AGENDA

CITY COUNCIL MEETING

CITY OF SHELBY

November 21, 2016

7:00 P.M.

ROLL CALL OF MEMBERS

APPROVAL OF MINUTES

- **Regular Meeting, 11/07/16** ***(Action Item)***
- **Special Meeting, 11/14/16** ***(Action Item)***

APPEARANCE REQUESTS

- **Non Agenda Items**
- **Agenda Items**

COMMITTEE REPORTS

- **Law Enforcement Report**

CITY ATTORNEY

- **Ordinance No. 828 re: Fences (2nd rdg)** ***(Action Item)***
- **Ordinance No. 829 re: Shelby Floodplain (1st rdg)** ***(Action Item)***
- **Ordinance No. 830 re: Cat Ordinance (1st rdg)** ***(Action Item)***
- **Resolution No. 1947 re: Humic – Amended** ***(Action Item)***
- **Resolution No. 1948 re: Weed Liens** ***(Action Item)***

CITY FINANCE OFFICER

- **City Judge's Report, October 2016**
- **Bank Account Report, Budget Year to Date, Vendor Summary, Enterprise Funds, Statement of Expenditures, Revenues, Cash Flow Report, Investments, Project Budgets, October 2016** ***(Action Item)***
- **City of Shelby Delinquent Taxes, 10/31/16**
- **5 Yr Sewer Projections**
- **Water Rates**

CITY SUPERINTENDENT

COMMUNITY DEVELOPMENT DIRECTOR

- **Toole County Community Health Improvement Plan: 2017-2019**
- **Pigeon Control**

OTHER MATTERS

- **Railroad Safety Infrastructure Improvements Grant**
- **Commercial Lynks Inc Septic Proposal**
- **North Central Montana Regional Water Authority Update**
- **Storm Drainage Recommendation**
- **4th Cell Recommendation**
- **Building Permit 4338 re: Carport**
- **Carousel & Rest Area**

ADJOURN

- O V E R F O R M E E T I N G S -

CITY OF SHELBY MEETING SCHEDULE

November 21, 2016

7:00 p.m. **Regular City Council Meeting**

November 28, 2016

6:30 p.m. **Park & Recreation Meeting**
(Mayor, Superintendent, Rec Director, Clark, Kimmet, Miller)

December 5, 2016

7:00 p.m. **Audit Committee**
(Mayor, Finance Officer, Moritz, Miller, Haroldson)

7:30 p.m. **Regular City Council Meeting**

December 12, 2016

7:30 p.m. **City-County Planning Board**
(Mayor, Deputy City Clerk, City Planner, Lee, Clark)

CITY COUNCIL PACKET LISTING

A. Agenda

B. Agenda Items

1. Minutes of Regular Council Meeting, 11/07/16
2. Minutes of Special Council Meeting, 11/14/16
3. Ordinance No. 828 re: Fences (2nd rdg)
4. Ordinance No. 829 re: Shelby Floodplain (1st rdg)
5. Ordinance No. 830 re: Cats (1st rdg)
6. Resolution No. 1947 re: Humic - ***Amended***
7. Resolution No. 1948 re: Weed Liens
8. City Judge's Report, October 2016
9. Bank Account Report, October 2016
10. Budget Year to Date, October 2016
11. Vendor Summary, October 2016
12. Enterprise Funds, October 2016
13. Statement of Expenditures, October 2016
14. Statement of Revenues, October 2016
15. Cash Flow Report, October 2016
16. Statement of Investments, October 2016
17. Project Budgets, October 2016
18. City of Shelby Delinquent Taxes, 10/31/16
19. 5 Yr Sewer Projections
20. Water Rates
21. Toole County Community Health Improvement Plan: 2017-2019
22. Pigeon Control Information
23. Railroad Safety Infrastructure Improvements Grant
24. 11/8/16 Letter from Andy Van Haur, Commercial Lynks Inc re: Commercial Lynks Inc Septic Proposal
25. North Central Montana Regional Water Authority Update
26. Storm Drainage Recommendation
27. 4th Cell Recommendation
28. Building Permit for Carport

C. Correspondence

1. 10/18/16 Emails from Larry Bonderud re: Council Correspondence
2. 10/27/16 Letter from Dept of Administration re: FY 2015 Financial Review Engagement of Shelby Fire Dept Relief Assoc
3. 11/03/16 Emails from Larry Bonderud re: City of Shelby Wastewater Treatment Facility Correspondence
4. 11/03/16 Email from Abigail St Lawrence re: Change Application public notices
5. 11/7/16 Letter to Jon Axline, Environmental Services for MDT re: Historical markers ~ Champions Park
6. Letter from Lorette Carter re: Downtown Conference in Butte, MT
7. 11/9/16 Public Notices from Shelby Promoter
8. 11/9/16 Article from Helenair.com re: Wastewater disposal standards could drain ratepayers' wallets
9. 11/9/16 Email from Melissa Lewis re: MT Election MEMO
10. 11/10/16 Email from Sarah Converse re: Montana Infrastructure Update
11. 11/14/16 MT Infrastructure Meeting Minutes
12. 11/15/16 Email from Melissa Lewis re: Montana Infrastructure Coalition Meeting
13. 11/15/16 For Immediate Release: Montana Infrastructure Coalition Adopts Legislative Package
14. 11/17/16 Email Lorette re: 1st Annual Coyote Classic
15. Office of the Governor - 2019 Biennium Budget

D. Reports

E. Handouts

Policy on Conduct and Manner of Addressing Council

The public is invited to speak on any item after recognition by the presiding officer.

