CITY COUNCIL MEETING AGENDA

September 16, 2019, at 7:00 p.m.
City Hall Council Chambers, 201 First Avenue East

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. AGENDA APPROVAL

E. CONSENT AGENDA
All items listed on the consent agenda will be accepted by one motion. If a council member desires to discuss an item separately, the item can be removed from the consent agenda by motion.

1. Council Minutes – September 3, 2019

2. Ordinance 1828 – Second Reading - Town Pump #5 PUD Zone Map Amendment
   This ordinance would add an additional 1.3 acres to the Town Pump #5 PUD located at Cemetery Road and Highway 93 South in order to allow Town Pump to construct a new convenience store and casino on the property.

F. COMMITTEE REPORTS – None.

G. PUBLIC COMMENT
Persons wishing to address the council on any issue not on the agenda are asked to do so at this time. Those addressing the council are requested to give their name and address for the record. Please see the last page of the agenda for the proper manner of addressing the council. Please limit comments to three minutes.

H. REPORTS, RECOMMENDATIONS, AND SUBSEQUENT COUNCIL ACTION
Persons wishing to address the council on individual agenda items will be asked to do so following staff reports. Please see the last page of the agenda for the proper manner of addressing the council. Please limit comments to three minutes.

1. Ordinance 1829 – First Reading - Prohibiting Parking within the Sidewalk
   This Ordinance would make the obstruction of a city sidewalk with a motor vehicle a civil infraction.
2. **Ordinance 1830 – First Reading - Prohibiting Lodging in the Public Right-of-Way**
   This Ordinance would restrict the use of the public right-of-way for lodging within motor vehicles.

3. **Resolution 5944 – Procedures for Disposition of Unclaimed Personal Property**
   This resolution establishes procedures for the disposition of unclaimed personal property coming into the possession of the Kalispell Police Department.

4. **Montana Municipal Interlocal Authority (MMIA) Board Appointment**
   This item recommends the appointment of Doug Russell to the MMIA Board.

I. **CITY MANAGER, COUNCIL, AND MAYOR REPORTS (No Action)**

J. **ADJOURNMENT**

---

**UPCOMING SCHEDULE / FOR YOUR INFORMATION**

**Next Work Session** – September 23, 2019, at 7:00 p.m. – Council Chambers

**Next Regular Meeting** – October 7, 2019, at 7:00 p.m. – Council Chambers

Reasonable accommodations will be made to enable individuals with disabilities to attend this meeting. Please notify the City Clerk at 758-7756.

Watch regular City Council sessions live on Charter Cable Channel 190 or online at the [Meetings on Demand](http://www.kalispell.com) tab at [www.kalispell.com](http://www.kalispell.com).
ADMINISTRATIVE CODE
Adopted July 1, 1991

Section 2-20 Manner of Addressing Council

a. Each person not a Council member shall address the Council, at the time designated in the agenda or as directed by the Council, by stepping to the podium or microphone, giving that person's name and address in an audible tone of voice for the record, and unless further time is granted by the Council, shall limit the address to the Council to three minutes.

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

c. No person, other than the Council and the person having the floor, shall be permitted to enter into any discussion either directly or through a member of the Council, without the permission of the Presiding Officer.

d. No question shall be asked of individuals except through the Presiding Officer.

PRINCIPLES FOR CIVIL DIALOGUE
Adopted by Resolution 5180 on February 5, 2007

- 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 in 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 & guidelines established for each meeting.
A. **CALL TO ORDER**
Mayor Mark Johnson called the meeting to order at 7 p.m.

B. **ROLL CALL**

   Mayor - Mark Johnson: Present  
   Council Member - Kari Gabriel: Present (arrived at 7:09 p.m.)  
   Council Member - Sandy Carlson: Absent  
   Council Member - Wayne Saverud: Present  
   Council President - Chad Graham: Present  
   Council Member - Rod Kuntz: Present  
   Council Member - Tim Kluesner: Present  
   Council Member - Phil Guiffrida: Present  
   Council Member - Kyle Waterman: Present

Staff members present included City Manager Doug Russell, City Attorney Charles Harball, City Clerk Aimee Brunckhorst, Public Works Director Susie Turner, Finance Director Rick Wills, Planning Director Tom Jentz, Senior Planner Jarod Nygren, and Police Chief Doug Overman.

