreement with the Whitefish Housing Authority, binding after the Quitclaim deed is recorded, for the development of affordable housing prior to expiration of the tax increment financing provision so that the City may use tax increment financing funds to assist in the development; and

WHEREAS, the City and the Whitefish Housing Authority have negotiated the Development Agreement attached hereto as Exhibit B; and

WHEREAS, it will be in the best interests of the City and its inhabitants for the City to donate the Snow Lot to the Whitefish Housing Authority for the development of affordable housing and to authorize the City Manager to execute the Development Agreement after the recordation of the Quitclaim Deed.

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

Section 1: The City Council of the City of Whitefish, Montana, hereby authorizes the donation of the Snow Lot to the Whitefish Housing Authority for the development and use of affordable housing and authorizes the City Manager to execute the Quitclaim Deed attached hereto as Exhibit A.

Section 2: The City Council of the City of Whitefish, Montana, hereby approves the Development Agreement attached hereto as Exhibit B and authorizes the City Manager to execute the Development Agreement after recordation of the Quitclaim Deed.

Section 3: This Resolution will take effect immediately upon its adoption by the City Council and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020.

\_\_\_\_\_  
John M. Muhlfeld, Mayor

ATTEST:

\_\_\_\_\_  
Michelle Howke, City Clerk



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

---

Notary Public for the State of Montana

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[Print Name]

**EXHIBIT A**

Depot Square Amd. L4&5 & BLK 29 WFSH, S36, T31N, R22W

**DEVELOPMENT AGREEMENT  
BY AND BETWEEN THE CITY OF WHITEFISH  
AND THE WHITEFISH HOUSING AUTHORITY**

THIS DEVELOPMENT AGREEMENT made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between the City of Whitefish, a municipal corporation, hereinafter the "City," and the Whitefish Housing Authority, a corporation organized under the laws of the State of Montana, hereinafter the "Developer."

**RECITALS**

WHEREAS, pursuant to Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43 and Ordinance 87-3, the City created an urban renewal district and approved the City of Whitefish Urban Renewal Plan for the district containing a tax increment finance provision; and

WHEREAS, on April 16, 2018, through Ordinance No. 18-12, the City modified the Urban Renewal Plan to include previously City-owned property commonly referred to as the "Snow Lot," (referred to herein as "the Property") and located at between Railway Street and Depot Street; and

WHEREAS, in Ordinance 18-12, the City also approved the development of affordable housing on the Property as an urban renewal project; and

WHEREAS, pursuant to § 7-15-4262(5), MCA, the City donated the Property to the Developer for the purpose of constructing affordable housing; and

WHEREAS, § 7-15-4258, MCA, allows a municipality to enter into a development agreement with the owner of real property located within an urban renewal area and undertake activities to prepare the property for redevelopment; and

WHEREAS, the tax increment financing provision in the City's Urban Renewal Plan terminates on July 15, 2020; and

WHEREAS, § 7-15-4292, MCA, provides that upon termination of the tax increment provision, a local government may retain and use in accordance with the urban renewal plan funds remaining in the special fund or reserve fund related to a binding development agreement for an approved urban renewal project that a local government entered into before the termination of the tax increment provision; and

WHEREAS, the City desires to use tax increment financing funds and cash-in-lieu funds to assist in the development of affordable housing on the Property; and

WHEREAS, the parties desire to enter into a binding development agreement for the development of affordable housing on the Property to allow the City to use tax increment funds after termination of the tax increment provision in the Urban Renewal Plan.

Now, therefore, the parties hereto agree as follows:

**Section 1. *The Project.*** The Project is the development and use of the Property for permanently affordable housing. The Project is conceptually described in Exhibit A attached hereto and consists of permanently affordable townhomes.

**Section 2. *The Property.*** The Property is legally described in Exhibit B, attached hereto and incorporated herein by this reference.

**Section 3. *Representations.***

3.1. City Representations. The City hereby represents as follows:

3.1.1 The City is a duly organized and validly existing municipal corporation under the Constitution and laws of the State of Montana.

3.1.2 The City is authorized by law to enter into this Agreement and to carry out its obligations hereunder.

3.1.3 After a public hearing duly called and held, the City by ordinance approved the Project as an urban renewal project.

3.1.4 The Property is and will be suitable for the Project. The Property is so zoned that the Project is a permitted use thereon.

3.2. Developer Representations. The Developer hereby represents as follows:

3.2.1 The Developer is a corporation duly organized, validly existing, and in good standing under the laws of the State of Montana.

3.2.2 The Developer has the power to enter into this Agreement and has duly authorized the execution and delivery of this Agreement.

3.2.3 The Developer has good and insurable title to the Property, subject only to those easements, restrictions and encumbrances of record.

3.2.4 There is no action, suit, investigation or proceeding now pending, or to the knowledge of the Developer, threatened against or affecting the Developer or its key officers and its or their business, operations, properties or condition (financial or otherwise) which could materially and adversely affect the business, operations, properties or condition (financial or otherwise) of the Developer.

**Section 4. *Vested Rights of Developer.*** During the term of this Agreement, unless sooner terminated in accordance with the terms hereof, in developing the Property consistent with the Project described herein, the Developer and the City agree that the development rights, obligations, and terms and conditions specified in this Agreement, are fully vested in the

Developer and may not be changed or modified by the City, except as may be expressly permitted by the terms and conditions of this Agreement, including the Exhibits hereto, or as expressly consented thereto by the Developer.

