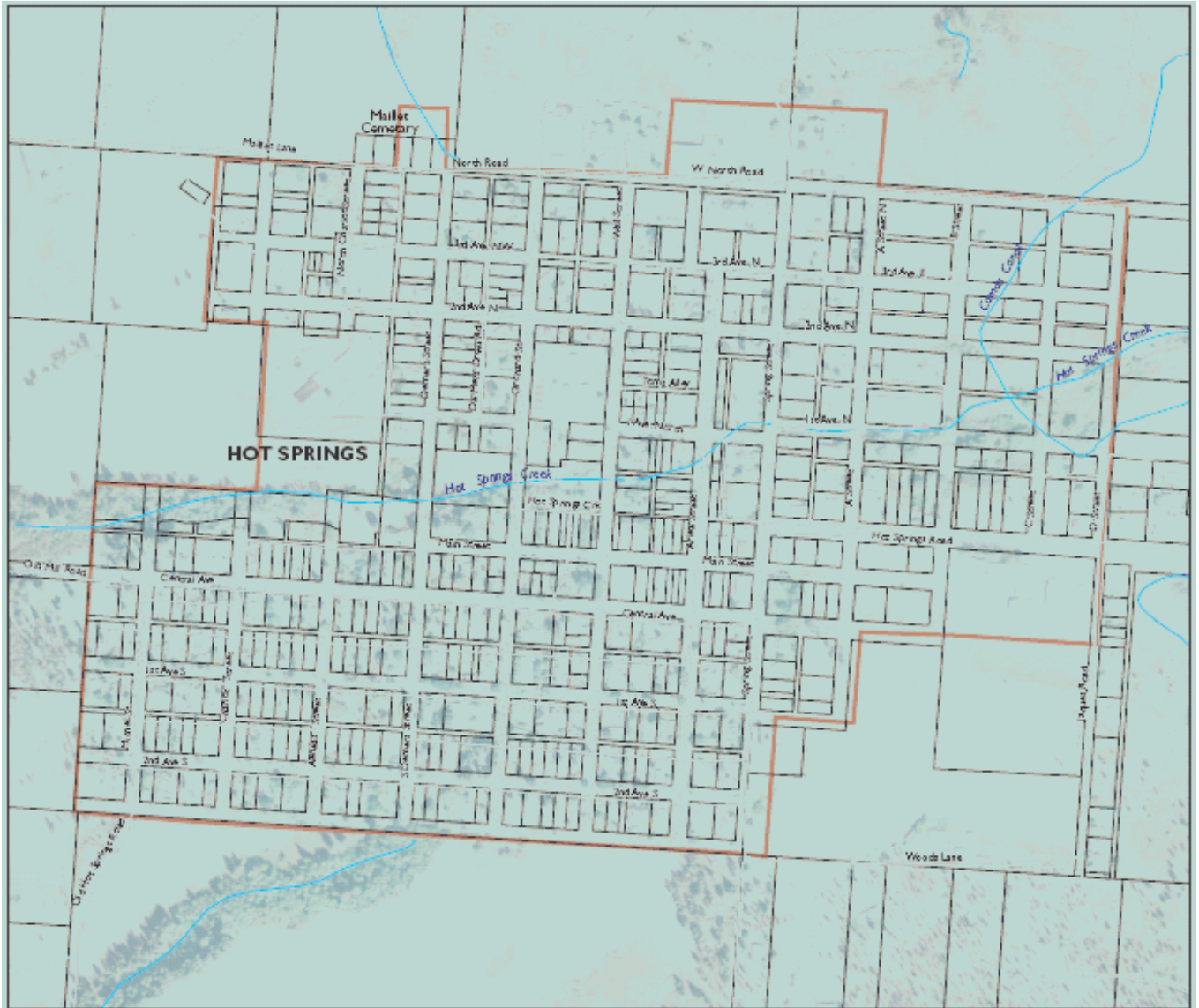


HOT SPRINGS, MT GROWTH POLICY



Draft - 2009

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MAIN SECTIONS

INTRODUCTION ♦ GOALS ♦ OBJECTIVES

ACTIONS ♦ INDICATORS ♦ IMPLEMENTATION

I. Introduction Section

A. Overview of the document. How to read and use the document.

Our hope is that this document is presented in a readable, logical framework. We start with a vision statement and guiding principles. We then define this vision with more tangible, yet general goal statements. Then we break each goal into more specific manifestations of that goal, objective statements. Goals and objectives are stated in terms of desired conditions. Actions then address what we will do to accomplish our goals and objectives. Next, indicators are statements that describe everyday conditions that reflect the accomplishment of our goals.

B. Vision/Mission Statement

Hot Springs is a vital, healthy, thriving community, looking toward the future, while borrowing from our past.

C. Guiding Principles

1. Preserving our caring and safe community environment, built from old fashioned values and independent spirit.
2. Preserving our natural resources, clean air, clean water, scenic vistas and pastoral setting.
3. Cultivating a good working relationship with the Confederated Salish and Kootenai Tribes.
4. Respecting the rich culture and history of the area.
5. Transparency and inclusion in local government that encourages public input and participation in civic discussions and decision-making
6. Protecting the rights of property owners and individual rights (See articles in Appendices.)
7. Abiding by judicial principles that limit local ordinances to issues of the health, safety and welfare of the populace (See articles in the Appendices for full details.)
8. Revitalize mineral hot springs water uses for the benefit and wellness of the community and visitors, including developing geothermal energy resources.
9. Sustainability Principles
 - a. Engage in infrastructure planning and implementation that discourages non-sustainable development (sprawl and strip commercial) and the depletion of natural resources (clean air and water).

- b. Offer transportation choices that do not rely solely on the private automobile.
- c. Incorporates urban green spaces to mitigate heat islands, store, cleanse, and soak up storm water, and provide plants that take in carbon dioxide and release oxygen. It (may) use natural streams as fingers of open space instead of running them into a pipe. A sustainable urban environment is also just a fun place to be: to walk, to work, to gather, to dine, and to shop.
- d. Sustainable development requires the integration of environmental and economic considerations in decision-making. Consideration must be given to both the short and long-term consequences of these decisions. In addition, the decisions must be based on sound information.
- e. Our economy depends on the continued flow of resources and on the protection and enhancement of ecosystems and habitats. The decision-making process encourages considering not only today's needs, but the needs of future by ensuring that a long enough horizon is used in the evaluation process.

D. Summary of Public Input

1. Community Meetings

a. The Growth Policy planning process began in December of 2006 with the Hot Springs Planning Board holding a kick-off meeting to review the Growth Policy process and to plan a community meeting to obtain public input on the plan. A community meeting was conducted in January of 2007 and was attended by over 80 people. Participants at the meeting identified strengths, issues and opportunities of the community and then ranked the importance of these characteristics. Following are the results of this exercise:

(1) Strengths (Ranked in order of importance with #1 being most important)

- (a) Hot Springs , Mineral Water
- (b) Unique Character , Small Town Ambience/Old Fashion Character/End of the Road Feeling
- (c) Clean Air/Water
- (d) Sense of Community
- (e) Business Mix (Grocery/Hardware/Bank)
- (f) Tolerance , The People:
Dedicated/Personable/Interactive
- (g) Diverse Population , Age/Political Views
- (h) Medical Clinic

- (i) Confederated Salish & Kootenai Tribes Have Facilities in Town
- (j) Senior Transportation
- (k) Time Warp , Going back 30 years
- (l) Police/Fire
- (m) Library
- (n) Long History
- (o) Reservation
- (p) Scenic
- (q) Community Pool
- (r) Good Chamber of Commerce , Joining State Chamber
- (s) Incorporated-Water/Sewer/School/Organizational/Physical Infrastructure
- (t) Tourism (original growth was from Sawmill & Tourism , Mill burned down)

(2) Opportunities (Ranked in order of importance with #1 being most important)

- (a) Bring curb appeal to town, Main St., Appearance aesthetics/Revitalization
- (b) Engage Tribe in Planning Process
- (c) New buildings for hot springs/Increase tourism
- (d) Improve Tribal Relations, Water Rights for Hot Springs
- (e) Museum Project
- (f) Recreation Opportunities
- (g) Undeveloped hot spring resources
- (h) Infrastructure Grants: Need Matching Funds , Have had to raise water/sewer rates
- (i) Creating Jobs
- (j) Attract lone eagles/telecommuters
- (k) New subdivisions & annexations

(3) Issues, Constraints (Ranked in order of importance with #1 being most important)

- (a) Drug problems (Alcohol & Meth)
- (b) Main Street needs revitalization/too much vacant space/make historic district
- (c) Street improvements need to be completed
- (d) Water plant at capacity once annexations occur. There are 3 wells. One has a water quality issue.
- (e) Tribal Relations - School mascot is an issue.
(Note: While the mascot name was changed in

- 2007 some Tribal members would still prefer to eliminate the use of the word, Savage,)
- (f) Camas Bath House closed in 1985, building is still there and is becoming an eyesore
 - (g) Housing Stock, Older/Deteriorating/Small sq. ft./ foundation issues
 - (h) Unemployment, School/rest home are the largest employers. Other employer, hotel/retail
 - (i) Water Rights not adjudicated
 - (j) Jobs don't have benefits
 - (k) Tax structure in Montana
 - (l) Wastewater discharge permit, Tribe controls. Upgrades to treatment plant are required for compliance with new standards. Lift station is needed for lots on 2nd Ave. South
 - (m) There are lots in town that are not connected to water service-Still on wells. Other lots have multiple buildings on the same water hook-up (spaghetti lines)
 - (n) No upscale housing
 - (o) Population loss after Bonneville Power Administration left & sawmill burned down in the 1950's
 - (p) Winter Inversions
 - (q) No casinos as of Dec. 15th due to no contract between Tribes & State. Loss of tax revenue

b. Feedback from open houses in May 2008 and the public hearing in June of 2008 and subsequent meetings throughout 2008 and first quarter 2009. Approximately 50-60 people attended the open houses and public hearing. The responses of community members who spoke at the public hearing were overwhelmingly negative about the growth policy and the confusing, over-reaching nature of the April 2008-Draft Policy. Because of this public response a vote on adopting the growth policy was postponed and a plan was proposed to involve the public in reading through the document to provide feedback that would be incorporated into a revised draft policy. Since that time, meetings, open to all, have been held to go over the draft and give feedback. Some of the concerns and questions about the growth policy from the open houses, public hearing and subsequent meetings include:

- (1) Concern about protecting the rights of property owners.
- (2) Concern that implementing the growth policy would overburden limited town staff and financial resources.

- (3) Concern that the growth policy creates more government bureaucracy and regulation.
- (4) Concern about what new ordinances would result from adopting a growth policy.
- (5) Concern about the legal obligations of the growth policy framework and exactly what the state law requires.
- (6) People expressed the opinion that we just don't need a growth policy.
- (7) Concern that the April 2008-Draft Plan was very long, intimidating and confusing.
- (8) Many were upset that some of those who presented the plan, had said and implied that a growth policy was required by the state. The town is not required to have a growth policy.
- (9) Concerns that the town was relying too heavily on grant funding which often has unwanted stipulations and can drive up the costs of projects.
- (10) Some expressed frustration about the manner in which we kept being told that a growth policy is not regulation. Though a growth policy is not regulation itself, any changes to zoning, subdivision and some other ordinances must reflect the growth policy. So if we want to change our zoning ordinances, we must have a growth policy (statement confirmed by the Montana Department of Commerce attorney advisors) and our changes must be reflected in the content of the growth policy. Those who put together the April 2008-Draft Policy were not clear on this issue and would not clearly say that ordinances would be updated as a result of adopting the growth policy. In addition, the April 2008-draft plan is not clear on what zoning changes are being proposed, and what ordinances would likely change or be created as a result of adopting a growth policy.
- (11) Concern that the legal framework of the growth policy takes decision-making capabilities out of local hands, into the hands of county, state, tribal and even federal authorities.
- (12) Concerns about zoning ordinances. Some expressed that there are other ordinances and incentives that can achieve our goals, not just zoning ordinances. It has also been pointed out, and confirmed by the Montana Department of Commerce attorney advisors, that we do not have to adopt a growth policy to repeal zoning or enact non-zoning ordinances.

II. Economic Development

A. Basic information, data, trends and maps (Summary follows)

1. Economic Development

- a. Median and per capita income is lower in Hot Springs than state and county averages
- b. Less than half of Hot Springs households earn money from wages
- c. 38% of Hot Springs residents live below the poverty line (from 2000 info)
- d. Service occupations are the largest employer
- e. One third of residents commute to jobs outside of town
- f. Hot Springs has an insufficient tax base to meet the needs of residents
- g. Tourism has an annual impact of \$403,410 on the town
- h. Lodging taxes have increased in Sanders county

B. Breakdown of goals, objectives, actions, indicators, and implementation

1. Goal 1-Hot Springs has a diverse and thriving economic base that serves the needs of residents and visitors and provide good jobs (and the opportunity to create ones' own jobs) with benefits

a. Objectives

- (1) Town ordinances, regulations and incentives support a flourishing and prosperous economic environment
- (2) The town attracts and keeps businesses and services that serve the needs of residents and visitors
- (3) Town residents have the ability to survive through economically difficult times by their own efforts and through voluntary cooperation/coordination with others

b. Actions

- (1) Partner with the private sector to support entrepreneurship through marketing, training and small business programs
- (2) Promote Hot Springs through new events such as festivals, arts, healing, etc
- (3) Work with the Chamber of Commerce and interested parties to repaint the Hot Springs sign at the Y intersection
- (4) Establish a working group of interested residents to explore economic development ideas and solutions that would benefit the people of the town

- (5) Research, remove and amend regulatory barriers that may inhibit new and existing businesses (e.g., outdated zoning)
- (6) Promote telecommuting, cottage industries and other home-based business opportunities.
- (7) Continue to promote the small-town lifestyle, clean air, water and environment of Hot Springs as positive attributes for new businesses (in the areas of healthcare and retirement, for example)
- (8) Work with existing and potential business owners to make sure they have the ability to remain within the town and expand in a manner that would benefit residents
- (9) Work with the private sector to create viable incentives for new and existing retail businesses
- (10) Explore if there is local support and initiative for making a gateway entrance to town that would attract highway travelers into town
- (11) Encourage organic gardening and seed saving.
- (12) Explore options for community-based currency/barter as alternatives to Federal Reserve Notes
- (13) Encourage and promote community self-policing measures and neighborhood watch groups

c. Indicators

- (1) Less vacancies on main street
- (2) More business licenses
- (3) The town meets the needs of residents

d. Implementation Strategy

- (1) Tools
 - (a) Individual and private initiative/community initiative and collaboration.
 - (b) Review, amend, add and/or remove, regulations, ordinances and incentives
- (2) Timeline-Ongoing
- (3) Resources-Community volunteers, community organizations, town government volunteers and town government staff

2. Goal 2-Arts provide a growing, thriving and positive economic and cultural factor for the community

a. Objectives

- (1) The community continues to support arts opportunities for children and adults through grass roots fundraising and volunteer efforts

- (2) There are many opportunities for community members to engage in the arts
- (3) There are positive and beneficial opportunities for artists to show, perform and be supported in their work

b. Actions

- (1) Encourage the work of community individuals and organizations like the Hot Springs Artists Society
- (2) Promote business and other events that further develop visual and performing arts in Hot Springs

c. Indicators

- (1) Arts classes and arts opportunities for children and adults are abundant in the community
- (2) Artists are supported and encouraged in their work

d. Implementation Strategy

- (1) Tools-
 - (a) Individual private/community initiative and collaboration through new and established avenues
- (2) Timeline-Ongoing
- (3) Resources- Community volunteers and community organizations, private enterprise

3. Goal 3-Hot Springs mineral water resources are revitalized to the wisest and best uses

a. Objectives

- (1) Geothermal water resources provide diverse job opportunities for residents of the community including the areas of greenhouses, medical and wellness facilities, alternative energy development and recreation/relaxation
- (2) The geothermal mineral water resources are utilized for the benefit of current and future generations

b. Actions

- (1) Research and promote claim about the unique mineral content of the mineral water in Hot Springs being the best in the United States of America and second best in the world
- (2) Explore possibilities for efficient and beneficial energy uses of the geothermal water
- (3) Research possibilities for a tribal mineral water healing center

(4) Promote business development and events that take advantage of the restorative aspects of Hot Springs' geothermal resources and the healing arts

c. Indicators

- (1) More businesses opening that directly relate to geothermal water uses and development
- (2) More and beneficial coordination with the Confederated Salish and Kootenai T tribes

d. Implementation Strategy

- (1) Tools-
 - (a) Educational programs and Public Outreach
 - (b) Individual private/community initiative
 - (c) Coordinating with the CSKT tribes
- (2) Timeline-Ongoing
- (3) Resources- Community volunteers and community organizations, private enterprise

4. Goal 4-Our healthy and vibrant tourism economy supports local businesses and amenities for the community

a. Objectives

- (1) Residents and visitors enjoy the many recreational opportunities in and around Hot Springs and utilize other businesses and services when they are here
- (2) Residents and visitors enjoy the different soaking opportunities available in Hot Springs and utilize other businesses and services when they are here
- (3) Residents and visitors enjoy the different arts, cultural, healing arts, hand crafted goods, and vintage and antique shopping opportunities available in Hot Springs and utilize other businesses and services when they are here
- (3) Residents and visitors support the local businesses in town

b. Actions

- (1) Explore the idea of creating and refining a Hot Springs brand that can be used for marketing purposes
- (2) Promote business development and events that take advantage of the restorative aspects of Hot Springs' geothermal resources and the healing arts
- (3) Attract pass through visitor traffic from Highway 28 to improve the customer base of local businesses
- (4) Explore the idea of developing a map of recreational opportunities, including a recreational trail plan

c. Indicators

- (1) Local businesses serving more residents and visitors
- (2) Local businesses are successful and able to stay in business
- (3) New businesses open to meet the needs are residents and visitors

d. Implementation Strategy

- (1) Tools-
 - (a) Educational programs and Public Outreach
 - (b) Individual private/community initiative
- (2) Timeline-Ongoing
- (3) Resources- Community volunteers and community organizations, private enterprise

III. Housing

A. Basic information, data, trends and maps (Summary follows)

1. Limited number of new housing units-15 from 1990-2006
2. Large number of single person households
3. The vacancy rate in Hot Springs has been higher than state averages
4. 82% of homes constructed before 1960
5. MBH , "Housing Condition Study" showed most homes rated in average condition, but also a significant amount of homes rated as having some poor/low cost workmanship
6. The median home value was lower in Hot Springs than state averages in 2000
7. Despite lower rates for rent and mortgages, housing costs are still causing a cost burden to residents (38% of homeowners and 48% of renters)
8. Home ownership rates are lower in Hot Springs than the rest of the state

B. Breakdown of goals, objectives, actions, indicators, and implementation

1. Goal 5-Existing homes in Hot Springs are safe and in good condition

a. Objectives

- (1) Existing housing stock in Hot Springs is well maintained and improvements in energy efficiency are made when possible
- (2) Existing housing stock in Hot Springs provides a comfortable and affordable living environment
- (3) Residents that request it receive assistance with "aging in place" remodeling

b. Actions

- (1) Provide information to residents about loan and grant programs for home improvement
- (2) Encourage getting the word out about programs that provide paint/paint supplies and other building materials to qualifying homeowners
- (3) Encourage volunteer community clean-up efforts
- (4) Examine code enforcement procedures for legal nuisance and property maintenance violations
- (5) Promote weed control through landscaping that uses xeriscaping practices that promote water conservation and low maintenance on city property and encourage residential participation
- (6) Provide information on conducting energy audits to identify cost saving measures

- (7) Provide information on weatherization programs through the State, utility companies, and senior services
- (8) When existing structures are demolished or rehabilitated, encourage that building materials and household items be recycled and salvaged as much as possible
- (9) Promote the rehabilitation of existing housing stock as an affordable option for housing
- (10) Rehab existing rental units

c. Indicators

- (1) Measurably less energy usage per household
- (2) Residences voluntarily receive regular upkeep, maintenance, repair and remodeling
- (3) Residents use energy saving techniques when possible

d. Implementation Strategy

- (1) Tools
 - (a) Individual and private initiative/community initiative and collaboration.
 - (b) Review, amend, add and/or remove, regulations, ordinances and incentives
- (2) Timeline-Ongoing
- (3) Resources-Community volunteers, community organizations, town government volunteers and town government staff

2. Goal 6-Hot Springs has a variety of new housing of various types-utilizing efficient construction methods-supporting the affordable housing needs of the community and suitable for a range of income levels

a. Objectives

- (1) New housing stock in Hot Springs is diverse and affordable to purchase, rent and live in
- (2) New housing stock in Hot Springs utilizes a variety of resource efficient construction methods
- (3) New housing stock in Hot Springs makes smart and best use of existing vacant lots and land resources

b. Actions

- (1) Encourage development of rental and purchase single-family units, apartments and condominiums for families
- (2) Encourage energy efficient building and design techniques. New homes should be built as energy efficient as possible
- (3) Encourage redevelopment of existing lots

c. Indicators

- (1) More upscale and affordable housing
- (2) Different building practices are used in building construction including straw bale, monolithic dome, etc
- (3) Increased home ownership
- (4) Rental rates are stable and affordable

d. Implementation Strategy

- (1) Tools
 - (a) Individual and private initiative/community initiative and collaboration.
 - (b) Review, amend, add and/or remove, regulations, ordinances and incentives
- (2) Timeline-Ongoing
- (3) Resources-Community volunteers, community organizations, town government volunteers and town government staff

IV. Land Use

A. Basic information, data, trends and maps (Summary follows)

1. Hot Springs has the smallest population and land area of the three incorporated towns in Sanders County
2. Hot Springs is located on the Flathead Indian Reservation and the Confederated Salish and Kootenai Tribes as well as individual tribal members, own trust lands within and adjacent to the town
3. The predominant land use in Hot Springs is single-family residential with some multi-family and commercial lands. There is minimal industrial land in town
4. The central business district stretches along Main Street for a four block area. Land uses are a mix of retail, government and office buildings. Several new businesses have opened on Main Street in the last eighteen months, though there are still a couple vacancies. The central business district is a pedestrian/vehicle district with one-story buildings
5. There are numerous property maintenance issues scattered throughout town, including: dilapidated structures, weeds, inoperable vehicles, and debris in yards
6. The zoning ordinance does not contain provisions for parking and signs. There should also be provisions for lodging in commercial districts and residential offices
7. Land use in the urban-rural transition area is generally agricultural with some rural residential near the town. There are some commercial uses along Broadway
8. The Confederated Salish and Kootenai Tribes', "Comprehensive Resource Plan" has policies regarding preservation of tribal history and culture as well as all land-based resources on the Reservation.
9. City parks and recreation facilities are managed by governmental and non-profit entities
10. There are four active sites where past leaking underground tanks issues are still being resolved

B. Breakdown of goals, objectives, actions, indicators, and implementation

1. Goal 7-New development has necessary services and meets the needs of residents without lowering or putting a cost-burden on existing residents

a. Objectives

- (1) It is cost-effective and not a burden to existing residents to extend services to new development areas
- (2) New development pays its own way and does not put a stress on local services

b. Actions

- (1) Explore impact fees for new development
- (2) The town should keep accurate data on service conditions
- (3) Encourage a system of recreational trails and new developments should connect to a trail system when possible. Large developments are encouraged to provide adequate open space.
- (4) Parkland dedicated with new developments should be of adequate size, accessibility and configuration to provide functional park land. Fee in lieu of land should be considered as an option where this is not possible
- (5) New development should mitigate potential traffic safety hazards and should not create undue traffic congestion
- (6) New development should be accessible to all residents. Gated communities are not compatible with this principle.

c. Indicators

- (1) The town is providing new water and sewer hook-ups for development of current lots and new development
- (2) Costs of local services to residents does not increase as a result of new customers being added

d. Implementation Strategy

- (1) Tools
 - (a) Individual and private initiative/community initiative and collaboration.
 - (b) Review, amend, add and/or remove, regulations, ordinances and incentives
- (2) Timeline-Ongoing
- (3) Resources-Community volunteers, community organizations, town government volunteers and town government staff

2. Goal 8-Development in Hot Springs reflects the community character and minimizes negative impacts on neighboring uses.

a. Objectives

- (1) Encourage compatible development in the rural–urban transition area close to town
- (2) Preserve the rural character of the planning area and encourage organic agricultural operations
- (3) Preserve community character through increased awareness, thoughtful design of new buildings, and encourage the rehabilitation of historic resources in the community

(4) Encourage revitalization of neighborhoods with deteriorating structures and code enforcement issues

b. Actions

(1) Impacts of development should be minimized and confined to the site (parking, noise, glare, dust, etc...) or mitigated

(2) Work with the county, Confederated Salish and Kootenai Tribes, state and federal agencies to coordinate planning efforts in the rural planning area

(3) Respect right-to-farm policies and organic farming operations

(4) Designate future land use to preserve the agricultural and rural character of the area by encouraging development to occur in close proximity to the city

(5) Encourage community groups and civic organizations to undertake improvement projects such as landscaping, community clean-up days, property maintenance efforts or public art and welcome signs at the gateway to town.

(6) Develop public information brochures and other education and outreach efforts on community beautification

(7) Combine code inspection and enforcement efforts with public information campaigns to make residents and property owners aware of maintenance standards and encourage the voluntary correction of these problems

(8) Encourage neighborhood efforts to enhance properties through activities such as neighborhood clean-up days, volunteers to assist senior citizens with property maintenance, recognition of exemplary rehab efforts and other similar activities

c. Indicators

(1) Voluntary revitalization projects are taking place

(2) Agricultural operations are thriving

d. Implementation Strategy

(1) Tools

(a) Individual and private initiative/community initiative and collaboration.

(b) Review, amend, add and/or remove, regulations, ordinances and incentives

(2) Timeline-Ongoing

(3) Resources-Community volunteers, community organizations, town government volunteers and town government staff

3. Goal 9-Any remaining issues from leaking underground tanks in town are resolved

a. Actions

- (1) Investigate and confirm the information about the leaking tanks
- (2) Formulate a plan with the steps necessary to take care of the leaking tanks
- (3) Take the necessary actions to resolve the issue of the leaking tanks

b. Indicators

- (1) All health, safety and welfare concerns from the leaking tanks have been resolved

d. Implementation Strategy

(1) Tools

- (a) Individual and private initiative/community initiative and collaboration.
- (b) Review, amend, add and/or remove, regulations, ordinances and incentives

(2) Timeline-Ongoing

- (3) Resources-Community volunteers, community organizations, town government volunteers and town government staff

V. Natural Resources

A. Basic information, data, trends and maps (Summary follows)

1. The Little Bitterroot Valley, where Hot Springs is located, is one of the most arid valleys in western Montana. Wildfire issues in the wild land-urban interface pose a significant planning concern.
2. Geothermal resources are a unique natural resource of the Hot Springs area, offering cultural, restorative, historic and tourism opportunities.
3. Upstream agricultural water diversion on Hot Springs Creek greatly affect water quantity in town and downstream from town.
4. Both water quality and water quantity issues are overseen by Federal Agencies and the Confederated Salish and Kootenai Tribal Government.
5. There is a moratorium on the issuance of any new well permits on the Flathead Indian Reservation. Several Montana Supreme Court rulings prohibited the State of Montana from issuing any new well permits until the reserved water rights of the Confederated Salish and Kootenai Tribes have been determined.
6. Water rights on the Flathead Indian Reservation have not yet been adjudicated. Negotiations between the Tribes and the Montana Reserved Water Rights Commission are underway with a sunset in 2009 for resolution. The Tribes have asserted ownership and a primary water rights claim for all geothermal resources on the Reservation.
7. Forested slopes surrounding the town greatly contribute to the scenic quality of Hot Springs.

B. Breakdown of goals, objectives, actions, indicators, and implementation

1. Goal 10-Surface and ground water, geothermal resources, air quality, scenic views and the natural environment of the Hot Springs area are respected and protected.

a. Objectives

- (1) Geothermal resources are utilized for alternative energy purposes
- (2) Surface (including Hot Springs Creek) and ground water quality is protected in Hot Springs.
- (3) Class 1 air quality standards established for the Hot Springs area are upheld

b. Actions

- (1) Partner with Sanders County Economic Development Corporation, the Confederated Salish and Kootenai Tribes, the Chamber of Commerce, the State and other partners to

investigate opportunities for further use of natural hot water.

(2) Continue to promote the small-town lifestyle, clean air, water and geothermal resources of Hot Springs as positive attributes for new businesses in the area of healing arts, tourism and other related areas.

(3) Work with the Confederated Salish and Kootenai Tribes on adaptive re-use of the Camas Bath House.

(4) Work with the Flathead Irrigation District to ensure that adequate water flows are maintained in Hot Springs Creek during irrigation months.

(5) Work with the Confederated Salish and Kootenai Tribes on monitoring of surface waters below the Hot Springs Municipal Wastewater Treatment Plant to maintain high surface water quality.

(6) Address areas of high groundwater either through subdivision regulations or the building permit process to ensure that new development is not adversely impacted by high groundwater.

(7) Monitor wood stove use and other land uses that can impact air quality; take proactive steps if needed to ensure air quality is maintained.

(8) New development should be encouraged in areas that are relatively free of environmental problems (e.g., soils, steep slopes, bedrock, water table and floodplain areas...)

(9) Work with existing agencies to determine the most appropriate areas for development in order to preserve areas with high natural resource value such as wildlife habitat and migration corridors, scenic areas, and archeological sites.

c. Indicators

(1) Adequate water flows are maintained in Hot Springs Creek

(2) High surface and ground water quality

(3) Geothermal resources produce alternative energy

(4) High ground water and other areas with environmental problems are not developed inappropriately

d. Implementation Strategy

(1) Tools

(a) Individual and private initiative/community initiative and collaboration.