1. Public comments will be accepted only on items within the jurisdiction of the City of Shelby.

2. Comments shall be limited to 5 minutes per meeting, unless such time is extended by a majority vote of the Council members.

3. While the Council is in session, those in attendance must preserve order and decorum. No member of the public shall delay or interrupt the Council proceedings; disturb any member who may be speaking; or refuse to obey the orders of the Council or its presiding officer.

4. Prepared statements are welcome and should be given to the Finance Officer prior to a Council meeting. Prepared statements that are also read, however, shall be deemed unduly repetitious. All prepared statements for public hearings shall become part of the hearing record.

5. All remarks shall be addressed to the Council as a body and not to any member of the Council or Staff.

6. Public members recognized by the presiding officer, shall:

    a. Stand, if able
    b. For the record, give his/her name and address
    c. If applicable, give the person, firm or organization he/she represents
    d. Limit comments to the matter of fact
    e. Address the Council as a body and not to any individual member of the Council or City Staff
    f. Ask no questions of individuals who are Council members, staff or other public members, except through the presiding officer
    g. Limit comments to a maximum of 5 minutes, unless such time is extended by a majority vote of Council members.

The Council thanks public members for respectfully and courteously providing constructive and valuable information.

MINUTES OF REGULAR COUNCIL MEETING OF THE SHELBY CITY COUNCIL
HELD IN COUNCIL CHAMBERS
November 7, 2016

Mayor Bonderud called the meeting to order at 7:30 p.m. Present were: Debra Clark, Lyle Kimmet, Don Lee, Bill Moritz and Chip Miller, Council Members; Bill Hunt, City Attorney; Jade Goroski, Finance Officer; Loren Skartved, City Superintendent; Rob Tasker Building Inspector and Lorette Carter, Community Development Director. Absent and Excused: None

Other citizens present: Faron Robison, Andy Van Haur, Steve Ahrens, Mark Beckedahl, Allan Underdal, Loralee Aikins, Sandra Steiner, Mark Daniels, Carla McNamara, Mary Whitt, Gary Keifer, Brad Aklestad, Benjamin Aklestad, Sage Aklestad, Shawnie Aklestad, Harry Benjamin, Jeane Benjamin, Lloyd Omdahl, Ula Omdahl, Bob Clary, Ann Clark, Gary McDermott, Brian Lee, Deb Brandon, Deb Skartved, Mark Daniels, Don Fisher, Shane Clark, Jim Yeagley, Leslie Woltdvedt, Mary Slicker, Tyler Snoeck, Caden Laine, R. Laine, Malina Donovan, Dorothy Sargent, Don Fisher, Sara Brown and Jennifer Van Heel.

REGULAR MEETING MINUTES 10/17/2016

- **MORITZ MADE A MOTION TO APPROVE THE 10/17/2016 MINUTES. SECONDED BY CLARK. VOTE AYES - MORITZ, MILLER, CLARK, KIMMET, LEE. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE.**

APPERANCE REQUESTS

- **Harry Benjamin - Carousel Proposal - Mr. Benjamin asked the council to consider Historic City Hall Park for the carousel location.**
- **Commissioner Underdal made an appearance asking the council to reconsider some alternative that would allow for economic development. Andy Van Haur asked the council to allow him a variance on the building code allowing for Commercial Links to build in the Industrial Park. Faron Robison questioned the Storm Drain project, sandbagging and possible alternatives.**

CLAIMS REPORT 10/31/2016

- **MORTIZ MADE A MOTION TO APPROVE THE 10/31/2016 CLAIMS REPORT. SECONDED BY MILLER. VOTE AYES - MORITZ, MILLER, CLARK, KIMMET, LEE. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE.**

BUILDING INSPECTOR

Rob Tasker reported two new permits issued, two permits pending and six open permits. Letters have been sent to four properties regarding community decay. Mayor Bonderud stated all permits need to be approved by City Council and that Public Works will recommend no new hookups.

COMMITTEE REPORTS

- **Safety Committee Meeting and Employee Quarterly Meeting, 10/20/16**

CITY ATTORNEY

- Ordinance No. 828 re: Fences (1st reading)
  MILLER MADE A MOTION TO APPROVE THE FIRST READING OF ORDINANCE 828. SECONDED BY KIMMET. VOTE AYES - MORITZ, MILLER, CLARK, KIMMET, LEE. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE.
- Resolution No. 1947 - Accepting Economic Development Assistance Grant from the Montana Department of Commerce to assist Humic Growth Solutions.
  MORITZ MADE A MOTION TO APPROVE RESOLUTION NO. 1947. SECONDED BY MILLER. VOTE AYES - MORITZ, MILLER, CLARK, KIMMET. NOES - NONE. ABSENT - NONE. ABSTAIN - LEE.

CITY SUPERINTENDENT

Loren Skartved reported the crew has installed the water pump for Humic, put a new seal on the garbage truck and fixed a gate box for the hospital. Loren discussed the list of 18 potential violations the City may be facing every week beginning the first quarter of 2017. Loren also talked to council regarding an invoice for repair that requires council approval.

COMMUNITY DEVELOPMENT DIRECTOR

- The Department of Commerce CDBG-ED has awarded a $400,000 grant for water extension to the Humic Growth Solutions. The EDA pre-application has been sent at which time it is approved, a full application will be sent for consideration.
- The Department of Commerce Big Sky Trust Fund Job Creation grant documentation will be complete tonight with approval

of the resolution to distribute the funds and agreement with Humic Growth on the requirements of the grant.