**Section 5. *Further Discretionary Actions.*** The Developer acknowledges that the City's existing ordinances and regulations contemplate the exercise of further discretionary powers by the City. Nothing in this Agreement shall be construed to limit the authority or the obligation of the City to hold legally required public hearings, or to limit the discretion of the City and any of its officers or officials in complying with or applying existing ordinances and regulations.

**Section 6. *Developer Undertakings.***

- 6.1 **Financing Arrangements.** The Developer agrees to use its commercially reasonable best efforts, as expeditiously as practicable, to complete all arrangements necessary to finance the Project, including all capital and financing costs incurred and likely to be incurred in planning, developing, constructing and equipping the Project and agrees to pay all start-up costs, fees, expenses, and interest associated with the Project.
- 6.2 **Project Construction.** The Developer will construct, or cause to be constructed, the Project on the Property, substantially in compliance with the plans and specifications set forth in Exhibit A. The Developer shall not interfere with, or construct any improvements over, any public street or utility easement without the prior written approval of the City. All connections to public utilities and facilities shall be subject to the approval of the City and any private utility company involved. All street and utility installations, relocations, alterations and restorations shall be at the Developer's expense and without expense to the City. The Developer, at its own expense, shall replace any public facilities or utilities damaged during construction of the Project.
- 6.3 **Permits and Fees.** The Developer will obtain or cause to be obtained, at its own cost, all required permits, licenses and approvals, including land use approvals, and will meet all requirements of local, state and federal laws and regulations which must be obtained or met in connection with the construction of the Project. The Developer will pay all fees as set forth in the approved permit or approval, or as addressed in the City's ordinances and regulations.
- 6.4 **Indemnification.** The Developer will defend, indemnify and hold harmless the City and its officers, employees, and agents from and against any loss, damage, cost (including reasonable attorneys' fees), claim, demand, suit, action or other proceeding arising from damage or injuries received or sustained by an person or property by reason of any action or inaction of the Developer or its contractors, agents, officers or employees under this Agreement or in respect to the Project. This indemnity clause survives termination of this Agreement, regardless of the reason for such termination.
- 6.5 **Continuing Existence; Sale of Project.** The Developer agrees that until the Certificate of Completion is issued by the City, it will remain duly qualified to do business in the State

and will maintain its existence as a corporation and will not sell or otherwise dispose of the Project or the Developer's interest in the Project.

The City acknowledges that the Developer intends to sell ownership interests in the Project and the obligations of the Developer hereunder shall not be altered by such sale, nor may the obligations hereunder be assigned.

- 6.6 Easements. To the extent that infrastructure improvements are to be located on the Property, the Developer agrees to grant to the City easements, rights-of-way and similar licenses as are reasonably necessary to permit the City to own, operate and maintain such improvements.
- 6.7 Certificate of Completion. Promptly after completion of the Project in accordance with this Agreement, the Developer will provide the City a certificate of substantial completion from the Developer's contractor and a certificate from the inspecting engineer stating the Project has been completed substantially in accordance with the plans and specifications. The City will then promptly furnish the Developer an appropriate Certificate of Completion as conclusive evidence of satisfaction and termination of the agreements and covenants of this Agreement with respect of the Developer to construct the Project, but delivery of the Certification of Completion shall not relieve the Developer of any other covenant or agreement hereunder.
- 6.8 Compliance with Environmental Laws. The Developer will comply in all respects with all environmental laws applicable to the construction, acquisition and operation of the Project and will pay or cause to be paid all costs and expenses incurred in such compliance.
- 6.9 Taxes. The Developer agrees it will pay all real and personal property taxes levied against the Project and/or Property when due.

**Section 7. City Undertakings.**

- 7.1 Funds. The City will pay \$ 459,500 in tax increment financing funds and \$509,000 in cash-in-lieu fees received from development applications to the Developer to be used for planning, developing and constructing the Project.
- 7.2. The City will pay the tax increment financing funds to the Developer and \$259,000 of case-in-lieu fees after July 1, 2020, in a lump sum when requested by the Developer. The City will pay the remaining cash-in-lieu fees as available to distribute.
- 7.3 Indemnification. The City will defend, indemnify and hold harmless the Developer and its officers, employees, and agents from and against any loss, damage, cost (including reasonable attorneys' fees), claim, demand, suit, action or other proceeding arising from damage or injuries received or sustained by an person or property by reason of any action or inaction of the City or its contractors, agents, officers or employees under this

Agreement or in respect to the Project. This indemnification provision survives termination of this Agreement, regardless of the reason for such termination.

**Section 8. *Event of Default; Remedies.***

8.1 Default by Developer.

8.1.1 The failure by the Developer to observe and perform, or breach by the Developer of any covenant, agreement, condition or obligation on its part to be observed and performed under this Agreement, within 30 days after written notice thereof is given by the City, will constitute an "Event of Default." Provided, however, if such failure or breach cannot be cured within such 30-day period, as certified to the City by the Developer within the 30-day period and identifying the circumstances preventing such cure, the expiration of the 30-day period will be suspended so long as the Developer commences cure of such failure or breach within the 30-day period and thereafter diligently pursues such cure to completion.

8.1.2 Upon the occurrence of an Event of Default, the City may take one or more of the following remedial steps: (1) suspend the City's performance under this Agreement until it receives assurances from the Developer satisfactory to the City that the Developer will cure such Event of Default and perform its obligations under this Agreement; (2) withhold the Certificate of Completion; or (3) take any other actions deemed necessary or desirable by the City, including legal or administrative proceedings for reimbursement of the tax increment financing funds paid by the City or the enforcement of any covenant, agreement or obligation of the Developer, including an action for specific performance.