(b) Review, amend, add and/or remove, regulations, ordinances and incentives

(2) Timeline-Ongoing

(3) Resources-Community volunteers, community organizations, town government volunteers and town government staff

2. Goal 11-The risks associated with wildfires are reduced by coordinating with appropriate agencies, businesses and residents.

a. Objectives

- (1) The needs of local firefighting service providers are assessed on a regular basis to make sure they can keep pace with growth in the area
- (2) Members of the town governing bodies, businesses and residents are informed about the role different agencies play in helping to protect the area from wildfires.
- (3) The community quickly and efficiently mobilizes the resources necessary to fight wildfires

b. Actions

- (1) Strengthen relationships with the US Forest Service, Confederated Salish and Kootenai Tribes and the State Department of Natural Resources and Conservation to increase preparedness for wildfire events.
- (2) Develop an interagency Wildfire Management Plan that addresses wildfire prevention, protection and education.
- (3) Require all new subdivisions in the wild land-urban interface to submit a Wildfire Protection Plan that addresses landscaping, vegetation, outdoor storage, education and emergency evacuation.
- (4) Continue and expand the first responder team trained in best practice incident command procedures within Town government that will work with lead agencies in the event of a wildfire emergency.
- (5) Ensure adequate training for Town government staff related to wildfire emergencies.
- (6) Develop standards to ensure adequate access for emergency services such as secondary access and limited length of cul-de-sacs.
- (7) Ensure appropriate water flows for fire fighting, by testing frequently
- (8) In high hazard areas restrict densities and development on steep slopes that would contribute to the spread of wildfires, cause erosion, or hinder emergency crews.

c. Indicators

- (1) Protected and maintained buffer where wild land and town areas meet

(2) Officials, business owners and residents are aware of and can relay procedures to mobilize agencies to fight wildfires

d. Implementation Strategy

(1) Tools

(a) Individual and private initiative/community initiative and collaboration.

(b) Review, amend, add and/or remove, regulations, ordinances and incentives

(2) Timeline-Ongoing

(3) Resources-Community volunteers, community organizations, town government volunteers and town government staff

VI. Public Facilities

A. Basic information, data, trends and maps (Summary follows)

1. The Town of Hot Springs maintains approximately 12 miles of streets and alleys within the Town limits. Improvements are required for the storm drain system.
2. The northeast portions of the Town are flat, with no formal drainage system collecting water from Town streets. This has caused erosion and ongoing maintenance issues.
3. The northwest portion of the Town has four streets with very steep grades that affect winter snow removal and erosion during rainy seasons and snow melt seasons.
4. Old pavement streets do not have any sub-grade, and the streets are not crowned.
5. Streets paved in 2004 were not sealed, and drainage cracks are now appearing.
6. Alleys have limited sub-bases and inadequate drainage.
7. Three wells serve as the water source for the Town of Hot Springs. The storage facility has adequate capacity for current usage and future growth, but the need for additional storage has been identified. At present, Hot Springs is not required to treat its water.
8. Wastewater is treated in one, three-celled lagoon, and the Town has a permit to discharge effluent into Hot Springs Creek. There is adequate treatment capacity for current usage, although more stringent EPA and/or tribal permit standards will affect the design of the system. The Town is currently pursuing a loading study to determine actual capacity of the system.
9. Additional wastewater improvements needed in the future include a shelter for chlorination or an alternate disinfection system and additional pipe and manhole replacement.

B. Breakdown of goals, objectives, actions, indicators, and implementation

1. Goal 12-The town of Hot Springs has a safe, efficient, environmentally sound and well-maintained transportation network

a. Objectives

- (1) The streets, alleys, roadways (and adjacent parking, storm drains and sidewalks) are improved
- (2) Pedestrian, bicycle and horse transportation are encouraged, in addition to automobile traffic
- (3) Residents enthusiastically utilize Sanders County Transportation buses and carpooling to connect to surrounding cities and towns

b. Actions

- (1) Prioritize road improvement projects by evaluating roads based on safety concerns, the number of vehicle trips per day, the potential to link neighborhoods and guide growth, air and water quality concerns, and other relevant issues.
- (2) Set standards for requiring chip sealing, paving and the provision of pedestrian facilities in new developments.
- (3) Develop separate standards for urban and rural subdivisions to reflect the need for greater parking, snow storage, pedestrian movement and utility placement space in urban developments.
- (4) Explore requiring developers to dedicate roadways and easements to the public while keeping maintenance responsibilities private within a homeowners association in order to minimize public expenditures.
- (5) Identify, prioritize, seek funding for and develop bicycle, pedestrian and horse trails, particularly those that link residential and commercial or tourism-related development.
- (6) Support the Sanders County Transportation efforts in their ongoing programs. Work with the agency on expansions to the program that would benefit Hot Springs residents.

c. Indicators

- (1) Roads are in good shape and repaired as needed
- (2) More pedestrian, bicycle and horse transportation usage
- (3) High usage of transportation system buses
- (4) Less road dust in the summer
- (5) Less traffic related injuries and damage

d. Implementation Strategy

- (1) Tools
 - (a) Individual and private initiative/community initiative and collaboration.
 - (b) Review, amend, add and/or remove, regulations, ordinances and incentives
- (2) Timeline-Ongoing
- (3) Resources-Community volunteers, community organizations, town government volunteers and town government staff

2. Goal 13-Promote adequate infrastructure and services in support of existing and future development in a manner that is fiscally efficient, far-sighted and environmentally sound.

a. Objectives

- (1) The Town utilizes and updates a detailed Capital Improvements Plan to address water/wastewater system and other infrastructure needs and issues.
- (2) The Capital Improvement Plan is consulted on a regular basis and used by public officials for short-term and long-term planning and budgeting
- (3) Developers are required to pay for the impacts of their projects on public infrastructure and services.
- (4) Parks are attractive and well utilized by the community, with park areas/services added and expanded when possible

b. Actions

- (1) Adequately fund the town street needs to remedy existing street deficiencies.
- (2) Require new development in older parts of town to participate in needed capital improvements.
- (3) Coordinate streetscape improvement with planning for downtown.
- (4) Require developers to meet state and local sewage disposal and water supply standards for new developments.
- (5) Upgrade water and wastewater systems as necessary to comply with environmental and health standards and provide adequate capacity.
- (6) Explore methods such as annexation policies, adequate facility ordinances and exactions to recover the cost of infrastructure upgrades caused by the need to provide service to the development.
- (7) Encourage development where facilities can cost effectively be expanded for new growth.
- (8) Encourage partnerships and innovative approaches to improve park and other facilities when necessary.
- (9) Regularly review and update utility main extension policies for over-sizing lines, recapture agreements and plant investment hook-up fees.

c. Indicators

- (1) Infrastructure needs are properly discussed and budgeted
- (2) Infrastructure systems are properly maintained
- (3) Infrastructure demands and costs of new development do not put an excessive and undue burden on residents

d. Implementation Strategy

- (1) Tools

(a) Individual and private initiative/community initiative and collaboration.

(b) Review, amend, add and/or remove, regulations, ordinances and incentives

(2) Timeline-Ongoing

(3) Resources-Community volunteers, community organizations, town government volunteers and town government staff

VII. Local Services

A. Basic information, data, trends and maps (Summary follows)

1. The mill levy and per capita spending for Hot Springs was slightly higher compared to towns of comparable size.
2. Hot Springs is in Sanders County. Thompson Falls is the County Seat.
3. Hot Springs is on the Flathead Indian Reservation home of the Confederated Salish and Kootenai Tribes. A number of Tribal facilities are located in Hot Springs.
4. Fire Protection is provided by the Hot Springs Volunteer Fire Department.
5. Hot Springs is classified as an "At Risk" community for wild-land fire.
6. Law enforcement in the Town and surrounding area is provided by the Hot Springs Police Department, the CSKT Tribal Law and Order Department and the County Sheriff.
7. Crime rate is slightly higher than in other towns in the County.
8. Per capita collection is slightly higher than for libraries of comparable size even though per capita expenditure is lower compared to other similar sized libraries.
9. School enrollments have been stable over the last five years.
10. The Clark Fork Valley Hospital in Plains serves the Hot Springs area. The hospital is located 22 miles from Hot Springs but has a medical clinic in Hot Springs.
11. Health and social services are provided by the Sanders County Health and Human Services Department, the Tribes, Health and Human Resources Departments, the Sanders County Council on Aging, the Hot Springs Senior Center and the Indian Senior Citizens Center.
12. The Town of Hot Springs has a website, but it is not maintained or updated on a regular basis.

B. Breakdown of goals, objectives, actions, indicators, and implementation

1. Goal 14-The town government is responsive to the needs and input of residents: Decision-making is open and transparent.

a. Objectives

- (1) The town encourages and promotes classes and educational materials on proper government procedures, including the duties imposed by constitutional constraints on town officials and employees.
- (2) Town officials regularly communicate with local media, citizens' groups, and residents especially when controversial decisions are made that go against the wishes of a significant portion of the town's citizens.

(3) The town regularly reviews town ordinances for their specific appropriateness in promoting the health, safety, and welfare of town residents, eliminating or revising them when found to be in conflict with the guidelines of this Growth Policy.

b. Actions

- (1) Update and expand the town website. To facilitate all the preceding objectives, while also minimizing costs, explore translating the town notices, ordinances, meeting notes and finances to electronic document form that could be easily displayed on the town website for public viewing.
- (2) Obtain educational materials and references on municipal government procedure and law.
- (3) Consult with local paper (Little Baldy) to explore ideas for conducting and publishing community surveys.

c. Indicators

- (1) Surveys, formal or informal, of local citizens regarding their "fairness" rating of town government decisions and enforcement of ordinances. Such surveys could measure an individual "outrage vs. satisfaction" index.
- (2) The number of citizens who act as intelligent watchdogs over local government actions, to determine ether they conform to lawful and legal requirements, is an indicator of the success of public educational efforts.

d. Implementation Strategy

(1) Tools

- (a) Among town residents are people with varied expertise in computer programming, website development and maintenance, city planning, civic studies, and many other related areas. Costs could remain negligible if town volunteers and volunteer committees donated their time to: website maintenance and training of others it its maintenance; developing classes and collecting educational materials in government procedures and constitutional constraints;
- (b) Reviewing local ordinances and making recommendations and findings of fact to the town council.
- (c) Surveys could be performed by the local newspaper (Little Baldy) in consultation with community groups to develop the survey questions. The results are certain to be of interest to its readers

and improve readership, because lack of transparency in government and going against the wishes of major portions of the community were two major concerns expressed repeatedly at public hearings of the Growth Policy during the year 2008.

(d) Much information is available on legal and government Internet websites; however, an electronic legal encyclopedia like American Jurisprudence would greatly facilitate research by town citizens and officials. Approach the local library board for exploring purchase of such an encyclopedia from its book/resource budget; cost estimate is \$1000.

(2) Timeline-Start immediately and Ongoing

(3) Resources-Community volunteers, community organizations, town government volunteers and town government staff

2. Goal 15-The town protects private property rights and other rights of individuals.

Discussion-According to American Jurisprudence legal encyclopedia and numerous Supreme Court decisions, municipal governments nationwide have a habit of stretching the police powers beyond their proper constitutional bounds. Hot Springs is no exception, and these types of violations have been a frequent source of conflict between town citizens and overzealous town officials. For a summary of some of the most common types of violations of lawful authority, see Appendix "Judicial principles applying to municipal and professional licenses".

a. Objectives

(1) Local government ordinances and their enforcement conform to constitutional requirements of the police powers and are limited to bona fide health, safety, and welfare concerns.

(2) The aforementioned police powers are not abused for purposes of increasing general revenue, interfering with or restricting harmless and innocent businesses, unfairly discriminating among classes of persons, violating private property rights, or collecting license fees for obtaining general revenue.

b. Actions

(1) Based on almost unanimous opposition to the proposed April 2008-draft Growth Policy (based on concerns of violation of property rights and unnecessary restriction of property usage), it is hereby advised that the Town of Hot

Springs review its zoning ordinances and consider repealing them entirely.

c. Indicators

(1) Citizen complaints of "unfairness" sometimes have their basis in enforcement of ordinances that violate constitutional guidelines for exercise of the police powers. Evaluation of these incidents by citizen watchdog groups should be encouraged.

d. Implementation Strategy

(1) Tools

(a) As explained in Appendix XXX, repeal of all zoning ordinances would be the cheapest, simplest solution for our town and in conformance with the wishes of the vast majority of people expressing opinions at several public hearings in 2008 on the proposed April 2008-draft Growth Policy. It would not require any Growth Policy to be formally adopted, with its associated bureaucratic costs and mandated 5-year periodic revisions, and could be achieved by a simple vote of the Town Council, or a general vote of the town's registered voters.

(b)

(2) Timeline-Ongoing

(3) Resources-Community volunteers, community organizations, town government volunteers and town government staff

3. Goal 16-Hot Springs provides good quality emergency and law enforcement services

a. Objectives

(1) Fire protection for the Town of Hot Springs is effective, efficient and responsive to the needs of citizens

(2) Police services for the Town of Hot Springs are effective, efficient and responsive to the needs of citizens

(3) Emergency Medical Services for the Town of Hot Springs are effective, efficient and responsive to the needs of citizens

b. Actions

(1) Monitor the status of fire, police and emergency medical services at regular intervals (e.g., quarterly, annually). If issues arise, respond as needed.

- (2) Work with fire, law enforcement and emergency medical agencies throughout the area to improve interagency cooperation and coordination. Evaluate efforts of interagency coordination regularly and make adjustments and additions as needed.
- (3) Encourage ongoing training for service providers

c. Indicators

- (1) Lessened fire danger within the planning area
- (2) Continued coordination with CSKT tribes and rural districts for fire protection service
- (3) Records and resident feedback that shows service providers are proficient at their duties and responsive to the care and needs of community members

d. Implementation Strategy

- (1) Tools
 - (a) Individual and private initiative/community initiative and collaboration.
 - (b) Review, amend, add and/or remove, regulations, ordinances and incentives
- (2) Timeline-Ongoing
- (3) Resources-Community volunteers, community organizations, town government volunteers and town government staff

4. Goal 17-Hot Springs has good quality community services for residents and visitors of all ages.

a. Objectives

- (1) School services for the Town of Hot Springs are effective, efficient and responsive to the needs of citizens
- (2) Library services for the Town of Hot Springs are effective, efficient and responsive to the needs of citizens
- (3) Transit services for the Town of Hot Springs are effective, efficient and responsive to the needs of citizens
- (4) Medical services for the Town of Hot Springs are effective, efficient and responsive to the needs of citizens
- (5) Youth services for the Town of Hot Springs are effective, efficient and responsive to the needs of citizens

b. Actions

- (1) Encourage opportunities for community partnerships with schools to address educational issues.
- (2) Support funding for educational opportunities and programs for students and the community.

- (3) Consider joint projects with schools to meet common goals for open space, recreation, and community meeting space.
- (4) Support post-secondary and adult education opportunities in Hot Springs.
- (5) Maintain and expand current youth oriented services sponsored by the Preston Hot Springs Town County Library
- (6) Work with Sanders County Transportation leaders and users and community members to identify future needs and how the town might assist while ensuring a balance of community interests.
- (7) Work with leaders of existing medical facilities to identify their future needs and how the town might assist while ensuring a balance of community interests.
- (8) Promote involvement by youth in community improvement projects.

c. Indicators

- (1) More adult education classes offered
- (2) Community shows pride in the school
- (3) High enrollment and graduation rates
- (4) Youth involvement in community improvement projects

d. Implementation Strategy

- (1) Tools
 - (a) Individual and private initiative/community initiative and collaboration.
 - (b) Review, amend, add and/or remove, regulations, ordinances and incentives
- (2) Timeline-Ongoing
- (3) Resources-Community volunteers, community organizations, town government volunteers and town government staff

VIII. Population

A. Basic information, data, trends and maps (Summary follows)

1. Peak population of Hot Springs was 711 people in the 1950's
2. Estimated population by 2030 is 761 people
3. Current population as of 2006 estimated at 565 people
4. The estimated capacity of the water/sewer system is about 900 people
5. Hot Springs has a significantly higher median age compared to other counties or state
6. A higher portion of the population has disabilities
7. There are more non-family households than family households in Hot Springs

B. Breakdown of goals, objectives, actions, indicators, and implementation

1. Goal 18-Hot Springs is accessible and meets the needs of its aging and low-income populations.

a. Objectives

- (1) Hot Springs is a safe, comfortable and engaging community that meets the needs of its residents with disabilities
- (2) Hot Springs is a safe, comfortable and engaging community that meets the needs of its elder population
- (3) Hot Springs is safe, comfortable and engaging community that meets the needs of its low-income population

b. Actions

- (1) Review and implement necessary steps from the Town of Hot Springs Accessibility Survey conducted 11/16/04
- (2) Support programs that will allow seniors to stay in their homes as long as possible.
- (3) Coordinate with the County, senior center, CSKT and nursing home to provide programs that meet the needs of senior citizens.
- (4) Design transportation and improvements to public buildings to accommodate an aging population.
- (5) Encourage programs that lower energy costs to make housing more affordable for senior citizens on fixed incomes.

c. Indicators

- (1) Seniors are active in the community

- (2) Seniors are able to stay in their homes if they wish with necessary medical and transit services readily available
- (3) Residents with disabilities are positively engaged in the activities in the community

d. Implementation Strategy

(1) Tools

(a) Individual and private initiative/community initiative and collaboration.

(b) Review, amend, add and/or remove, regulations, ordinances and incentives

(2) Timeline-Ongoing

(3) Resources-Community volunteers, community organizations, town government volunteers and town government staff

IX. Implementation Strategies

A. Review, Amend, Add and/or Remove Regulations, Ordinances and Incentives

The Town of Hot Springs currently has zoning and subdivision ordinances and is beginning to review and draft proposed new zoning ordinances. Many in the local government advocate the necessity of updating zoning ordinances-which is the main reason the town embarked on the process to create and adopt a growth policy. The public input to revise the April 2008-draft growth policy showed that many residents of Hot Springs have concerns about adopting a growth policy and they want to be involved in the process of reviewing and revising zoning and other ordinances. Residents also suggested that removing unnecessary regulation/ordinances and instituting incentives and non-zoning ordinances are also important tools in accomplishing community goals

B. Economic Development Task Force

The Town of Hot Springs will address issues related to economic development by inviting business owners and other interested parties to meet and plan to improve the vitality and appearance of the downtown area. Leadership will be sought from business owners, the Chamber of Commerce, the Hot Springs Planning Board and City Council and other interested residents and organizations, such as the Sander's County Community Development Corporation.

Items that might be discussed include, but are not limited to:

- Developing a common architectural theme and/or design standards,
- Tax increment financing (7-15-4201, MCA),
- Business improvement district (7-12-1101, MCA),
- Property tax abatement,
- Landscaping and streetscape improvements,
- Encouraging visitors to the area to spend time in town, and
- Other revitalization efforts.

C. Park and Trail Improvements and Development

The Town of Hot Springs will continue to expand its park and trail system through the use of town resources, grants, Community Transportation Enhancement Program funds, subdivision fees, possibly impact fees and other means. This is will be an ongoing project with no specific timetable.

D. Growth and Development

Hot Springs will generally encourage the re-development of properties within the town limits as well as development and annexation of properties adjacent and/or just outside of the municipal boundaries. The town intends to aggressively address capacity issues related to sewer and water facilities through the use of town resources, grants, loans, bonds and impact fees in order to make sure the town has the ability to serve future development.

Developers will be required to pay a proportional share of the costs of extending infrastructure, in addition to impact fees, needed to serve the future residents and businesses within their development projects. The town will also work with existing businesses to help provide the infrastructure necessary for business retention and expansion on an as-needed basis. Additionally, the town will seek to appoint representatives of the Hot Springs School District and the Confederated Salish & Kootenai Tribes to its planning board in order to foster the spirit of cooperation, communication and for the greater good of the community.

F. Neighborhood Revitalization

The town will initiate and publicize a “Neighborhood Clean Up Day” either annually or bi-annually in order to encourage property owners to maintain a high level of attractiveness in neighborhoods. The town will work with the Hot Springs Solid Waste District, the Confederated Salish & Kootenai Tribes, private solid waste haulers, students and others to ensure waste can be disposed of responsibly and all interested parties are invited to take part in this effort. This is a relatively small step but one that can be cited as a success and can be used as a building block. The town will also continue to talk with the Confederated Salish & Kootenai Tribes about efforts to enforce or mirror the town's blight ordinance on Tribal member and trust property in order to keep Hot Spring's residential areas attractive.

G. Community Collaboration/Private Enterprise

Many of the goals and objectives cited in the growth policy do not have clear implementation mechanisms but will be addressed on a case-by-case or as-needed basis over time. Goals such as working with all segments of the population of the greater Hot Springs community or addressing issues related to public perceptions about the schools or working with business owners for job retention and expansion will be addressed as needed. As government and grant funding is not the only means to complete community initiatives, we value and support individual and private enterprise initiatives that meet the needs of town residents and visitors.

H. Future Land Use Map

The future land use map depicts a general pattern of growth and development. The intent is to establish a guide to the overall development of an area. The future land use map indicates the general type of development that is projected to occur. These projections reflect existing land use trends, development constraints, infrastructure capacity, traffic patterns, and community input.

I. Capital Improvement Plan

The town adopted a capital improvements plan in November, 2004. A Capital Improvements Plan (CIP) is a budgeting and financial tool used by a local governing body to establish public works rehabilitation and maintenance priorities and to establish funding for repairs and improvements.

J. Efficient Use of Staff Resources

K. Education Programs & Public Outreach

Many planning objectives can be accomplished through voluntary efforts from citizens in the community. Communicating the Plan's vision to the public is critical. Education and outreach efforts include disseminating information through publications, brochures, news releases, service announcements, displays and other public relations methods. It also means obtaining regular feedback through task forces, surveys, public meetings, and customer service questionnaires.

X. Required Statements

A. How the town will coordinate with the CSKT tribes and the county

In addition to coordination of activities, some issues require a joint response from multiple agencies. Agencies may partner on capital construction projects, share staff, conduct joint planning processes or enter intergovernmental agreements on a variety of issues. In some instances, there are regional agencies with representatives from various jurisdictions to provide specific services.

The Montana Code specifies:

“If a governing body is a city or town, how the governing body will coordinate and cooperate with the county in which the city or town is located on matters related to the growth policy;”

The following policies will direct coordination between the Town of Hot Springs and County.

- The Town will provide the County with copies of the Growth Policy and, upon request, will meet with officials from the County to discuss the plan;
- The Town will notify the county of pending development proposals within the planning area;
- The Town and County will share meeting agendas and minutes for the planning boards, Town Council and County Commission;
- The County and Town will share databases and other information involved in planning processes;
- The Town will coordinate reviews with county departments such as roads, weed management and planning.

B. Subdivision Review Criteria and subdivision's effect on:

Subdivision is the division of land that creates one or more parcels for the purpose of selling, renting, leasing or conveying the land. In Montana, subdivisions that create parcels containing less than 160 acres (excluding right-of-ways) are subject to the Montana Subdivision and Platting Act (MSPA - MCA 76-3) In addition to the State Code, subdivisions are subject to local regulations. Under the MSPA, land division may fall into one of three categories that do not require local government subdivision review.

1) Divisions Exempt from local Approval but requiring a Survey - Land divisions that are exempt from local government review and approval as subdivisions, but which must be surveyed and a certificate a survey filed (without local subdivision approval) before title can be transferred.

- Any parcel 160 acres or larger in size that cannot be described as consisting of 1/32 or larger aliquot parts of a section.
- Parcels less than 160 acres but are exempt under provisions for a family transfer, agricultural purpose, or relocation of a common boundary line.

2) Divisions Exempt from Subdivision Review and Surveying

- Parcels 160 acres or larger and parcels exempt under family transfer, or agricultural purpose that can be described as consisting of 1/32 or larger aliquot parts of a section.
- Divisions of land created by a court order, eminent domain, agricultural leases, oil, gas, or water interest, and other miscellaneous exemptions.

3) Amended Plats

Within a platted subdivision the relocation of common boundaries and the aggregation of five or fewer aggregated lots may be accomplished without approval of the governing body but must be surveyed.

Among the requirements in Section 76-1-601 of the Montana Code regarding requirements for growth policies are as follows.

- (h) a statement explaining how the governing bodies will:
 - (i) define the criteria in 76-3-608(3)(a); and
 - (ii) evaluate and make decisions regarding proposed subdivisions with respect to the criteria in 76-3-608(3)(a); and
- (i) a statement explaining how public hearings regarding proposed subdivisions will be conducted.

The criteria in 76-3-608 (3)(a) will be evaluated in the staff report to the Planning Board and considered as part of the deliberations. Definition of criteria will be reviewed in detail as part of the subdivision regulation updates but will generally reflected the recommended definitions as follows:

Impact on agriculture: An impact on agriculture would be defined as an impact on an existing, on-going agricultural operation on an adjacent or neighboring property that may suffer some hindrance or other interference in the agricultural operation as a result of approval of a proposed subdivision.

Impact on agricultural water user facilities: This impact would be defined as the interference of conveyance of irrigation water and/or of ground water supplies relied upon by an existing, on-going agricultural operation on adjacent or neighboring property as a result of approval of a proposed subdivision.

Impact on local services: This is defined as an impact on the capacity and/or level of service of any local services such as utilities, streets, schools, parks, and bike and pedestrian facilities.

Impact on the natural environment: This shall be defined as impacts to air and water quality, including erosion, sedimentation, loss of native vegetation, and soil contamination.

Impacts on wildlife and wildlife habitat: These impacts are defined as loss of documented critical habitat or disruption of daily or seasonal migration routes.

Impacts on public health and safety: This set of impacts can involve traffic generated by a proposed development, smoke, dust, noise, odors, and/or impacts on fire and police protection.

The standards for defining the remaining criteria will be set forth in revised subdivision regulations. Detailed analyses of the of the primary review criteria as they relate to specific proposed subdivisions will be set forth in the staff reports and finding of fact that are reviewed by the Planning Board and governing body as part of each subdivision application.

C. Public hearings regarding proposed subdivisions statement

The Hot Springs Planning Board and City Council shall use following procedure during public hearings regarding subdivision proposals.

1. Notice of the public hearing shall be advertised according to state law.
2. The presiding officer shall announce the purpose and subject of the hearing.
3. The presiding officer shall determine whether public notice of the hearing was provided. If proper notice was not provided, the hearing shall be re-scheduled.
4. The presiding officer shall ask if any member wishes to declare a conflict of interest in the matter to be heard, and excuse anyone who declares such a conflict from participating in the hearing. Any excused party may voice comment on the matter as a member of the public but not a voting member of the board.
5. In the event that a majority of Planning Board members are not present, a public meeting may proceed out of respect to the developer and those in attendance, although the official public hearing will be held by the governing body.
6. The presiding officer shall ask the subdivision administrator (typically a staff person or a contracted planner) to present a report on the proposal being considered.
7. The presiding officer shall direct questions from board members to the administrator. Such questions shall be for the purpose of clarifying the facts surrounding the proposal.
8. The presiding officer shall remind those present that all statements must address the merits of the proposed project as measured by its compliance or lack of compliance with

the Hot Springs Growth Policy, Subdivision Regulations, Zoning Regulations or other rules, regulations or ordinances.

9. The presiding officer shall request a statement from the developer or a representative. Board members may ask questions of the developer or the representative.

10. The presiding officer shall ask for statements from members of the public. All public comments shall be directed to the board and individuals must identify themselves by name. The board may ask questions of members of the public.

11. In order to allow all parties the opportunity to speak and to ensure completion of the agenda, time limits may be set on individual comments.

12. When all statements have been given, the presiding officer shall ask anyone who has given a statement, including the developer or a representative, if they wish to rebut or clarify statements that have been given. Board members may ask questions following each statement.

13. The presiding officer shall close the public hearing and call for a discussion between board members. Board members will have the opportunity to discuss the proposal and any mitigation measures with the administrator, the developer or a representative.

14. The board shall make a recommendation for approval, approval subject to conditions or denial. Any conditions of approval or a denial recommendation must be supported by findings of fact and materials reasons stating the basis for the conditions or the negative recommendation.

15. Written statements, plans, photographs and other material offered in support of statements shall be retained by the town in accordance with its record keeping policy.

D. How the growth policy will be reviewed and revised

Planning is a continuous process. All types of plans must be reviewed and revised on a regular basis to reflect current conditions. Changes in development practices, legislation, grant programs, budgets and numerous other factors may alter priorities or make certain policies outdated. It is important that regular reviews of the Growth Policy Plan be part of the planning program.

Schedule for Review

- Annual Report

The Planning Board will conduct an annual review. The review will indicate the completion of ongoing work of the items in the action plan and will identify any issues that may require revisions to the Growth Policy Plan. The public will be invited to participate in the report.

- Five Year Review

The Montana Code requires that the Growth Policy Plan be reviewed every five years. Upon the fifth anniversary of adopting the plan, the Planning Board and staff will undertake a major review process to evaluate plan. The plan will be modified according to public procedures specified in the Montana code. Evaluation criteria include:

- Are the community's goals current and valid?
- Have circumstances, information assumptions, needs or legal framework changed?
- Does additional public input suggest the need for changes?
- Are the community planning process and planning products providing effective direction to local officials and staff?
- Is there new data that should be incorporated into the plan?
- Does the action plan reflect the completion of work items?
- Should new action items be identified and the timeline modified?
- What issues have emerged that the Plan should address?

E. Public Infrastructure Strategy

Please refer to the Capital Improvement Plan for the public infrastructure strategy

ADDENDUM SECTIONS
DATA ♦ INFORMATION ♦ TRENDS
ARTICLES ♦ REFERENCES ♦ RESOURCES

A. Economic Development Addendum

1. Median Household and Family Income

The median household income in Hot Springs in 2000 was \$12,663. This is significantly lower than either the statewide or the county median income. A number of factors contribute to this disparity in income levels. Hot Springs has a high proportion of single person households so household income is based on the sole occupant of the household and is lower than family income which often has multiple income sources. Although family income is still substantially lower than state and county averages, the gap is not as wide for families as for households.