C. **PLEDGE OF ALLEGIANCE**

D. **AGENDA APPROVAL**

   **Motion and Vote to approve the agenda as submitted.**  
   Council Member - Phil Guiffrida: Motion  
   Council Member - Tim Kluesner: 2nd  
   Mayor - Mark Johnson: Approve  
   Council Member - Kari Gabriel: Absent  
   Council Member - Sandy Carlson: Absent  
   Council Member - Wayne Saverud: Approve  
   Council President - Chad Graham: Approve  
   Council Member - Rod Kuntz: Approve  
   Council Member - Tim Kluesner: Approve  
   Council Member - Phil Guiffrida: Approve  
   Council Member - Kyle Waterman: Approve

   *The motion passed unanimously on voice vote with Councilor Carlson and Gabriel absent.*
E. **CONSENT AGENDA**

All items listed on the consent agenda will be accepted by one motion. If a council member desires to discuss an item separately, the item can be removed from the consent agenda by motion.

1. **Council Minutes – August 19, 2019**

2. **Award Bid for Four Mile Drive Water Transmission Project**
   This item would award the bid for the Four Mile Drive Water Transmission Main Project to Sandry Construction in the amount of $2,085,590.00.

3. **Award Bid for Sylvan Drive Storm Sewer Rehabilitation Project, Phase II**
   This item would award the bid for the Sylvan Drive Storm Sewer Rehabilitation Project, Phase II, to NCC Neumann Construction in the amount of $96,635.00.

4. **Confirmation of Firefighter Wesley Barr**
   Wesley Barr has completed his probationary period with the Kalispell Fire Department and Council confirmation is requested.

Public Comment
Mayor Johnson opened public comment on the consent agenda. Seeing none, he closed public comment.

**Motion and Vote to approve the consent agenda as submitted.**

*Council Member - Wayne Saverud: Motion*
*Council President - Chad Graham: 2nd*
*Mayor - Mark Johnson: Approve*
*Council Member - Kari Gabriel: Absent*
*Council Member - Sandy Carlson: Absent*
*Council Member - Wayne Saverud: Approve*
*Council President - Chad Graham: Approve*
*Council Member - Rod Kuntz: Approve*
*Council Member - Tim Kluesner: Approve*
*Council Member - Phil Guiffrida: Approve*
*Council Member - Kyle Waterman: Approve*

The motion passed unanimously on voice vote with Councilor Carlson and Gabriel absent.

Fire Chief David Dedman introduced newly confirmed Firefighter Wesley Barr providing information about his background and achievements. The Mayor pinned Firefighter Barr with the City of Kalispell Firefighter badge.

F. **COMMITTEE REPORTS** – None.
G. **PUBLIC HEARING** – Wastewater Facility Plan Update

Council will accept comments regarding the Council’s intent to update the wastewater facility plan.

Mayor Johnson opened the public hearing and called for public comment. Seeing none, he closed the public hearing.

H. **PUBLIC COMMENT**

Persons wishing to address the council on any issue not on the agenda are asked to do so at this time. Those addressing the council are requested to give their name and address for the record. Please see the last page of the agenda for the proper manner of addressing the council. Please limit comments to three minutes.

Mayor Johnson opened general public comment. Seeing none, he closed public comment.

I. **REPORTS, RECOMMENDATIONS, AND SUBSEQUENT COUNCIL ACTION**

Persons wishing to address the council on individual agenda items will be asked to do so following staff reports. Please see the last page of the agenda for the proper manner of addressing the council. Please limit comments to three minutes.

1. **Resolution 5941 – Budget – City-County Health Department**

   This resolution would approve the levy request for the City-County Health Department for fiscal year 2019-2020. This item was tabled at the August 19 City Council meeting for discussion at the August 26 Council Work Session.

   **Motion to take Resolution 5941 off the table.**
   Council Member - Kyle Waterman: Motion
   Council Member - Phil Guiffrida: 2nd

   **Councilor Gabriel joined the meeting.**

   **Councilor Guiffrida began questions for staff.**

   The County Finance Director responded to questions from Council.

   **00:12:45** Councilor Kuntz continued questions.

   **07:12:44 PM (00:13:32)**
   **Vote on the motion to take the passage of Resolution 5941 off the table.**
   Council Member - Kyle Waterman: Motion
   Council Member - Phil Guiffrida: 2nd
   Mayor - Mark Johnson: Approve
   Council Member - Kari Gabriel: Approve
   Council Member - Sandy Carlson: Absent
   Council Member - Wayne Saverud: Approve
   Council President - Chad Graham: Approve
   Council Member - Rod Kuntz: Approve
   Council Member - Tim Kluesner: Approve
The motion to take the Resolution off the table passed unanimously on voice vote with Councilor Carlson absent.