8.2. Default by City.

8.2.1 The failure by the City to observe and perform, or breach by the City of any covenant, agreement, condition or obligation on its part to be observed and performed under this Agreement, within 30 days after written notice thereof is given by the Developer will constitute an "Event of Default." Provided, however, if such failure or breach cannot be cured within such 30-day period, as certified to the City by the Developer within the 30-day period and identifying the circumstances preventing such cure, the expiration of the 30-day period will be suspended so long as the City commences cure of such failure or breach within the 30-day period and thereafter diligently pursues such cure to completion.

8.2.2 Upon the occurrence of an Event of Default, the Developer may: (1) suspend the Developer's performance under this Agreement until it receives assurances from the City satisfactory to the Developer that the City will cure such default and perform its obligations under this Agreement; or (2) take any actions deemed necessary or desirable by the Developer including legal, equitable, or administrative proceedings for the collection of any amounts due hereunder or the

enforcement of any covenant, agreement or obligation on part of the City hereunder.

**Section 9. General Provisions**

- 9.1. Conflicts of Interest. No member, officer or employee of the City shall have any personal interest, direct or indirect, in this Agreement or the Project, nor shall any member, officer, or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. No member, officer or employee of the City will be personally liable to the Developer in the event of default under or breach of this Agreement by the City, or for any amount which may become due to the Developer for any obligation issued under or arising from the terms of this Agreement.
- 9.2. Rights Cumulative. The rights and remedies of the parties to this Agreement, whether provided by law or this Agreement, shall be cumulative and the exercise by either party of one or more of such remedies shall not preclude the exercise by such party, at the same or different times, of any other remedy for the same default or breach or any of its remedies for any other default or breach of the party. No waiver made by either party with respect to the performance or the manner or time thereof of an obligation under this Agreement, shall be considered a waiver with respect to the particular obligation of the other party or a condition to its own obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect to any other rights of the party making the waiver of any obligations of the other party.
- 9.3. Term of Agreement. This Agreement will remain in effect for three (3) years after its execution. This Agreement may be extended by mutual agreement of the parties.

**Section 10. Administrative Provisions.**

- 10.1. Notices. All notices, certificates, or other communications required to be given to the City and the Developer hereunder shall be sufficiently given and shall be deemed given two days after deposit in the United States mail in certified form with postage fully prepaid and addressed as follows:

If to City:                      City of Whitefish  
    PO Box 158  
    418 East Second Street  
    Whitefish, MT 59937  
    Attn: City Manager

If to Developer:                Whitefish Housing Authority  
    100 E. 4th Street  
    Whitefish, MT 59937

- 10.2. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the City and the Developer and their respective successors and assigns.
- 10.3. Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
- 10.4. Amendments. This Agreement may be amended or any of its terms modified only by written amendment authorized and executed by the City and the Developer.
- 10.5. Further Assurances and Corrective Instruments: The City and the Developer agree that they will execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may be reasonably required for correcting any inadequate or incorrect description of the Project for carrying out the expressed intention of this Agreement.
- 10.6. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Montana.

CITY OF WHITEFISH

By: \_\_\_\_\_  
Dana Smith, City Manager

WHITEFISH HOUSING AUTHORITY

By: \_\_\_\_\_  
\_\_\_\_\_

**Exhibit A**

**[Placeholder until Conceptual Plan Received from Homeward]**

**Exhibit B**

Depot Square Amd. L4&5 & BLK 29 WFSH, S36, T31N, R22W

# Staff Report



To: Mayor John Muhlfeld and City Councilors  
From: Angela Jacobs, City Attorney  
Date: May 26, 2020  
Re: Quit Claim Deed and Development Agreement for the Snow Lot

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## **Introduction/History**

The City has owned approximately 1.64 acres of property bordered by Depot Street and Railway Street since 1995. The property has been used for years to store snow removed from City streets and is thus referred to as the "Snow Lot."

The Downtown Master Plan designated the Snow Lot as a site suitable for housing. The 2017 Whitefish Strategic Housing Plan recommended that the City create a public/private partnership to develop the Snow Lot for workforce housing rental and/or ownership units. The Strategic Housing Plan identified development of the Snow Lot as a "Tier One" strategy for helping address the City's shortage of affordable housing. As such, the City retained Homeward, a nonprofit community development organization based out of Missoula, to draft a conceptual development design and financial feasibility analysis for the Snow Lot.

On April 16, 2018, through Ordinance No. 18-12, the City modified its Urban Renewal Plan, originally adopted in 1987, to include the Snow Lot. The City also approved the development of affordable housing on the Snow Lot as an urban renewal project pursuant to § 7-15-4217, MCA.

In the summer of 2018, the Strategic Housing Steering Committee discussed transferring ownership of the Snow Lot to the Whitefish Housing Authority to act as the developer. From August through October of 2018, the City, Homeward, and the Whitefish Housing Authority engaged the neighborhood surrounding the Snow Lot and held several public meetings at which the conceptual development design was discussed. In November of 2018, Homeward presented a conceptual design for the development of the Snow Lot with two apartment buildings and six duplexes.

Over the next 12 months, the City completed environmental testing on the Snow Lot and worked with Homeward to develop a financial analysis. In early December of 2019, Homeward

presented a preliminary budget for development of the Snow Lot to the Steering Committee that revealed a significant shortfall. Due to the shortfall and various other reasons, the Steering Committee decided it would be desirable to develop the Snow Lot with permanently deed-restricted townhouses rather than a mix of ownership and rental units. In January of 2020, the Steering Committee approved a new contract with Homeword for the conceptual design and financial analysis of 24 townhomes with a phasing option.