Table 1: Median Household Income and Family Income

Hot Springs, MT – Median Household Income	\$12,663
Sanders County – Median Household Income	\$26,852
Montana – Median Household Income	\$33,024
Hot Springs, MT – Median Family Income	\$21,786
Sanders County – Median Family Income	\$31,340
Montana – Median Family Income	\$40,487

Source: U.S. Census Bureau, 2000 Census of the Population

Additionally, there is a higher proportion of the population that is over age 65 and is relies on fixed income sources such as social security, dividends, and pensions. Another factor is the lack of higher wage jobs in the town. As indicated in Table 2, more than half the households in Hot Springs had income levels of less than \$15,000 a year.

Table 2: 1999 Household Income: % of Households with Income at Specified Amounts

	Less than \$10,000	\$10,000 - \$14,999	\$15,000- \$24,999	\$25,000- \$34,999	\$35,000- \$49,999	\$50,000- \$74,999	\$75,000- 99,999	\$100,000 or more
#	92	66	54	19	21	11	0	10
%	33.7%	24.2%	19.8%	7.0%	7.7%	4.0%	0%	1.5%

Source: U.S. Census Bureau, 2000 Census of the Population

2. Income (Per Capita)

The per capita income in Hot Springs in 2000 was \$12,690. This was substantially less than the statewide average of \$21,765. Countywide income also lags behind the State average of \$21,765.

Table 3: Per Capita Income Statistics

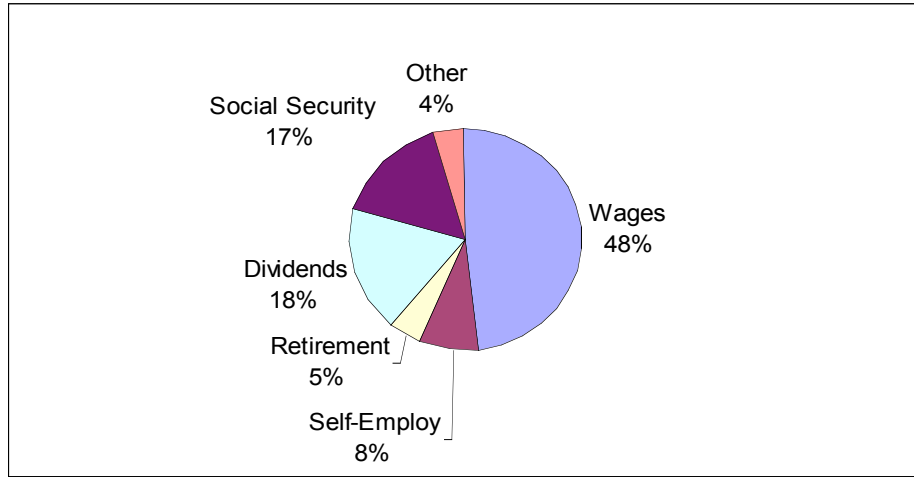
Hot Springs, MT – Per Capita Income (2000 Census)	\$12,690
Sanders County – Per Capita Income (2000 Census)	\$14,593
Montana – Per Capita Income (2000 Census)	\$21,765

Source: U.S. Census Bureau, 2000 Census of the Population

3. Income by Source

Data from the 2000 Census indicates that 48% of income received by Hot Springs residents comes from wages while 40% comes from a combination of retirement, social security, and interest/dividends. This compares to a statewide average of only 23% of income that is from sources such as retirement, social security and interest/dividends and 67% that comes from wages. Hot Springs has a slightly lower percentage of self-employment income than the state average of 9%.

Figure 1: Income Distribution – Hot Springs, MT



Source: U.S. Census Bureau, 2000 Census of the Population, SF3 Tables P68-75

4. Poverty

Each year the U.S. Census Bureau establishes thresholds to measure the number of people living below a certain income level in order to formulate economic policy and distribute social service aid. The poverty threshold for 1998 was \$11,235 for a household with two adults and one child.

According to the 2000 Census data, 38.2% of the population in Hot Springs was below poverty levels. This compared to 14.6% for the State of Montana. Families with children under the age of five were more likely to be living below the poverty line. Eight of ten of these families are classified as below poverty.

Table 4: Estimated Number and Percent People of All Ages in Poverty in Hot Springs, MT – 1999

	# Below Poverty	% Below Poverty
Families	40	33.3
With related children under 18 years	29	53.7
With related children under 5 years	13	81.3
Families with female householder, no husband present	12	66.7
With related children under 18 years	10	71.4

With related children under 5 years	2	100
Individuals	198	38.2
65 years or older	25	20.2

Source: U.S. Census Bureau, Housing and Household Economic Statistics Division, Small Area Estimates Branch

5. Labor Force

Almost two-thirds of the adult population in Hot Springs was not in the labor force in 2000. Reasons for not being in the labor force may include retirement, disability, illness or inability to find work. Of those in the labor force in 2000, the unemployment rate for Hot Springs in 2000 was 6.1% and was slightly higher than the State average of 5.3% in 2000. More recent unemployment data from the State Department of Labor and Industry is only available on a countywide basis. Overall, unemployment levels have dropped in the state.

Table 5: 2000 Annual Area Labor Force Statistics – Hot Springs

Civilian Labor Force	167
Employment	156
Unemployment	11
Unemployment Rate	6.6%
Not in Labor Force	268

Source: U.S. Census of the Population - 2000

6. Occupation

The largest numbers of workers in Hot Springs are employed in service occupations followed by production, transportation and materials moving. Compared to the County and State, there is a smaller proportion of workers in the professional and management occupations.

Table 6: Occupation by Type – Hot Springs

	#	%
Management, professional or related occupations	27	17.3%
Service Occupations	42	26.9%
Sales & Office	32	20.5%
Farming, fishing & Forestry	2	1.3%
Construction, extraction and maintenance	16	10.3%
Production, Transportation and Material Moving	37	23.7%

Source: U.S. Census of the Population - 2000

7. Class of Worker

The majority of workers (67.9%) are employed in the private-sector. This is comparable to the statewide average of 69.2% in the private sector. A larger percentage is employed in the government sector (compared to 18% statewide) and a smaller percentage is self-employed compared to a statewide average of 11.8%.

Table 7: Class of Worker – Hot Springs

	#	%
Private wage & salary	160	67.9%
Government	39	25.0%
Self-employed	11	7.1%
Unpaid Family Workers	0	0%

Source: U.S. Census of the Population – 2000

8. Industry of Workers

The majority of workers (30.8%) are employed in the education, health and social service industries. This is followed by the construction industries and then the retail trade industry. About one-third of these workers commuted to jobs outside of the town.

Table 8: Industry of Worker – Hot Springs

	#	%
Agriculture, forestry, fishing and hunting and mining	2	1.3
Construction	20	12.8
Manufacturing	19	12.2
Wholesale Trade	3	1.9
Retail trade	17	10.9
Transportation and warehousing, and utilities	6	3.8
Information	0	0
Finance, insurance, real estate, and rental and leasing	0	0
Professional, scientific, management administrative	0	0
Educational, health, and social services	48	30.8
Arts, entertainment, recreation, accommodation, and food service	18	11.5
Other service	13	8.3
Public Administration	10	6.4

Source: U.S. Census of the Population – 2000

9. Business Licenses

The number of business licenses peaked in 2001 and then declined over the next three years. The number remained stable from 2004 to 2006.

Table 9: Business Licenses in Hot Springs

	1999	2000	2001	2002	2003	2004	2005	2006
#	59	69	67	N/A	60	55	55	55

Source: City of Hot Springs

10. Top Employers

Table 10: Top Employers in Hot Springs

	# of Employees
Hot Springs School District	45
Evergreen Health and Rehabilitation Center	38
Symes Hotel	25
Council On Aging	25
Town of Hot Springs	10
Hot Springs Telephone	8
Buck's Grocery	10

Source: Telephone Interviews, March 07 (Numbers include both full and part time employees.)

11. Lodging Tax Revenue

Lodging tax revenue in Sanders County has increased steadily from 2000 to 2005. This includes collection of the tax from several lodging establishments in Hot Springs. Revenue in the table represents 4% of the lodging price.

Table 11: Lodging Tax Revenue in Sanders County

Year	Revenue Collection
2000	\$44,786
2001	\$51,918
2002	\$57,466
2003	\$65,995
2004	\$81,903
2005	\$85,871

Source: Montana Department of Commerce, Montana Promotion Division
http://www.travelmontana.state.mt.us/newsandupdates/bed_tax_revenue/ltrhome.asp

12. Tourism

The Institute for Tourism and Recreation Research at the University of Montana compiles data on visitation and tourism trends on a countywide level. Tourism trends in Sanders County are somewhat indicative of trends in Hot Springs. The mineral springs, however, are a unique feature and likely result in different visitor profiles. Based on per capita visitor spending in Sanders County, it is estimated that tourism had an annual impact of \$403,410 for Hot Springs. The largest proportion of spending in the County was in restaurants and bars.

Following are the results of a 2001 Nonresident Survey for Sanders County.

- In the 2002 summer season, over 2.3 million travel groups visited Montana. Of those, approximately 93,400 (4%) passed through Sanders County.
- In Sanders County, nonresident visitors spent close to \$7.5 million, or about \$714 per county resident.
- Travelers to Sanders County stayed in the state over twice as long as statewide visitors.
- Sanders County visitors traveled mainly as families, but also by themselves.
- Overnight visitors to Sanders County were less likely than statewide visitors to stay in a hotel or motel, but much more likely to stay in a campground (mainly public).
- Thirty-seven percent of Sanders County overnight visitors had an annual income of \$40,000 or more, compared to 77 percent for statewide visitors.
- Fifty-eight percent of overnight visitors to Sanders County were in Montana primarily for vacation, while 12 percent were primarily passing through the state.
- Nearly half of vacationers in Sanders County were attracted to Montana because of open space.
- Day hiking was the most popular activity for overnight visitors to Sanders County, followed by wildlife watching and camping.
- Visitors to Sanders County spent the largest portion of their money on licenses and fees, and in restaurants/bars.
- Statewide, the largest spending category for travelers was gasoline and oil accounting for 29% of total visitor spending. Purchases at restaurants and bars constituted the second-largest spending category representing 21% of the total spending while retail sales constituted 16% of total expenditures. Lodging accounted for 9% of visitor spending. (Source: ITRR – 2005)

B. Housing Addendum

1. Number of Housing Units

The number of housing units in Hot Springs did not change from 1990 to 2000. From 2002 to 2006 there were zoning compliance permits issued for 15 homes in the town limits.

Table 1: Housing Units – Hot Springs, MT

Geographic Area	2000 Housing Units	1990 Housing Units	% Change
Hot Springs	385	385	0%

Source: U.S. Bureau of the Census. 2000 Census of Population and Housing

2. Household Size

In Hot Springs the average household size is substantially smaller compared to the County, the State and elsewhere on the Flathead Reservation. Half of the households in Hot Springs were single-person households compared to 28% county wide and 27% statewide. While average household in the State and nationwide decreased between 1990 and 2000, in Hot Springs there was a slight increase from 1.79 persons per households in 1990 to 1.81 persons in 2000. With trends towards smaller households due to smaller family size, an aging population, more empty nesters, and more single or childless households, it is likely that household size will remain low. Additionally, the average square footage for housing stock in Hot Springs is smaller than the state averages, and is not able to accommodate larger households.

Table 2: Average Household Size

	Hot Springs	Sanders County	Thompson Falls	Polson	Flathead Reserv.	Montana
2000 Average HH Size	1.81	2.35	2.36	2.31	2.55	2.45

Source: US Census, 2000 Census of Population

3. Vacancy Rate

The 2000 vacancy rate of 27% was considerably lower than the 1990 vacancy rate of 40.5%. A 27% vacancy rate, however, is still significantly higher than the statewide average of 15% in 2000. The number of vacant units that were abandoned, boarded-up or not on the market, decreased from 1990 to 2000.

Table 3: Housing Units by Occupancy

Type of Housing Unit	2000		1990	
	#	%	#	%
Occupied Housing Units	280	73%	229	59%
Vacant (Total)	105	27%	156	40.5%
Vacant - For Rent, For Sale or Sold	50	47%	64	41%
Vacant – Seasonal	26	25%	20	13%
Vacant - Migratory	0	0	0	0
Vacant - Other	29	28%	72	46%

Source: U.S. Bureau of the Census. 2000 Census of Population and Housing

4. Housing Unit by Type

In 2000, traditional single-family units were the predominant type of housing in the County, comprising 71.9% of all housing units. Mobile homes made up 5.7% of housing stock while duplexes and multi-family units comprised 21.7% of all units in the city. The number of mobile homes, RVs and vans declined from 1990 while the number of single-family and multi-family units increased. According to Table 4, it appears that there was a significant increase in single-family detached structures between 1990 and 2000. This was possibly due to differences in counting dwelling units and not to new construction.

Table 4: 2000 & 1990 Housing Units by Type, Hot Springs, MT

Type of Unit	2000		1990	
	#	%	#	%
Single-Family Detached	271	71.9	229	59.5
2-4 units in structure	35	9.2	46	11.9
5+ units in structure	47	12.5	35	9.1
Mobile Homes	22	5.7	41	10.6
Other (RVs, Vans, Boats)	2	0.5	34	8.8
Total	377	100%	385	100%

Source: U.S. Bureau of the Census. 2000 Census of Population and Housing

5. Housing Condition

The Montana Department of Commerce - Housing Division, conducts a periodic "Housing Condition Study" to collect information in support of the Montana Consolidated Plan for housing. The purpose of the study is to evaluate the current stock of housing in Montana and better understand what type of housing structures are available to rent and purchase. The data was compiled from the database of buildings in Montana that is maintained by the Montana Department of Revenue (MDOR). It includes single family dwelling units and mobile homes. The database does not include multi-family structures.

The appraiser gives single family homes a rating that describes the condition of the dwelling. The rating is based on the overall physical condition or state of repair, and the condition of such features as foundations, porches, walls, exterior trim, roofing, and other attributes. The rating system follows:

- a. *Unsound* - indicating that the dwelling is structurally unsound, not suitable for habitation, and subject to condemnation.
- b. *Poor* - indicating that the dwelling shows many signs of structural damage (sagging roof, foundation cracks, uneven floors, etc.) combined with a significant degree of deferred maintenance.
- c. *Fair* - Indicating that the dwelling is in structurally sound condition, but has greater than normal deterioration relative to its age. (Significant degree of deferred maintenance)
- d. *Average* - indicating that the dwelling shows only minor signs of deterioration caused by normal "wear and tear".
- e. *Good* - indicating that the dwelling exhibits an above ordinary standard of maintenance and upkeep in relation to its age.
- f. *Excellent* - indicating that the dwelling exhibits an outstanding standard of maintenance and upkeep in relation to its age.

Of the mobile homes in Hot Springs, 55% are rated as very poor or in poor condition. Among single-family homes, only 6.6% were rated as unsound, very poor or poor. The majority of single family housing units in the town, 72% are in average condition while 20% are in fair condition. No units are in were ranked as good or excellent condition. Statewide, 35% of homes are rated as good or excellent condition in 2005.

Table 5: Hot Springs Housing Condition –2005

Rating	Mobile Home	Single Family	Total
Unsound	0	6	6
Very Poor	6	6	12
Poor	30	20	50
Fair	14	100	114
Average	16	350	366
Good	0	0	0
Very Good	0	0	0
Excellent	0	0	0
Total	66	482	548

Source: Montana Department of Housing, "Montana Housing Condition Study – Appendix 1"

The age of the home is one factor that affects condition and can explain why fewer homes are rated as good or excellent. Almost 82% of single family homes in the city were built before 1960. This compares to 38% of housing units statewide that were constructed prior to 1960.

Table 6: Housing Units by Period of Construction

Rating	#	%
1959 or earlier	396	82.2%
1960-1969	20	4.1%
1970-1979	28	5.8%
1980-1989	10	2.0%
1990-1999	14	2.9%
2000 or later	14	2.9%
Total	482	100%

Source: Montana Department of Housing, "Montana Housing Condition Study – Appendix 1"

6. Housing Quality & Workmanship

Another measure of housing condition is quality and workmanship. These ratings evaluate whether the structure was constructed with below average, average, or above average materials. Generally, maintenance on lower grade homes may be higher than they might be otherwise and may result in future higher maintenance problems. In Hot Springs 73.5% of homes were rated as having poor or low cost workmanship and quality. This is substantially higher than the state average of 22% in these lower categories.

Table 7: Single-Family Housing Quality and Workmanship - 2005

Rating	#	%
Cheap	2	0.4%
Poor	210	43.6%
Low Cost	142	29.5%
Fair	26	5.4%
Average	0	0%
Good	0	0%
Very Good	0	0%
Not Rated	102	21.1%
Total	482	100

Source: Montana Department of Housing, "Montana Housing Condition Study - Technical Appendix, Volume II", September 1999

7. Housing Costs – Home Owners

Data from the 2000 Census indicates that the value of owner-occupied housing was significantly below the average for the State of Montana.

Table 8: Median Housing Value for Selected Counties in 2000

Place	2000 Census Median Value
Hot Springs	\$64,100
Thompson Falls	\$74,900
Sanders County	\$82,900
Flathead Reservation	\$108,000
Montana	\$131,600

Source: U.S. Census of the Population & Housing, 2000

The Montana Board of Housing collects sample data collected from around the state to monitor housing prices. The data is based on actual sales price whereas census data house value is reported by the homeowner. The board of housing data indicated that statewide the average price increased 19% between 2002 and 2003, the largest increase since 1999. The average increase over the 5 year period was 8.6%. Data is not available for Hot Springs but is available for Sanders County. The median price for homes in Sanders County increased from \$95,000 in 2001 to \$120,000 in 2003.

8. Housing Costs – Renters

The average rent in Hot Springs in 2000 was about \$200 less per month than the state average. The gap was not as wide when compared to Sanders County and the Flathead Reservation.

Table 9: Median Housing Rent for Selected Counties in 2000

Place	2000 Median Rent
Hot Springs	\$351
Thompson Falls	\$413
Sanders County	\$390
Flathead Reservation	\$390
Montana	\$552

Source: U.S. Census of the Population & Housing, 2000

9. Housing Affordability

The U.S. Department of Housing and Urban Development (HUD) defines a cost burden as that level of income at which housing cost consumes at least 30% of household income. Housing costs includes monthly payment (rent or mortgage, taxes, insurance, and utilities.) At this level, it is possible to qualify for a loan but the buyer must have little or no other debt. When housing costs exceed 30% of income, it is difficult for homebuyers to qualify for a loan.

Table 10, indicates that in Hot Springs, 33.3% of home owners have costs that exceed 30% of their household income and 48% of renters that have costs exceeding 30% of household income. These percentages are higher compared to the averages for the State of Montana in 2000.

Table 10: Monthly Housing Costs as a Percentage of Income for Hot Springs & Montana - 2000

% of Income	Owner Costs		Rental Costs	
	Hot Springs	Montana	Hot Springs	Montana
< 15%	32.5%	38%	11.0%	18.2%
15 - 19.9%	23.0%	17.4%	8.7%	13.5%
20 - 24.9%	1.6%	13.5%	17.3%	12.2%
25-29.9%	5.6%	9.1%	7.9%	9.7%
30 - 34.9%	8.7%	6.0%	3.9%	7.1%
35% +	24.6%	15.3%	44.1%	28.2%

Source: U.S. Census of the Population & Housing, 2000

10. Home Ownership

Rates of home ownership in Hot Springs are lower than the average for the state and the region. Factors such as housing costs and demographics influence rates of ownership.

Table 11: % of Homeowners 2000

Place	2000
Hot Springs	58%
Thompson Falls	72%
Sanders County	76%
Lake County	71%
Flathead Reservation	71%
Montana	69%

Source: U.S. Census of the Population & Housing, 2000

11. Group Quarters

The U.S. Census Bureau defines group quarters living facilities for persons not living in households. Typical types of group quarters include nursing care facilities, group homes, detention centers, and dormitories. Often these facilities provide housing for persons with special needs and are a critical component of the housing inventory. In Hot Springs there is a nursing home that in 2000 housed 24 people. Nationwide, and in Montana, one of the most significant demographic trends is the aging of the population. This results in a higher demand for assisted living in group quarters.

12. Housing Assistance

A number of agencies provide housing assistance including:

A. Salish & Kootenai Housing Authority

Pablo, MT
(406)675-4491

Serving Flathead Reservation

Programs:

- **Rental Units** – 10 units in Hot Springs. (2 – Single Family, 8 – Duplexes) Built in the 1970s. Low-income households.
- **Mutual Help** – Lease to own program. One active unit. One unit has become owner-occupied.
- **Tenant Based Assistance Program.** Assistance to low-income Tribal members to rent homes in the open market.
- **Weatherization Program.** Assistance with weatherization of low-income, Tribal member-owned homes.
- **Home Improvement Program.** Assistance to low-income Tribal members for rehabilitation of their privately-owned homes.
- SKHA is a member of the Montana Homeownership Network and provides homebuyer education free of charge to any individual or family.

- SKHA provides one-on-one counseling and down payment assistance for Tribal members.

B. Northwest Montana Human Resources

214 Main St.
Kalispell, MT 59904
(406) 758-5477

Serving: Flathead, Lake, Lincoln, and Sanders Counties.

Programs:

- **Rental Assistance** – Section 8 Rental Housing Vouchers. Income based need.
- **Weatherization** - Bonneville Power Association & Northwest Energy provide weatherization assistance. Assistance is based on need. In Hot Springs most recipients are elderly or disabled.
- **Senior Home Repair Program**
- **Mutual Self-Help Housing**
- **Montana Home Ownership Network** - An affiliate of Neighborhood Housing Services of Great Falls. MHN works with local service partners throughout the state to provide homebuyers education, one-to-one housing counseling, loans for down payment and closing costs, due-on-sale loans for “gap financing” and development of new owner-occupied homes. MHN is funded primarily by the Montana Board of Housing, Other funding includes the Wells Fargo Housing Foundation, The Fannie Mae Foundation, Rural Development and Neighborhood Reinvestment.

C. USDA Rural Development, Missoula Area Office

3550 Mullan Road, Suite 106
Missoula, MT 59808
(406)829-3395

Serving: Granite, Mineral, Missoula, Ravalli and Sanders Counties

Programs:

- **502 Direct Loans** - These loans are available for low- and very low-income households to obtain homeownership. Applicants may obtain 100% financing to purchase an existing dwelling, purchase a site and construct a dwelling, or purchase newly constructed dwellings located in rural areas. Mortgage payments are based on the household's adjusted income.
- **504 Repair and Rehabilitation Loans** - These loans are available to very low-income rural residents who own and occupy a dwelling in need of repairs. Funds are available for repairs to improve or modernize a home, or to remove health and safety hazards.
- **Rural Housing Repair and Rehabilitation** - A grant is available to dwelling owner/occupant who is 62 years of age or older. Funds may only be used for repairs or improvements to remove health and safety hazards, or to complete repairs to make the dwelling accessible for household members with disabilities.
- **523 Mutual Self-Help Housing Loan** - This program is used primarily to help very low- and low-income households construct their own homes. The program is targeted to families who

are unable to buy clean, safe housing through conventional methods. Families participating in a mutual self-help project perform approximately 65 percent of the construction labor on each other's homes under qualified supervision.

- **Guaranteed Rural Housing (GRH) Loan Program** - Applicants for loans may have an income of up to 115% of the median income for the area. Families must be without adequate housing, but be able to afford the mortgage payments, including taxes and insurance. In addition, applicants must have reasonable credit histories.

C. Land Use Addendum

1. Geography

Hot Springs, Montana is located on the Flathead Indian Reservation and in Sanders County. Along with Plains and Thompson Falls, it is one of three incorporated communities in the County. Hot Springs is the smallest of the three communities with an estimated population of 565 people in the year 2005. The land area of the town is equal to 0.31 square miles. Hot Springs is located about 42 miles from the county seat of Thompson Falls and is two miles west of Montana Hwy 28. There is also one secondary highway, Hwy 382, located approximately 5 miles southeast of Hot Springs.

With the exception of Hot Springs Creek, which bisects Hot Springs, the area within the town limits is relatively level topography and is at an elevation of approximately 3000 feet above sea level. Tribal and state forest lands are located west of the community. Grazing and agricultural land is generally located north, south, and east of the planning area.

The town is located in the Little Bitterroot River Valley on the Flathead Indian Reservation. This valley is generally more arid than the rest of western Montana and is known for its hot springs. The Reservation extends 60 miles from north to south and is bordered by the Mission Mountains on the east and the edge of the Cabinet Mountains on the west.

Table 1: Distance to Regional Cities

City	Miles to Hot Springs
Thompson Falls	47
Plains	22
Polson	47
Kalispell	64
Missoula	74
Spokane, WA	202

Source: Data Compiled by Applied Communications, 2007 from Montana State Highway Map

Map 1: Location Map – Hot Springs, MT

Insert map with Tribal Boundaries

2. Land Ownership

Lands within the Town of Hot Springs are either in fee ownership, Tribally owned, or individually-owned trust.

Map 2: Land Ownership

Insert map from CSK Tribes GIS Dept.

3. Land Use Patterns - Town

A. Land Use

Land uses in Hot Springs can be divided into the following categories:

- Single Family: Single family detached structures, single-family attached, cabins
- Multi-family: Apartments, hotel apartments, nursing homes, duplexes
- Mobile Home: A home manufactured at an off-site location that can be towed on its own chassis and designed without a permanent foundation for year-round occupancy.
- Commercial, General: Retail, food and beverage, lodging, personal or business service, banks, entertainment, professional offices, medical clinics, auto sales, farm implement, gas station, auto repair or service, drive-in restaurants, car washes, etc...
- Industrial – Grain elevator, outdoor storage, utilities, salvage yards, transfer stations, heavy equipment storage, warehouses, rail yards, trucking terminals, processing, manufacturing, contractor shops, etc...
- Institutional – Churches, government offices, schools, and museums, etc...
- Parks – Open space

South of Main Street, the predominant land use is single family with scattered vacant lots and mobile homes on individual lots. Along Spring Street north of Broadway there is a concentration of commercial uses. East and north of these commercial uses is primarily vacant land. There is a substantial number of vacant, potential in-fill, lots north of the central business district between Spring Street and Demers Street. There is little industrial property in the Town limits. Multifamily uses are scattered throughout the north half of town.

Map 3 : Land Use Map Hot Springs



Prepared by: Applied Communications, Jan. 07

Legend

- | | | |
|---------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
|  Single-Family |  General Commercial |  Park - Open Space |
|  Multi-Family |  Highway-Auto Commercial |  Industrial |
|  Mobile Home |  Institutional |  Vacant |

4. Central Business District (CBD)

Downtowns give communities a sense of place, help to preserve the history of the community and differentiate the town from homogenous highway commercial developments. A vital downtown can be the foundation for other economic development success. Additionally, a vital downtown will increase the property tax base and attract tourists. The central business district, or downtown, in Hot Springs is a four block stretch along Main Street. Some of the features of this district are described below.

A. Land Use Patterns

The entry way to the central business district is at Main Street and Spring Street. The south side of this block is the Town Hall and other government/institutional buildings. A bank building is located on the northwest corner. There is retail space across from Town Hall. The street frontage for the block between Arlee and Wall streets is comprised of a combination of retail and office space. West of Wall Street, the commercial district begins to transition into a residential district.

Map 4: Land Use in Hot Springs Central Business District



Prepared by: Applied Communications, Jan. 07

Legend

 Single-Family	 General Commercial	 Park - Open Space
 Multi-Family	 Office	 Industrial
 Mobile Home	 Institutional	 Vacant

B. Signage & Entrance

There is no landscaped entrance to downtown although there is a directory sign for downtown on Spring Street at the intersection with Broadway. Individual signage on the buildings is generally in scale and character with the buildings but there are no design standards or unifying theme.

Figure 3 : Entrance Sign



C. Parking

There is angled on-street parking on Main Street. Side streets have on-street parallel parking.

D. Utilization of Building Space in the Central Business District

Several spaces in the central business district are vacant. Specialty stores catering to tourists are limited.

Table 2: Businesses in the Central Business District includes

Use	Number
Auto	2
Restaurant & Bar	2
Finance, Insurance & Real Estate	2
General Retail (Grocery/Hardware, Convenience . . .)	3
Specialty Retail (Antique/Clothing/Books/)	3
Professional/Medical Office	3
Institutional – Government	3
Personal Service	1
Entertainment	0
Vacant Building	8
Total	27

Source: Field Survey conducted – January, 06

E. Architectural Features and Scale

The buildings are one-story with a combination of building materials from wood siding to brick to stucco. With no front setback for the buildings this creates a pedestrian friendly walk.

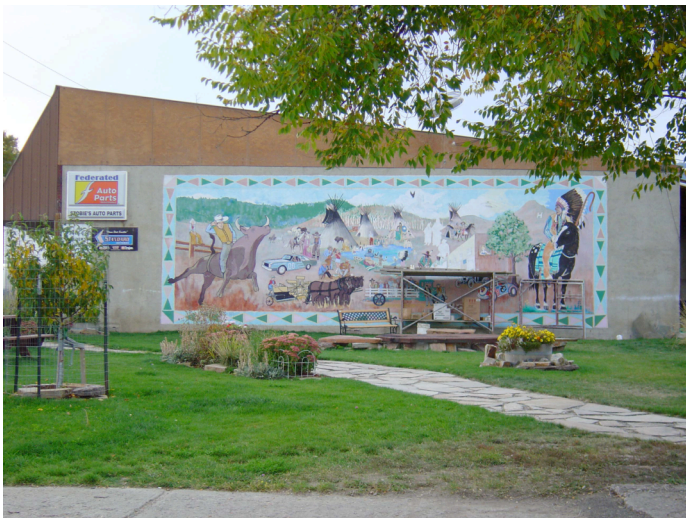
Figure 4: One Story Stucco Building in Central Business District



F. Public Spaces

Public gathering spaces provide a place for entertainment and festivals. There is a small park/plaza at the corner of Arlee and Main Streets and a larger park at Main and Spring Streets.