- We have not received word from the Governor's office on the community selected as the 2017 Tree City of the Year. In the interim, I have applied for Urban Forestry Development for the same project at Champions Park. I also completed the Tree City USA status application.
- Work continues on the Data Center Feasibility Study.
- We have also been working on the donor sign for the Shelby Splash Park and will order early 2017 for placement in the spring at the pool complex.
- November 2nd was the meeting of the Shelby Recycling Association. We are planning a repurposing project with the Shelby RECCS students as part of America Recycles Day on November 15th.
- The Social Media Committee will meet November 9th. The November campaign is Give thanks for…. And the December campaign is Hometown for the Holidays highlighting our local businesses.
- I am also creating weekly Facebook posts encouraging residents to shop locally - supporting our local businesses and thanking them for doing business in Shelby.
- I continue to post a weekly rental list for our community. The list is revised weekly and sent to NaturEner, CCA, Marias Medical Center, Border Services and the Shelby Area Chamber for distribution to new employees and new residents to Shelby.
- I have sent a request to the Montana Department of Transportation for two historical markers for Champions Park. The markers would be along Highway 2 within a couple blocks of the Park.
- Through the Extension Office a committee has been formed to oversee the Farmer's Market. During our first meeting, we chose to take the funds paid from last summer's market to purchase canopies and tables for the market. We will move the market vendors to one area of the park. We will also extend the season through September. The Extension Office is also writing a grant for an electronic device which would allow TANF credits to be used. It was also discussed to move the Tuesdays under the Stars concert series to Thursdays at the Market. The music will start after the Farmer's Market and we hope to include food vendors to encourage people to enjoy the Farmer's Market, have dinner in the park and enjoy the music. We are also looking to have more non-food vendors participate. The committee

would like to ask permission to use City Park on Thursdays from July 20th through September 28th.

- The Toole County Combined Fund Drive Committee will be mailing out 2016 Fund Drive Campaign soon. Albertsons and the Sunburst Mercantile have agreed to allow us to use bag stuffers to remind people to give to the yearly campaign. We will also have a second sign in addition to the Albertson's corner on the former Lennon Lumber brick building at the base of the viaduct showing people the progress of the campaign. The goal is $30,000.00. We did not meet the goal last year, but hope to meet it this year. I would like to ask permission for the committee to place the sign in the park again this year.
- The defensive driving course planned for October 25th had to be cancelled due to illness. We will reschedule for the spring.
- The Shelby TBID will be meeting November 15th. They will discuss upcoming advertising opportunities; support of the Next Generation Conference; and the Voices of Tourism campaign.
- The Northern Transit Interlocal is also scheduled to meet on November 15th.
- I have included in council packets my overview of the Montana Downtown Conference.

OTHER MATTERS

- **Haroldson Resignation & Declaration of Vacancy**
  MORITZ MADE A MOTION APPROVING THE HAROLDSON RESIGNATION. SECONDED BY KIMMET. VOTE AYES - MORITZ, MILLER, CLARK, KIMMET, LEE. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE.
- **Resignation of Council President Acceptance**
  MORITZ MADE A MOTION TO APPROVE THE RESIGNATION OF COUNCIL PRESIDENT. SECONDED BY LEE. VOTE AYES - MORITZ, MILLER, CLARK, KIMMET, LEE. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE.
- **Election of Council President –**
  MORITZ MADE A MOTION TO APPOINT KIMMET AS INTERIM COUNCIL PRESIDENT. SECONDED BY CLARK. VOTE AYES - MORITZ, MILLER, CLARK, KIMMET. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE
- **Request for Interim Water Service**
- LEE MADE A MOTION TO APPROVE THE INTERIM WATER SERVICE REQUEST. SECONDED BY MILLER. VOTE AYES - MORITZ, MILLER, CLARK, KIMMET, LEE. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE.
- **Re-appoint Public Safety Commission**

KIMMET MADE A MOTION TO RE-APPOINT DAN WHITTED TO THE PUBLIC SAFETY COMMISSION. SECONDED BY LEE. VOTE AYES - MORITZ, MILLER, CLARK, KIMMET, LEE. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE.

- **City of Shelby Property for Sale**
  MAYOR BONDERUD RECOMMENDED THAT THE CITY WAIT TO SELL CITY PROPERTY UNTIL WE CAN ALLOW FOR SEWER HOOKUPS.
- MORITZ MADE A MOTION TO CANCEL THE PROPERTY LISTING. SECONDED BY KIMMET. VOTE AYES - MORITZ, MILLER, CLARK, KIMMET, LEE. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE. COUNCIL AMMEDED MOTION TO LEAVE THE WILLAMSON BUILDING UP FOR SALE. VOTE AYES - MORITZ, MILLER, CLARK, KIMMET, LEE. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE.
- **New Cost Estimate Storm Drainage**
- **New Cost Estimate 4th Cell**
- **Reconsideration of Storm Water Drainage Project**
- **Sewer Hookup Policy –**
- ALL SEWER HOOKUPS WILL HAVE TO BE APPROVED BY CITY COUNCIL.
- **Building Permit Council and Public Works Review**
  ALL BUILDING PERMITS WILL BE REVIEWED AND APPROVED BY CITY COUNCIL.
- **Side by Side Request**
  MILLER MADE A MOTION TO APPROVE THE SIDE BY SIDE PURCHASE FOR UP TO $12,943. SECONDED BY MORITZ. VOTE AYES - MORITZ, MILLER, CLARK, KIMMET, LEE. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE.
- **Request for Sewer Service – Bitterroot School**
- **Don Lee Resignation from Council and declaration of vacancy**
  CLARK MADE A MOTION TO ACCEPT LEE'S RESIGNATION AND DECLARATION OF THE VACANCY. SECONDED BY KIMMET. VOTE AYES- MORITZ, MILLER, CLARK, KIMMET, LEE. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE.
- **Appoint Gary McDermott as councilmember for Ward 3**
  KIMMET MADE A MOTION TO APPOINT GARY MCDERMOTT TO WARD 3. SECONDED BY CLARK. VOTE AYES - MORITZ, MILLER, CLARK, KIMMET. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE.
- **Appoint Brian Lee as councilmember for Ward 2**
  KIMMET MADE A MOTION TO APPOINT BRIAN LEE TO WARD 2. SECONDED BY MORITZ. VOTE AYES - MORITZ, MILLER, CLARK, KIMMET. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE
- **Oath's of Office Gary McDermott and Brian Lee**

MAYOR BONDERUD SWORE IN GARY MCDERMOTT AND BRIAN LEE WITH THE OATH OF OFFICE.