In February of 2020, Homeword presented its revised design concept and financial analysis to the Steering Committee. The Steering Committee further discussed transferring ownership of the Snow Lot to the Whitefish Housing Authority and entering into a development agreement.

Homeword presented its revised design concept and financial analysis to the City Council at its March 2, 2020, work session. The City Council agreed to commit \$459,500 of tax increment funds to help fund development of the Snow Lot as well as \$509,000 in fees-in-lieu of which \$260,000 is immediately available.

### **Current Report**

The tax increment financing provision in the City's Urban Renewal Plan terminates on July 15, 2020. Pursuant to § 7-15-4292, MCA, the remaining tax increment funds held by the City must be distributed among the various taxing authorities upon termination. An exception exists, however, for funds related to a development agreement for an approved urban renewal project that the City entered into before the termination of the tax increment provision. Mont. Code Ann. § 7-15-4292(2)(b)(i).

Section 7-15-4258, MCA, authorizes the City to "enter into a development agreement with the owner of real property within an urban renewal area" obligating the owner to redevelop the property for a specified use consistent with the urban renewal plan. Section 7-15-4262, MCA, allows the City to donate land to a corporation for the purpose of constructing affordable housing.

The proposed Quitclaim Deed transfers ownership of the Snow Lot to the Whitefish Housing Authority in order to allow the City to enter into a development agreement with the same. It also contains a reversionary clause which provides that ownership of the Snow Lot will revert to the City if it is not used permanently to provide affordable housing.

The proposed Development Agreement requires the Whitefish Housing Authority to develop and use the Snow Lot for affordable housing, generally in accordance with the conceptual plans provided by Homeword.<sup>1</sup> It obligates the Whitefish Housing Authority to fund and construct the project. It requires the City to contribute \$459,500 of tax increment funds and

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<sup>1</sup> At the time this staff report was written, Homeword had not yet provided conceptual plans. We anticipate those plans (which are Exhibit A to the Development Agreement) will be forthcoming and will be substantially similar to those presented at the March 2, 2020, work session.

\$509,000 of cash-in-lieu funds, as available, to the project. Finally, in accordance with § 7-15-4258(2), MCA, it offers recourse to the City in the event the Whitefish Housing Authority does not develop the Snow Lot as required.

**Financial Requirements/Impacts**

Entering into the proposed Development Agreement will impact the City through \$459,500 in tax increment funds and \$509,000 of fees-in-lieu. Additionally, the Snow Lot has been appraised at \$510,000.

**Recommendation**

Staff respectfully requests the City Council approve Resolution No. \_\_\_\_, authorizing the donation of the Snow Lot to the Whitefish Housing Authority, and the City Manager to execute the Development Agreement upon recordation of the Quitclaim Deed.

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## MEMORANDUM

**To:** Mayor Muhlfeld and City Council  
**From:** Dave Taylor, AICP, Planning Director *dt*  
**Date:** May 26, 2020  
**RE:** Work Session Discussion on WB-2 Permitted and Conditional Uses

### Introduction

Last fall, the Council adopted a zoning text amendment to move automobile service station and hotels and motels from the permitted uses in the WB-2 Secondary Business District to the conditional uses and lowered the threshold of building footprints that require a CUP from 15,000 to 10,000 square feet to better control how development occurs on Highway 93 South. That went into effect in January. On May 18, the Mayor and City Council requested a work session on the WB-2 Zoning District to further look at the permitted and conditional uses of that zone. At issue is concern over the potential impacts of several other uses currently permitted in the WB-2 that the Mayor and some members of the City Council feel should perhaps have a more expansive public review.

There is also currently a Highway 93 South Corridor Plan that is in the final stages of development. The majority of the 93 South corridor is zoned WB-2. Review of the plan chapters by the appointed Steering Committee has been on hiatus due to the COVID-19 restrictions but will resume once non-essential committees are given the green light to meet again. That plan is reviewing land use, transportation, and economic development in the corridor. Part of the land use review to make recommendations with regard to the allowed uses and performance standards of the WB-2 zoning district.

### Background Information

The WB-2 is the zone where the city code directs the most intensive types of commercial uses according to the district's Intent and Purpose, which reads as follows:

*The WB-2 District is intended to provide for those retail sales and services the operations of which are typically characterized by the need for large display or parking areas, large storage areas and by outdoor commercial amusement or recreational activities. Mixed-use and multi-family development is also appropriate. This district depends on proximity to highways or arterial streets and may be located in business corridors or islands*

The WB-2 specifically lists which types of retail and service uses are permitted, whereas the other two commercial zones, the WB-1 and the WB-3, both allow all types of retail sales and services without differentiating between uses. Formula retail and restaurants are a conditional use in the

WB-1, but not permitted at all in the WB-3. Those uses are directed to the WB-2 where they are currently permitted. Formula retail is defined in 11-9-2 as:

FORMULA RETAIL: A type of retail sales activity or retail sales establishment, including restaurant, which, along with twelve (12) or more other retail sales establishments, maintains two (2) or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, uniform apparel, standardized signage, a trademark or service mark.

### Discussion of Potential Amendments

The WB-2 permitted uses mentioned as potentially needing more review by the Mayor and Council in a recent letter to the editor with regard to the Town Pump approval included the following:

- *Automobile, boat, and RV sales, rentals, parts, repair, and service*
- *Machinery and equipment sales, rental, and repair*
- *Formula restaurants*

Automobile, boat, RV and machinery and equipment sales and rentals are uses that typically have large parking and display areas to show merchandise, but also have minimal vehicle traffic coming and going compared to other uses such as grocery stores or gas stations. Our existing architectural review standards, landscaping requirements, and site development standards for non-residential uses will mitigate the majority of potential impacts other than the potential visual blight of parked display vehicles or equipment. We could consider moving those uses to the conditional uses in order to add additional conditions to mitigate any impacts on a case by case basis.