Figure 5: Central Business District Park



G. Sidewalks – Streetscape

Streetscapes can add character to the downtown. Streetscapes include decorative paving, street trees, planters, benches, period lighting, and other features. Streetscape improvements are limited.

Additionally, existing sidewalks show signs of wear such as chipping and cracks. Future street improvements could incorporate some of these features.

5. Architectural Character

Hot Springs is characterized by many small, older buildings built in the 1920's through 1940's. Many of the buildings of this period were constructed to take advantage of the natural hot springs. Much of the building size and scale was dictated from the lot pattern created by the townsite, which was platted in a period form 1910 to about 1926.¹

The natural hot water in Hot Springs influenced the architectural character of the town from the outset. The earliest bathhouse was constructed in 1911, and was free of charge. The use of the natural hot water resulted in a variety of guest lodging facilities that still characterize the town today. Buildings constructed during this era include numerous residential structures, guest cabins, lodging facilities and downtown buildings. Styles range from the Mission style of the 1926 Symes Hotel to various stucco and wood frame buildings borrowing from the Craftsman style popular in that time period. Characteristic of the era are the numerous guest cabins and cabin complexes remaining in town.

Figure 6 : Guest Cabin in Hot Springs



Figure 7: Old Post Office



The largest concentration of remaining cabins are between downtown and the old Tribal Bathhouse. The cabin complexes typically covered a half block. These buildings were often attached structures with individual rooflines and entries that distinguished each unit from the next. Notable about these cabins and cabin complexes are the pedestrian scale of the buildings, and their individual architectural style. These cabin and cabin complexes are unique, and create a strong character element for the Town of Hot Springs. They could be incorporated into a historic walking tour that traces the history of the use of geothermal resources in Hot Springs.

¹ Hot Springs Montana Historical Resources Survey, Christine Amos, June 10, 1984

6. Property Maintenance

There are numerous property maintenance issues scattered throughout the town. Property maintenance issues include dilapidated structures, weeds, inoperable vehicles, and debris in yards. Heavy equipment and outdoor storage of building or industrial materials in residential neighborhoods are incompatible with single-family uses and result in reduced property values. There are a number of abandoned buildings and deteriorated accessory buildings and many properties have maintenance problems. In addition to lower property values, poorly maintained vacant properties may also create nuisances for adjoining properties. Title 8 of the Town Code deals with nuisances such as weeds and waste disposal and Title 18 of the Code addresses community decay. Sanders County has a junk vehicle removal program.

Map 5 : Location and Type of Property Maintenance Problems



Legend

- 1 – Abandoned Buildings
- 2 – Junk
- 3 – Inoperable Vehicles
- 4 - Open Storage
- 5 – Weeds

Prepared by: Applied Communications, Jan. 07

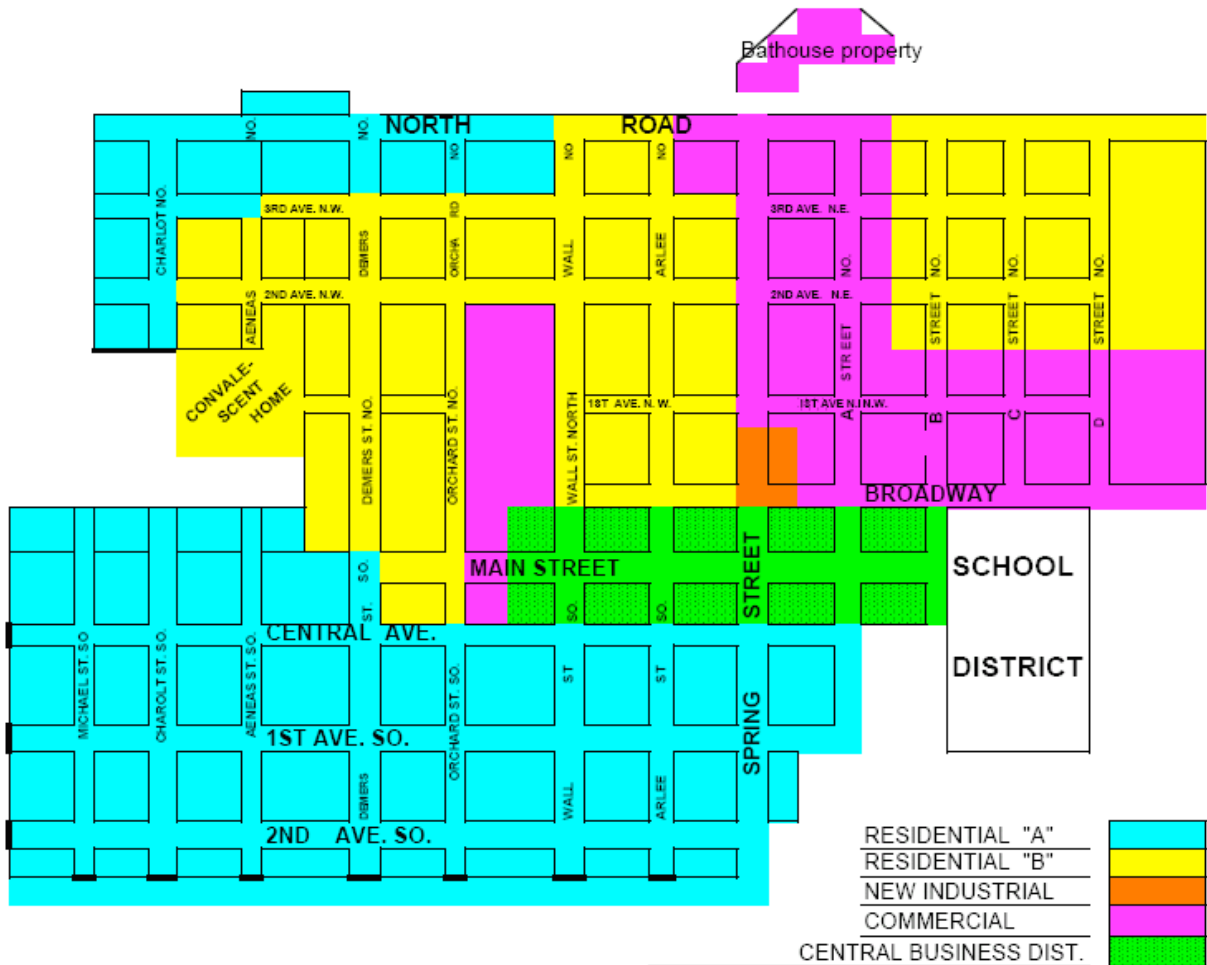
7. Zoning

The current zoning ordinance has five zoning districts.

- A – Residential (Single-family, mobile home, churches, etc...)
- B - Residential (Single-family, mobile home, multi-family, hospital, offices, trailer court, etc...)
- Commercial (Residential, light manufacturing)
- Central Business District – (Retail, restaurant, entertainment, government, offices, etc...)
- New Industrial District

Although lodging businesses, retail uses and restaurants are currently located in the “Commercial” district, there is no provision in the zoning code allowing these uses in this district. Other zoning provisions include screening and buffering requirements in the commercial and CBD districts. There are no parking and loading requirements and no sign regulations.

Map 6: Zoning Map



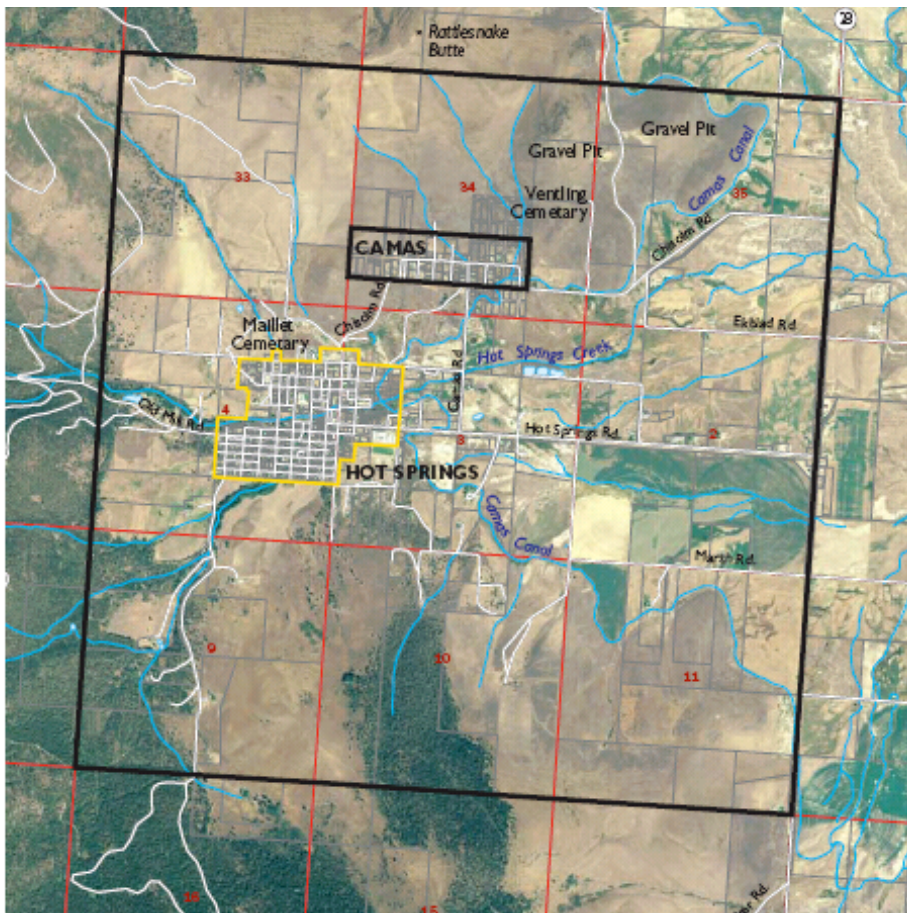
Source: Town of Hot Springs, Town Clerk

8. Land Use: Urban – Rural Transition Area

The urban-rural transition area is generally the one-mile area immediately surrounding the town. This area does not have any zoning or development regulations. As indicated on the land use map, most of the development in this transition area is agricultural and rangeland. There are large lot rural residential uses south along Spring Street and east of town along Camas Road. The Tribal homesite lots north of town are on smaller lots. Much land has been left as open space which gives the appearance of large lot development. The Camas Recreation Center and Camas bath house property are located at the intersection of North Road and Spring Street. Scattered commercial uses are located along Broadway heading east of town. Camas is an unincorporated development north of town.

The urban-rural transition area is an important gateway to the community. Visitors and travelers often get their first impression of the community as they drive through these areas. Currently, there are few billboards along the east entrances. There is not a well defined entrance to the community.

Map 7: Urban Rural Transition Area



9. Historic Resources

A. National Register of Historic Places

The National Register of Historic Places is an official list of the historic places worthy of preservation at the national level. Authorized under the National Historic Preservation Act, the Register is administered by the National Park Service. Properties on the National Register include districts, sites, buildings, structures and objects that are significant in American history, architecture, archaeology, engineering and culture.

Since listing on the register is voluntary, there may be properties that are historically significant or identified in some other survey that are not listed on the National Historic Register. The Symes Hotel at 209 N. Wall Street was listed on the National Historic Register in 1998 and is the only property in Hot Springs that is listed.

Figure 12: Symes Hotel – Listing On National Historic Register



B. Tribal Historic Preservation Office

The following is excerpted from the "Confederated Salish & Kootenai Tribes – Comprehensive Resources Plan", Volume 1, Chapter 17.

EXISTING CONDITIONS

Cultural traditions rely on abundant populations of native fish and wildlife, healthy plant communities, clean air and water. Undisturbed spiritual sites, prehistoric and historical campsites, dwellings, burial grounds and other cultural sites are important, too, because they, in the words of the Flathead Culture Committee, "reaffirm the presence of our ancestors, how we are alive today only because of them. These places are part of the basis of our spiritual life." They provide young people with a connection to ancestors and native traditions.

Food and Medicinal Plants. Many food and medicinal plants grow on Reservation and aboriginal lands. Some grow in mountain areas, others along river and stream corridors, still others in arid places. Many have multiple uses. The Tribes have used most of them for thousands of years. Tribal elders report that some human activities, such as logging and grazing, have damaged some of the areas where these plants grow. Work is ongoing to protect these sites.

Other Cultural Sites. There are other cultural resources on the Reservation and aboriginal lands that must be protected. These include hunting and fishing grounds, spiritual sites, dancing grounds, trails, and occupational sites.

Salish and Kootenai cultural resource specialists use the term "site" for areas of historical, cultural or spiritual importance. These areas sometimes, but not always contain artifacts. They may be the site of past or present-day Tribal activities. The Tribes do not study these areas in any scientific sense, but consider them to be a living part of Tribal culture and use them as such.

Many archaeologists and historians, however, view a site as a location of past human activity. Archaeological sites often contain physical remains or artifacts. Scientists use them for research. Important cultural sites have been destroyed over time. Often, when the Tribes or others have disclosed their locations, visitors have stolen from or vandalized them. Many people do not understand the value of these resources to the Tribes. Many cultural resources are non-renewable resources. They can be one day or thousands of years old. Their destruction is a gross violation of everything we value.

— Flathead Culture Committee (*Now referred to as the Salish/Pend d'Oreille Culture Committee*)

Tribal, federal and state laws prohibit the destruction of land-based cultural resources. The Flathead and Kootenai Culture Committees provide training to natural resource managers about the importance of cultural resources. They teach managers how to recognize them and how to protect them. To protect sites, the committees have developed cultural awareness programs for people interested in Tribal cultures and resources. They work with federal, state, and local agencies, as well as Tribal departments for cultural resource protection both on and off the Reservation.

PROGRAMS AND POLICIES

In 1975, the Tribal Council passed Resolution #4762. It formally established the Flathead and the Kootenai Culture Committees to develop Salish and Kootenai cultural awareness programs for schools so that they might "enhance the understanding and appreciation of the past and present Indian peoples." Since then, the responsibilities of the culture committees have grown. They now work "to preserve, protect, perpetuate and enhance" all cultural resources essential for the survival of the Salish and Kootenai cultures. To accomplish this goal, these two committees:

- document the locations and descriptions of cultural sites, for in-house use. (Also, because new sites are being recorded, the committees review and monitor areas before developers log or disturb them. If disturbance or development is in a sensitive area, the culture committees remain on site during the activity.)
- conduct historical research to create a repository of historical, cultural and general Tribal information for reference and study. Activities include gathering language, song and history books and tapes; photographs and genealogies; and samples of food and medicinal plants.
- act as representatives of the Elders to learning groups and Tribal organizations.
- conduct and participate in traditional activities.
- sponsor culture and language camps.
- meet with Tribal departments, schools, other tribes and agencies about cultural resource protection.

In addition, the committees work with Salish Kootenai College, Two Eagle River High School and public schools (on request) to develop further their Salish and Kootenai language programs. The Flathead Culture Committee trains Salish language teachers for the local public schools, sponsors language and culture camps, and has assisted in the development of mentor relationships between children and adult Tribal members.

The Kootenais maintain a close relationship with six other Kootenai bands located in Idaho and Canada. They hold regular meetings to discuss issues common to all Kootenai people. Once a year the Kootenai Indian Area Council, consisting of the Chiefs of the five Kootenai bands of Canada, calls a General Assembly to share and exchange information. The Kootenai Tribe of Montana hosted the assembly in the summer of 1989. In 1990, the Confederated Salish and Kootenai Tribes established a program to build a Tribal culture center on the Flathead Reservation. This center will offer archival exhibits and provide interactive museum experiences through dramatic presentations, speakers, storytellers and demonstrations.

Existing Policy

The Tribes have, for thousands of years, maintained unwritten policies regarding cultural resources. In recent times federal and state governments have developed their own policies to protect these resources. Their actions include federal and state antiquities acts, the National Historic Preservation Act of 1966, the American Indian Religious Freedom Act of 1978, the Archaeological Resource Protection Act of 1979, and the Native American Graves Protection and Repatriation Act.

In 1980, the Confederated Salish and Kootenai Tribes adopted written legislation, Tribal Ordinance 73A, because “cultural, religious and historical artifacts and areas of importance ... continued to be jeopardized by non-Indian interests and persons not having comprehension nor respect for traditional values of the Tribes....” The ordinance stipulates that:

1. No Antiquities or Archaeological Permits shall be granted by any State or Federal Agency within the exterior boundaries of the Flathead/Kootenai Reservation without express written authorization of the Tribal Council based on prior approval of the respective Cultural Committees.
2. All Indian burial sites remain undisturbed.

3. Any Special Permits requested for study areas within the Reservation shall only be granted upon written approval of the respective Cultural Committees and shall state specifically where and what is intended to be studied.

4. No pictographs (calligraphies) bearing significance to the Indian peoples shall be defaced, destroyed or otherwise tampered with.

5. Any items of religious, cultural or historical significance which are removed from sites of Tribal importance shall be presented to the appropriate Cultural Committee for determination of disposition.

In 1984, the Portland Area Office of the Bureau of Indian Affairs (BIA) released a supplement to their handbook on rules and guidelines for archaeological survey and review of activities on Indian lands (their interpretation of their responsibilities according to the federal acts listed above). Within two days of this release, the Tribal Council passed Resolution 84-49. It states that the Tribes' culture committees had already undertaken these responsibilities and the Tribes did not recognize the need for additional BIA personnel, rules and guidelines.

A few months later, the Tribal Council passed Resolution 84-124. It cites the Tribal Constitution, Tribal Ordinance 73A, the Archaeological Resource Protection Act, and federal case law to reiterate that the Tribes had established cultural resources programs and law that comply with federal law. A month later, the Tribes passed Resolution 84-148 which stated that the Tribes "forbid entry of the BIA Archaeologist or any professional Archaeologist on lands of the Flathead Reservation."

After tremendous Tribal pressure, the federal government has begun to recognize the significance of Tribal cultural resources and the Tribes' role in protecting these resources, both on and off Reservation lands. New amendments to the National Historic Preservation Act expressly provide for the protection of sacred sites and traditional and cultural properties, and affirm Tribal authority over these resources. In 1990, the federal government passed the Native American Languages Act (Title I of Public Law 101-477) and the Native American Graves

Protection and Repatriation Act (P.L. 101-601). In addition, the National Indian Forest Resource Management Act and the Archaeological Resource Protection Act also affirm Tribal authority over cultural resources. In addition, the State of Montana passed the Montana Human Skeletal Remains and Burial Site Protection Act in 1991 which protects unmarked burials on state and private land.

ISSUES

Because the management of cultural resources is extremely sensitive, the Confederated Salish and Kootenai Tribes have many concerns; they include (but are not limited to) the following:

Better communication between the culture committees, Tribal departments and other agencies regarding culture committee roles in resource management; expedition of the site review process; the protection of non-renewable cultural resources such as historic sites and sensitive plant harvesting areas; and reduction or avoidance of impacts to these sensitive areas from livestock grazing, forest management, cropping, pesticide use and other land uses, and establishment of cultural site protection standards from all ground-disturbing activities.

- Protection of cultural sites from vandalism.
- Prevention or mitigation of off-Reservation cultural site disturbance.
- Sustained availability of all resources through traditional efficient and non-destructive uses.
- Protection of the River Corridor from development and other land use impacts.

- Additional encouragement for our children to listen and to understand the importance of cultural resources.
- Consistent integration of cultural resource priorities into the Tribes' review of potential land acquisitions.

Note: Since adoption of the Tribes' Comprehensive Resources Plan in 1996, the Tribes have also established the Tribal historic Preservation Office. On the Reservation this office handles all of the functions of the State Historic Preservation Office, providing cultural clearances prior to land development. Contractors and developers should contact this office in Pablo prior to any ground disturbance to insure that cultural resources will not be disturbed during excavation activities.

10. Parks and Recreational Areas

A. Town Parks

Park and Recreation facilities in Hot Springs are managed by a combination of town, non-profit and tribal entities.

Table 3: Town Parks & Recreational Facilities

<i>Name</i>	Location	Facilities	Management
City Park	Spring St.	Picnic, Playground	Town
Circle Square	Arlee & Main	Downtown Plaza	Town Leases, Garden Club maintains
Community Pool	Symes Hotel – Wall St.	Swimming Pool	Hot Springs Swimming Pool Corp. & Symes Hotel
Undeveloped	Block B, Lot 4 Mailltes Addn.	Undeveloped	Town owns lot
Camas Recreation Center	North Rd. & Spring St.	Indoor Recreation	CSKT leases to an individual management

Source: Hot Springs Town Clerk, 2007

Figure 13: Park



11. Hazardous Waste Sites

A. Leaking Underground Storage Tanks

The Montana Department of Environmental Quality database reports 10 incidents of leaking underground storage tanks in Hot Springs. Of these all but 4 cases have been resolved. Causes of contamination include perforation of the tank, corrosion, leaking pipes and spills. Remediation may include removal of contaminated soil, groundwater testing and other preventative measures.

Table 4 : Active Leaking Underground Storage Tanks in Hot Springs

Facility Name	Location	Confirmed Released	Comments
Hot Springs School District	325 Broadway	1997	4 tanks – one with holes
Reinertson Garage	Spring St. & E. Broadway	1993 & 1995	3 tanks on site
Spring Street Exxon	104 Spring St.	1996	Some soil removal
US Post Office	110 Main St.	1994	Soil staining when tank removed. Contaminated soil was removed.

Source: Department of Natural Resource and Information, Natural Resource Information System, <http://nris.mt.gov/interactive.html>

Note: This report is a list of leaking underground storage tank records found in the search area from the Petroleum Release Section, Remediation Division, Montana DEQ. The data available from this site does not represent all of DEQ's data. This data should be used for planning purposes only. Geographic location accuracy of all sites presented here should be verified by the user.

The Tribes also have data related to underground storage tanks which they actively removed in the 1990's. site clean-up also occurred as the tanks were removed.

D. Natural Resources Addendum

1. Climate

Located at an elevation of 2,841 feet, the overall climate for the greater Hot Springs area is considered to be one of the most arid parts of northwestern Montana. Much of the annual runoff occurs in spring with the snowmelt. May, December and January are typically the wettest months. March, April, July and August are the driest months. Hot Springs averages about 11 inches of rain per year, with average annual snowfall at 25-50 inches per year. The closest weather stations are located at Polson Kerr Dam (21 miles), Superior, (30 miles) and Bigfork (35 miles).

Temperatures in Hot Springs range from 49-87° (in July, the warmest month) to 19-35 degrees in January. The mean annual temperature in the Hot Springs valley is approximately 45° F. Winter temperatures are fairly moderate. They average 27° F due to the sheltering effect of the Mission Mountains and the Continental Divide. Warm, southern Chinook winds occasionally moderate these systems, as do cold Arctic air masses that can drop temperatures to below 20° F for several days. In July and August when temperatures fluctuate from the high 70s to 100s in the valleys (although 100° days are infrequent), a drier, continental climate dominates. The growing season lasts approximately one hundred days and runs from May to September.

The primary climactic issues in Hot Springs that relate to land use planning are wildfire, winter storm events and flooding.

2. Water Resources

A. Watersheds

The watershed is the total area drained by a river and its tributaries. More frequently they are the basis for managing water and other natural resources. Traditionally, water quality improvements have focused on specific sources of pollution, such as sewage discharges. While this approach may be successful in addressing specific issues, it often fails to address the chronic problems that contribute to a watershed's decline. Watershed management addresses a wide a range of factors that contribute to a healthy watershed.

Watershed management is conducted by the Confederated Salish and Kootenai Tribes. The Tribes established a water quality program in 1989 with Environmental Protection Agency (EPA) funds. The program includes data collection from permanent monitoring sites, inventories and evaluation of point-source pollutants and wetland management.

Insert Watershed Map

B. Surface Water

The primary surface water sources in the Hot Springs Planning area are the two forks of Hot Springs Creek. In addition, numerous intermittent drainages feed off of the surrounding hillsides, carrying seasonal surface water.

Land use issues related to surface waters include water quality (including concerns related to storm water run-off and wastewater treatment), water quantity, cultural and recreational uses, wildlife habitat, irrigation and private land development on shorelines.

1. Surface Water Quantity

Surface water quantity on Hot Springs Creek is directly impacted by the Flathead Indian Irrigation Project, which has an irrigation diversion structure located above the Town of Hot Springs. In dry years, flows are significantly reduced.

2. Surface Water Quality

There are two basic types of pollutants. They are sediments and nutrients. Sediments are associated with nutrient enrichment, increased turbidity and lower water quality. Sediments are often the result of clearing forested land, agricultural activity, road building and/or other development. Rainfall washes exposed soil particles off the land into streams and rivers. Without vegetative cover to slow rainfall and absorb moisture, the quantity and velocity of runoff increases. The increased runoff not only transports more soil, but also increases the volume and velocity of water in receiving streams, leading to accelerated erosion of stream channels and more deposition of sediments in rivers and streams.

Nutrients stimulate the growth of excess algae that reduce the dissolved oxygen in the water and increase water turbidity (cloudiness). This in turn chokes aquatic vegetation and reduces the fish population. Fish eggs are also smothered by increased sediments. Nutrient sources are either point or non-point. Point discharges can be pinpointed, such as the outfall from a sewage treatment plant. Non-point discharges are more difficult to identify, such as fertilizer runoff from agricultural land. Point and non-point discharges may have a subtle but cumulative impact on water quality, or they may have an immediate and dramatic effect.

Surface water quality downstream from the Hot Springs Municipal Wastewater Treatment Plant is monitored by the Confederated Salish and Kootenai Tribes.

3. Irrigation

The Bureau of Indian Affairs Flathead Agency Irrigation Division manages the primary irrigation water supply on the Reservation. The Agency has an office in Hot Springs and part of the system serves the area around the town. The entire system “serves approximately 127,000 acres in the Mission, Jocko and Little Bitterroot Valleys”. The Flathead Reservation Irrigation network includes approximately twelve hundred miles of canals, seventeen reservoirs and a pumping station on the Flathead River upstream of Kerr Dam.

“While most of the land located within the upper reaches of Reservation watersheds is Tribally owned, privately owned farms and ranches downstream compete for a large share of the available water resource. ...Agricultural producers have created many private diversions in the valleys. Water diversions for irrigation historically left many streams without enough water to support aquatic life, changed natural water courses, and adversely altered vegetative growth and fish and wildlife habitats...”

“The physical condition of irrigation structures is another problem related to the irrigation system. The Department of Interior, Bureau of Reclamation’s Dam Safety Program (1991) ranked ten Flathead Reservation dams in the top 150 dams nationwide with the greatest hazards. Additionally, many irrigation system canals are losing large amounts of water from seepage. Leaks occur through the porous soils from which the canals were built, through the holes of burrowing rodents, and from vegetation growing in and along the banks of the canals. These conditions, aggravated by livestock grazing the banks, have resulted in the deterioration and collapse of some canal reaches.”

(Source: Confederated Salish and Kootenai Tribes, Flathead Reservation Comprehensive Resource Plan, 1996)

C. Ground Water

1. Water Sources

Groundwater is that part of the rain or snow that infiltrates into the soil and rock to the water table. The unsaturated material above the water table contains air and rock and supports vegetation. In the saturated zone below the water table ground water fills in the spaces between rocks and within bedrock fractures. Two characteristics of all rock that affect the presence and movement of groundwater are porosity and permeability. Unconsolidated material overlies bedrock and may consist of rock debris transported by glaciers or deposited by streams or lakes. This material can store ground water and yield groundwater to wells. Where the groundwater is stored and can readily transmit water to wells or springs, is an aquifer. Where water moves beneath a layer of clay or other dense, low permeability, material it is a confined aquifer and the pressure from the water will cause the water to flow from a well tapped into this source.

The Lonepine aquifer underlies most of the Little Bitterroot Valley.² It is the main source of water for domestic and municipal uses. The aquifer depth varies throughout the valley from 7 to 60 feet. In Hot Springs, ground water is recharged from the mountainous uplands bordering the Little Bitterroot Valley. Studies indicate (Abdo, 1997) that recharge is greatest on the western side of the valley.

The depth to groundwater varies with seasons and precipitation levels. Many areas experience seasonally high groundwater levels, usually in the spring, which limits land use. These areas are commonly near floodplains, alluvial deposits and wetlands, which places limitations on septic tanks, basements and road building. Areas of seasonally high ground water are found north, east and south of Hot Springs, in a 180 degree arc around the town, and on the east side of the Hot Springs Creek.

² Reappraisal of Hydrogeology of the Little Bitterroot Valley of Northwestern Montana, submitted to Eastern Sanders County Conservation District, by Ginette Abdo, Assistant Research Professor, Montana Bureau of Mines, Butte MT, January 1997

Water Quality

Ground-water quality concerns are hard water, a high concentration of salt or iron, sulfur, methane gas, petroleum or organic compounds, bacteria and arsenic, nitrates and phosphates. Some of these contaminants are naturally occurring and some are caused by human activities. Among potential threats to water quality are:

- ◆ Oil Spills- Leaking underground tanks.
- ◆ Methane gas – Occurs naturally. Wells need to be vented properly.
- ◆ Bacteria – Most common cause is septic-tank effluent.
- ◆ Barnyard runoff- Homes should be built upslope of barnyards.
- ◆ Pesticides and fertilizers

In Hot Springs, domestic water comes from the Hot Springs Aquifer, which is a non-geothermal, confined aquifer. Geothermal ground water resources are primal on the north and east sides of town, as described elsewhere in this section. Geothermal ground water contains high arsenic and fluoride levels which are a key component to the various beliefs of the healing nature of these waters.

Water Rights

The Montana Water Use Act (Title 85, Chapter 2, MCA) of 1973 was an overhaul of water rights administration. All water rights existing prior to July 1, 1973, were to be finalized through a statewide adjudication process in state courts. There have been several deadlines over the years for claimants to file for rights that were established prior to 1973. Since all the claims cannot be adjudicated at once, claims are being decreed by basin for each of Montana's 85 drainage basins.