- NOVEMBER 14TH THERE WILL BE A SPECIAL MEETING SCHEDULED TO DISCUSS THE CAPACITY ISSUES AND CLAIMS ON HOLD.
-

ADJOURN

AT 9:45 P.M. MORITZ MADE A MOTION TO ADJOURN THE MEETING. SECONDED BY MILLER. VOTE: AYES - CLARK, KIMMET, MORITZ AND MILLER. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE.

LARRY J. BONDERUD, MAYOR

ATTEST:

JADE GOROSKI, FINANCE OFFICER

MINUTES OF A SPECIAL MEETING OF THE SHELBY CITY COUNCIL
HELD IN COUNCIL CHAMBERS
NOVEMBER 14, 2016

Mayor Bonderud called the meeting to order at 7:30 p.m. Present were: Debra Clark, Lyle Kimmet, Gary McDermott, Brian Lee, Bill Moritz and Chip Miller, Council Members; Bill Hunt, City Attorney; Jade Goroski, Finance Officer; Loren Skartved, City Superintendent; and Lorette Carter, Community Development Director.

Other citizens present: Deb Brandon, Steve Ahrens, Malina Donovan, Sandra Steiner, Mark Daniels, April Seubert, Gary Seubert and Kris Ingenthron.

APPERANCE REQUESTS:

DEQ STATUS AND SUMMARY OF THE PROBLEMS

- **KLJ Invoice for Storm Drainage Project**
- **KLJ Invoice for 4th Cell Project**
- **Bond Council Billing – Barnes & Thornburg LLP**
- **Bond Council Billing – Dorsey**
- **Moratorium on any Wastewater Flow Increases**

STORM DRAINAGE PROJECT OPTIONS AND COSTS

Council members discussed the new storm drain project and potential other options to deal with the storm water.

4TH CELL PROJECT OPTIONS AND COSTS

Council discussed the 4th cell and the need for a 5th cell in the future.

5th CELL OPTION AND COSTS

MECHANICAL TREATMENT OPTION

All options will be listed on the 11/21/2016 meeting agenda.

ADJOURN

Clark made a motion to adjourn the meeting at 10:00 pm. Seconded by Lee. VOTE AYES - MORITZ, MILLER, CLARK, KIMMET, LEE, McDermott. NOES - NONE. ABSENT - NONE. ABSTAIN - NONE.

LARRY J. BONDERUD, MAYOR

ATTEST:

JADE GOROSKI, FINANCE OFFICER

ORDINANCE NO. 828

AN ORDINANCE AMENDING TITLE 13- ZONING REGULATIONS, CHAPTER 4- GENERAL REQUIREMENTS, SECTION 5- FENCES AND BARRIERS, TO INCREASE THE MAXIMUM ALLOWABLE HEIGHT OF FENCES AND BARRIERS IN THE FRONT YARD OF LOW OR MEDIUM DENSITY RESIDENTIAL DISTRICTS

WHEREAS, the City Council wishes to increase the height restriction of fences and barriers in front yards within the Low or Medium Density Residential Districts.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SHELBY, MONTANA that the following sections of the Shelby Municipal Code shall be amended as follows and in full force and effect in the City of Shelby, Montana.

13-4-5 FENCES AND BARRIERS

A. Low or Medium Density Residential Districts: No fence or barrier exceeding five feet (5') in height shall be constructed in Low Density or Medium Density Residential Districts except in the rear or side yard, where the fence may be six feet (6') in height.

FIRST, passed and approved by the Council of the City of Shelby, Montana this 7th day of November, 2016.

_____
Larry J. Bonderud, Mayor

Attest:

_____
Jade Goroski, Finance Officer

FINALLY, passed and approved by the Council of the City of Shelby, Montana this ____ day of _____, 2016.

_____
Larry J. Bonderud, Mayor

Attest:

_____
Jade Goroski, Finance Officer

ORDINANCE NO. 829

AN ORDINANCE AMENDING TITLE 14 FLOOD CONTROL

WHEREAS, the City Council wishes to amend Title 14 Flood Control

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SHELBY, MONTANA that the following title of the Shelby Municipal Code shall be amended as follows and in full force and effect in the City of Shelby, Montana.