With regard to formula restaurants, the WB-2 is the zone where we direct that type of use since they are banned in the WB-3 and a conditional use in the WB-1. Formula restaurants in the WB-2 could potentially be differentiated from regular restaurants and a CUP required for them if the Council so directs. It does not seem to make sense to require all restaurants in the WB-2 to get a CUP, especially with the findings of the ongoing Highway 93 South Corridor Plan pointing for the need for additional restaurants in the corridor to serve the expanding residential population.

It should be noted that moving formula restaurants to the conditional uses would also require any existing such uses to obtain CUP's for any future expansions. Existing formula restaurants in the WB-2 includes McDonalds, Subway, Dairy Queen, and Starbucks (inside Safeway, but also a new stand-alone location just got a building permit). Pizza Hut recently went out of business.

Existing formula retail in the WB-2 includes Safeway, Super 1, Walgreens, Town Pump/Exxon, Cenex, Napa, Carquest, Nelson's Ace Hardware, Dollar Tree, Les Schwab, Western Building Supply, and Two Men and a Truck (although that is most likely considered a personal service). I think it would be unwise to add any additional restrictions to formula retail in the WB-2.

Here are some other consideration as far as permitted and conditional uses go. *Frozen food lockers* and *bus depots* are two permitted uses that have long been in there that are probably obsolete or impractical, so we should probably consider those for removal. Also, *crematories* are something that could be moved to the conditional uses as they might have unpleasant impacts to adjacent uses.

Based on the research done for the Highway 93 South Corridor Plan, *light assembly and light manufacturing* as conditional uses in the WB-2 is worth reviewing. There is limited industrial zoned property in the city, and the WB-2 has ample land to allow for some light manufacturing uses mixed in with the commercial uses that are permitted. The economic analysis that was done for the plan supported encouraging light industrial in the WB-2 to provide for higher paying jobs to promote economic development. Staff would suggest those uses be considered for an administrative conditional use in the WB-2 in order to streamline the process for potential businesses. Large facilities over 10,000 square feet would still require a full CUP. The admin CUP would allow staff to make sure outside storage is screened and any other potential impacts mitigated.

A use that staff suggests adding to the permitted uses of the WB-2 while we are making changes is *personal services*. Currently, they are a permitted use in the WB-1 along Wisconsin and downtown in the WB-3, and an administrative conditional use in high density residential zones along major arterials. The Downtown Master Plan calls for the downtown to be the retail center of the community. Personal services is not a retail use and competes with retail tenants for the limited commercial space available downtown so it would seem to be more appropriate in the WB-2. Staff is also constantly struggling with personal services that have opened or are considering the WB-2 for their business location as they were historically allowed there prior to the city forming a Planning Department. That zone already permits hair salons, and it seems to be a much better fit for tattoo parlors, moving services, personal trainers, outfitters, and other similar services.

### Recommendation

Staff recommends the council review the permitted and conditional uses of the WB-2 and give direction on any potential zoning text amendments, and whether to add this to the land use review of the WB-2 by the Highway 93 South Steering Committee or else fast-track the changes and staff will start the process of scheduling it on a future Planning Board agenda for their review.

Here is staff's initial recommendation for potential changes for your consideration:

#### **11-2K-2: PERMITTED USES:**

- \* Antique stores and auction barns.
- \* ~~Automobile, boat, and recreational vehicle sales, rentals, parts, repair and service.~~
- \* Bed and breakfast establishments
- \* Bowling establishments.
- \* Building supplies outlets.
- \* ~~Bus depot.~~
- \* Churches or similar places of worship.
- \* Daycare centers (13 or more individuals).
- \* Financial institutions and professional services.
- \* ~~Frozen food lockers, not including slaughtering.~~
- \* Furniture and floor coverings stores.
- \* Grocery stores.
- \* Hair salons.
- \* Hospitals, and associated related nursing homes, retirement homes, congregate housing and personal care facilities in a campus setting.
- \* Entertainment uses.
- \* Household appliance and electronics stores.

- \* Laundry and dry cleaning.
- \* ~~Machinery and equipment sales, rental and repair.~~
- \* Medical clinics and associated therapeutic health services.
- \* Military surplus stores.
- \* Mortuaries and crematories.
- \* Personal services
- \* Private postal services and shipping services.
- \* Professional offices.
- \* Public buildings.
- \* Recreational facilities, private and commercial.
- \* Residential:
  - \* Caretaker's units
  - \* Multi-family dwellings, one hundred percent (100%) deed restricted for long-term affordability
  - \* Multi-family dwellings, one to four (4) dwelling units above ground floor commercial
- \* Restaurants, non-formula.
- \* Seed and grain sales.
- \* Theaters.
- \* Vendors (see special provisions in section 11-3-23 of this title).
- \* Veterinary office, small animal.
- \* Wholesale and warehousing.