Water rights negotiations are underway between the State of Montana and the Confederated Salish and Kootenai Tribes. By Montana law, negotiations must sunset in June of 2009. In the interim, no new permits for wells for any type of ground water are being permitted on the Flathead Indian Reservation. This includes lands in the Hot Springs one-mile planning area.

3. Geology and Geothermal Resources

A. Overview

Geothermal energy is the thermal energy that rises naturally to the earth's surface in the form of hot springs, geysers and volcanoes. Geothermal systems are located in areas where the earth's crust is relatively thin. Geothermal systems are often formed above deep-fault or fracture zones that provide pathways for the groundwater to circulate up to the surface and to percolate back down again.

The State of Montana has more than 50 geothermal areas and at least 15 high-temperature sites. High-temperature areas in western Montana are located near Helena, Bozeman, Ennis, Butte, Boulder and White Sulphur Springs. There are seven locations with surface temperatures above 149° F, plus 20 locations with temperatures above 110° F. The estimated deep-reservoir temperatures for some Montana sites are over 350° F.

Hot Springs contains numerous developed and undeveloped geothermal resources that have contributed to the history, character and local economy. The 1997 Abdo study prepared for the Montana Bureau of Mines analyzes in scientific detail the geothermal resources in the Little Bitterroot Valley. The study notes that geothermal flow systems near the Town of Hot Springs have imparted a distinct chemical makeup to the water. Geothermal water in the Town of Hot Springs contains lower calcium, lithium, chloride, boron, and bicarbonate, and higher sulfate concentrations than surrounding geothermal resources.³

This study found that the warmest water in the town of Hot Springs was 113 degrees Fahrenheit, which is approximately 5 degrees cooler than the Wild Horse Hot Springs about six miles to the northeast. This study describes the Hot Springs geothermal waters as "sodium-bicarbonate type water". High concentrations of fluoride barium and arsenic are a key component to the various cultural beliefs of the healing nature of these waters. It should be noted that geothermal resources in the Town of Hot Springs have lower arsenic concentrations than those found in Lone Pine or Wild Horse Hot Springs. More recent temperature tests by property owners reveal a possible decrease in water temperatures.

While numerous studies (Abdo for the Bureau of Mines, 1997, Donovan and Sonderegger for the Bureau of Mines, 1981) have studied geothermal resources in the greater Bitterroot Valley, data has been documented by the State on only one hot springs in town and the one-mile planning area: the geothermal hot springs at the Symes Hotel (Symes Well).

AKA: SYMES WELL

Location: N 47.6154

W 114.6647

Nearest town: Hot Springs

County: Sanders

Depth: 383 ft well and surface spring

³ Reappraisal of Hydrogeology of the Little Bitterroot Valley of Northwestern Montana, submitted to Eastern Sanders County Conservation District, by Ginette Abdo, Assistant Research Professor, Montana Bureau of Mines, Butte MT, January 1997

Temperature: 38° C,
100° F
Flow: 5 gpm, 20.1 L/min
TDS: 367 (mg/L)
Site ID: MGEOT029
CHEMISTRY (ppm, mg/L)
Site name: CAMAS HOT SPRINGS (SYMES WELL)
Temp: 38° C
TDS: 367
pH: 9.80
Sodium: 91.0
Potassium: 1.7
Calcium: 1.2
Magnesium: 0.2
Boron: 800.00
SiO₂: 68.00
Sulfate: 40.0
Chloride: 9.0
Fluoride: 5.8

Source: Montana Department of Environmental Quality, Geothermal Sites

Other known geothermal sites in Hot Springs and the planning area include the Camas Bath House site, and adjacent wells and springs, city park warm water well and numerous other private wells.

B. Geothermal Energy

The Montana Geothermal Program was established by Sage Resources of Missoula, Mont., the U.S. Department of Energy (DOE) and the State of Montana in May, 2005. The goal of this program is to identify and update geothermal information for Montana. This website provides the access to regional, site-specific and general geothermal energy information applicable to site development in Montana. Three sites in the Hot Springs area are found on the web site. Geothermal resources have not been used for geothermal energy in the Hot Springs area with the exception of heating the decking surrounding the swimming pool at the Symes Hotel.

4. Air Quality

In 1977, the United States Government established the Clean Air Act Amendments, granting Indian tribes the opportunity to reclassify reservation airsheds to protect air quality. The Confederated Salish and Kootenai Tribes created the Tribal Air Quality Program to pursue reclassification. The Tribes requested a change from a Class II status to Class I, the most stringent classification under federal law. The Environmental Protection Agency (EPA) approved the change in 1980. Since then the Tribal Air Quality Program has continued to gather air quality data in various communities on the Reservation, at industrial areas, and near Reservation boundaries. It coordinates its efforts with the EPA to insure that the Reservation meets federal Clean Air Act standards and maintains its Class I status.

Class I Air Quality Description - The Clean Air Act of 1970 directed that National Ambient Air Quality Standards (NAAQSs) be established to protect public health and welfare. The federal government has set NAAQSs for six pollutants: ozone, carbon monoxide, particulate matter, lead, sulfur dioxide and nitrogen dioxide. Because some geographical areas have levels of these pollutants substantially below the NAAQSs, 1977 Amendments introduced requirements for the Prevention of Significant Deterioration (PSD) of the air quality in these areas. The EPA maintains a list of Class 1 designated areas in the state; such as the Flathead Reservation and various wilderness areas and national parks.

(Source: Confederated Salish and Kootenai Tribes, Flathead Reservation Comprehensive Resource Plan, 1996)

The Tribal Air Quality Program has not monitored the Camas/Hot Springs study area for particulate matter. However, air quality there appears to be good, with notable exceptions during active fire season, such as during the 2007 Chippy Creek Fire. There are occasional impacts to the air shed from logging activities to the west.⁴ The Thompson Coal Generating Plan could affect local air quality in the future.

5. Soils

A. Background

Soil data provides valuable information on which to make good land use decisions. The suitability of individual soils for building construction, road construction, on-site septic and off-site sewage treatment or agricultural production will help determine where development may occur; what costs a developer, the Town or the County may incur to alleviate soil limitations and what trade offs exist to developing desirable agricultural lands.

The most reliable soils information available is found in the 2004 Natural Resource Conservation Service Soil Survey of Sanders and Parts of Lincoln and Flathead Counties, Montana. Soils described by the Natural Resources Conservation Service are evaluated in terms of their limitations and potential for various uses, including septic systems, road building, and building construction, with ratings of slight, moderate, or severe depending on their physical and chemical characteristics of the soil.

Not Limited - Soil properties are generally favorable for the specified use. Limitations are generally minor and easy to overcome.

Somewhat Limited - One or more of the soil properties and features of the site may present some problems for the specific use, but the limitations can be overcome or minimized by special planning and design.

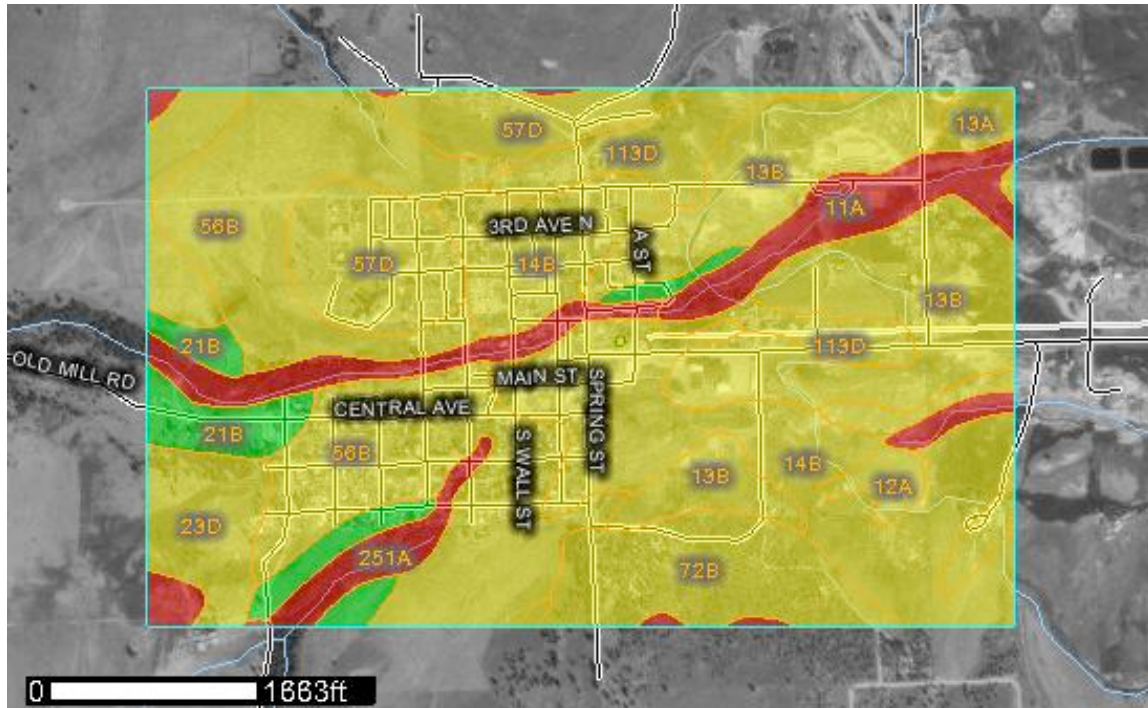
Very Limited - One or more soil properties or site features are so unfavorable or difficult to overcome that a major increase in construction effort or costs, special design or intensive maintenance is required. The costs involved may render the project unfeasible.

⁴ Confederated Salish and Kootenai Tribes Comprehensive Resources Plan

Soils in the Hot Springs area are generally derived from Glacial Lake Missoula sediment of varved clay and silt from alluvial deposits and from colluvial bedrock deposits.⁵ The soils are predominantly loams, silt loams and silty clay loams, many with slow to very slow permeability caused by both physical and chemical soil characteristics. These soils can be difficult for effective design and operation of on-site septage treatment systems. Alternative systems are often more costly than traditional ones. The County Health Department is working with the Town to remedy several older on-site septic systems which have not been hooked up to the municipal system. Grant funds are available to assist in this effort.

⁵ Reappraisal of Hydrogeology of the Little Bitterroot Valley of Northwestern Montana, submitted to Eastern Sanders County Conservation District, by Ginette Abdo, Assistant Research Professor, Montana Bureau of Mines, Butte MT, January 1997

Map : NRCS Soil Ratings



Source: USDA, Natural Resource Conservation Service, Soil Survey

Note: Red = Very Limited
Yellow = Somewhat Limited
Green = Not Limited

B. Septic Limitations

Unsatisfactory performance of septage treatment systems can affect public health by polluting ground and surface waters. Due to the treatment mechanism associated with conventional septic systems, soil characteristics are a critical factor in determining if a septage treatment system should be used in a specific location. Soils with excessively slow or rapid permeability, soils with shallow ground water or shallow bedrock, steep slopes or where flooding hazards exist, restrict the use of traditional septage systems. An alternative septage treatment system may be required. The additional expense associated with the design and construction of alternative systems may limit their use to scattered rural development with large parcel sizes or may encourage clustering development with the use of multiple user sewage collection and treatment systems.

Conditions are considered not limiting if soil properties and site features are favorable for the indicated use and limitations are minor and easily overcome; somewhat limiting if soil properties or site features are not as favorable for the indicated use and special planning, design, or maintenance is needed to overcome or minimize the limitations; and very limiting if soil properties or site features are so unfavorable or so difficult to overcome that special design, significant increases in construction costs, and possibly increased maintenance are required.

On-site septage treatment is a common method of treating and disposing of domestic wastewater in areas outside municipal boundaries. The vast majority of the systems consist of settling tanks and conventional drainfields. As noted earlier in this section, the physical and chemical soil characteristics of soils in the Hot Springs area make on-site septic systems more difficult to design and to maintain.

C. Slope

The topography of the land affects almost every aspect of development. Slope is one of the controlling factors in the design of streets, storm drainage facilities, sewer and water lines, and lot orientation and density. Problems that usually occur because of slope can be grouped under three headings.

- | | |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Grade: | Slopes that are too steep or too gentle for a particular land use and therefore, must be changed by cut and fill if development is to occur. |
| Erosion: | Slopes with steep inclines, light vegetative cover and loose soil material and thus conducive to loss of soil by erosion. |
| Failure: | Slopes that are composed of weak, steeply inclined materials which have low bearing (weight supporting) capacity and are prone to mass movements such as mudflows, creep and slides. |

It is difficult to be specific about slope limitations because of the amount of site design and engineering, which may or may not be incorporated into a particular land use. Generally, zero to 10% slopes are well suited for most types of development. Slopes that are 11 to 30% are still suitable for some types of development, but engineering constraints and problems are more prevalent. Slopes over 30% consistently exhibit one or more problems of grade, erosion or failure. Any development in this range is typically not allowed by most jurisdictions.

Slope and density adjacent to wildlands should also be considered when a project is proposed. The Tribes and the Montana Department of Natural Resources and Conservation (DNRC) has developed guidelines for fire protection adjacent to wildland residential interface development. General guidelines to meet the defensible space recommendations are:

- 1) Slope 0%-20% - A minimum of 1 acre for a structure to be placed on land in forest fuels.
- 2) Slope 21%-30% - A minimum of 1.5 acres for a structure to be placed on land in forest fuels.
- 3) Never build structures in forest fuels where the slope is greater than 30%, at the mouth of a canyon, in a ridge saddle, or in any other extreme fire hazard area.

(Source: July 1993 Fire Protection Guidelines for Wildland Residential Interface Development)

Slope and the distance between structures directly affects how fast a wildfire can spread. Local governments, developers, homeowners and responsible fire authorities should consider base spacing

and density, dependent on slope and fuels in the area of the structures. Slope is a concern within the Hot Springs Planning Jurisdiction in several places in town, and within the one-mile planning area.

Insert Slope Map

D. Road Building Limitations

Local roads and streets are those roads and streets that have all-weather surfacing (commonly of asphalt or concrete) and that are expected to carry automobile traffic year-round. The roads and streets consist of (1) the underlying local soil material, either cut or fill, which is called "the subgrade"; (2) the base material, which may be lime-stabilized soil, cement-stabilized soil, gravel, or crushed rock; and (3) the actual road surface or street pavement, which is either flexible (asphalt), rigid (concrete) or gravel with binder in it. They are graded to shed water, and conventional drainage measures are provided. With the probable exception of the hard surface, roads and streets are built mainly from the materials at hand.

The limitations are described as: **Not Limited** if soil properties and site features are generally favorable for the indicated use and limitations are minor and easily overcome. A **Somewhat Limited** rating indicates soil properties or site features are not favorable for the indicated use and special planning, design, or maintenance is needed to overcome or minimize the limitations. A **Very Limited** rating indicates soil properties or site features are so unfavorable or so difficult to overcome that special design, significant increases in construction costs, and possibly increased maintenance are required. Special feasibility studies may be required where the soil limitations are very limiting.

Soils poorly suited to road construction can result in high construction and maintenance costs. Cost can sometimes be minimized by reduced width or increased grade, depending on the purpose of the road. Soil suitability and proposed road location should be carefully considered for all vehicle uses.

Soil characteristics affects road building in terms of cost, technique, usability and maintenance. Steep slopes, shallow groundwater, rock outcroppings, shallow soils, flood hazards, frost-heave potential, stoniness and topography limit road construction and load bearing capacity. Existing public roads on steep slopes have posed an ongoing maintenance problem, as outlined in the Public Services Chapter. Fire response vehicles, such as water trucks typically require grades less than 8%.

E. Hydric Soils & Wetlands

A hydric soil is a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part. Hydric soils along with hydrophytic vegetation and wetland hydrology are used to define wetlands. The Natural Resources Conservation Service website and the local soil survey list those identified as hydric.

In 1977, the U.S. Fish & Wildlife Service (FWS) began the National Wetlands Inventory (NWI), a systematic effort to classify and map America's remaining wetlands. The NWI defines wetlands according to the "Classification of Wetlands and Deepwater Habitats of the United States," a system that describes wetlands by soils, hydrology, and vegetation. According to this system, wetlands are defined as lands transitional between terrestrial and aquatic systems, where the water table is usually at or near the surface or the land is covered by shallow water. For this classification, wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports mainly hydrophytes (aquatic plants), (2) the substrate is mainly undrained hydric (moist) soil, and (3) the substrate is saturated with water or covered by shallow water at some time during the growing season each year.

There are many different types or classifications of wetlands. Wetland preservation is beneficial to many species of plants, birds, mammals and invertebrae. They also serve as retention areas for overflowing rivers, lakes, and streams, thus reducing flood and erosion damage in other areas.

Known wetlands in Hot Springs and the one-mile planning area include the area by the old Camas Bathhouse, downstream from the sewage treatment plant and down along Skunk Alley.

F. Floodplains

Floodplains in Hot Springs are contained around Hot Springs Creek, as shown on the Environmental Constraints Map, next page.

Insert Environmental Constraints Map

6. Forestland Capability

A. Overview

Forest lands exist in the one-mile planning area. These forest lands are a combination of private lands, lands owned by the State of Montana and managed by the Department of Natural Resources (DNRC) and lands owned and managed by the Confederated Salish Kootenai Tribes. Tribal forest lands are managed through the 2000 Flathead Indian Reservation Forest Management Plan. The forests around Hot Springs are primarily Ponderosa Pine, Douglas Fir and Larch. According to the 2000 Forest Plan, the overall area surrounding Hot Springs is considered from a visual assessment standpoint to be “slightly altered”, with most deviations (clear-cut’s) blending into the landscape. Portions of the forested slopes surrounding Hot Springs that are managed by the Tribes are rated as having a high Scenic Integrity.⁶This Plan calls for rehabilitation of the visual quality of the forested slopes above Hot Springs to remedy previous logging activities.

B. Timber Resources

The Tribes conducted a timber sale in 2001 called the Garden Creek Timber Sale. This sale covered 3900 acres of lands just outside the one-mile planning jurisdiction. Six million board-feet of lumber were sold from this project.

C. Wildfire

The forested slopes west of Hot Springs and the Little Bitterroot Valley have had an active wildfire history, culminating in the Chippy Creek Fire of 2007. The forest matrix at lower elevations around Hot Springs contains mixed several stands of varying ages, canopy closures and downed fuel loadings, which all contribute to the possibility for numerous types of wildfires. The 2000 Flathead Reservation Forest Management Plan states that the Wildland-Urban Interface in the Hot springs area creates a high to extreme fire risk. Smoke dispersal during fire season could be poor due to the topography, resulting in decreased air quality.

The 2007 Chippy Creek Fire burned a total of 99,090 acres approximately 12 miles northwest of the Town of Hot Springs. Of this acreage, app. 32,000 acres is owned and managed by the Tribes, approximately 47,500 is National Forest Lands (Lolo National Forest), 2,500 is state lands and the remaining 17,000 is private property. This fire required 354 professional firefighting personnel, and many local resources to contain. This fire dramatically illustrated the need for careful planning in the wildland urban interface.

7. Agricultural Capability

Some hay and grazing lands exist in the one-mile planning area. There are also numerous cattle, sheep, lama, goat and pigs being raised on smaller farms surrounding Hot Springs. Various commercial gardening and fruit tree farms also exist. Prime farmland, if irrigated, farmland of statewide importance and farmland of local importance as defined in Title 7 Part 658 of the Code of

⁶ 2000 Flathead Reservation Forest Management Plan, West Slope Study Area

Federal Regulations are shown on the following map. Soils classified as 'prime farmland if irrigated' are considered to be "farmland of statewide importance" when they are not irrigated.

Insert Prime Farm Lands Map

8. Wildlife Habitat

Wildlife known to exist in Hot Springs and the one-mile planning area includes deer, black bear, other small mammals such as fox, and a variety of bird life. Hunting by non-Tribal members, except for migratory waterfowl is not permitted on the Reservation. Hot Springs Creek is a natural corridor for wildlife as a water source through town.

9. Mineral Resources

There are no active sand, gravel or quarry operations within the town or the one-mile planning area.

E. Public Facilities Addendum

1. Transportation

A. Town Roads and Storm Sewers

The Town Street Department maintains streets and alleys within the town limits. Street surfaces fall into the following primary categories: gravel, old pavement, old pavement disturbed by the 2003 Water Project and 2004 pavement. In addition, the Town maintains 7.22 miles of streets and 2.75 miles of alleys. Of this, 51% of the streets were repaved in 2004. Information on each individual street can be found in the "Length, Width, Description and Condition of the Town of Hot Springs Streets and Alleys" report prepared in August of 2006. The following chart summarizes the amount of each street surface maintained by the Town:

Surface Type	Length (Feet)	Length (Miles)
Undeveloped	860'	.16 miles
Clay with no Subbase	300'	.06 miles
Gravel	4,775'	.9 miles
Old Pavement	9,092'	1.72 miles
Old Pavement Destroyed by 2003 Water Project	3,634'	.69 miles
New (2004) Pavement	19,440'	3.68 miles
Total	38,101'	7.22 miles

Issues facing Town streets include the following:

- The northeast portions of town are flat, with no formal drainage system collecting water from Town streets. This has caused erosion and ongoing maintenance issues.
- The northwest portion of town has four streets with very steep grades that affect winter snow removal and erosion during rainy seasons and snow melt seasons.
- Old pavement streets do not have any subgrade, and the streets are not crowned.
- Streets paved in 2004 were not sealed, and drainage cracks are now appearing.
- Alleys have limited subbases and inadequate drainage.

The Town shop is located at 801 Central Avenue. A portion of the storm sewer system is a gravity system on Main Street which drains to the wetland behind the downtown park.

B County Roads and Bridges

Roads in the one-mile planning area that are not part of the Town or State Primary or Secondary Highway systems are maintained by Sanders County. The County is divided into three road districts. Roads in the Hot Springs planning area are located in District 2. Sanders County Road District maintains three bridges and numerous culverts in Town.

The State does not maintain any bridges in the planning area according to the Montana Department of Transportation.

Map 1: Street and Highway System in Hot Springs & Planning Area

Insert MDT Hwy Map

C. State & Federal Highways

The State and Federal Highway system is comprised of the National Highway System, Primary Highway System and the Secondary Highway system. Federal funding for the U.S. and State Highways come from the National Highway System Program and the Surface Transportation Program.

There are no Interstate highways in the Hot Springs planning area. One State primary highway serves Hot Springs. Highway 28, a north/south highway is located 2 miles east of town. State Highway 77 (Hot Springs Road) connects the Town to Hwy. 28 from Spring Street to the 'Y' highway intersection. Another secondary highway, Hwy. 382, branches off from Hwy. 28 approximately three miles southeast of Hot Springs connecting Hot Springs with Camas Prairie. A reconstruction and rebuild project is slated for Highway 28 between Lonepine and Niarada according to maintenance staff at the Montana Department of Transportation. Concerns about Highway 28 include the substandard highway width, which is paved to a 22' width, versus the 24' standard.

D. Tribal Roads

The Tribal Roads Program has limited funding to maintain Tribal homesite streets and forest roads that are included on the Bureau of Indian Affairs Roads Inventory. Most other forest roads on the Reservation are Tribally-owned and are maintained only when there is an active timber sale in the area. Non-BIA roads are not public roads, and can only be utilized with a valid Tribal/State recreation permit.

E. Air Travel

The Hot Springs Airport is managed by an Airport Advisory Board appointed by the County. The airport is located three miles east of Hot Springs. The Montana Airport/Airways Bureau administers a loan and grant program and inspects every public use airport at least once every three years. Following are general statistics regarding the airport.

- Elevation – 2763 ft.
- Control tower: No
- Lights - 2169 feet lighted at night; 411 feet unlighted
- Facilities/Services – Tie downs
- Runway Length– 3550 by 45'
- Runway Surface – Asphalt
- Aircraft based on the field = 2 (Single-engine airplanes)
- Aircraft operations: Average 42 per month (65% transient general aviation)

Source: www.airnav.com/airports

The nearest commercial flights for residents in Hot Springs are the Missoula airport, 69 miles (47 air miles) or Glacier International Airport (Kalispell), 84 miles.

F. Rail

No rail lines exist in Hot Springs. The closest lines are in Plains, operated by Montana Rail link.

G. Transit

Transit service is managed by the Montana Department of Transportation via the Council on Aging. A Task Force Advisory Group provides oversight to the program. The transit service provides local and regional bus service for the general public funded by a combination of local and federal funds. Local services include picking up residents and taking them to the Senior Center, doctor's appointments or local restaurants. Regional services include trips to Missoula, Polson, Kalispell, Sandpoint and all stops in between. Trips are generally planned three times per week. Trips to Libby and Troy are planned for the near future. The Transit Service has nine part time drivers and a fleet of six vehicles including one minivan, one station wagon and four buses. Approximately 600 resident trips per month are provided in the greater Hot Springs area⁷. The Confederated Salish-Kootenai Tribes also provide some bus service to and from Hot Springs.

⁷ Albert Reed, Council on Aging

2. Community Water Facilities

A. Water Supply

The Town's drinking water system was established in 1933, when water was drawn from Hot Springs Creek. Use of surface water for the Town's water system was fully abandoned in 1987. The Town's supply now comes from 3 deep wells. Wells number 1 and 2 draw from a confined aquifer in alluvial deposits, with Well #3 drawing from a separate aquifer. Well #1 is the primary well serving the town. Well #3 was renovated in 2003. Wells #1-3 are preferred by town residents because of taste and odor issues with Well #2.

B. Water Distribution System

Distribution occurs through a total of 29,000 lineal feet of pipe ranging in size from 6 to 12 inches in diameter. In a report titled "2006 Well Head and Source Water Protection Plan, Hot Springs Municipal Water System", the distribution system was determined to be in good condition, with the exception of individual service lines between house connections and meters. The town does use water meters, and has experienced some difficulty with the new meters. There is no major problem with infiltration or leakage.

C. Water Quality

Water quality from the Hot Springs wells is generally considered to be good, and is in compliance with water quality standards. A boil odor was issued in 1997; no water quality issues have been identified since that time. Well #2 presents some taste and odor problems due to the sulfur found in the source water. A wellhead protection program is in place.

D. Water Storage

Water is stored in a 200,000 gallon water storage tank constructed in the early 1930's. The tank was rehabilitated in 1987. While a 2000 study indicated that storage capacity was adequate, more recent analysis has indicated that additional storage may be needed to serve future growth. In addition, backup generators have been identified as needed improvements.

E. Usage

There are approximately 407 service connections on the system, of which 342 are residential. Water supply demand has been estimated in the 2003 Water System Preliminary Engineering Report. Almost all customers are within the Town limits. There is a monthly base charge of \$16.06 for a ¾" line, plus a usage charged based on metered water use of \$2.01 for each 1,000 gallons. Jacques Road, Woods Lane Subdivision, Camas Road and Old High School Road are outside of Town limits that receive Town water service. Town policy as of 2001 requires property to be within Town limits to receive municipal water service.

F. Upgrades

Upgrades to the Water system are outlined in the 2004 Capital Improvement Plan for the Town of Hot Springs. Numerous private wells exist in Hot Springs and in the one-mile planning area. The majority of the private wells within town limits are used for irrigation. Town ordinances require residences and businesses to be on municipal water, and backflow prevention is required wherever private wells are involved. Improvements to address additional needs should be planned before capacity is reached, possibly at 80% capacity. Not doing so may affect the aquifer as well as violate permitted discharges.

3. **Waste Water Treatment**

A. Treatment

Waste water is conveyed by a conventional gravity system to a lift station and then pumped to a collection lagoon with three cells that discharge to Hot Springs Creek. Discharge violations occurred in the late 1990's. A wastewater improvement project completed in 1999 reduced clear water inflows and mitigated violation issues. Lagoon blowers and motors will need to be replaced. The amount of treated effluent fluctuates daily due to inflow and infiltration issues. This amount varies from 100,000 to 600,000 gallons per day. Disinfection is provided via a chlorination system. This system does not operate well in cold weather. A new structure to protect the system in winter months has been identified as a need.

B. Collection System

The gravity collection system was constructed in the 1950's. The current system features 31,000 lineal feet of pipe ranging in size from 8-12". In the southern section of town, 11,000 linear feet of pipe was relined in 1999 to address significant infiltration, clear water flow and inflow problems. Inflow is still an issue after rainfall or snow melt events. The 2004 Town Capital Improvements Plan indicated that an additional 11,000 linear feet of 8" main and 25 manholes are still in need of rehabilitation.

One main raw wastewater lift station serves the town. Pumping and control equipment were replaced in June of 2007. Several other improvements are identified in the 2004 Town Capital Improvements Plan.

C. Discharge Permits

Discharge permits within the Flathead Indian Reservation are administered by the Tribes and the Environmental Protection Agency (EPA).