TITLE 14
FLOOD CONTROL

Subject	Chapter
Title, Purpose, Authority And General Provisions	1
Definitions	2
Forms And Fees	3
Regulated Flood Hazard Areas	4
Uses Allowed Without A Permit Within The Regulated Flood Hazard Area	5
Prohibited Uses, Activities And Structures Within The Regulated Flood Hazard Area	6
Floodplain Permit Application Requirements	7
Application Evaluation	8
Development Requirements In The Floodway	9
Development Requirements In The Flood Fringe Or Regulated Flood Hazard Area With No Floodway	10
Emergencies	11
Variances	12
Administrative Appeals	13
Enforcement	14
Penalties	15

CHAPTER 1
TITLE, PURPOSE, AUTHORITY AND GENERAL PROVISIONS

SECTION:

14-1- 1: Floodplain Hazard Management Regulations
14-1- 2: Statutory Authority
14-1- 3: Findings of Fact
14-1- 4: Purpose
14-1- 5: Methods To Reduce Losses
14-1- 6: Regulated Area
14-1- 7: Floodplain Administrator
14-1- 8: Compliance
14-1- 9: Abrogation And Greater Responsibility

14-1-10: Regulation Interpretation
14-1-11: Warning And Disclaimer of Liability
14-1-12: Severability
14-1-13: Disclosure Provision
14-1-14: Amendment Of Regulations
14-1-15: Public Records
14-1-16: Subdivision Review
14-1-17: Disaster Recovery

14-1-1: FLOODPLAIN HAZARD MANAGEMENT REGULATIONS :

These regulations are known and may be cited as the "Shelby Floodplain Hazard Management Regulations;" hereinafter referred to as "these regulations."

14-1-2: STATUTORY AUTHORITY:

A. Floodplain and Floodway Management is incorporated in Montana Code Annotated (MCA) Title 76, Chapter 5 and describes the authority, procedures and minimum standards for local regulations and is further described in Montana Administrative Rule (ARM) 36, Chapter 15.

B. The authority to regulate development in specifically identified flood hazard areas has been accepted pursuant to 76-5-301, MCA.

14-1-3: FINDINGS OF FACT:

A. Flood hazard areas specifically adopted herein as Regulated Flood Hazard Areas have been delineated and designated by order or determination of the Department of Natural Resources and Conservation (DNRC) pursuant to MCA 76-5-201 et.seq.

B. These regulations have been reviewed by Montana Department of Natural Resources and Conservation and the Federal Emergency Management Agency. The Montana Department of Natural Resources and Conservation has found the regulations acceptable in meeting the Department minimum standards. The Federal Emergency Management Agency finds that these regulations are adequate and consistent with the comprehensive criteria for land management and use pursuant to the standards established in 44 CFR 60.3. (76-5-302, MCA, ARM 36.15.202, 44 CFR60.1(b), 42USC 4022)

14-1-4: PURPOSE:

The purpose of these regulations is to promote public health, safety and general welfare of the residents and minimize public and private losses due to flood conditions in Regulated Flood Hazard Areas. These Regulations are intended to:

A. Protect human life and health;
B. Minimize expenditure of public money for costly flood control projects;
C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
D. Minimize prolonged business and public service interruptions;

E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
F. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood disruptions; and to
G. Ensure compliance with the minimum standards for the continued participation in the National Flood Insurance Program for the benefit of the residents.

14-1-5: METHODS TO REDUCE LOSSES:

In accordance with 76-5-102, MCA, these regulations are intended to reduce flood losses through the following methods:

A. Restrict or prohibit uses that are dangerous to health, safety or property in times of flooding or that may cause excessive increases in flood heights or velocities;
B. Require that uses of land vulnerable to floods, including public facilities, be developed or constructed to at least minimum standards or to otherwise minimize flood damage;
C. Regulate the alteration of natural floodplains, stream channels, and natural protective barriers which are needed to accommodate floodwaters;
D. Regulate filling, grading, dredging and other development which may increase flood damage;
E. Prevent or regulate the construction of flood barriers which will impact other land, flood water depth or velocity of floodwaters;
F. Distinguish between the land use regulations applied to the floodway within the Regulated Flood Hazard Area and those applied to that portion of the Regulated Flood Hazard Area not contained in the floodway;
G. Apply more restrictive land use regulations within the floodway of the Regulated Flood Hazard Area; and
H. Ensure that regulations and minimum standards balance the greatest public good with the least private injury.

14-1-6: REGULATED AREA:

These regulations apply only to the flood hazard areas specifically adopted herein as Regulated Flood Hazard Areas which are more fully and specifically described in chapter 4. Requirements and approvals for alterations to the Regulated Flood Hazard Area are specified in chapter 4. The Regulated Flood Hazard Area includes areas specifically identified, labeled and illustrated on maps such as Floodplain, Floodway, or Flood Fringe that have differing uses allowed and minimum building standards that apply. The Regulated Flood Hazard Area is the geographic area inundated by the Flood of 100-year Frequency illustrated and depicted in the referenced studies and maps.

The Regulated Flood Hazard Area supporting study and maps illustrating the regulatory area are based on studies and maps that have been specifically adopted pursuant to 76-5-201et.seq. The maps and accompanying study become the Regulated Flood Hazard Area only when formally adopted by DNRC and subsequently by the political subdivision by these regulations. The original source of studies and data may be from a Flood

Insurance Study by FEMA, or other studies by Corps of Engineers, Soil Conservation, United States Geological Service or other federal or state agency.

14-1-7: FLOODPLAIN ADMINISTRATOR:
A Floodplain Administrator is hereby officially appointed and is the responsibility of the office of Shelby Public Works. The Floodplain Administrator's duty is to administer and implement the provisions of these regulations. The Floodplain Administrator must serve to meet and maintain the commitments pursuant to 44 CFR 59.22(a) to FEMA to remain eligible for National Flood Insurance for individuals and business within the political subdivision. ((44 CFR 59.22(b)(1)) (ARM 36.15.204(2)(h))

14-1-8: COMPLIANCE: Development, New Construction, Alteration or Substantial Improvement may not commence without full compliance with the provisions of these regulations.