07:12:56 PM (00:13:44) Amendment to the motion on the table to strike the number 5.99 and insert 4.90.
Council Member – Rod Kuntz: Motion
Council Member – Phil Guiffrida: 2nd

Councilor Kuntz began discussion on the amendment to the main motion.
07:17:56 PM (00:18:44) Councilor Waterman provided discussion on the amendment.
07:19:08 PM (00:19:55) Councilor Guiffrida provided discussion on the amendment.
07:34:50 PM (00:35:37) Mayor Johnson provided discussion on the motion.
Councilor Guiffrida provided further discussion on the motion.
07:45:04 PM (00:45:51) Councilor Kluesner provided discussion on the motion.
07:45:59 PM (00:46:47) Councilor Waterman provided discussion on the motion.
07:50:53 PM (00:51:40) Councilor Kuntz provided discussion on the motion.
07:53:35 PM (00:54:22) Councilor Guiffrida provided further discussion on the motion.
07:56:37 PM (00:57:24) Councilor Kluesner provided discussion on the motion.
07:58:50 PM (00:59:37) Councilor Waterman provided discussion on the motion.

07:59:36 PM (01:00:24) Vote on the amendment to the main motion.
Council Member - Rod Kuntz: Motion
Council Member - Phil Guiffrida: 2nd
Mayor - Mark Johnson: Disapprove
Council Member - Kari Gabriel: Disapprove
Council Member - Sandy Carlson: Absent
Council Member - Wayne Saverud: Disapprove
Council President - Chad Graham: Disapprove
Council Member - Rod Kuntz: Approve
Council Member - Tim Kluesner: Approve
Council Member - Phil Guiffrida: Approve
Council Member - Kyle Waterman: Disapprove

The amendment to the main motion failed with Councilors Saverud, Waterman, Gabriel, Graham, and Mayor Johnson opposed.

Discussion on the main motion.

Vote on the main motion to approve Resolution 5941, a resolution making the annual tax
levies for the City of Kalispell contribution to the City of Kalispell – Flathead County Health Department, for the Fiscal Year 2019-2020.

Council Member - Kyle Waterman: Motion
Council Member – Rod Kuntz: 2nd
Mayor - Mark Johnson: Approve
Council Member - Kari Gabriel: Approve
Council Member - Sandy Carlson: Absent
Council Member - Wayne Saverud: Approve
Council President - Chad Graham: Approve
Council Member - Rod Kuntz: Approve
Council Member - Tim Kluesner: Disapprove
Council Member - Phil Guiffrida: Approve
Council Member - Kyle Waterman: Approve

The motion passed on roll call vote with Councilor Kluesner opposed and Councilor Carlson absent.

2. Resolution 5942 – Immanuel Lutheran Change of Trustee
   This resolution would consent to the appointment of a successor trustee and enter into an Agreement of Removal, Appointment and Acceptance of Trustee for the Immanuel Lutheran Series 2017 Bonds.

   City Attorney Charlie Harball provided the staff report on this item.

   Council questions for staff.

   Public Comment
   Mayor Johnson opened public comment. Seeing none, he closed public comment.

   Motion and Vote to approve Resolution 5942, a resolution relating to the approval of a successor trustee for conduit revenue bonds previously issued for the benefit of the Immanuel Lutheran Corporation of Kalispell, Montana.
   Council Member - Rod Kuntz: Motion
   Council Member - Kari Gabriel: 2nd
   Mayor - Mark Johnson: Approve
   Council Member - Kari Gabriel: Approve
   Council Member - Sandy Carlson: Absent
   Council Member - Wayne Saverud: Approve
   Council President - Chad Graham: Approve
   Council Member - Rod Kuntz: Approve
   Council Member - Tim Kluesner: Approve
   Council Member - Phil Guiffrida: Approve
   Council Member - Kyle Waterman: Approve

   The motion passed unanimously on roll call vote with Councilor Carlson absent.

3. Ordinance 1828 - Town Pump #5 PUD Zone Map Amendment
   This ordinance would add an additional 1.3 acres to the Town Pump #5 PUD located at Cemetery Road and Highway 93 South in order to allow Town Pump to construct a new convenience store and casino on the property.

   Senior Planner Jarod Nygren provided the staff presentation.
   Council questions for staff.
Public Comment
Mayor Johnson opened public comment. Seeing none, he closed public comment.

Motion and Vote to approve the first reading of Ordinance 1828, an Ordinance to amend Section 27.02.010, official zoning map, City of Kalispell Zoning Ordinance 1677, by amending Ordinance 1793, known as Kalispell Town Pump #5 PUD, by adding certain real property more particularly described as Tracts 1A and 5A of Ashley Business Park, Lot 5, Revisited, in the Southeast Quarter of the Northeast Quarter in Section 29, Township 28 North, Range 21 West, Flathead County, Montana, in accordance with the Kalispell Growth Policy – Plan It 2035, and to provide an effective date.
Council Member – Chad Graham – Motion
Council Member – Kyle Waterman – 2nd

Councilor Guiffrida provided discussion on the motion.