D. Usage and Rates

Per the 2004 Capital Improvements Plan, the current design system appears to accommodate 900 residents. Currently there are 373 service connections, which is approximately 570 residents. The majority of users are within the Town limits. There is adequate capacity for existing usage and some future growth, however. concerns have been raised about the capacity of the system. Subsequently, the Town plans to conduct a Preliminary Engineering Report to determine actual capacity of the system. The Base Rate is \$16.65 per month for a standard line, plus \$2.05 per 1,000 gallons of

water used. Assuming average usage of 4,000 gallons of water per month, the average monthly residential sewer bill would be \$24.85

E. Private Drainfields

Private drainfields exist in Town and in the one-mile planning area. The Town and Sanders County are working jointly to get the remaining properties in Town hooked up to the municipal system. In some outlying areas, soils have high clay content, not conducive to good drainage, and the systems were installed prior to the County septic system program. Some of these systems may be at the end of their life expectancy.⁸

⁸ December 5, 2006 letter from Barbara Woodbury, Sanders County Sanitarian

Map__: Water and Wastewater Facilities for the Town of Hot Springs

4. Utilities

A. Solid Waste

Residential pickup of solid waste for Hot Springs residents is provided by Allied Waste Services through individual contract with home residents. The refuse is hauled to the Missoula landfill. Hot Springs residents also have an option of transporting their garbage to a site in the County approximately three miles from Town across Hwy 28. Residents pay a refuse fee through their county tax bill, which entitles them to take solid waste to the dumpsite without paying an additional fee at the site. The site contains two large garbage dumpster trailers. These dumpsters are hauled by semi-truck when full to the Missoula landfill. There is a tonnage fee to dump in addition to the hauling fee. The Sanders County garbage board pays between \$4000 and \$5000 per month for this service, which is funded by the refuse fee. (Source: Sanders County Garbage Board)

B. Electricity

The electric utility for Hot Springs is Mission Valley Power. Mission Valley Power is located in Pablo and is a federally-owned utility that is operated under contract by the Confederated Salish and Kootenai Tribes. The main source of electricity is from the hydro-power facility at Kerr Dam. Kerr Dam is located 4.5 miles downstream from Flathead Lake and has a peak generation capacity of 180 megawatts with an average of 135 megawatts per hour in a normal water year.

C. **Gas Services**

There is no natural gas service in Hot Springs.

D. Telecommunications

Telephone - Telephone service is provided by the Hot Springs Telephone Company. This is a privately owned company and serves the areas of Hot Springs, Perma and Lonepine. The company has one local exchange office in the service area. In addition to local telephone service, Hot Springs Telephone Company also provides dial-up Internet and DSL service. DSL service is generally available within 3-miles of the central office in Hot Springs. DSL service costs is \$47.90 per month. (Source: Telephone Interview with Hot Springs Telephone Co. – July, 2007)

Cellular - There are no cellular telephone companies providing services for Hot Springs.

Cable - The Hot Springs Telephone Company is the current cable provider.

F. Local Services Addendum

1. Town Government

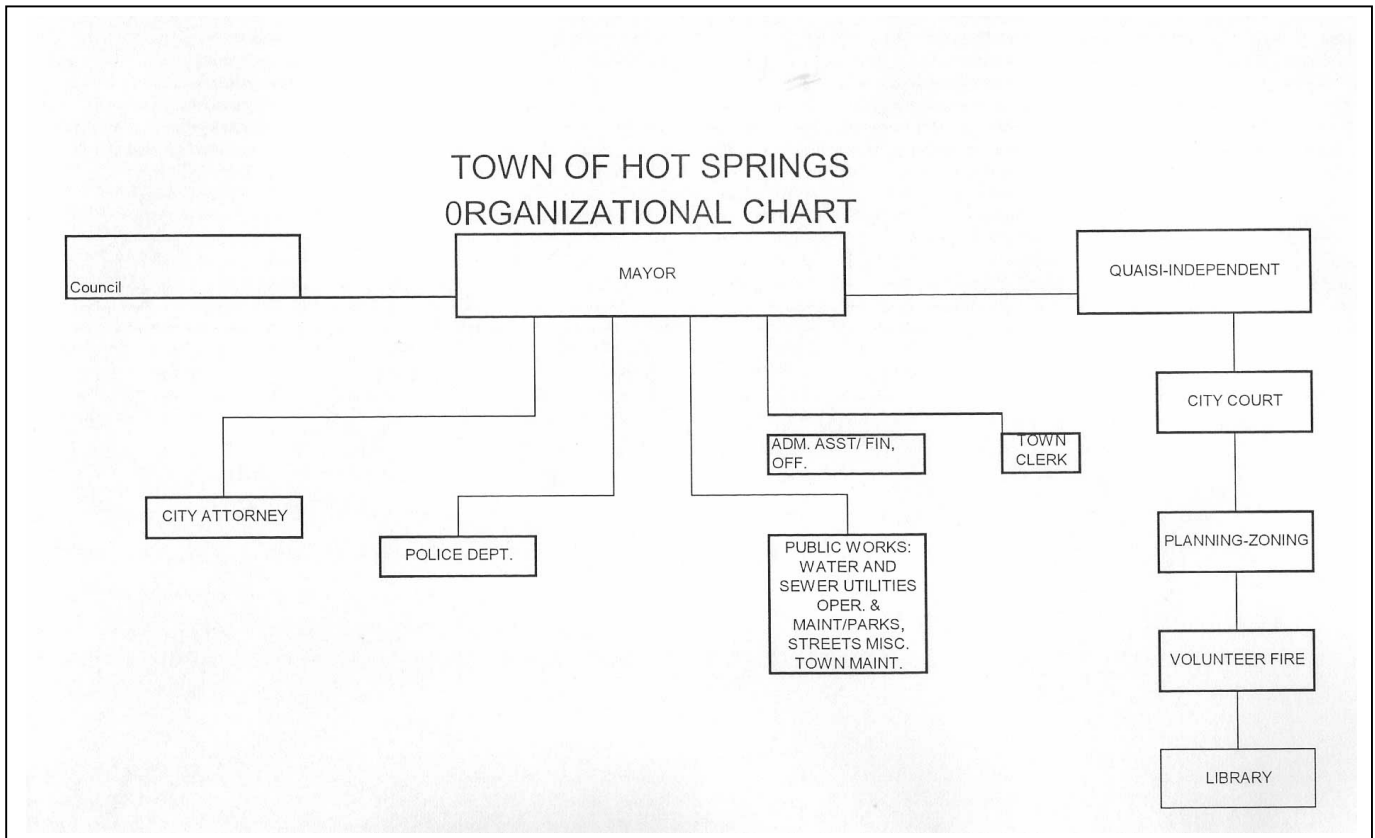
A. Services & Facilities

The Town of Hot Springs is located in Sanders County and on the Flathead Indian Reservation. The Town has an Executive – Commission form of government. The four Council members and the Mayor are elected at-large. Council members and the Mayor serve four-year terms. The Town has three full-time and two part-time employees. There are also two part-time library employees and one reserve officer.

Table 1: Town Facilities

Facility	Location
Town Hall	109 Main Street
Police Department	111 Main Street
Sewage Treatment Plant	Camas Road (east of town)
Town Shop	809 Central

Figure 1: Organizational Chart for Town of Hot Springs



B. Finances

The primary source of tax revenue for local governments is property taxes. In 2004-2005, the Town of Hot Springs mill levy was \$179.77. Compared to other cities in Sanders County, Thompson Falls (\$139.87) and Plains (\$131.84), mill levies for the Town of Hot Springs were somewhat higher. The taxable value for Hot Springs in 04-05 was \$391,386. According to the Montana State University Local Government Center, taxable value for Hot Springs was below average compared to other cities similar in size. This resulted in higher than average mill levies. Per capita appropriation for the Town was \$359.79 in the year 2001. This was slightly higher than the \$342 average for municipalities of similar size. In addition to the Town and County levies, there are school levies and levies for other government functions.

Table 2: Mill Levies 2004-2005

Taxable Valuation	\$391,386
General Fund	\$161.12
Public Library	\$8.00
Group Insurance	\$0.00
Comprehensive Insurance	\$4.87
PERS	\$0.00
Fire Dept. Relief	\$4.00
Planning	\$1.78
Emergency/Disaster	\$0.00
Total	\$179.77

Source: Montana Taxpayer Association

Map 1: Town Limits & Land Ownership

Insert Map

2. County Government

Hot Springs is located in Sanders County in western Montana. Sanders County is approximately 2,762 square miles. It is bordered by the State of Idaho on west and shares borders with Lincoln, Flathead, Mineral, Missoula and Lake Counties. The County provides the following services to citizens in the incorporated and unincorporated areas.

- Attorney
- Bookmobile
- Clerk and Recorder
- Commissioners
- Department of Revenue
- District Court
- Emergency Management
- Environmental Health
- Extension/MSU
- Fair
- Human Resources
- Justice Court
- Land Management
- Public Health
- Rural Addressing
- Road Departments SCCDC
- Sheriff
- Solid Waste
- Special Interest
- Tobacco Prevention
- Treasurer

The mill levy for the County in FY 05-06 was \$107.77. Compared to a levy of \$111.30 in Lake County, \$128.38 in Flathead County and \$94.73 in Lincoln County.

3. Federal Government

Federal Government operations in the Hot Springs area include:

- U.S. Post Office
- Flathead Irrigation District.

4. Tribal Government

The Town of Hot Springs is located on the Flathead Reservation. The Flathead Reservation is home of the Confederated Salish and Kootenai Tribes that are comprised of the Bitterroot Salish, the Pend d'Oreille and the Kootenai tribes. The Flathead Reservation consists of 1.317 million acres in northwest Montana but at one time the tribes lived in the territory now known as western Montana, parts of Idaho, British Columbia, Wyoming, Oregon, Idaho, Washington and beyond. This aboriginal territory exceeded 20 million acres at the time of the 1855 Treaty of Hellgate. A more complete history of the Tribes is available from the "History and Culture Chapter" in Volume I of the Flathead Reservation Comprehensive Resources Plan (<http://www.cskt.org/documents/tfd/compplanvolume1.pdf>)

The Comprehensive Resources Plan, adopted in 1996, identifies the Camas-Hot Springs area as one of six study areas on the Reservation. (See Map 2) The Plan contains the following description of this area.

CAMAS-HOT SPRINGS STUDY AREA

"Bound on the west by the Cabinet Mountains, this study area consists of two major valleys: Camas Prairie to the southwest, and the Little Bitterroot River Valley to the north. Natural hot water springs and ripple marks from former glacial Lake Missoula are unique geological features of the area:

Hot Springs is the only town in the study area that provides multiple services. It has a post office, schools, retirement homes, fire protection, police protection, an airport, a forestry warehouse, utility office, and retail and automotive businesses. It was once a booming resort town, but now supports only a few hotels. Camas Prairie has a small elementary school and Lonepine has a grocery store with postal services. There are a few homesites in Lonepine, Camas and Camas Prairie. Farms and ranches are scattered throughout the area. State Highway 28 passes through the Little Bitterroot Valley from the north, then turns west to Rainbow Lake(1) where it leaves the Reservation. State Highway 382 branches off Highway 28 about three miles south of Hot Springs. It passes through Camas Prairie and ultimately joins US Highway 200 at Perma. The Yellowstone Pipeline(2) passes through the study area, as do several powerlines. A major Bonneville Power Administration electrical substation is at the intersection of Highways 28 and 382. Communication relay stations sit on or near Oliver Point in the Salish Mountains. A network of canals and the Dry Fork Reservoirs serve irrigators in the area."

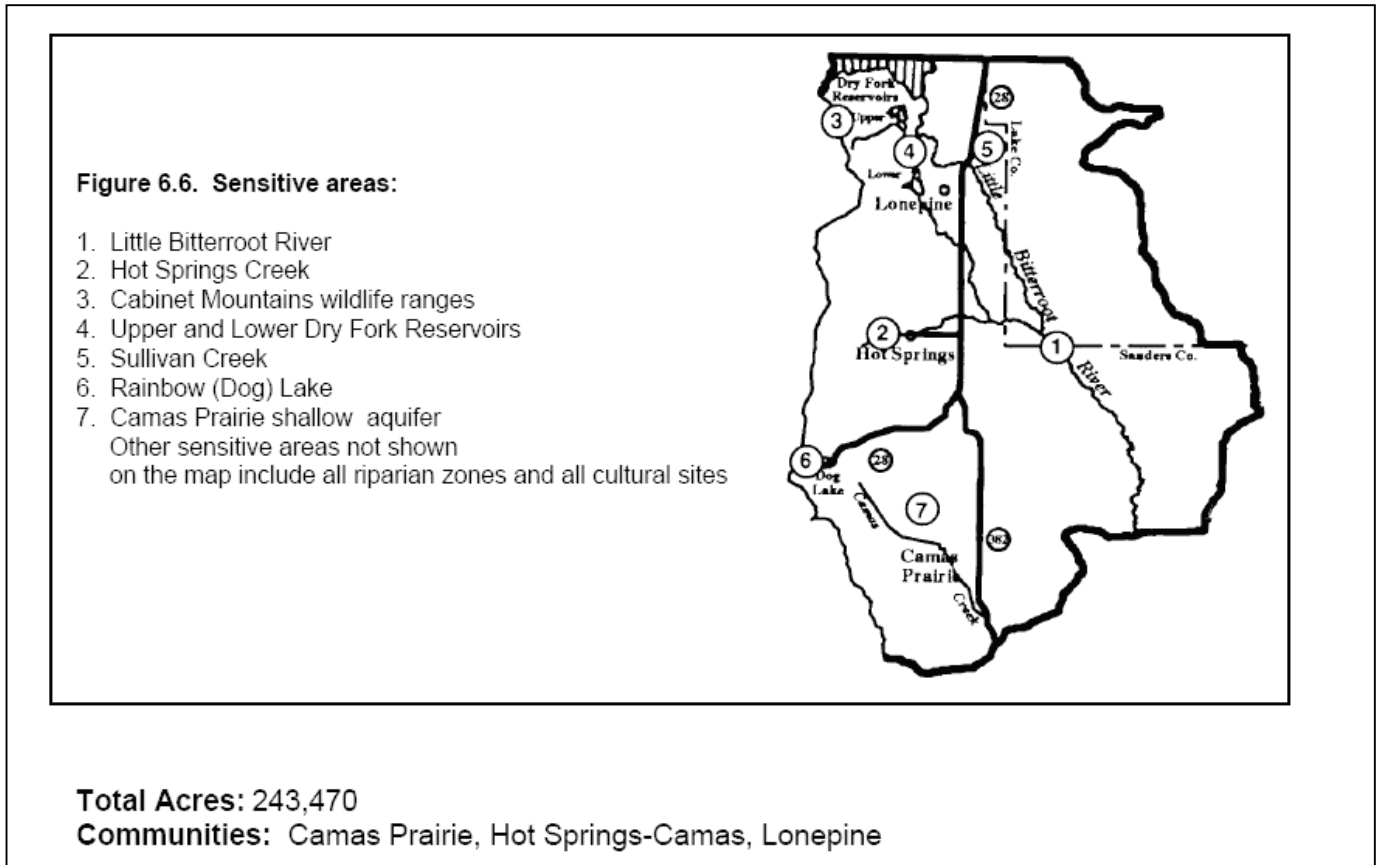
Major Planning Issues

- Multiple use considerations for Flathead Agency Irrigation Division reservoirs
- Agricultural impacts on water quality in the Little Bitterroot River; potential for shallow aquifer contamination
- Geothermal resource development opportunities
- Limited recreational facilities at Rainbow Lake, and the Upper and Lower Dry Fork Reservoirs
- Economic development
- Minerals development potential
- Tribal-federal-state inter-agency cooperation

Notes:

- (1) Tribal Elders prefer this Lake to be called "Dog Lake" as fishing "went to the dogs" after perch and bullhead began out-numbering trout. It is labeled as "dog Lake" on numerous survey maps (Lou Mailliet, interview, 2004)*
- (2) The Tribes did not renew their easement for the Yellowstone Pipeline due to leaks and environmental contamination that occurred in several Reservation locations.*
- (3) The post office in Lone Pine closed in 2007.*

Map 2: Camas – Hot Springs Study Area



The Tribes operate or own the following facilities in the Hot Springs area.

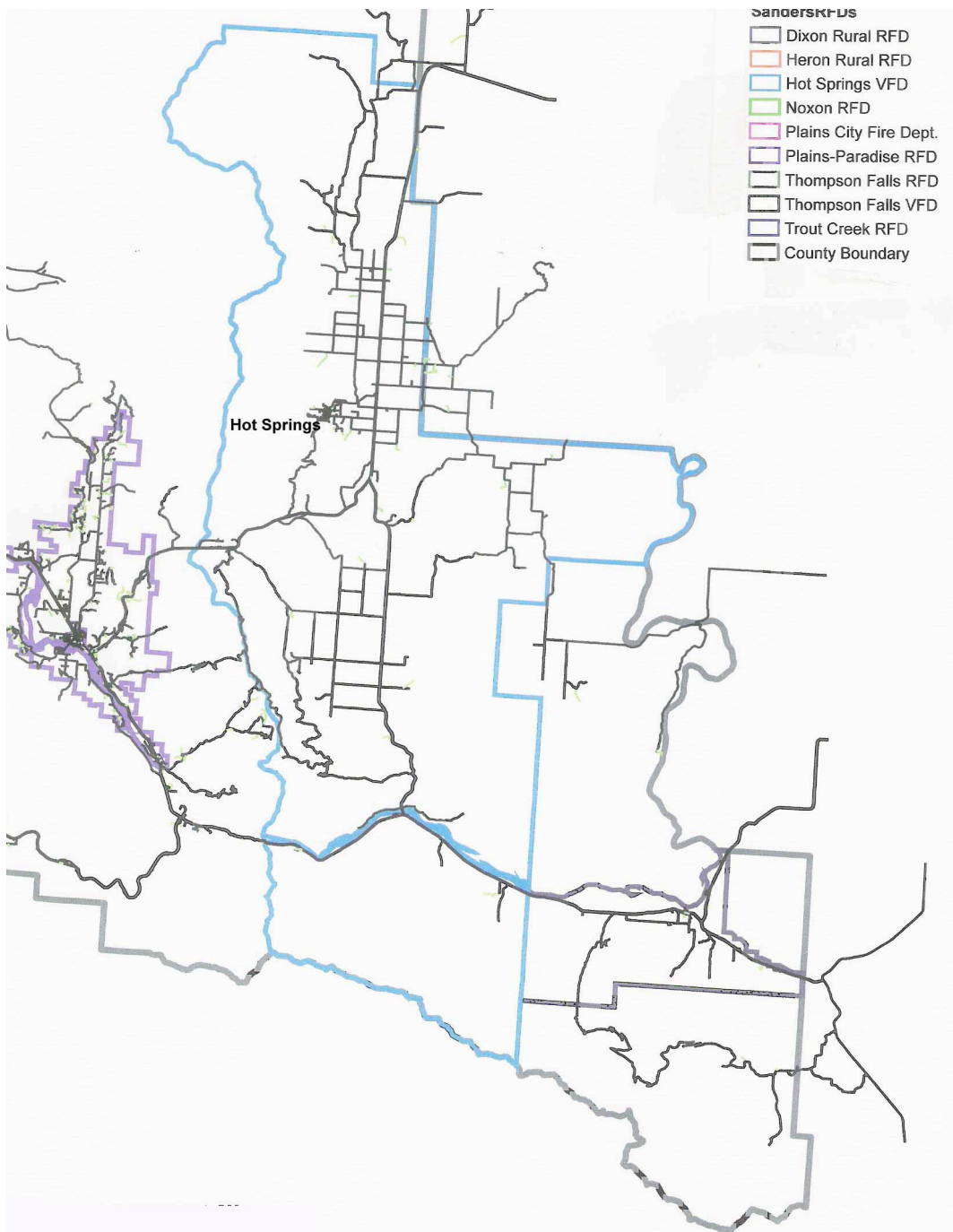
- A. Hot Springs Nutrition (Indian Senior) Center
- B. Salish & Kootenai Housing Authority – Rental Units
- C. Mission Valley Power – Satellite Office
- D. Camas Recreation Center
- E. Tribal Forestry Warehouse (Closed)
- F. Camas Bath House (Closed)

5. Fire Protection

A. Town of Hot Springs

The Town of Hot Springs is served by a volunteer fire department. Each fire district operates on tax monies generated by a mill levy, donations, and grants. The need for training, equipment, resources, and public education is continuous.

Map 3: Volunteer Fire District Areas in Sanders County



B. Wildland - Urban Interface

The Sanders County Community Fire Protection Plan defines the “Wildland Urban Interface” (WUI) as, “... the zone where structures or other human development meet to intermingle with undeveloped wildland or vegetative fuels. The width of the zone is determined on a site-specific basis to protect values at risk from wildland fire.” At-Risk Communities, as defined in the Healthy Forest Restoration Act 2004, are comprised of:

- An interface community as defined in the notice “Wildland Urban Interface Communities Within the Vicinity of Federal Lands That Are at High Risk From Wildfire” issued by the Secretary of Agriculture and the Secretary of Interior in accordance with Title IV of the U.S. Dept. of Interior and Related Agencies Appropriations Act, 2001. **OR**
- A group of homes and other structures with basic infrastructure and services (such as utilities and collectively maintained transportation routes) within or adjacent to Federal land **AND**
- In which conditions are conducive to large-scale wildland fire disturbance event **AND**
- For which a significant threat to human life or property exists as a result of a wildland fire disturbance event.

(Source: “*Sanders County Community Fire Protection Plan*”, 2005,

http://www.co.sanders.mt.us/emergency_management/Sanders%20County%20CFPP%20Final%20Draft2.mht)

At-Risk Sanders County communities include: Heron, Noxon, Trout Creek, Thompson Falls, Plains, Paradise, Hot Springs, Dixon, and other areas where numerous residents live in the Wildland -Urban Interface (See Map ##). The “Sanders County Community Fire Protection Plan” describes the risk of wildland fires in the county.

Fires originating in relatively remote areas can be driven by winds for long distances in a short time. The east-west orientation of many of the drainages in the County coupled with the prevailing westerly winds and the historic lightning patterns often support fires that start on State, Federal, and Tribal Forest lands, and when the conditions are right, move into the wildland-urban interface where they may threaten private property.

Census data from 2000 establish that Sanders County has increased in population by 18% since 1990, with many of the new residents being retirees. Many of the new homes in the County are being constructed in the wildland-urban interface and as more people move into the interface, the potential impacts from wildland fires increase, as does the complexity of protection issues faced by fire protection agencies.

The following agencies have responsibilities for fighting fires in the Wildland – Urban Interface.

- Nonstructural Wildland Only – There are three agencies in the county that provide this fire protection within their jurisdictions. These agencies are the Confederated Salish & Kootenai Tribes, the Montana Department of Natural Resources & Conservation, and the U. S. Forest Service.
- Wildland & Structural – Located within portions of the wildland agencies protection boundaries, Sanders County has 7 Volunteer Fire Departments serving 7 Fire Districts. The

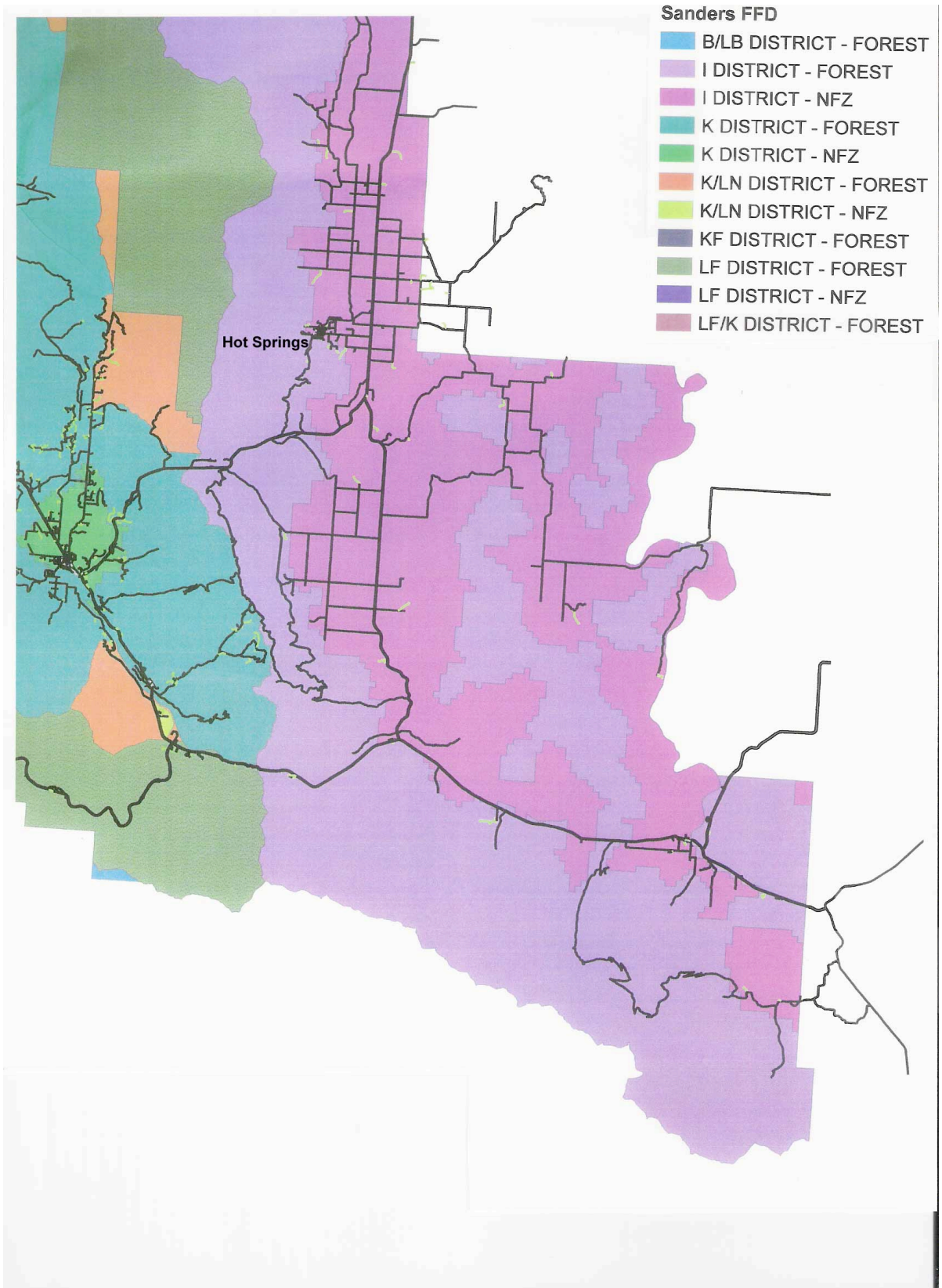
Sanders County Fire Fighters Association (acting as the Rural Fire Council), a cooperative organization with representatives from each of the volunteer departments, works to resolve issues common to all of the members. The Sanders County Office of Emergency Management Officer acts as the County Rural Fire coordinator and the main coordinating agent between the volunteer fire departments, county officials, and other fire agencies.

- Municipal – These departments are responsible for providing fire suppression within the communities of Plains, Hot Springs and Thompson Falls.

(ATTACHMENT B4-B)
 SANDERS COUNTY WILDLAND/URBAN INTERFACE AREAS
 RISK RATING

			OVERALL RATING 19 of 28
AREA NAME: Hot Springs 8,931		TOTAL ACRES:	
FIRE PROTECTION DISTRICT: Hot Springs RVFD, CS&KT		YEAR RATED: 2004	
VALUES AT RISK: Numerical Rating 1=lowest value risk, 10=highest value risk			
Value	Unit of Measure	Amount	Rating
Residences*	Each	107	3
Other structures (Businesses)*	Each	0	0
Historical Sites	Each	0	0
Private Commercial Forestland*	Acres	413	1
High Value Improvements	Each	0	0
•			
•			
•			
TOTAL VALUE AT RISK			4
FIRE RISK: Numerical Rating 1=lowest fire risk, 10=highest fire risk			
Value	Unit of Measure	Amount	Rating
Condition Class Within Area	Acres - %	750 -	
• Condition Class 0	Acres - %	8%	
• Condition Class 1	Acres - %	2698 -	6
• Condition Class 2	Acres - %	30%	
• Condition Class 3		2942 -	
		33%	
		2542 -	
		28%	
Condition Class Perimeter Adjacent To Area	Miles - %	5 - 42%	
• Condition Class 0	Miles - %	2 - 19%	4
• Condition Class 1	Miles - %	0 - 0%	
• Condition Class 2	Miles - %	5 - 39%	
• Condition Class 3			
Topography	%	80%	
• Unsheltered Prevailing Winds	%	20%	8
• Partially Sheltered To Prevailing Winds	%	0%	
• Sheltered From Prevailing Winds			
Access (Ingress/Egress)	%	20%	
• Difficult	%	50%	5
• Difficult/Easy Combination	%	30%	
• Easy			
TOTAL FIRE RISK			23
GRAND TOTAL ALL RISK			27
\$ VALUE AT RISK:			*\$9,176,746

Map 4: Forest Fire Districts



6. Law Enforcement

A. Law Enforcement Agencies

The Hot Springs Police Department is located at 111 Main St. adjacent to Town Hall. The Police Department staff includes a Chief of Police and a reserve officer. A levy was passed in fall, 2007 to add full time officer. The Department has three patrol vehicles and an animal control vehicle. The Police have primary jurisdiction within the town limits and the Sanders County Sheriff's office has primary jurisdiction in the surrounding unincorporated planning area. Detention facilities are located in Thompson Falls and contracted through the Sheriff's office.

The Confederated Salish and Kootenai Tribal Law and Order Department was established in the mid-1990s and serves the entire Reservation. Currently it consists of 16 officers, ten detention officers / dispatchers, three drug investigators, three community officers, a police clerk and one police cook. The Department does not provide patrol services in Hot Springs but does respond to phone calls and dispatches Police Officers, Fish and Wildlife Officers, Ambulance, Fire, Hazmat and other emergency personnel. There is a reciprocal agreement between these two agencies.

B. Crime Statistics

Since 2001, the index crime rate for the Town of Hot Springs has fluctuated slightly from year to year. In 2005, the crime rate for the Hot Springs was higher than the unincorporated areas of Sander's County. Typically, cities and towns have higher crime rates due to the concentration of people. Compared to the county seat of Thompson Falls, Hot Springs had a higher crime rate. The index crime rate, represents more serious felony crimes.

Table 4: Index Crime Rate – 2001 thru 2005

	Hot Springs Police Dept.	Sanders County Sheriff	Thompson Falls Police Dept.
2001	5639	2518	5287
2002	5047	2258	4054
2003	4869	2833	3464
2004	6367	3089	2653
2005	5332	2157	4191

Notes:

- 1) *Source: Montana Board of Crime - Database*
- 2) *Index Crimes = Homicide, Rape, Robbery, Aggravated Assault, Burglary, Larceny, Motor Vehicle Theft*
- 3) *CRIME RATE - The rate of the seven index crimes per 100,000 people.*

7. Libraries

The Preston Town County Library opened in September 1997. Over 140 groups, organizations, and individuals donated toward the building fund.