14-1-9: ABROGATION AND GREATER RESPONSIBILITY:
It is not intended by these regulations to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, zoning or other regulations in effect. However, where these regulations impose greater restrictions, the provision of these regulations must prevail. (44 CFR 60.1(d))

14-1-10: REGULATION INTERPRETATION:
In the interpretation and application of these regulations, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under state statutes. (44 CFR 60.1)

14-1-11: WARNING AND DISCLAIMER OF LIABILITY:
These regulations do not imply that land outside the Regulated Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder.

14-1-12: SEVERABILITY:
If any section, clause, sentence, or phrase of these regulations is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding will in no way affect the validity of the remaining portions of these regulations.

14-1-13: DISCLOSURE PROVISION:
All property owners or their agents in the Regulated Flood Hazard Areas shall notify potential buyers or their agents that such property, including any permitted uses transferred, is located within the Regulated Flood Hazard Area and is subject to regulation and any permitted uses that are transferred. Information regarding Regulated Flood Hazard Area and the repository for Floodplain maps is available in the Floodplain Administrator's office. (ARM 36.15.204(2)(g))

14-1-14: AMENDMENT OF REGULATIONS:

These regulations may be amended after notice and public hearing in regard to the amendments to these regulations. The amendments must be found adequate and acceptable by DNRC and FEMA to be effective and must be submitted for review at least 60 days prior to official adoption.

14-1-15: PUBLIC RECORDS:

Records, including permits and applications, elevation and flood proofing certificates, certificates of compliance, fee receipts, and other matters relating to these regulations must be maintained by the Floodplain Administrator and are public records and must be made available for inspection and for copies upon reasonable request. A reasonable copying cost for copying documents for members of the public may be charged and may require payments of the costs before providing the copies. (44 CFR 60.3(b)(5)(iii) & 44 CFR 59.22 (a)(9)(iii))

14-1-16: SUBDIVISION REVIEW:

Within the Regulated Flood Hazard Area, subdivisions including new or expansion of existing manufactured home parks, must be designed to meet the following criteria:

A. The Base Flood Elevations and boundary of the Regulated Flood Hazard area must be determined and considered during lot layout and building location design;
B. Locations for future structures and development must be reasonably safe from flooding; (44CFR 60.3(a)(4))
C. Adequate surface water drainage must be provided to reduce exposure to flood hazards; (44 CFR 60.3 (a)(4)(iii))
D. Public utilities and facilities such as sewer, gas, electrical and water systems must be located and constructed to minimize or eliminate flood damage; and (44 CFR 60.3(a)(4)(ii))
E. Floodplain permits must be obtained according to these regulations before development occurs that is within the Regulated Flood Hazard Area. (44 CFR 60.3(b))

14-1-17: DISASTER RECOVERY:

In the event of a natural or man-made disaster, the Floodplain Administrator should participate in the coordination of assistance and provide information to structure owners concerning Hazard Mitigation and Recovery measures with the Federal Emergency Management Agency, Montana Disaster Emergency Services, Montana Department of Natural Resources and Conservation, and other state, local and private emergency service organizations.

Upon completion of cursory street view structure condition survey within the Regulated Flood Hazard Area, the Floodplain Administrator shall notify owners that a permit may be necessary for an alteration or substantial improvement before repair or reconstruction commences on damaged structures because of damages caused by natural or man-made disasters such as floods, fires or winds.

Owners should be advised that structures that have suffered substantial damage and will undergo substantial improvements require a floodplain application and permit and must be upgraded to meet the minimum building standards herein during repair or reconstruction.((MCA 76-5-404(3)(b) (ARM 36.15.702) (44 CFR 60.3(c)(2 and 3))

CHAPTER 2
DEFINITIONS

SECTION:
14-2- 1: Definitions

14-2-1: DEFINITIONS:
Unless specifically defined below, words or phrases used in these regulations shall be interpreted as to give them the meaning they have in common usage and the most reasonable application. For the purpose of these regulations, the following definitions are adopted:

Alteration – Any change or addition to an artificial obstruction that either increases its external dimensions or increases its potential flood hazard. (ARM 36.15.101(2))

Appurtenant Structure – A structure in which the use is incidental or accessory to the use of a principal structure. (44 CFR 59.1)

Artificial Obstruction – Any obstruction which is not natural and includes any development, dam, diversion, wall, riprap, embankment, levee, dike, pile, abutment, projection, revetment, excavation, channel rectification, road, bridge, conduit, culvert, building, refuse, automobile body, fill or other analogous structure or matter in, along, across, or projecting into any Regulated Flood Hazard Area that may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water, or that is placed where the natural flow of the water would carry the same downstream to the damage or detriment of either life or property. See also Development. (ARM 36.15.101(3) & MCA 76-5-103(1))

Base Flood (Flood of 100 Year Frequency) – A flood having a one percent (1%) chance of being equaled or exceeded in any given year (ARM 36.15.101(4) & (44 CFR 59.1)

Base Flood Elevation (BFE) – The elevation above sea level of the Base Flood in relation to the National Geodic Vertical Datum of 1929 or the North American Vertical Datum of 1988 or unless otherwise specified. (ARM 36.15.101(5))

Basement – Any area of a building, except a crawl space, as having its lowest floor below ground level on all sides. (44 CFR 59.1) (NFIP Insurance Manual, Rev. May 2013)

Building – A walled and roofed structure, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. (44 CFR 59.1)

Channel – The geographical area within either the natural or artificial banks of a watercourse or drain way. (MCA 76-5-103(2))

Crawl Space – An enclosure that has its interior floor area no more than 5 feet below the top of the next highest floor. See Enclosure and Sub grade Crawlspace. (NFIP Insurance Manual, Rev. May 2013)

DNRC – Montana Department of Natural Resources and Conservation

Development –Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. See also Artificial Obstruction. (44 CFR59.1)

Elevated Building – A building that has no Basement and that has it lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns. A building on a crawlspace is considered an elevated building. (NFIP Insurance Manual, Rev. May 2013)

Enclosure – That portion below the lowest elevated floor of an elevated building that is either partially or fully shut in by rigid walls including a crawlspace, sub grade crawlspace, stairwell, elevator or a garage below or attached.