Vote on the motion.
Council President - Chad Graham: Motion
Council Member - Kyle Waterman: 2nd
Mayor - Mark Johnson: Approve
Council Member - Kari Gabriel: Approve
Council Member - Sandy Carlson: Absent
Council Member - Wayne Saverud: Approve
Council President - Chad Graham: Approve
Council Member - Rod Kuntz: Approve
Council Member - Tim Kluesner: Approve
Council Member - Phil Guiffrida: Approve
Council Member - Kyle Waterman: Approve

The motion passed unanimously on roll call vote with Councilor Carlson absent.

4. Resolution 5943 – Updated School Zones and Speed Limits

This resolution would update the school zone designations, speed limits and speed limit signage applicable to the Kalispell Middle School, Edgerton and the Linderman Alternative School.

City Attorney Harball provided the staff report on this item.

Questions for staff.

Public Comment
Mayor Johnson opened public comment. Seeing none, he closed public comment.

Motion and Vote to approve Resolution 5943, a resolution designating certain portions of Kalispell Streets abutting the School Properties of Kalispell Middle School, Edgerton Elementary School and Linderman alternative school as school zones and setting appropriate speed limits thereon for vehicular traffic.

Council Member - Phil Guiffrida: Motion
Council Member - Rod Kuntz: 2nd
Mayor - Mark Johnson: Approve
Council Member - Kari Gabriel: Approve
Council Member - Sandy Carlson: Absent
Council Member - Wayne Saverud: Approve
Council President - Chad Graham: Approve
Council Member - Rod Kuntz: Approve
Council Member - Tim Kluesner: Approve
Council Member - Phil Guiffrida: Approve
Council Member - Kyle Waterman: Approve

The motion passed unanimously on roll call voting with Councilor Carlson absent.

J. CITY MANAGER, COUNCIL, AND MAYOR REPORTS (No Action)

The City Manager provided the following report:
- Storm water regulations will be discussed during the next work session.
- Ordinances we discussed last work session will come forth at the next regular meeting.

08:32:23 PM (01:33:10) Councilor Guiffrida requested a work session with city staff about the City-County Health Department Interlocal Agreement.

08:33:15 PM (01:34:02) Councilor Kluesner spoke regarding the recent dissolution of the nonprofit organization Citizens for a Better Flathead, and the need to find another organization that can handle the Waste Not Want Not Recycling Program that they had taken care of.

08:34:18 PM (01:35:05) Mayor Johnson thanked the Council for the conversation that occurred during the meeting.

K. ADJOURNMENT
Mayor Johnson adjourned the meeting at 8:35 p.m.

_______________________________ ___
Aimee Brunckhorst, CMC
City Clerk

Minutes approved on, 2019

UPCOMING SCHEDULE / FOR YOUR INFORMATION

Next Work Session – September 9, 2019, at 7:00 p.m. – Council Chambers

Next Regular Meeting – September 16, 2019, at 7:00 p.m. – Council Chambers
REPORT TO:  Doug Russell, City Manager

FROM:  Jarod Nygren, Senior Planner

SUBJECT:  Ordinance 1828 Second Reading – Town Pump #5

MEETING DATE:  September 16, 2019

BACKGROUND: This is the second reading of Ordinance 1828, an ordinance to amend the Kalispell Zoning Map, and establish a zoning classification of B-2/PUD (Town Pump #5). The subject property to be rezoned can be described as Tracts 1A and 5A of Ashley Business Park, LOT 5, Revisited in the SE4 NE4 of Section 29, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana.

The Kalispell City Council, at their meeting on September 3, 2019, approved the first reading of Ordinance 1828, unanimously upon roll call vote.

RECOMMENDATION: It is recommended that the Kalispell City Council approve Ordinance 1828, an ordinance to amend section 27.02.010, official zoning map, City of Kalispell zoning ordinance 1677, by amending Ordinance 1793, known as Kalispell Town Pump #5 PUD, by adding certain real property described as Tracts 1A and 5A of Ashley Business Park, LOT 5, revisited in the SE4 NE4 of Section 29, Township 28 North, Range 21 West, P.M.M., Flathead County, Montana, in accordance with the Kalispell Growth Policy Plan – It 2035, and to provide an effective date.

FISCAL EFFECTS: Approval of the request would have minimal fiscal impact to the City.

ALTERNATIVES: Deny the request.