**11-2K-3: CONDITIONAL USES:**

- \* Automobile, boat, and recreational vehicle sales, rentals, parts, repair and service.
- \* Automotive service stations and convenience stores within
- \* Bars/lounges.
- \* Boat and recreational vehicle storage
- \* Casinos within a casino overlay zone.
- \* Colleges, business and trade schools.
- \* Crematories
- \* Hotels, motels, and other hospitality uses
- \* Light assembly and light manufacturing (administrative CUP).
- \* Machinery and equipment sales, rental and repair
- \* Microbreweries and microdistilleries.
- \* Ministorage.
- \* Personal care facilities when not in association with a hospital in a campus setting.
- \* Recreational guides and outfitters, limited to five thousand (5,000) square feet of gross floor area, no formula businesses, with no limitation on number of boats or similar equipment stored or displayed (nonadministrative CUP).
- \* Recreational vehicle parks, campgrounds and amusement parks (2 acres minimum size).
- \* Residential:
  - \* Accessory apartments.
  - \* Manufactured home subdivisions.
  - \* Multi-family dwellings, one to eighteen (18) dwelling units - administrative conditional use permit
  - \* Multi-family dwellings, nineteen (19) or more dwelling units
- \* Restaurants, formula
- \* ~~Truck stops.~~
- \* Veterinary hospital.

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# CITY MANAGER'S REPORT

May 27, 2020



## CITY COUNCIL GOALS UPDATE

On April 15, 2019, the City Council adopted 29 goals for Fiscal Year 2020. Included with this report is a chart that shows the adopted goals by Department with a brief quarterly update and the estimated date of completion. While the chart identifies goals in progress, it is important to remember that there are other significant projects ongoing, such as the Baker Avenue Underpass, analysis of future tax increment districts, and the Highway 93 South Corridor Plan. City staff continues to work diligently to maintain ongoing operations, adjust to changes as a result of the COVID-19 pandemic, and make progress on these goals.

At the direction of the City Council, we need to determine the preferred timing for a work session to discuss the FY21 City Council Goals. City staff is preparing the proposed FY21 City Council Goals based on ongoing projects and previous direction. The proposed goals will be provided to the City Council by June 1, 2020.

## COVID-19 PANDEMIC UPDATE

With the timeline of significant events about the state and local response to the COVID-19 pandemic growing in length, moving forward I will only provide updates since my last report. However, a full timeline of significant events is available upon request.

As of the date of this report, Flathead County has not reported a new case of COVID-19 since the last positive case on April 14<sup>th</sup>. While reassuring, we must continue to be vigilant in our efforts to prevent the spread in our community as the State reopens.

On May 19, 2020, Governor Steve Bullock [announced](#) that the State will move into Phase Two of the reopening plan and that the 14-day mandatory quarantine directive will be lifted on June 1<sup>st</sup>. As a result of this announcement the Whitefish emergency lodging ordinance will allow city lodging facilities to provide accommodations for all travelers also starting on June 1, 2020. The City issued a press release, mailed a letter to all lodging properties, and released a new [community update](#) video to ensure these changes were promptly communicated to our community. On May 23, 2020, the City released another [community update](#) by Mayor Muhlfield to communicate with our future visitors. The City and the Whitefish Convention and Visitors Bureau are working together to develop a responsible marketing plan as we reopen. A new website is in the works and we have joined Jackson Hole, Wyoming, in asking community members and visitors to support us in being *Clean, Careful, and Connected*.

The Governor's new directive also included language for individuals who are members of a vulnerable population, who have suffered a significant financial hardship as a result of the COVID-19 outbreak, and who, pursuant to the directive, remain sheltered at home. Protections from utility disconnections continue for those individuals 30 days after the end of their emergency shelter at home or the end of the emergency, whichever is sooner. The City has updated our late notices to ensure this protection is communicated and we have created a declaration for individuals to provide us notice if they qualify. For all other accounts, our normal process for late fees and disconnections will resume June 22, 2020. If an

individual cannot pay the account in full prior to that date, we encourage them to contact us to determine if a suitable payment arrangement can be made.

The State plans to provide surveillance testing of employees, enhanced contact tracing resources, personal protective equipment, and guidelines for operation for businesses for communities heavily impact by tourism. To ensure Whitefish is considered for these resources, I am working with the Flathead County Health Department and the Flathead Community Health Center to determine the City's options for surveillance testing of employees in Whitefish and preparations for the risk of increased spread of COVID-19 as a result of tourism.

### **WHITEFISH FIRE SERVICE AREA**

On May 7, 2020, the City issued a letter to members of the Whitefish Fire Service Area (WFSA) to provide additional information and clarifications to the letter sent by the WFSA Board on May 1, 2020. The WFSA Board is taking public comment on a proposal to shift to an all-volunteer fire department instead of renewing the contract with the City of Whitefish until June 1, 2020. On May 19<sup>th</sup>, I attended their first meeting and many individuals came out to provide comment. All of the public comment I have heard or been copied in on is in favor of continuing with the Whitefish Fire Department. After the meeting, I reached out to two WFSA Board members and I am hopeful that we will once again be able to sit down to negotiate our contract to provide fire protection services to the WFSA.

### **REMINDERS AND OTHER INFORMATION**

The second FY21 budget work session will be held at 5:30 p.m. on Monday, June 8<sup>th</sup>. This meeting is scheduled to be held at City Hall in the City Council Chambers.

### **NEXT COUNCIL MEETING**

The next City Council meeting will be held on Monday, June 15<sup>th</sup>, in the City Council Chambers. The work session is tentatively scheduled for a presentation from Montana Fish, Wildlife & Parks regarding Chronic Wasting Disease Management. Additional topics may be added to the work session.