Encroachment – Activities or construction within the Regulated Flood Hazard Area including fill, new construction, substantial improvements, and other development.

Encroachment Analysis – A hydrologic and hydraulic analysis performed by an engineer to assess the effects of the proposed artificial obstruction or nonconforming use on Base Flood Elevation, flood flows and flood velocities.

Establish – To construct, place, insert, or excavate. (MCA 76-5-103(7) (ARM 36.15.101(9))

Existing Artificial Obstruction or Nonconforming Use – An artificial obstruction or nonconforming use that was established before land use regulations were adopted pursuant to Section 76-5-301(1), MCA. (MCA 76-5-404(3))

FEMA – Federal Emergency Management Agency

Flood Fringe – The identified portion of the Floodplain of the Regulated Flood Hazard Area outside the limits of the Floodway. (ARM 36.15.101(10))

Flood of 100 Year Frequency (Base Flood) – A flood magnitude expected to recur on the average of once every 100-years or a flood magnitude that has a 1% chance of occurring in any given year. (MCA 76-5-103(9)) (44 CFR 59.1)

Floodplain – The area of the Regulated Flood Hazard Area including and adjoining the watercourse or drainway that would be covered by the floodwater of a Base Flood. The area is partitioned into a Flood Fringe and Floodway where specifically designated. See Regulated Flood Hazard Area.

Floodway – The identified portion of the Floodplain of the Regulated Flood Hazard Area that is the channel and the area adjoining the channel that is reasonably required to carry the discharge of the Base Flood without cumulatively increasing the water surface by more than one half foot. (MCA 76-5-103(11)) (MCA 76-5-103(5))

Floodplain Administrator – Community official or representative appointed to administer and implement the provisions of this ordinance.

Flood Proofing – Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, electrical, plumbing, HVAC systems, structures and their contents. The term includes wet flood proofing, dry flood proofing and elevation of structures. ((44 CFR 59.1)

Letter of Map Change (LOMC) – An official response from FEMA that amends or revises the FEMA Special Flood Hazard Area and FEMA Flood Insurance Study for flood insurance purposes and/or flood risk hazard. FEMA Letters of Map Change specific to an amendment or revision include:

Letter of Map Amendment (LOMA) – A letter of determination from FEMA issued in response to a request that a property or structure is not subject to the mandatory flood insurance requirement because it was inadvertently located in the effective FEMA Special Flood Hazard Area. The material submitted and response from FEMA may be considered by the Floodplain Administrator for determining if a property or structure is within the Regulated Flood Hazard area and subject to these regulations.

Letter of Map Revision Based on Fill (LOMR-F) – A letter of approval from FEMA removing the mandatory requirement for flood insurance on property based on placement of fill or an addition. Placement of fill or an addition must be preceded by a permit pursuant to these regulations. Placement of fill does not remove the development from the Regulated Flood Hazard Area or these regulations.

Letter of Map Revision (LOMR) – An official FEMA amendment to the currently effective FEMA Flood Insurance Rate Map or FEMA Flood Boundary Map based on a physical change to the floodplain of the Special Flood Hazard Area. It is issued by FEMA and changes flood zones, delineations, and elevations on the FEMA Flood Insurance Rate Map or FEMA Flood Boundary Map and may amend the FEMA Flood Insurance Study. It must be preceded by an approved alteration

of the designated floodplain from DNRC and subsequently an amendment to the Regulated Flood Hazard Area.

Conditional Letter of Map Revision (CLOMR) – A FEMA letter of approval for a proposed physical change that when completed would propose to change the flood zones, delineation or elevations on the FEMA Flood Insurance Rate Map or FEMA Flood Boundary Map and may amend the FEMA Flood Insurance Study through a subsequent LOMR,. The CLOMR may be considered in an evaluation by DNRC and the Floodplain Administrator during consideration of a proposed alteration to the Regulated Flood Hazard Area.

Lowest Floor – Any floor of a building including a basement used for living purposes, storage, or recreation. This includes any floor that could be converted to such a use. ((ARM 36.15.101(14)) (44 CFR 59.1))

Manufactured Home Park or Subdivision – Includes the construction of facilities for servicing the manufactured home lots and at a minimum includes the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads. (44 CFR 59.1)

Manufactured or Mobile Home – A building that may be residential or non-residential, is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities and includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. (ARM 36.15.101(15))

New Construction – Structures for which the commencement of clearing, grading, filling, or excavating to prepare a site for construction occurs on or after the effective date of these regulations and includes any subsequent improvements to such structures. (ARM 36.15.101(20)) (44 CFR 59.1)

New Manufactured Home Park Or Subdivision – A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed includes at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads and is completed on or after the effective date of floodplain management regulations adopted by a community. (44 CFR 59.1)

Non-Residential– Buildings including manufactured homes that are not residential including commercial, agricultural, industrial buildings and accessory buildings. See Residential.