ATTACHMENTS: Ordinance 1828

c:  Aimee Brunckhorst, Kalispell City Clerk
ORDINANCE NO. 1828

AN ORDINANCE TO AMEND SECTION 27.02.010, OFFICIAL ZONING MAP, CITY OF KALISPELL ZONING ORDINANCE, (ORDINANCE NO. 1677), BY AMENDING ORDINANCE NO. 1793, KNOWN AS KALISPELL TOWN PUMP #5 PUD, BY ADDING CERTAIN REAL PROPERTY MORE PARTICULARLY DESCRIBED AS TRACTS 1A AND 5A OF ASHLEY BUSINESS PARK, LOT 5, REVISITED, IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER IN SECTION 29, TOWNSHIP 28 NORTH, RANGE 21 WEST, FLATHEAD COUNTY, MONTANA, IN ACCORDANCE WITH THE KALISPELL GROWTH POLICY - PLAN IT 2035, AND TO PROVIDE AN EFFECTIVE DATE.

WHEREAS, Town Pump, Inc., the owners of the properties described above, petitioned the City of Kalispell that the zoning classification attached to the above described 1.3 acre tract of land be zoned B-2, General Business, and amended to the existing Planned Unit Development overlay in the Kalispell Town Pump #5 PUD; and

WHEREAS, the property is zoned B-2, General Business, and is located at 2910 Highway 93 South; and

WHEREAS, the petition of Town Pump, Inc. was the subject of a report compiled by the Kalispell Planning Department, Staff Report #KZC-19-02, in which the Kalispell Planning Department evaluated the petition and recommended that the existing Planned Unit Development overlay be amended to include the above described tract of land pursuant to Kalispell City Code 72.21.030(2)(b); and

WHEREAS, the Kalispell City Planning Board held a Public Hearing on the matter on August 13, 2019, and recommended that the Planned Unit Development overlay be amended to include approximately 1.3 acres of land, pursuant to Kalispell City Code 72.21.030(2)(b); and

WHEREAS, after considering all the evidence submitted on the proposal to include the property in the existing Planned Unit Development overlay, the City Council finds such zoning to be consistent with the Kalispell Growth Policy – Plan It 2035 and adopts, based upon the criterion set forth in Section 76-3-608, M.C.A., and State, Etc. v. Board of County Commissioners, Etc. 590 P2d 602, the findings of fact of KPD as set forth in Staff Report No. #KZC-19-02.
NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KALISPELL, AS FOLLOWS:

SECTION 1. Section 27.02.010, of the Official Zoning Map of the Kalispell Zoning Ordinance, (Ordinance No. 1677) is hereby amended by including the property described above in the existing Town Pump #5 Planned Unit Development overlay.

SECTION 2. The Planned Unit Development overlay amendment proposed by Town Pump, Inc. upon the real property described above is hereby approved subject to the following conditions:

1. The Planned Unit Development for Town Pump #5 allows the following deviations from the Kalispell Zoning Ordinance:
   a. Kalispell Zoning Ordinance, Section 27.13.020 Permitted Uses – Allows one (1) casino as a permitted use.

2. The development of the Kalispell Town Pump #5 PUD shall substantially comply with the following site plan and elevations submitted as part of the Planned Unit Development application:
   a. Site Layout Plan
      a. Building footprint site plan
      b. Pictures of proposed building materials and design concepts

3. To ensure the traffic flow and access comply with Kalispell Design and Construction Standards, the development shall receive Site Review Committee approval prior to issuance of the building permit.

4. Architectural rendering are required to be submitted to the Kalispell Architectural Review Committee for review and approval prior to issuance of a building permit. Building design shall be provided as listed below:
   a. Four sided architecture is required for all structures and buildings. Large, rectangular masses should be avoided by incorporating offsets in the wall and roof. A change in the plane of the walls, changing the direction or providing some variety in the roof form gives diversity and visual interest.
   b. Entries should be a prominent component of the building face by providing an architectural covered or recessed entry with modified roof accent and increased usage of windows and trim.
   c. Franchise architecture may be subject to modification to achieve the building style objectives.
5. A development agreement shall be drafted by the Kalispell City Attorney between the City of Kalispell and the developer outlining and formalizing the terms, conditions and provisions of approval. The final plan as approved, together with the conditions and restrictions imposed, shall constitute the Planned Unit Development (PUD) zoning for the site that shall be completed and signed by the city and owner prior to the issuance of a building permit.

6. A landscape plan shall be submitted to the Parks and Recreation Department for the area adjacent the public lift station located at the southwest corner of U.S. 93 South and Cemetery Road, which shall be screened through the use of vines and tall shrubs in landscape beds.

7. To ensure the property is fully landscaped and is compatible with the surrounding developments, a landscape plan shall be submitted along with the building permit. Dead or removed trees from original landscaping shall be replaced.

8. The developer shall improve the properties U.S. 93 South frontage in accordance with Chapter 27.20.29 of the Kalispell Zoning Ordinance.