Respectfully submitted,



Dana M. Smith, CPA  
City Manager

**FY20 WHITEFISH CITY COUNCIL GOALS**

**3<sup>rd</sup> QUARTER UPDATE**

| <b>Department/Goal</b>   | <b>Update</b>   | <b>Estimated Completion Date</b> |
|--|---|----------------------------------|
| <b>Administration</b>  |   |                                  |
| 1. Create a Finance Plan for Economic Downturn                             | Plan complete and reviewed by City Council. Final meetings to be scheduled with city employees to review plan. Staff will continue to update the financial figures annually.  | June 2020                        |
| 2. Create a Resort Tax Education and Reallocation Plan                     | Continue education through public outreach. A work session to discuss and plan for the reallocation and renewal is anticipated for June or July 2020. Delay due to COVID-19.  | June 2020                        |
| 3. Create a Cemetery Plan  | Search for an appropriate site continues.   | June 2020                        |
| <b>Fire Department</b>   |   |                                  |
| 1. Implement Long-Range Master Plan for Fire Department                    | Staff has prepared a significant portion of financial information, but it was determined that assistance from a consulting firm would be in the best interest of the City to ensure operations and funding solutions are developed and completed in a timely manner. Staff does not have the time to prepare the report. The FY21 Proposed Budget includes \$40,000 for this project. | January 2021                     |
| 2. Provide City Council Emergency Management Training                      | Training delayed due to COVID-19 pandemic as in-person meetings were cancelled. Training is anticipated to occur in early FY21. The City has implemented the Incident Command System for the pandemic, which has been a valuable training opportunity in a slow-moving incident compared to a fire or other emergency.  | September 2020                   |
| <b>Parks &amp; Recreation</b>  |   |                                  |
| 1. Depot Park Redevelopment Phase II and Phase III                         | Phase III has been bid and construction has begun. The project is scheduled to be complete by July 1, 2020.   | June 2020                        |
| 2. Bike/Ped Master Plan Wayfinding Sign Implementation                     | Signs have been installed and project is considered complete. There will continue to be new signs and adjustments to existing signs as the path system develops as ongoing maintenance.   | October 2019                     |
| 3. Explore Possible Funding Sources for Maintenance of Parks/Public Spaces | Staff continues to work on adding equipment, labor, and materials to Cityworks and continues to track spending in order to develop a cost analysis. The dashboard is up and running for administrative monitoring of data.  | Ongoing                          |
| 4. Armory Park Redevelopment Phase III                                     | We received notification from LWCF that we have been granted \$150,000 of the \$250,000   | November 2021                    |

|  |  |               |
|--|--|---------------|
|  | grant application. There is still potential for more funds to become available as we move through the grant award process. We are working on identifying which portions of the plan we will work on first and which portions we will save for when more funding becomes available. The full \$250,000 is included in the FY21 Proposed Budget in hopes we receive additional funds later in year.              |               |
| 5. Urban Forestry Management                                     | Staff continues to manage the City's urban forest by zones. Zones 1 and 2 are nearing completion.  | Ongoing       |
| 6. Long-range Operations and Maintenance Trail Strategy with WLP | Pending initial meeting to determine goal and process. Extended completion date from June 2020 to December 2020.   | December 2020 |
| <b>Planning Department</b>                                       |  |               |
| 1. Affordable Housing Implementation                             | Strategic Housing Plan Steering Committee reviewed and provided recommendation to the City Council on snow lot funding options for 24 townhouses for purchase. Contract for development of the snow lot by Whitefish Housing Authority is anticipated in June 2020. Staff discussed ADU changes with the Committee and WHA put together review standards. COVID-19 caused some delay.                          | Ongoing       |
| 2. Parking Plan for Downtown Area                                | Pilot parking permit plan pushed to summer of 2021 due to COVID-19 pandemic. Parking Implementation Committee formed, but on hold. Police Department purchased citation software, devices, and vehicle to improve enforcement. Public Works Department is working on sign inventory in downtown. The no re-parking requirements will be in effect July 1, 2020, if second reading is approved on June 1, 2020. | Ongoing       |
| 3. Update Architectural Review Standards                         | Committee reviewing draft language and photos at next meeting. Staff purchased InDesign and hired Panico Design to prepare layout. CTA Architects was also hired to prepare the details.   | June 2020     |
| 4. Update Landscaping and Tree Retention Standards               | Project pending available staff time. Date extended from March 2020 to March 2021.   | March 2021    |
| 5. Update Zoning Ordinances for Downtown Area                    | Project pending available staff time. Estimated completion date extended to December 2021.   | December 2021 |
| <b>Police Department</b>   |  |               |
| 1. Increase Capabilities of Police Department                    | New officer hire has been delayed to FY21 due to COVID-19, minimal interest, and lack of qualified applicants.   | Ongoing       |
| 2. Analyze Policing Needs if Big Mountain is Annexed (in 2023)   | Continue strategic planning and preparing a needs assessment to determine policing needs.  | January 2022  |