100-year Flood – One percent (1%) annual chance flood. See Base Flood

Owner – Any person who has dominion over, control of, or title to an artificial obstruction. (MCA 76-5-103(13))

Person – Includes any individual, or group of individuals, corporation, partnership, association or any other entity, including State and local governments and agencies. (44 CFR 59.1)

Recreational Vehicle – A park trailer, travel trailer, or other similar vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a motorized vehicle; and (d) designed primarily for use as temporary living quarters for recreation, camping, travel, or seasonal use, not for use as a permanent dwelling. (44 CFR 59.1)

Regulated Flood Hazard Area – A Floodplain whose limits have been designated pursuant to Part 2, Chapter 5 of Title 76, MCA, and is determined to be the area adjoining the watercourse that would be covered by the floodwater of a Base Flood. The Regulated Flood Hazard Area consists of the Floodway and Flood Fringe where specifically designated. (MCA 76-5-103(4)), (MCA 76-5-103(10), (ARM 36-15-101(11))

Residential Building – A dwelling or building for living purposes or place of assembly or permanent use by human beings and including any mixed use of residential and non-residential use. All other buildings are **non-residential**.

Riprap – Stone, rocks, concrete blocks, or analogous materials that are placed along the bed or banks of a watercourse or drainway for the purpose of preventing or alleviating erosion. (ARM 36.15.101(18))

Scour Depth – The maximum depth of streambed scour caused by erosive forces of the Base Flood.

Special Flood Hazard Area – Land area which has been specifically identified by the Federal Emergency Management Agency as the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is useful for the purposes of identifying flood hazards by local subdivisions of government for regulatory purposes as well as use by the National Flood Insurance Program for establishing risk zones and flood insurance premium rates. The FEMA flood hazard area zone designation or flood risk potential is as illustrated on FEMA's Flood Hazard Boundary Map or Flood Insurance Rate Map.

Structure – Any Artificial Obstruction.

Sub grade Crawlspace – A Crawlspace foundation enclosure that has its interior floor no more than 5 feet below the top of the next higher floor and no more than 2 feet below the lowest adjacent grade on all sides. A foundation exceeding either dimension is a Basement. (NFIP Insurance Manual, Rev. May 2013)

Substantial Damage – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would exceed 50 percent of the market value of the structure before the damage occurred. (44 CFR 59.1)

Substantial Improvement – Any repair, reconstruction or improvement of a structure where the cost equals or exceeds fifty percent (50) of the market value of the structure either before the improvement or repair is started or if the structure has been damaged, and is being restored, before the damage occurred;

A. Substantial improvement is considered to occur when the first construction of any wall, ceiling, floor or other structural part of the building commences;

B. The term does not include:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the national register of historic places or state inventory of historic places. (ARM 36.15.101(21)) (44 CFR 59.1))

Suitable Fill – Fill material which is stable, compacted, well graded, and pervious, not adversely affected by water and frost, devoid of trash or similar foreign matter, tree stumps or other organic material; and is fitting for the purpose of supporting the intended use and/or permanent structure. (ARM 36.15.101(22))

Variance – Means a grant or relief from the development requirements of these regulations which would permit construction in a manner that would be otherwise prohibited by these regulations by an approval pursuant chapter 12. (ARM 36.15.101(23))

Violation – A finding and order pursuant to the regulations against the owner or responsible party of the failure of a structure or other development to be fully compliant with these regulations. (44 CFR 59.1)

CHAPTER 3
FORMS AND FEES

SECTION:

14-3- 1:	Forms
14-3- 2:	Fees

14-3-1: FORMS:

The following forms may be required by the Floodplain Administrator:

A. Floodplain Permit Application Form –The "Joint Application for Proposed Work in Montana's Steams, Wetlands, Regulated Flood Hazard Areas, and Other Water

Bodies", or other designated application form. A completed FEMA MT-1 form may be required to accompany the application when required by the Floodplain Administrator.

B. **Floodplain Permit Compliance Report** – A report required to be submitted by the Applicant to the Floodplain Administrator once the permitted project in the Regulated Flood Hazard Area is completed or within the designated time stipulated on the Floodplain permit. A compliance report including an elevation and or flood proofing certificate may be required where specified for the purpose of documenting compliance with the requirements of the permit.

C. **Floodplain Variance Application Form** – An application submitted by the Applicant to the Floodplain Administrator to initiate a proposed variance from the requirements of these regulations as described in chapter 12.

D. **Floodplain Appeal Notice Form**– A form submitted by the Applicant or an aggrieved party to initiate the appeal process described in chapter 13.

E. **Floodplain Emergency Notification Form**– A written notification form required pursuant to chapter 11 of these regulations.

F. **Official Complaint Form** – A form that may be used by any person to notify the Floodplain Administrator of an activity taking place that appears to be noncompliant with the requirements of these regulations.

14-3-2: FEES:

A reasonable application fee, as determined by the Shelby City Council by resolution, for processing of permit applications may be imposed. Fees may be adopted for costs of permit applications, notices, variances, inspections, certifications or other administrative actions required by these regulations. (ARM 36.15.204(3)(b))

CHAPTER 4
REGULATED FLOOD HAZARD AREA

SECTION:

14-4- 1: Regulated Flood Hazard Areas
14-4- 2: Interpretation Of Regulated Flood Hazard Area Boundaries
14-4- 3: Alteration Of Regulated Flood Hazard Area

14-4-1: REGULATED FLOOD HAZARD AREAS:

A. The Regulated Flood Hazard Areas are the 100-year floodplains illustrated and referenced in the following specific studies and reports described as follows:

Toole County, Montana Unincorporated Area
Community Number 300125
Effective Date: October 9, 2002

B. The Regulated Flood Hazard Areas specifically described or illustrated in the above referenced studies and maps of the 100-year floodplain have been delineated, designated and established by order or determination by the DNRC pursuant to 76-5-201et.seq., MCA.