9. The following on-premises signs are prohibited;
   a. Any terms such as gaming, gambling, cards, dice, chance, etc.
   b. Any reference to any associated activity or any symbols or words commonly associated with gambling.
   c. Any words, terms, figures, art work, or features intended or designed to attract attention to the fact that a casino is on site.
   d. Neon lighting.

10. The developer shall submit to the Kalispell Public Works Department for review and approval a stormwater management plan that meets the requirements of the current city standards for design and construction. The approved stormwater management plan for on-site facilities shall be completed prior to the issuance of a building permit.

11. The properties U.S. 93 South entrance into the property shall be relocated southerly to a point where it lines up with the auto dealerships to the east.

12. A shared access easement shall be granted to Lot 5A of Ashley Park, Lot 5, Revisited situated in the SE4 NE4 of Section 29, Township 28 North, Range 21 West, P.M.M., Flathead County, MT off of U.S. 93 South.

13. The billboards on the property shall be removed from the site prior to certificate of occupancy of building.
14. The developer shall obtain an approach permit from the Montana Department of Transportation for the approach onto U.S. 93 South.

15. Prior to development of Lot 5A, the developer shall submit an amendment to the Town Pump #5 PUD showing the location, size, elevations, landscaping and parking associated with the proposed use.

**SECTION 3.** The balance of Section 27.02.010, Official Zoning Map, City of Kalispell Zoning Ordinance not amended hereby shall remain in full force and effect.

**SECTION 4.** This Ordinance shall take effect from and after 30 days of its passage by the City Council.


______________________________
Mark Johnson
Mayor

ATTEST:

______________________________
Aimee Brunckhorst, CMC
City Clerk
MEMORANDUM

TO: Doug Russell, City Manager

FROM: Charles Harball, City Attorney

SUBJECT: Ordinance No. 1829 – An Ordinance Amending Kalispell Municipal Code 17-57 to Make the Obstruction of a City Sidewalk with a Motor Vehicle a Civil Infraction

MEETING DATE: September 16, 2019 – Regular Council Meeting

BACKGROUND: The City staff has received numerous complaints and comments from the public regarding parked motor vehicles obstructing the pedestrian traffic on the city sidewalks. This may cause a pedestrian to walk out into the street creating an unsafe conflict with motor vehicle traffic.

Kalispell Municipal Code 17-57 currently makes it a civil infraction to park a motor vehicle in such a way as to obstruct a driveway or alley. City staff is recommending that this ordinance be amended to include the blocking of a sidewalk as a violation.

RECOMMENDATION: It is recommended that Council pass Ordinance No. 1829 on first reading.

ALTERNATIVES: Council may decline to pass the ordinance or seek to address the safety concerns of the public in some other manner.
ORDINANCE NO. 1829

AN ORDINANCE AMENDING R.O. 1947 § 320 AND ORDINANCE NO. 706 § 1 CODIFIED IN THE KALISPELL MUNICIPAL CODES AT 17-57 ENTITLED “BLOCKING ALLEYS OR DRIVEWAYS”, DECLARING AN EFFECTIVE DATE AND AUTHORIZING THE CITY ATTORNEY TO CODIFY THE SAME.

WHEREAS, it is in the best interests of the City and its residents and visitors that the sidewalks intended for pedestrian use remain unobstructed so that pedestrian and motor vehicle traffic do not conflict in the City streets; and

WHEREAS, the Kalispell City Council finds that the amendment to KMC 17-57 set forth in Exhibit “A”, attached hereto, is necessary and proper to protect the safety and welfare of the pedestrian public using the sidewalks in the City of Kalispell.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KALISPELL AS FOLLOWS:

SECTION 1. The City of Kalispell Municipal Code is hereby amended as set forth in Exhibit “A”, attached hereto and incorporated fully herein by this reference.

SECTION 2. The City Attorney is hereby authorized and directed to recodify this Ordinance.

SECTION 3. This Ordinance shall take effect thirty (30) days after its final passage.

PASSED AND APPROVED BY THE CITY COUNCIL AND SIGNED BY THE MAYOR OF THE CITY OF KALISPELL THIS 7TH DAY OF OCTOBER, 2019.

Mark Johnson
Mayor

ATTEST:

_______________________________
Aimee Brunckhorst, CMC
City Clerk

EXHIBIT “A”

17-57 Blocking Alleys, or Driveways or Sidewalks.