| <b>Public Works Department</b>  |  |               |
|---|--|---------------|
| 1. Design and Construct Wastewater Treatment Plan Upgrades                        | Swank is well underway on construction. Foundation work is complete, reactor floors have been poured, and vertical wall construction is underway.  | November 2021 |
| 2. Water Capacity Improvements and Reduce Unaccounted for Water Loss              | Water plant designs are complete. Working with DEQ to finalize their approval. SRF application submitted and working on submitting documents to secure funding. Anticipating project award in July.                                      | Ongoing       |
| 3. Create Sidewalk Assistance Program   | Several agreements have been signed by property owner and the first projects will be completed this summer.  | June 2020     |
| 4. Reduce Number of Illegal Sump Pump Connections                                 | Continuing outreach and education. Additional letters mailed to property owners and inspections scheduled.   | Ongoing       |
| 5. Complete State Park Road Improvements  | Phase II of project awarded to LHC and work is underway. Project will be completed in November 2020.   | November 2020 |
| 6. Construct Viaduct Improvements   | Finalized plans for Baker Ave. Underpass, which is currently advertised for bids. Evaluated improvements across the viaduct and determined they cannot be achieved during this phase of work due to complexity in obtaining urban funds. | November 2020 |
| 7. Construct Birch Point Quiet Zone Improvements                                  | Spoke with MDT about crossing improvement project. Received clarification on information needed from the City to add the quiet zone to the improvement project.  | June 2020     |
| 8. Construct Multi-modal Transportation Hub                                       | LHC has nearly completed the multi-modal improvements north of the library.  | June 2020     |
| 9. Update Transportation Plan   | Awarded contract to KLJ and began work on the Transportation Plan Update. Work will begin with a staff kickoff meeting and a review of current inventory.  | October 2020  |
| 10. Continue Looking into Improving Recycling Efforts with CAP Steering Committee | Met with Republic on several occasions to discuss current status of the recycling site. Included educational information in newsletter.  | Ongoing       |
| 11. Continue Working on Whitefish Lake Septic Leachate Concerns with WLI          | Continue to work with WLI and researched Senate Bill for septic study, which passed the 66th Montana legislature.  | Ongoing       |

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Whitefish City Council  
c/o Michelle Howke, City Clerk

RE: Ronnie and Sharon Kyle CUP

Mr. Mayor and Council Members:

While we appreciate your time and consideration thus far with regard to the CUP and thank you for approval, we are writing to request that you reconsider the condition imposed regarding the timing of the in lieu payment under the Legacy Homes Program (Condition #11). Practical issues with this condition may effectively prevent our moving forward with the project, a project which we anticipate will enhance the community with beneficial economic impact including job creation for the local workforce. Our experience with construction and numerous local studies across the nation demonstrate that this type of development not only attracts new residents, business, and investment in the community, but generates ongoing, long-term revenue for local residents, businesses and governments,

We believe that we may have failed previously to adequately explain our position with regard to the payment of the in lieu fee. Please consider the following: The timing of the payment is critical to this project for multiple reasons. The first is from a practical construction standpoint. Given the connecting underground garages between buildings 2 and 3 of the proposed development, the shells need to be constructed simultaneously and initially along with the remaining infrastructure for the project.

The second critical point involves the overall marketability of the project. A wholistic approach is always beneficial to marketing and sales. It is therefore important that the property as a whole has as much of an appearance of a finished product as practically possible (having shells and infrastructure in place). Initial construction of this infrastructure is also important so that the first new residents may enjoy the exterior amenities and open spaces of the project. In addition, this phased approach to construction prevents over saturation of the real estate market and provides new residents with flexibility regarding unit type and location.

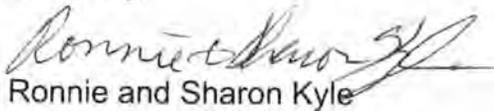
Finally, there is the financing standpoint. Our experience tells us the lenders are generally more stringent when it comes to condo financing (even prior to the COVID-19 pandemic). Accordingly, a great deal of time and energy was expended meeting successfully with your city staff to discuss phasing of the project and payment of the fee in order to minimize the known financing hurdles and marketing concerns in an effort to create a successful and healthy local market for the community. However, adding any fee onto the front end of a project does not add any value to that underlying property. The in lieu condition here, as it currently stands requires that the entire Legacy Home payment be made at the virtual start of the project-- with the completion of the shells alone. In that case, with the proposed project site valued at some \$800,000.00,

requiring an up-front, approximate \$1.2 million fee on this pre-developed property does not raise the value of the property to \$2 million. Finding a lender to finance an amount sufficient to cover the pre-development fee, should it be collected as the condition currently requires, will be difficult—with upfront fees totaling some one and one-half times the current worth of the underlying property.

Also, as previously noted by both the Building Official and the Whitefish Housing Authority in its unanimous support for an alternative payment method, they are comfortable with a per unit method of collection as follows: the Legacy Homes fee of **\$1,216,072** ( $10.4 \times \$116,930$ ) at the time of Certificate of Occupancy per each unit;  $\$1,216,072 \div 52 \text{ units} = \mathbf{\$23,386/\text{unit}}$ . Indeed, it is our understanding that, historically, in lieu fees have been collected at the time of the impact because until each unit is finished out and put into service, there is no “impact” on housing for which any fee would be required. We further understand that, given the requirement of the Legacy Home ordinance itself that the timing of the legacy units must be commensurate with that of market units, any such “pre-impact” fee collected prior to the construction of any individual unit could not be used at the time of collection. Instead, it can only be used once the “impact” (or market unit) is created. Our proposed per unit method thus seems to be directly in line with both past practices and the basic intent of the program, as would be collection of the fee at the time of the building permit for each unit (an alternative which we believe we could make work with both financing and marketing). However, we can see no reason whatsoever for the fee to be collected with the shells only, at a time when it cannot even be used to help the community and will only harm the financing, marketing, and the project as a whole, and deprive the community of a great asset, both aesthetic and financial.

We look forward to the opportunity to both become a part of and enhance your already beautiful community. To those ends, we respectfully request that you reconsider and amend the current Condition #11 so that compliance with the Legacy Homes Program may be met through the payment of \$23,386/unit at the time of certificate of occupancy for each unit (as already accepted by your staff and the Whitefish Housing Authority) or at the time of the building permit for each unit.

Sincerely,

  
Ronnie and Sharon Kyle