Preston Town County Library
PO Box 850
Hot Springs MT 59845-0850
Phone: (406) 741-3491
Street Address: 203 East Main
<http://www.hotspringsmt.net/hslibrar>
Hours: M 10am-5pm W 10am-5pm; Sat 10am-4pm

The per capita collection of the library is higher than the average for similar sized libraries even though per capita spending is lower than the average. Library usage in terms of per capita circulation of materials is slightly lower than the average.

Table 5: Library - Selected Statistics (2006)

Library Facts	Hot Springs	Average for Similar Size Libraries
Service Area Population	1,691	--
Collection Size (Books, Audio, Video, Other)	15,742	--
Per Capita Collection	9.31	7.95
Per Capita Spending	\$13.69	\$18.84
Per Capita Circulation	3.17	5.99

Source: *Montana Public Library Annual Report of Statistics, Montana State Library (2006)*
<http://msl.mt.gov/ldd/Statistics/Stats.html>

8. Education

A. Enrollments K-12 – Public School

The table below indicates that school enrollment has fluctuated slightly over the last seven years but has remained in the 220 to 235 range during this time. The school district boundaries extend into the rural areas of Hot Springs and this area accounts for most of the students. Overall, the County has experienced population growth and this has stabilized enrollments. Counties that have experienced little population growth have experienced declining enrollments due to a decline in family size.

Table 6: Public School Enrollment Trends

Grade Level	99-00	00-01	01-02	02-03	03-04	04-05	05-06
Elementary	121	119	108	115	117	108	122
7-8	43	44	42	30	30	49	39
High School	62	72	83	75	74	64	69
Total	226	235	233	220	221	221	230

Source: Montana Public School Enrollment Data, Office of Public Instruction

B. Enrollments Home School

The Montana Office of Public Instruction maintains statistics on home-school enrollment on a county-wide basis. The number of home school students remained steady from 2005-2006 to 2006 to 2007.

Table 7: Home School Enrollments for Sanders County

School Year	# of Students
2004 – 2005	52
2005 – 2006	77
2006 – 2007	72

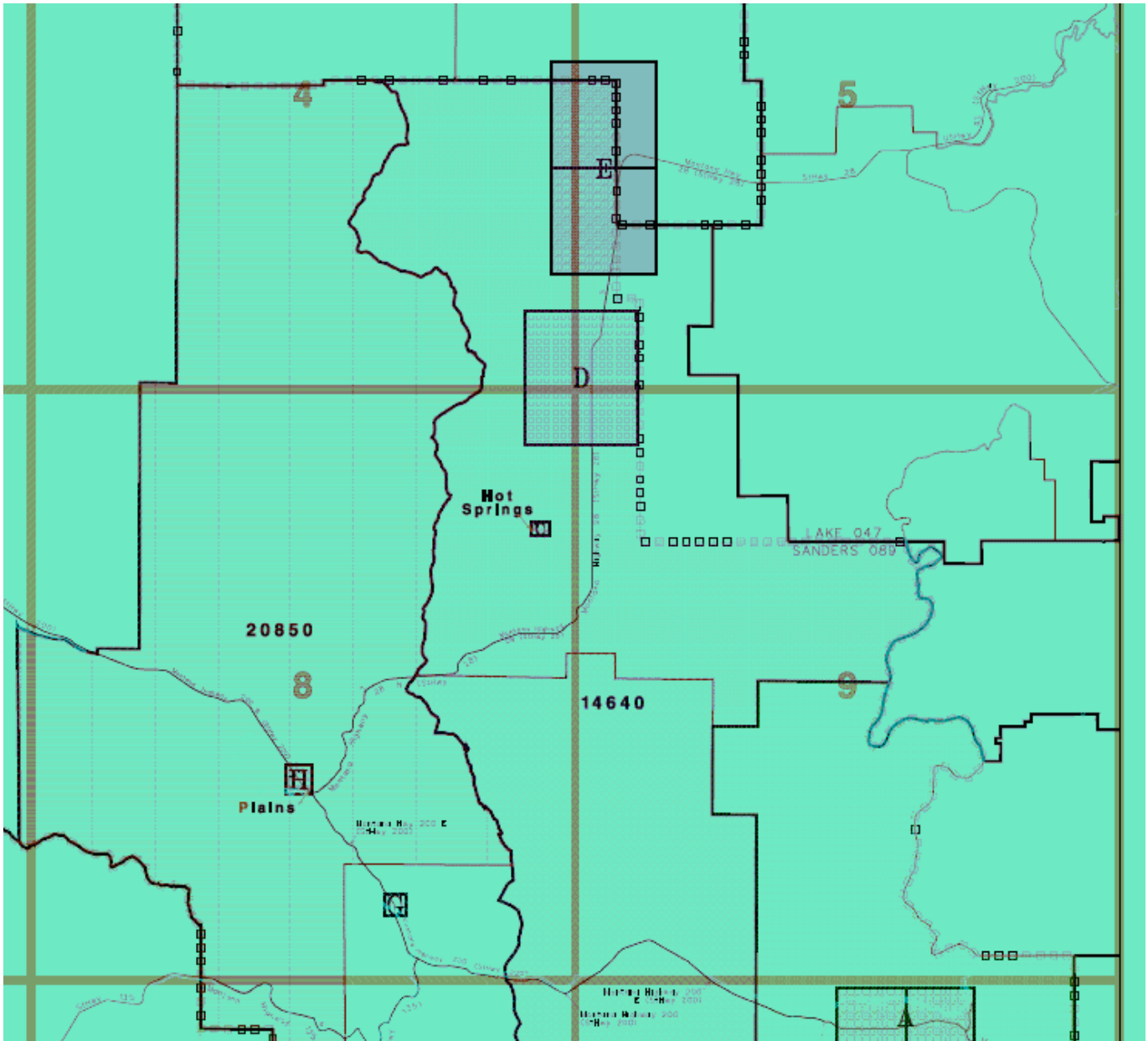
Source: Montana Office of Public Instructions (<http://www.opi.mt.gov>)

C. Service Area and Facilities

Map 3 indicates the school district boundaries for both the elementary and high school districts. The school district boundaries extend beyond the Town limits and include the surrounding rural areas. The mill levy in FY 05-06 for the high school was \$233.13 and the highest among the high school districts in the County. The mill levy for the elementary school in FY 05-06 was \$367.85 and was also the highest among the districts in the County.

All school buildings are located on one campus in Hot Springs. The campus includes the elementary school, high school, art building, two gymnasiums, and a shop. The newest gymnasium was constructed in 2004. The school buildings are over 50 years old.

Map 3: School District Boundaries



9. Health Care

A. Clark Fork Valley Hospital (www.cfvh.org)

Clark Fork Valley Hospital is located in Plains, MT and serves all of Sanders County including the residents of the Bull River area, Hot Springs, Plains, Thompson Falls, and the surrounding vicinity. The hospital is located 22 miles from Hot Springs. The hospital has 44 beds and offers emergency care as well as a variety of in-patient and out-patient services. Some of the primary services include surgery, obstetrics, internal medicine, radiology, physical therapy, family practice and dentistry. The Hospital has a medical clinic in Hot Springs.

B. Sanders County Public Health (http://www.co.sanders.mt.us/public_health/public_health_page.html)

Sanders County Public Health Department is located in Thompson Falls and provides public assistance for low-income households. It also offers the following health services to all residents of the County.

- Child and Family Services - The Sanders County Department of Public Health and Human Services foster care and adoption program specializes in the placement of children that have been abused and neglected and often have special needs.
- Tobacco Prevention - The Sanders County Department of Public Health and Human Services foster care and adoption program specializes in the placement of children that have been abused and neglected and often have special needs.
- Public Health Nurse – Services include blood pressure screening, immunizations, home start physicals, aids testing and counseling, health information and referrals. Services are located in Thompson Falls with immunization services available at the WIC clinic in Lone Pine.
- Women’s, Infant and Children (WIC) Program – The WIC programs provides nutrition services to infants, children and children to age five, pregnant, postpartum and breast feeding women. The closest WIC services for residents in Hot Springs are at the Lone Pine Hall.

C. Tribal Health Department

The Tribal Health Department provides the following services to tribal members.

- Contractual arrangements with existing health care providers (including ambulance services) from the private sector
- Community health, dental and pharmaceutical services through clinics in St. Ignatius and Polson
- Fitness centers in St. Ignatius, Ronan and Elmo
- Full-time nurses who provide home visits, follow-up care, immunizations, etc.
- Community health representatives who provide medical and transportation assistance
- Health education
- Medical social work

- Speech and language
- Mental health counseling
- Drug and alcohol counseling

Outreach offices are located in Arlee, Hot Springs, St. Ignatius, Polson, and Elmo. The outreach office in Hot Springs is located at the Indian Senior Citizens Center.

D. Evergreen Health and Rehabilitation Center is a private facility providing short or long term health care for those unable to stay in their home.

10. Aging Services

A. Council on Aging

The Sanders County Council on Aging Office is located at 109 Wall St., Suite 3. The office serves all of Sanders County and contracts with the Area Agency of Aging in Polson to provide the following services:

- Bus transport (Local and Regional)
- Medicare/Medicaid Assistance
- Social Security Assistance
- Meals on Wheels and Meals in the Senior Centers
- Alzheimer's Respite & others
- In-home housekeeping

B. Hot Springs Nutrition Center

The senior center is located on Main St. adjacent to Town Hall. The senior center is operated by a non-profit and receives funding from the county, town, and fundraising. It provides congregate meals on Wednesday at noon and on alternate Friday evenings. It distributes foods through the commodity program and has its own bus. The senior center is also available for community events.

C. CSKT Senior Center

The Tribes also operate a Senior and Nutrition Center in Hot Springs, providing meals on Tuesdays and Thursdays.

11. Social Services

The Tribes' Department of Human Resources Development (DHRD) was established in October 1998 when the Tribal Health and Human Services Department was re-organized into two separate departments. Major programs within DHRD are as follows: Tribal TANF (welfare), General Assistance, Tribal Vocational Rehabilitation, LIHEAP (winter heating assistance to low income persons), Childcare Block Grant Program, WIC, Tribal Food Distribution (Commodities), Workforce Investment Act Employment and Training Services (WIA), elderly food nutrition (Titles III & VI) – provides meals for senior citizens, Kerr Elder Program (additional assistance to the elderly on a needs-be-basis, solely derived from Tribal revenues), Even Start Family Literacy Services,

transportation services and other human resource programs. The majority of the programs have unique income and eligibility criteria and most services are restricted to poverty level incomes. (Source: <http://www.cskt.org/services/dhrd.htm>)

G. Population Addendum

1. Population Change

The population of Hot Springs peaked in 1950 at 733 people. The population fluctuated from 1960 to 1990 and reached its lowest population numbers in 1990 with only 411 people; a loss of almost one-third of the town's population in one decade. Since the 1990's, the town has experienced population growth. From 2000 to 2005 it was estimated that Hot Springs had a 6.4% increase in population. This compared to statewide growth of 3.7% and county-wide growth of 8.1% during this same time period.

Table 1: Population Change in Hot Springs, MT 1930 – 2005

	1930	1940	1950	1960	1970	1980	1990	2000	2005
Population	447	663	733	585	664	601	411	531	565
% Change	--	48.3%	10.6%	(-20.2%)	(13.5%)	(-9.5%)	(-31.6%)	29.2%	6.4%*

(1) % change equal 10 year period between decennial censuses except for five year period from 2000 to 2005.

(2) Source: United States Census Bureau - Census of the Population & Population Estimates

A primary factor contributing to the population fluctuations in the city are related to the history of major employers in town. A hot springs resort, a saw mill and a Bonneville substation were major employers but loss of these industries resulted in corresponding population loss. The recent increase in population is related to the overall population influx of population statewide. Much of this growth is due to a retirement cohort that is relocating to Montana.

Trends in adjoining counties and cities provide insights on the dynamics of population growth in the region. Since 1990, counties and cities in western Montana have all experienced high rates of population growth. Sanders County had the smallest increases in population when compared to Lake County and Flathead County. Hot Springs had the smallest increase in population compared to other towns on the Flathead Reservation.

Table 2: Census Population 1990 and 2000 – Selected Counties and Cities

	1990	2000	% Change 1990-2000	2005	% Change 2000-2005
Montana	799,065	902,195	12.9%	935,670	3.7%
Sanders County	8,669	10,227	17.9%	11,057	8.1%
Thompson Falls	1,319	1,321	0%	1,392	5.4%
Lake County	21,041	26,507	25.9%	28,297	6.8%
Flathead County	59,218	74,471	25.8%	83,172	11.7%
Polson	3,291	4,041	22.7%	4,828	19.5%
Ronan	1,547	1,812	17.1%	1,968	8.6%

Source: United States Census Bureau - Census of the Population

2. Migration

The increase in population indicates significant in-migration from outside the county and outside the state. The 2000 census indicated that 261 people moved into a house in Hot Springs from 1995 to 2000. This represents half of the population that moved in that five year period. Of those that moved, only 70 people moved from one house to another in the city of Hot Springs. The largest groups of people were moving to the town from out-of-state.

Table 3: Place of Residence, 1995

	Town of Hot Springs, Montana
Total:	525
Same house in 1995	264
Different house in 1995:	261
In United States in 1995:	261
Same city or town:	70
Same county	70
Not same city or town:	191
Same county	38
Different county:	153
Same state	37
Different state:	116

Source: U.S. Census Bureau, Census 2000, Table PCT21

3. Population Projections

The Montana Department of Commerce uses population projections from the NPA Data Services, Inc. to make statewide and county projections. Future growth for the Town of Hot Springs will likely reflect growth patterns in the County. According to the projections from NPA Data services, Sanders County is assumed to have an average annual growth rate of 2% per year. This would result in a population of 14,581 in 2030. If the Town of Hot Springs continues to represent 5.1% of the population in Sanders County, this would result in a projected population of 761 people in Hot Springs in 2030. These projections generally reflect the continuation of trends of in-migration into the county related to newcomers from out-of-state relocating to the county for a preferred lifestyle. If a new major employer were to establish operations in Hot Springs, this could result in significantly more population growth.

Table 4: Population Projections, Sanders County, Montana

Year	Population
2000	10,227
2005	11,057
2010	11,670
2015	12,400
2020	13,170
2025	14,010
2030	14,920

Source: Montana Department of Commerce Census and Economic Information Center, NPA Data Services - 2006

4. Age and Gender Distribution

The median age in Hot Springs in 2000 was 50.0 years. This is greater than the statewide median age of 37.5 years and a county median age of 44.2 years. On the Flathead Reservation, the median age in 2000 was 37.4. Additionally, 28.2% of the population is age 65 and over compared 13.4% statewide. Females comprise a larger percentage of the town population representing 53.5% of the population overall and 62.6% of the population age 65 and over. Historically, there was a shift towards an older population after the mill closed in the 1950's.

Table 5 : Population by Age – Hot Springs, MT

Age Group	#	%
Under 5 years	14	2.6%
5 to 9 years	31	5.8%
10 to 14 years	41	7.7%
15 to 19 years	16	3.0%
20 to 24 years	8	1.5%
25 to 34 years	46	8.7%
35 to 44 years	70	13.2%
45 to 54 years	82	15.4%
55 to 59 years	37	7.0%
60 to 64 years	36	6.8%
65 to 74 years	60	11.3%
75 to 84 years	57	10.7%
85 years and over	33	6.2%

Source: U.S. Census of the Population - 2000

5. Race & Ethnicity

According to the 2000 Census, the population of Hot Springs was predominantly white (84.9%) with American Indians comprising the largest minority group (10%). Statewide, 90.6% of the 2000 population was white. On the Flathead Reservation, American Indians comprised 26.7% of the population. For the first time in the 2000 Census, there was a category for "Two or More Races". This category accounted for 3.6% of the population in Hot Springs.

Table 6: Population by Race – Hot Springs, MT

Race	Population	Percent
One Race	512	96.4
Caucasian	451	84.9
Black or African American	1	0.2
American Indian or Alaskan Native	53	10.0
Asian	1	0.2
Other	6	1.1
Two or more races	19	3.6
Hispanic or Latino(of any race)	19	3.6

Source: U.S. Census of the Population - 2000

6. Education

In 2000, the percentage of people in Hot Springs who have attained at least a high school diploma was 77.3% compared to the State average of 87.2%. The percent of persons with a Bachelor's degree or higher is 12.1% compared to the State average of 24.4%.

Table 7: Education Levels – Hot Springs, MT

Educational Attainment	Number	Percent
Less than 9th grade	27	6.7%
9th to 12th grade, no diploma	65	16.0%
High school graduate (includes equivalency)	131	32.3%
Some college, no degree	105	25.9%
Associate degree	28	6.9%
Bachelor's degree	30	7.4%
Graduate or professional degree	19	4.7%
Percent high school graduate or higher	--	77.3%
Percent bachelor's degree or higher	--	12.1%

Source: U.S. Census of the Population – 2000

7. Disability

In Hot Springs, 31.8% of the population is has some type of disability. The proportion of the population with a disability increases with age. In the population group over 65, 58% of the population in Hot Springs had a disability compared to 42% in this age group statewide.

Table 8: Disability Status – Hot Springs, MT

Town of Hot Springs, Montana	
Total disabilities tallied for people 5 to 15 years:	0
Sensory disability	0
Physical disability	0
Mental disability	0
Self-care disability	0
Total disabilities tallied for people 16 to 64 years:	164
Sensory disability	29
Physical disability	50
Mental disability	11
Self-care disability	9
Go-outside-home disability	10
Employment disability	55
Total disabilities tallied for people 65 years and over:	150
Sensory disability	39
Physical disability	51
Mental disability	23
Self-care disability	13
Go-outside-home disability	24
Total disabilities tallied:	314

Source: U.S. Census of the Population 2000, STF3, Table P41

8. Household Characteristics

More than half of households are classified as non-family households. Slightly more than one-third of households have individuals over the age of 65. The average household size is 1.81 compared to 2.47 for the state of Montana. Average family size is 2.6 compared to 3.03 for the state of Montana.

Table 9: Household Characteristics – Hot Springs, MT

Household Characteristics	#	%
Total Households	280	100%
Family Households	126	45.0%
Family Households - Married Couple	94	33.6%
Non-Family Households	154	55.0%
Households with individuals under 18	49	17.5%
Households with individuals 65 and over	108	38.6%
Average Household Size	1.81	--
Average Family Size	2.64	--

Source: U.S. Census of the Population - 2000

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I. Judicial Principles Applying to Municipal Ordinances and Professional Licenses

(Adapted from an Article by Roger Wicke, Ph.D. with Permission)

Overview

Numerous U.S. and state Supreme Court cases have held that licenses and municipal ordinances, to be valid extensions of the police powers of the state, must adhere to stringent guidelines. Almost all forms of regulation are an exercise of the police powers of the state, and must adhere to these guidelines. Consequently, much judicial case law in the area of municipal ordinances are relevant to other administrative levels of licensing and statutory regulation, including health care licenses.

Ordinances and licenses:

- Must be enacted for explicit purposes of protecting the health, safety, and welfare of the public;
- Must be explicitly authorized by enabling statutes passed by the state legislature;
- Must maintain adequate protection of property rights and other personal rights guaranteed by the Constitution;
- Must adhere to requirements of due process of law and equal protection of the laws as required by the 14th Amendment and by due process requirements of state constitutions;
- Must not violate state statutes, the state constitution, U.S. Constitution, federal statutes, nor state or U.S. Supreme Court decisions;
- Must not be administered arbitrarily under the guise of protecting the public;
- Cannot be used as a means for exercising control over harmless and innocent activities and businesses;
- Cannot be used to prohibit lawful businesses;
- That regulate licensed activities must collect license fees solely for the purpose of regulating the specified activities;
- Cannot be used as mere instruments for gaining general revenue;
- That regulate licensed activities must specify hazards to be protected against and means for avoiding them.

Many officials of local government may fail to recognize violations of the preceding criteria, either out of lack of awareness or from habit, though they have taken an oath to uphold the highest laws of the land. The frequency with which local governments exceed their authority is recognized as a persistent problem; referring to laws in New York regulating the hours that bakery employees could work, the U.S. Supreme Court stated:

*It is impossible for us to shut our eyes to the fact that many of the laws of this character, while passed under what is claimed to be the police power for the purposes of protecting the public health or welfare, are, in reality, passed from other motives. We are justified in saying so when, from the character of the law and the subject upon which it legislates, it is apparent that the public health or welfare bears but the most remote relation to the law. The purpose of a statute must be determined from the natural and legal effect of the language employed; and whether it is or is not repugnant to the Constitution of the United States must be determined from the natural effect of such statutes when put into operation, and not from their proclaimed purpose. *** The court looks beyond the mere letter of the law in such cases. *Lochner v. New York*, 198 US 45, 25 SupCt 539; cited in *Replogle v. Little Rock*, 166 Ark 617, 267 SW 353 (1925).*

Thus, the mere words of an ordinance or statute proclaiming to protect the public health, safety, and welfare are a sham and a subterfuge if, by their actions and intent, public officials use them to achieve

other goals, such as obtaining revenue, exercising control over harmless activities, inhibiting business competition, or gaining political influence.

Municipal ordinances as valid exercise of police powers under limited conditions

Legal counsel for municipalities often cite certain U.S. Supreme Court cases as having permanently settled the issue of municipal licenses and ordinances as being valid powers authorized by the police power of the state, without also citing the emphatic limits these same cases have also placed upon the exercise of such police power. *Schmidinger v. Chicago*, 226 US 578 (1913); *Gundling v. Chicago*, 177 US 183, 188 (1900); *Crowley v. Christensen*, 137 US 86 (1890). The subjects of regulation in the latter two of these cases are the businesses of selling alcoholic beverages and cigarettes; both of these subjects involve clear and undeniable hazards to public health and welfare which have long been tolerated but regulated in the public interest.

There is no inherent right in a citizen to thus sell intoxicating liquors by retail; it is not a privilege of a citizen of the United States. As it is a business attended with danger to the community it may, as already said, be entirely prohibited, or be permitted under such conditions as will limit to the utmost its evils.

-- *Crowley v. Christensen*, supra.

In *Gundling v. Chicago*, the court ruled that the weights of loaves of bread manufactured commercially was a proper subject of regulation, in light of the considerable public interest in being assured of certified weights and measures in their purchases of commercial food products. That not all trades and occupations need to be regulated is also recognized.

...and the right of the legislature or municipal corporation to regulate one trade and not another is too well settled to require further consideration.

-- *Schmidinger v. Chicago*, supra. See also *Minnesota v. Barber*, 136 US 313; *Brimmer v. Rebman*, 138 US 78; *Yick Wo v. Hopkins*, 118 US 356; *Lochner v. New York*, supra, 64.

For a trade or occupation to be a valid subject of regulation, such regulation must be essential to protect the safety, health, and welfare of the public.

It is undoubtedly true that it is the right of every citizen of the United States to pursue any lawful trade or business, under such restrictions as are imposed upon all persons of the same age, sex, and condition. But the possession and enjoyment of all rights are subject to such reasonable conditions as may be deemed by the governing authority of the country essential to the safety, health, peace, good order and morals of the community.

-- *Crowley v. Christensen*, supra.

Municipal ordinances must not violate higher laws, including 14th Amendment

The U.S. Constitution and state constitutions recognize certain pre-existing and inalienable rights, and many U.S. and state Supreme Court rulings have been issued to harmonize the simultaneous need to protect these rights with the recognized authority of the state to use the police powers to protect public health and welfare. Specifically, municipal ordinances must be consistent with all higher laws, including state statutes, state constitution, U.S. Constitution, and both state and U.S. Supreme Court decisions issuing rulings relevant to such ordinances.

All municipal ordinances, in addition to being exercised in the interest of public health and welfare, must be specifically authorized by the state Legislature. This criteria is stated succinctly,

The primary question in every case, touching the validity of such legislation, is (1) has the municipality express or implied authority to act, and (2) does the ordinance promote the public health, morals,

safety, convenience, and comfort of the general public, and advance the general welfare?

-- Miller v. Memphis, 181 Tenn 15, 178 SW2d 382 (1944).

A municipal ordinance not passed under supposed legislative authority, cannot be regarded as a law of the State within the meaning of the constitutional prohibition against State laws impairing the obligation of contracts.

-- Hamilton Gas Light and Coke Co. v. Hamilton, 146 US 258, 266, 13 SupCt 90, 36 LEd 963 (1892).

Any doubt as to whether the municipality has been granted specific powers shall be decided by the courts against the municipality.

Cities are creatures of the Legislature and derive their existence and powers there from. They have no inherent powers, and derive all their powers from the Legislature. Statutes granting powers to municipal corporations are strictly construed, and any fair and reasonable doubt as to the existence of the powers must be resolved against the municipality. [citing 3 cases] This court has many times held that power to license or tax an occupation must be expressly granted to cities by the Legislature or be a necessary incident to a power expressly granted. [citing 7 cases] If the business sought to be regulated does not tend to injure the public health or public morals, or to interfere with the general welfare, it is not a subject for the exercise of the police powers.

-- Barnard and Miller v. Chicago, 316 Ill 519, 147 NE 384 (1925).

Ordinances must respect all rights recognized by higher laws. If a municipal ordinance is properly adopted under a power granted by the state legislature, it is to be regarded as an act of the state within the 14th Amendment, and must uphold the same protections of due process and equal protection under the laws as do state statutes. -- North American Cold Storage Co. v. Chicago, 211 US 306, 29 SupCt 101, 53 LEd 195 (1908).

And it is well settled that municipal ordinances and the actions in office of municipal officials constitute state actions and are within the prohibitions of the Fourteenth Amendment.

-- McCoy v. Providence Journal Co., 190 F2d 760, 764 (1951).

The constitutional provision [14th Amendment], therefore, must mean that no agency of the State, or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws. Whoever, by virtue of public position under a State government, deprives another of property, life, or liberty, without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition; and as he acts in the name and for the State, and is clothed with the State's power, his act is that of the State. This must be so, or the constitutional prohibition has no meaning. Then the State has clothed one of its agents with power to annul or to evade it.

-- Ex parte Virginia, 100 US 339, 347 (1879). See also Neal v. Delaware, 103 U.S. 370 (1881); Yick Wo v. Hopkins, 118 US 356 (1886); Gibson v. Mississippi, 162 US 565 (1896).

Section 1 of the Fourteenth Amendment to the federal Constitution, and sections 3 and 27 of Article III of the Constitution of Montana, imply, if, indeed, they do not express, a prohibition against the power of the Legislature to enact a law whose effect would be the impairment of a vested right.

-- Hinds v. Wilcox, 22 Mont 4, 55 P 355.

Rights recognized by the Constitution are to be protected vigorously.

...constitutional provisions for the security of person and property should be liberally construed. A close and literal construction deprives them of half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance. It is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon.

-- Boyd v. U.S., 116 US 616, 635 (1886).

No man's liberty is safe if the Legislature can deny him the right to engage in a harmless calling.
-- *Replogle v. Little Rock*, 166 Ark 617, 267 SW 353 (1925), citing 1 Tiedeman on State and Federal Control of Persons and Property, 236.

The right to property includes the right to one's own labor, to be used in the pursuit of harmless, innocent, and honest occupations without hindrance.

The right to labor or earn one's livelihood in any legitimate field of industry or business is a right of property, and any unlawful or unreasonable interference with or abridgment of such right is an invasion thereof, and a restriction of the liberty of the citizen as guaranteed by the Constitution.
-- *Patton v. Bellingham*, 179 Wash. 566, 38 P2d 364 (1934), citing *Tee Gee v. San Francisco*, 235 F 757, 759.

Among these inalienable rights, as proclaimed in that great document [referring to the Declaration of Independence], is the right of men to pursue their happiness, by which is meant the right to pursue any lawful business or vocation, in any manner not inconsistent with the equal rights of others, which may increase their prosperity or develop their faculties, so as to give them their highest enjoyment. The common business and callings of life, the ordinary trades and pursuits, which are innocuous in themselves, and have been followed in all communities from time immemorial, must therefore be free in this country to all alike upon the same conditions. The right to pursue them, without let or hindrance, except that which is applied to all persons of the same sex, age, and condition, is a distinguishing privilege of citizens of the United States, and an essential element of that freedom which they claim as their birthright. It has been well said that: 'The property which every man has in his own labor, as it is the original foundation of all other property, so it is the most sacred and inviolable. The patrimony of the poor man lies in the strength and dexterity of his own hands, and to hinder his employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of this most sacred property.'

-- *Butchers' Union Co. v. Crescent City Co.*, 111 US 746, 28 LEd 585.

Police powers cannot be exercised arbitrarily

Because of the frequency with which municipalities tend to misuse the police powers, in spite of the numerous court decisions prohibiting such misuse, it is appropriate to quote extensively from these court decisions to emphasize that the courts repeatedly deny to municipalities the power to violate citizens' rights under the guise of protecting the public. That such misuse continues to occur is possible only because it is the rare citizen who knows his rights and the even rarer citizen who refuses to budge when asked by the authorities to relinquish his rights. The exercise of the police power cannot be arbitrary, must serve the purpose of protecting public health, safety, and welfare, and may extend no further than necessary to achieve these goals.

The police power has been termed the 'law of overwhelming necessity.' *** And even where the matter under construction has been held a proper subject for regulation, all regulations must be reasonable and only go so far as are reasonably necessary to effect the legitimate object of the public protection sought.

-- *State ex rel. Sampson v. Sheridan*, 25 Wyo 347, 170 P 1 (1918).

The power to regulate the use of property or the conduct of a business is, of course, not arbitrary. The restriction must bear a reasonable relation to some legitimate purpose within the purview of the police power.