No vehicle shall be parked so as to block or interfere with the free use of any alley, driveway or sidewalk.
MEMORANDUM

TO: Doug Russell, City Manager

FROM: Charles Harball, City Attorney

SUBJECT: Ordinance No. 1830 – An Ordinance Restricting the Use of the Public Right-Of-Way for Lodging within Motor Vehicles

MEETING DATE: September 16, 2019 – Regular Council Meeting

BACKGROUND: The public and the police are reporting that the public right-of-ways in the City are being increasingly used for the purposes of parking and lodging within motor vehicles, including recreational vehicles, campers and buses, overnight and for extended lodging. This use of the public right-of-ways is not permitted pursuant to the City zoning ordinances because it unreasonably increases the intended density of residential use and it does not provide the sanitation services necessary for such residential use. Further, there is, within the city and community, facilities for lodging within motor vehicles at RV parks with appropriate services for this use. However, the enforcement measures available under the zoning code for this violation are ineffective due to the extended timelines provided.

The proposed ordinance to address this issue would make it a civil infraction to lodge within a motor vehicle in the public right-of-way in the city. The Kalispell Police would be authorized to investigate and issue a civil infraction to violators. The Kalispell Municipal Court would receive the complaint and provide all due process appropriate to the violation as it would for any other civil infraction under Chapter 1, Article 2 of the Kalispell Municipal Code.

RECOMMENDATION: It is recommended that Council pass Ordinance No. 1830 on first reading.

ALTERNATIVES: Council may decline to pass the ordinance or seek to address the concerns of the public in some other manner.
ORDINANCE NO. 1830

AN ORDINANCE RESTRICTING THE USE OF THE PUBLIC RIGHT-OF-WAY FOR LODGING WITHIN MOTOR VEHICLES, DECLARING AN EFFECTIVE DATE AND AUTHORIZING THE CITY ATTORNEY TO CODIFY THE SAME.

WHEREAS, it is in the best interests of the City and its residents and visitors that the use of its public right-of-ways does not unnecessarily infringe upon the peaceful enjoyment of private property or compromise the safety and welfare of the community; and

WHEREAS, the public right-of-ways in the City are being increasingly used for the purposes of parking and lodging within motor vehicles, including recreational vehicles, campers and buses, overnight and for extended lodging; and

WHEREAS, the Kalispell City Council finds that such use of the public right-of-way, as described above, is not a permitted use for the reasons that it unreasonably increases the intended density of residential use, it does not provide the sanitation services necessary for residential use, and there are, within the City and surrounding community, suitable accommodations to serve the needs for those seeking to lodge within their motor vehicles; and

WHEREAS, the Kalispell City Council further finds that violations of this ordinance should be civil infractions and provided the due process as set forth in Chapter 1, Article 2 of the Kalispell Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KALISPELL AS FOLLOWS:

SECTION 1. It shall be unlawful to lodge within a motor vehicle in the public right-of-way in the City of Kalispell.

SECTION 2. Definitions.

Lodge means to board and use as a living quarters.

Motor Vehicle means an automobile, truck, recreational vehicle, camper or bus.

SECTION 3. This ordinance shall be enforced by the City of Kalispell Police Department. A violation of this ordinance shall be a civil infraction and provided the due process as set forth in Chapter 1, Article 2 of the Kalispell Municipal Code.

SECTION 4. The City Attorney is hereby authorized and directed to codify this Ordinance.

SECTION 5. This Ordinance shall take effect thirty (30) days after its final passage.

PASSED AND APPROVED BY THE CITY COUNCIL AND SIGNED BY THE MAYOR OF THE CITY OF KALISPELL THIS 7TH DAY OF OCTOBER, 2019.

____________________________________
Mark Johnson
Mayor

ATTEST:

_______________________________
Aimee Brunckhorst, CMC
City Clerk
MEMORANDUM

TO: Doug Russell, City Manager

FROM: Charles Harball, City Attorney

SUBJECT: Resolution No. 5944 – A Resolution Establishing Procedures for the Disposition of Unclaimed Personal Property

MEETING DATE: September 16, 2019 – Regular Council Meeting

BACKGROUND: Pursuant to the terms of MCA §45-5-305, the City Council passed Resolution No. 4841 on October 20, 2003, addressing the disposition of certain personal property items coming into the possession of the Kalispell Police Department. The KPD has acquired a substantial inventory of unclaimed personal property, the disposal of which is not suitably addressed under the terms of MCA §45-5-305 and Resolution No. 4841 causing the City to bear the costs and burden of extended storage of tangible personal property.

In 2017 State Legislature enacted MCA §7-8-105, authorizing general powers municipalities to pass a resolution that is consistent with that statute providing for the disposition of unclaimed tangible personal property items that come into its possession. This statute provides a broader scope of unclaimed property which may be disposed and a statutory procedure for this purpose. A resolution compliant with this statute should significantly reduce the ongoing storage of unclaimed tangible personal property by the City.

RECOMMENDATION: It is recommended that Council pass Resolution No. 5944 that is compliant with MCA §7-8-105.

ALTERNATIVES: Council may decline to pass the resolution.
RESOLUTION NO. 5944

A RESOLUTION TO ESTABLISH PROCEDURES FOR THE DISPOSITION OF UNCLAIMED PERSONAL PROPERTY ITEMS THAT COME INTO POSSESSION OF THE KALISPELL POLICE DEPARTMENT AS AUTHORIZED BY SECTION 7-8-105 OF THE MONTANA CODE ANNOTATED.

WHEREAS, the City of Kalispell is a general powers city of the state of Montana and, in the course of its functions, the Kalispell City Police Department [KPD] comes into possession of unclaimed tangible personal property; and

WHEREAS, pursuant to the terms of MCA §45-5-305, the City Council passed Resolution No. 4841 on October 20, 2003, addressing the disposition of certain personal property items coming into the possession of the Kalispell Police Department; and

WHEREAS, in 2017 the Montana Legislature adopted and codified MCA §7-8-105 authorizing general powers municipalities to pass a resolution that is consistent with that statute providing for the disposition of unclaimed tangible personal property items that come into its possession; and,

WHEREAS, KPD has acquired a substantial inventory of unclaimed personal property, the disposal of which is not suitably addressed under the terms of MCA §45-5-305 and Resolution No. 4841 causing the City to bear the costs and burden of unnecessary storage of tangible personal property; and

WHEREAS, it is the desire of the City of Kalispell to establish procedures for the disposal of personal property items valued at $20.00 or more pursuant to the terms of MCA §7-8-105 so that such items may be more readily removed from the inventory in the possession of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KALISPELL AS FOLLOWS:

SECTION 1. The Kalispell Police Department (KPD) shall dispose of unclaimed tangible personal property items valued at $20.00 or more and which are not otherwise addressed under Montana state law in the following manner:

1. Any unclaimed personal property items shall be held by the KPD for a period of at least three (3) months after taking possession of the item.

2. The KPD shall make a reasonable effort to determine the legal owner of the item and to contact him or her advising of its recovery while the item remains in its possession.

3. If at any time after KPD has taken possession of a personal property item subject to this policy, an individual presents KPD with proof of legal ownership of the item, that item shall be restored to the owner.
4. For any personal property item turned over to the KPD by a “finder” who does not otherwise claim ownership of the item, the KPD will do the following:

   a) record the name and contact information for the “finder;” and,
   b) allow that person to reclaim possession of the item after holding the unclaimed personal property item for more than three months.

5. Not less than ten (10) days before the time set for disposition of the unclaimed personal property item, the KPD shall publish a notice of the planned disposition of the item in a local newspaper of general circulation.

6. After providing the required public notice, if more than (3) months have elapsed since the property came into possession of the KPD and the legal owner has not reclaimed the item or if a legal owner cannot be ascertained or contacted, the KPD may take one of the following actions with the property item:

   a) destroy the item, if allowed or required by local, state or federal law;
   b) return the item to the “finder,” if applicable;
   c) donate the item to a nonprofit community organization; or,
   d) sell the item at a public auction to the highest bidder with the net sale proceeds to be deposited into the city’s general fund.

   **SECTION 2.** After property has been returned, destroyed, donated, or sold at a public auction, the property or the value of the property is not redeemable by the owner or other person otherwise entitled to possession.


__________________________________
Mark Johnson
Mayor

ATTEST:

____________________________
Aimee Brunckhorst, CMC
City Clerk
MEMORANDUM

To: Mayor Johnson and City Council
From: Doug Russell, City Manager
Re: Montana Municipal Interlocal Authority Board Appointment
Meeting Date: September 16, 2019

BACKGROUND: The Montana Municipal Interlocal Authority (MMIA) is a risk retention pool created by the cities and towns of Montana to manage municipal risks. The Interlocal government agency covers municipal liability and workers’ compensation risks as well as property and employee benefit coverage.

A 15-member Board of Directors governs the MMIA and is comprised of elected and appointed officials from member entities for two-year terms. The City of Kalispell has a permanent seat on the MMIA Board of Directors.

I was appointed in 2017 to serve on the board. As the two-year term is expiring, the appointment will need to be made to continue serving in this position for the City of Kalispell. The Board has regularly scheduled meetings held in Helena in January, March, and June, and in the fall in conjunction with the Montana League of Cities and Towns Conference. These meetings are typically held on adjacent days as the board meetings for the Montana League of Cities and Towns, on which I also serve. This alleviates a duplication of travel for those that serve on both boards.

RECOMMENDATION: It is recommended that Mayor Johnson appoint, with the confirmation of Council, Doug Russell as the city representative on the Montana Municipal Interlocal Authority Board of Directors.