-- *Ex parte Hadacheck*, 165 Cal 416, 132 P 584 (1913).

Attempts to exercise the police power under the guise of protecting the public welfare, when in fact other motives operate, is clearly prohibited. The mere words of a statute or ordinance declaring that the purpose is for protecting public health and welfare are of no effect if the purpose of the legislators

or municipal officials is demonstrated to be otherwise.

Generally speaking, it is within the right of municipal legislative authority, acting under the 'general welfare' clause, to determine what ordinances are required to protect and secure the public health, comfort, and safety, but it may not, under the guise of such power, enact ordinances which are unreasonable, or discriminatory, or an invasion of constitutional rights.

-- McKelley v. City of Murfreesboro, 162 Tenn 304, 36 SW2d 99 (1931), citing Standard Oil Co. v. City of Kearney, 106 Neb 558, 184 NW 109 (1921).

Governmental restrictions upon the use of property can find constitutional authority only in the exercise of the so-called police power, that is, in the just power of the sovereign to pass all manner of laws to promote the public safety, the public health, the public morals, the general welfare and prosperity of the public. It is not sufficient for the law-making power to declare that it is legislating to promote one or more of those objects. The law must in fact have some reasonable relation to one of those objects. If it has no such relation, it constitutes an arbitrary exertion of governmental power and violates the "due Process" provisions of the Federal and State Constitutions, U.S. Const. Amend 14; Const. Ohio, art. 1, sect. 16.

-- Vandervort v. Sisters of Mercy of Cincinnati, 117 NE2d 51, 97 OhioApp 153 (1952).

It must be conceded that the enjoyment of property does not consist alone in the holding of legal title thereto. In fact, there can be no conception of property aside from its control, use and enjoyment; and upon its use and enjoyment necessarily depends its value. If, therefore, a Zoning Ordinance limits and restricts the use and enjoyment of property in matters having no real and substantial relation to the peace, good order, safety, health, morals, comfort, or general welfare of the community in which the property is located, the owner thereof may appeal to the constitutional safeguards as fully as if the title itself were proposed to be taken from him; and this is true, though such an ordinance is seemingly authorized by statute. In other words, under the guise of the police powers of the State, the use and enjoyment of private property cannot be subjected to arbitrary and unreasonable restrictions which clearly are not essential to the public good or general welfare of the community.

-- In re Ceresini, 189 A 443, 8 WW Harr 134 (1936).

The police power of the state is that power which enables it to promote the health, comfort, safety, and welfare of society. It is very broad and far-reaching, but it is not without its limitations. Legislative acts passed in pursuance of it must not be in conflict with the constitution, and must have some relation to the ends sought to be accomplished; that is to say, to the comfort, welfare, or safety of society. Where the ostensible object of an enactment is to secure the public comfort, welfare, or safety, it must appear to be adapted to that end. It cannot invade the rights of person and property under the guise of a mere police regulation, when it is not such in fact; and where such an act takes away the property of a citizen, or interferes with his personal liberty, it is the province of the courts to determine whether it is really an appropriate measure for the promotion of the comfort, safety, and welfare of society.

-- Mt. Vernon v. Julian, 369 Ill 447, 17 NE2d 52 (1938), citing Ritchie v. People, 155 Ill 98, 101, 40 NE 454.

It has been written many times that a municipal corporation through its police power cannot arbitrarily regulate the conduct of business but that such regulation must be reasonable, and in no event may a city impose unnecessary restrictions upon lawful and harmless occupations under the guise of protecting the public interest.

-- Jackson v. Murray-Reed-Sloan and Co., 297 Ky 1, 178 SW2d 847 (1944).

There must be reasonable ground for the police interference and also the means adopted must be reasonably necessary for the accomplishment of the purpose in view. So in all cases where the interference affects property and goes beyond what is reasonable by way of interfering with private rights, it offends against the general equality clause of the Constitution; it offends against the spirit of the whole instrument.

-- State ex rel. Sampson v. Sheridan, 25 Wyo 347, 170 P 1 (1918), citing Bonnett v. Vallier, 136 Wis

193, 202, 116 NW 885.

The employment of the police power will not be upheld when its exercise imposes an unreasonable restriction on private business on the pretense of promoting the public interest. *** Neither a state nor a city can arbitrarily interfere in private businesses or impose unreasonable restriction on private business on the pretense of promoting the community interest.

-- *Eskind v. Vero Beach*, 159 So2d 209 (1963).

Doubt as to validity of ordinances to be resolved in favor of protecting private rights

When there is doubt as to whether an ordinance conflicts with higher laws, the doubt shall be resolved in favor of the higher laws, especially when the ordinances are a mere pretense for use of the police powers under the guise of protecting the public. Determining the actual purpose of an ordinance or statute is a proper task for the courts.

To be valid an ordinance must be reasonable and not in conflict with any controlling provision or principle of law *** and if any doubt exists as to the extent of a power attempted to be exercised by a municipality out of the usual range, or which may affect the common-law right of a citizen, it is to be resolved against the municipality.

-- *Perry Trading Co. v. Tallahassee*, 128 Fla 424, 174 So 854 (1937), citing *Pounds v. Darling*, 75 Fla 125, 132, 77 So 666.

To be valid an ordinance must be reasonable and not in conflict with any controlling provision or principle of law *** and if any doubt exists as to the extent of a power attempted to be exercised by a municipality out of the usual range, or which may affect the common-law right of a citizen, it is to be resolved against the municipality. The doctrine is applicable to that situation where a city, under the guise of exercising the police power, imposes such limitation and burdens on conducting a business as to seriously impair the right to conduct such business where there is no question of public health, morals, or safety involved.

-- *Prior v. White*, 132 Fla 1, 180 So 347 (1938), citing *Pounds v. Darling*, 75 Fla 125, 77 So 666. See also *Sweat, Sheriff, v. Turpentine and Rosin Factors*, 112 Fla 428, 150 So 617; 6 RCL 239; *Cooley*, Constitutional Limitations, 8th Ed., vol.2, p.1228.

To justify the State in thus interposing its authority in behalf of the public, it must appear, first, that the interests of the public generally, as distinguished from those of a particular class, require such interference; and, second, that the means are reasonably necessary for the accomplishment of the purpose, and not unduly oppressive upon individuals. The legislature may not, under the guise of protecting the public interests, arbitrarily interfere with private business, or impose unusual or unnecessary restrictions upon lawful occupations. In other words its determination as to what is a proper exercise of its police powers is not final or conclusive, but it is subject to the supervision of the courts.

-- *Lawton v. Steel*, 152 US 133, 137 (1894).

The courts are not bound by mere forms, nor are they to be misled by mere pretenses. They are at liberty, indeed, are under solemn duty, to look at the substance of things, whenever they enter upon the inquiry whether the legislature has transcended the limits of its authority. If, therefore, a statute purporting to have been enacted to protect public health, the public morals, or the public safety, has no real or substantial relation to those objects, or is a palpable invasion of rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the Constitution.

-- *Mugler v. Kansas*, 123 US 623, 31 LEd 205 (1887).

...the statute or ordinance must not be arbitrary, or unreasonable or unduly oppressive. While the exercise of the police power is not violative of the Constitution, it is held in check by the Constitution. The Legislature may not, under the guise of protecting the public interests, arbitrarily interfere with the fundamental rights of citizens guaranteed by the Constitution. The determination of what, in any

specific instance, is a proper and reasonable exercise of the police power, is within the province of the Courts.

-- People, on complaint of Mullaly, v. Banks, 6 NYS2d 41, 168 Misc 515 (1938). See also Lawton v. Steel, 152 US 133 (1894).

Trades and occupations of no real danger to public cannot be regulated

Trades and occupations, which have no tendency to endanger the public health and welfare, are not within the police power. Innocuous and honest pursuits that have no significant effect upon the public welfare are not proper subjects of regulation.

We have always held that an act which has no tendency to affect or endanger the public in connection with health, safety, morals, or general welfare and which is entirely innocent in character is not within the police power. [citing 3 cases]

-- Mt. Vernon v. Julian, 369 Ill 447, 17 NE2d 52 (1938).

The trade of plumbing has been ruled to be one example of a pursuit not subject to regulation and licensing, even though occasional mistakes may be cause for inconvenience. While the individual plumber may voluntarily obtain a license, he cannot be compelled to do so.

In spite of the inherent risks of poorly installed plumbing, the courts have consistently ruled that such does not reach the threshold of danger that would justify requiring all plumbers to be licensed. Herbalists should understand well the reasoning and logic behind these decisions, for the freedom of non-licensed herbalists and alternative health practitioners to perform their services is dependent upon a knowledgeable defense of their rights.

The occasional mistake or error in the work of a tradesman or professional does not justify the use of the police powers to restrict all practitioners of such trade or profession. The advantages of regulating and licensing various professions to maintain standards of quality are often outweighed by the dangers of creating de facto monopolies, which ultimately act to the detriment of the public. It should not be automatically assumed that regulation and licensing will result in an overall improvement in quality. This country's experience with corporate and professional monopolies should remind those who rush to regulate every activity, that the quality of regulation is only as good as the people doing the regulating, and such power may be easily corrupted. We did not hold in the original opinion that the work of plumbing might not be conducted in a manner to affect the public health or safety. The same may be said of many other avocations which men have the common and natural right to pursue. But that does not justify the enactment of laws or ordinances restricting or prohibiting individuals from engaging in such occupations, unless and until they have been pronounced qualified under certain rules and standards prescribed by an examining board. All such laws are unconstitutional and void, because they are infringements of individual rights guaranteed under our federal and state Constitutions. The monopoly of the plumber's craft, which the act under consideration tends to create and foster, would be far more detrimental to the public weal than any sporadic or occasional piece of defective plumbing work.

-- Replogle v. Little Rock, 166 Ark 617, 267 SW 353 (1925).

Any statute, or municipal ordinance enacted pursuant thereto, which challenges the right of any person to engage in the legitimate and honest occupation of plumbing without restraint or regulation must find its justification in the fact that such a statute or ordinance is necessary to promote the general welfare. No individual can be deprived of the right to pursue his happiness in his own way and to engage in honest toil in any avocation and in any manner he sees proper in order to make a living for himself and those who may be dependent upon him, so long as he does not use such right in a manner to injure others. So long as the individual does not transcend this bound, his conduct is not subject to police regulation. Police power can only be used to suppress, restrain, or regulate the liberty

of individual action when such action is injurious to the public welfare.
-- *Replogle v. Little Rock*, 166 Ark 617, 267 SW 353 (1925).

It is not sufficient that the public sustains harm from a certain trade or employment as it is conducted by some engaged in it. Because many men engaged in the calling persist in so conducting the business that the public suffers and their acts cannot otherwise be effectually controlled is no justification for a law which prohibits an honest man from conducting the business in such a manner as not to inflict injury upon the public.

-- *State ex rel. Sampson v. Sheridan*, 25 Wyo 347, 170 P 1 (1918), citing *Tolliver v. Blizzard*, 143 Ky 773, 137 SW 509.

Lawful businesses cannot be prohibited

Lawful businesses, even though they may have a significant effect upon the public health and welfare, cannot be prohibited altogether, though they may be regulated. If a potential hazard from a lawful occupation or activity can be prevented by reasonable means, such reasonable means must be sought to allow the lawful activity to occur under regulation and supervision.

A law or ordinance, the effect of which is to deny to the owner of property the right to conduct thereon a lawful business, is invalid unless the business to which it relates is of such a noxious or offensive character that the health, safety, or comfort of the surrounding community requires its exclusion from that particular locality.

-- *Ex parte Whitwell*, 98 Cal 78, 32 P 870 (1893).

The general principle also has been affirmed that, at any rate in the absence of a clear expression of the legislative will, an ordinance which attempts to vest in a city council or a board of control or some administrative officer of the municipality the power, not subject to review by the courts or by other higher authority, to permit or refuse to permit the carrying on of a business lawful in itself and not prohibited by legislation, is not to be sustained.

-- *Commonwealth v. Maletsky*, 203 Mass 241, 89 NE 245 (1909).

As an example of the preceding principles, quarry operation can be regulated but not prohibited if a manner of operation is feasible which would protect the public from foreseeable hazards. -- *Morton v. Superior Court of San Mateo*, 124 CalApp2d 577, 269 P2d 81 (1954).

Regulations for licensed activities must specify hazards to be protected against and means for avoiding them

As stated previously, a general or vague declaration that a statute or ordinance is enacted to protect the public is not adequate justification for use of the police powers. Specific hazards must be foreseen, and specific remedies or procedures specified to prevent their occurrence. A licensing regulation that specifies only that a fee shall be collected before a license shall be issued, without additional regulation specifying the hazards to be prevented or the means to prevent them, is an arbitrary exercise of the police power.

Regulatory legislation attempting to control a lawful business, which does not fall within the objectionable or prohibited classes, and which is conducted upon private property, must be reasonably adapted to promote the public health and general welfare in some particular manner, and must tend to prevent some existing or directly anticipated menace thereto. What is a reasonable exercise of the police power under these circumstances depends largely upon the nature or character of the undesirable conditions to be overcome or prevented. *** There must also be some logical connection between the object sought to be accomplished by the legislation and the means prescribed to accomplish such purpose.

-- *Patton v. Bellingham*, 179 Wash. 566, 38 P2d 364 (1934), citing *Brown v. Seattle*, 150 Wash 203,

272 P 517, 278 P 1022.

In order that a statute or ordinance may be sustained as an exercise of the police power, the courts must be able to see that the enactment has for its object the prevention of some offense or manifest evil or the preservation of the public health, safety, morals, or general welfare, that there is some clear, real, and substantial connection between the assumed purpose of the enactment and the actual provisions thereof.

-- State ex rel. Sampson v. Sheridan, 25 Wyo 347, 170 P 1 (1918), citing 12 CJ 929; In Matter of Jacobs, 98 NY 98, 50 AmerRep 636.

Licensed activities cannot be used as a subterfuge for obtaining general revenue

As an example of proper regulation, a municipal ordinance that requires all dog owners within city limits to be licensed, for the prevention of rabies, and specifies that proof of vaccination is required to obtain license, is a valid exercise of the police power. Requiring dog owners to be licensed without specifying the reasons or requiring the owners to take any action other than paying a fee for the license is an arbitrary exercise of the police power that does not protect the public in any tangible manner, and serves only to collect revenue.

Because of the popularity among municipalities nationwide of collecting license fees under the guise of protecting the public welfare, numerous court decisions have explicitly ruled that this specific type of arbitrary exercise of the police power is prohibited. The types of revenue collection measures available to municipalities must be explicitly enumerated and authorized by state statutes. Revenue collection measures not so authorized cannot be disguised as exercises of the police power.

There is a sharp distinction between a license for revenue and one of regulation under the police power; the first named being a tax and construed under the principles and rules governing taxing powers, the latter under the police power looking toward the health, morals, safety, or general welfare of the community, and it is generally held that the power to regulate occupations does not in itself give the power to license for revenue or tax the same occupations, or that a given power to license for revenue does not in itself give power to license for regulation under the police power.

-- State ex rel. Sampson v. Sheridan, 25 Wyo 347, 170 P 1 (1918).

We have held that if a business sought to be regulated does not tend to injure the public health, public morals, or interfere with the general welfare it is not a subject for the exercise of the police power. [citing *Lowenthal v. Chicago*, 313 Ill 190, 144 NE 829.] An ordinance providing for a license, without regulatory provisions of any kind, is solely a revenue measure and not within the police power.

-- *Chicago v. R. and X. Restaurant*, 369 Ill 65, 15 NE2d 725 (1938).

Under the police power license fees may not be imposed wholly for the purpose of obtaining revenue.

-- *Chicago v. R. and X. Restaurant*, 369 Ill 65, 15 NE2d 725 (1938).

Moreover, license and permit fees must not exceed the costs of administering the regulation of the specified activities. For example, state license fees collected from licensed physicians cannot be used to regulate working conditions in coalmines, or for any other purpose, including general government expenses. Any fees collected in reasonable excess of such amounts shall be declared to be a tax, and is not within the proper exercise of the police power.

There are compelling historical reasons why license fees should not be collected in excess of the amounts needed to regulate the associated hazard, other than that they violate the laws and principles of fair taxation. If governments become addicted to such hazardous activities for their daily operating expenses, they become dependent upon those sources responsible for continuing the hazardous activities, thus providing powerful temptation to ignore the public health and welfare, which regulation

was originally intended to protect.

Anything in excess of an amount which will defray such necessary expense cannot be imposed under the police power, because it then becomes a revenue measure.

-- Mirelli v. City of St. Clair Shores, 355 Mich 575, 96 NW2d 144, (1959), citing Vernor v. Secretary of State, 179 Mich 157, 146 NW 338, 341.

In some states where the power granted cities does not expressly authorize the collection of a license fee for the purpose of raising revenue generally, the courts have held that the charge for such licensing must bear some reasonable relationship to the cost of regulating the business so licensed. It is reasoned that even though license fees sufficient to cover such costs are a necessary concomitant of the police powers, fees in excess thereof are in reality a form of taxation, which may not be imposed by the city without express authorization of the legislature.

-- Weber Basin Home Builders Assn. v. Roy City, 26 Utah2d 215, 487 P2d 866 (1971).

In determining whether a fee required for a license is excessive or not, the absence or amount of regulatory provisions and the nature of the subject of regulation should be considered, and, if the amount is wholly out of proportion to the expense involved, it will be declared a tax.

-- Mirelli v. City of St. Clair Shores, supra, citing Vernor v. Secretary of State, supra.

The increasing expenses of a municipal government caused by normal population growth constitute the public problems of a community, and it has been held that expenses incurred solving such problems should be defrayed by general municipal revenues that are available and not by excess fees exacted from licenses and fees, particularly where such fees are out of proportion to the cost of regulating the respective businesses and activities.

-- Mirelli v. City of St. Clair Shores, 355 Mich 575, 96 NW2d 144, (1959). See also Weber Basin Home Builders Assn. v. Roy City, 26 Utah2d 215, 487 P2d 866 (1971).

Regulatory and licensing fees must be reasonable in amount and fair in proportion to the cost of regulating the specified activity or they will not be sustained. Since the police power may not be used as a subterfuge to enact and enforce what is, in reality, a revenue raising ordinance, the general cost of government may not be defrayed under guise of reimbursement for the special services required by regulated activities and businesses.

-- Mirelli v. City of St. Clair Shores, 355 Mich 575, 96 NW2d 144, (1959). See also Univ. Custom Homes, Inc. v. Township of Redford, 355 Mich 606, 96 NW2d 151 (1959); M.W. Watson v. City of Topeka, 194 Kans 585, 400 P2d 689 (1965); Bon Air Estates, Inc. v. Village of Suffern, 32 AD2d 921, 302 NYS 304 (1969); Weber Basin Home Builders Assn. v. Roy City, 26 Utah 2d 215, 487 P. 2d 866 (1971).

An attempt by the city of Chicago to collect license fees from factories and workshops was prohibited by Illinois Supreme Court because it was ruled to be for the purpose of raising revenue and had no relation to public health, safety and welfare.

The city has no power to impose a license fee of the character aforesaid for the purpose of raising revenue. The only power that the city has to license is incident to its power to regulate.

-- Barnard and Miller v. Chicago, 316 Ill 519, 147 NE 384 (1925).

References

All judicial case references appear in the body of this article. Case citations refer to court reports appearing in official journals of case law. For example, "Lochner v. New York, 198 US 45, 25 SupCt

539" refers to the case of *Lochner v. New York* as reported in both the *United States Reports* and the *Supreme Court Reporter* (both covering only cases of the U.S. Supreme Court). Other references refer to journals covering federal appeals courts and state supreme courts.

J. Regulatory Takings Act Guidelines (Adapted from an Idaho State document)

Agency or local government staff must use the following questions in reviewing the potential impact of a regulatory or administrative action on specific property. While these questions also provide a framework for evaluating the impact proposed regulations might have generally, takings questions normally arise in the context of specific affected property. The public review process used for evaluating proposed regulations is another tool that the agency or local government should use aggressively to safeguard rights of private property owners. If property is subject to regulatory jurisdiction of multiple governmental agencies, each agency or local government should be sensitive to the cumulative impacts of the various regulatory restrictions.

Although a question may be answered affirmatively, it does not mean that there has been a "taking." Rather, it means there could be a constitutional issue and that the proposed action should be carefully reviewed with legal counsel.

1. Does the Regulation or Action Result in a Permanent or Temporary Physical Occupation of Private Property?

Regulation or action resulting in a permanent or temporary physical occupation of all or a portion of private property will generally constitute a "taking." For example, a regulation that required landlords to allow the installation of cable television boxes in their apartments was found to constitute a "taking." See *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 102 S. Ct. 3164 (1982).

2. Does the Regulation or Action Require a Property Owner to Dedicate a Portion of Property or to Grant an Easement?

Carefully review all regulations requiring the dedication of property or grant of an easement. The dedication of property must be reasonably and specifically designed to prevent or compensate for adverse impacts of the proposed development. Likewise, the magnitude of the burden placed on the proposed development should be reasonably related to the adverse impacts created by the development. A court also will consider whether the action in question substantially advances a legitimate state interest.

For example, the United States Supreme Court determined in *Nollan v. California Coastal Comm'n*, 483 U.S. 825, 107 S. Ct. 3141 (1987), that compelling an owner of waterfront property to grant a public easement across his property that does not substantially advance the public's interest in beach access, constitutes a "taking." Likewise, the United States Supreme Court held that compelling a property owner to leave a public green way, as opposed to a private one, did not substantially advance protection of a flood plain, and was a "taking." *Dolan v. City of Tigard*, 512 U.S. 374, 114 S. Ct. 2309 (1994).

3. Does the Regulation Deprive the Owner of All Economically Viable Uses of the Property?

If a regulation prohibits all economically viable or beneficial uses of the land, it will likely constitute a "taking." In this situation, the agency can avoid liability for just compensation only if it can demonstrate that the proposed uses are prohibited by the laws of nuisance or other preexisting limitations on the use of the property. See *Lucas v. South Carolina Coastal Coun.*, 505 U.S. 1003, 112 S. Ct. 2886 (1992).

Unlike 1 and 2 above, it is important to analyze the regulation's impact on the property as a whole, and not just the impact on a portion of the property. It is also important to assess whether there is any profitable use of the remaining property available. See *Florida Rock Industries, Inc. v. United States*, 18 F.3d 1560 (Fed. Cir. 1994). The remaining use does not necessarily have to be the owner's planned use, a prior use or the highest and best use of the property. One factor in this assessment is the degree to which the regulatory action interferes with a property owner's reasonable investment-backed development expectations.

Carefully review regulations requiring that all of a particular parcel of land be left substantially in its natural state. A prohibition of all economically viable uses of the property is vulnerable to a takings

challenge. In some situations, however, there may be pre-existing limitations on the use of property that could insulate the government from takings liability.

4. Does the Regulation Have a Significant Impact on the Landowner's Economic Interest?
Carefully review regulations that have a significant impact on the owner's economic interest.

Courts will often compare the value of property before and after the impact of the challenged regulation.

Although a reduction in property value alone may not be a "taking," a severe reduction in property value often indicates a reduction or elimination of reasonably profitable uses. Another economic factor courts will consider is the degree to which the challenged regulation impacts any development rights of the owner.

As with 3, above, these economic factors are normally applied to the property as a whole.

A moratorium as a planning tool may be used pursuant to applicable Montana State ordinances. Absence of the written findings may prove fatal to a determination of the reasonableness of the government action.

Here is some information about the United States Supreme Court's interpretation of moratorium as a planning tool as well. In *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 535 U.S. 302, 122 S.Ct. 1465 (2002), the Court held that planning moratoriums may be effective land use planning tools. Generally, moratoriums in excess of one year should be viewed with skepticism, but should be considered as one factor in the determination of whether a taking has occurred.

5. Does the Regulation Deny a Fundamental Attribute of Ownership?
Regulations that deny the landowner a fundamental attribute of ownership -- including the right to possess, exclude others and dispose of all or a portion of the property -- are potential takings.

The United States Supreme Court recently held that requiring a public easement for recreational purposes where the harm to be prevented was to the flood plain was a "taking." In finding this to be a "taking," the Court stated:

The city never demonstrated why a public greenway, as opposed to a private one, was required in the interest of flood control. The difference to the petitioner, of course, is the loss of her ability to exclude others. . . . [T]his right to exclude others is "one of the most essential sticks in the bundle of rights that are commonly characterized as property." *Dolan v. City of Tigard*, 512 U.S. 374, 114 S. Ct. 2309 (1994).

The United States Supreme Court has also held that barring the inheritance (an essential attribute of ownership) of certain interests in land held by individual members of an Indian tribe constituted a "taking." *Hodel v. Irving*, 481 U.S. 704, 107 S. Ct. 2076 (1987).

6. (a) Does the Regulation Serve the Same Purpose that would be Served by Directly Prohibiting the Use or Action; and (b) Does the Condition Imposed Substantially Advance that Purpose?

A regulation may go too far and may result in a takings claim where it does not substantially advance a legitimate governmental purpose. *Nollan v. California Coastal Commission*, 483 U.S. 825, 107 S. Ct. 3141 (1987), *Dolan v. City of Tigard*, 512 U.S. 374, 114 S. Ct. 2309 (1994).

In *Nollan*, the United States Supreme Court held that it was an unconstitutional "taking" to condition the issuance of a permit to land owners on the grant of an easement to the public to use their beach. The Court found that since there was no indication that the Nollans' house plans interfered in any way with the public's ability to walk up and down the beach, there was no "nexus" between any public interest that might be harmed by the construction of the house, and the permit condition. Lacking this

connection, the required easement was just as unconstitutional as it would be if imposed outside the permit context.

Similarly, regulatory actions that closely resemble, or have the effects of a physical invasion or occupation of property, are more likely to be found to be takings: The greater the deprivation of use, the greater the likelihood that a "taking" will be found.

K. Capital Improvement Plan

This is a separate document kept with the Growth Policy.

L. Hot Springs Accessibility Study

This is a separate document kept with the Growth Policy.

M. Resources

1. Economic and Community Development

- **Big Sky Trust** (http://www.businessresources.mt.gov/BRD_Trustfund.asp)

Category I - Economic Development Projects: 75% of BSTF earnings are awarded to local governments in the form of grants and loans for economic development projects that create new qualifying jobs for Montana residents. Applications will be accepted on an open-cycle basis until all available funds are committed to approved projects.

Approximately \$150,000 will be available for Category II - Planning Grants: 25% of BSTF earnings are awarded to Certified Regional Development Corporations and other qualified economic development organizations in Counties not covered by a CRDC in the form of grants for planning activities. Eligible planning activities include feasibility studies, business plans, workforce surveys, target industry analyses, preliminary architectural reports and preliminary engineering reports. Applications will be accepted throughout the year on a calendar quarter basis with application deadlines of March 31st, June 30th, September 30th and December 31st unless otherwise specified by the Department, until all available funds are committed to approved projects.

- **Tourism Infrastructure Investment Program (TIIP)** provides grant funding to facilitate the development of new tourism-related products, and the enhancement of existing products. Such developments and enhancements will strengthen Montana's presence in the marketplace as a competitive tourism destination. The following types of usage would be allowed and encouraged with funds as part of the TIIP:
 - * Project construction costs (brick & mortar) associated with building new and/or remodeling or preserving existing tourism and recreation attractions, historical sites and artifacts
 - * Costs associated with purchasing new and/or existing tourism and recreation attractions, historical sites and artifacts
 - * Equipment purchased for specific tourism project operation
- **CDBG Planning Grants** - The grants can be used for a variety of planning activities including the initial planning necessary to get a project underway, or to conduct other important community planning activities such as preparing or updating a growth policy, preparing a neighborhood redevelopment plan, a housing study, capital improvement plan, or similar planning processes needed to help a community address critical needs. (http://comdev.mt.gov/CDD_CDBG_FC.asp)
- **Montana Department of Commerce – Business Resource Division:** The Business Resources Division is comprised of a variety of programs aimed at improving, enhancing, and diversifying Montana's economic and business climate. Working closely with the private sector, the Governor's Office, our economic and community development partners, other department divisions, state agencies, and federal and private programs, the division strives to enhance the economic base of Montana through business creation, expansion, and retention efforts. (<http://businessresources.mt.gov/>)

- **Montana Main Street Program** (<http://mtmainstreet.mt.gov/index.asp>) - The Montana Main Street Program was established in 2005 by the 59th Montana Legislature. The Program was initiated in July, 2005, under the management of the Montana Department of Commerce Business Resources Division and funded for two years with gas tax dollars. The mission of the programs is, "Our Mission is to assist Montana communities by providing a comprehensive approach to the revitalization of traditional business districts within the context of historical preservation. Through the National Trust Main Street Center approach of organization, promotion, design, and economic restructuring, we will revitalize our communities, restore self-reliance and local empowerment, and redevelop an historical sense of community and pride." The Montana Program has an affiliate program for communities of less than 2000 and that can not hire a full-time director.

2. Housing

- **Community Development Block Grant (CDBG)** - US Department of Urban Development (HUD) - This program provides annual grants to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low and moderate income persons. The program is authorized under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383, as amended; [42 U.S.C.5301](#) et seq.
- **HOME Investment Partnerships Program (HOME)** – The HOME program is funded by the U.S. department of Housing and Urban Development and administered by the Montana Department of Commerce's Housing Division. Funds can be used for land purchase, rehabilitation, infrastructure, new construction, short-term rental assistance, and down-payment assistance. Funds must be used to assist households earning no more than 80% of the AMI for homeownership programs and no more than 60% AMI for rental programs. With the exception of single-family rehabilitation and down-payment assistance programs, grants are limited to \$500,000 and are awarded on a competitive basis. Single-family rehabilitation and down-payment assistance programs are funded through HOME's pilot program on an ongoing basis.
- **Montana Board of Housing (MBOH)** - MBOH is a state housing finance agency. Through the sale of housing bonds, MBOH funds a variety of affordable housing programs for both homeownership and rentals. Homeowner programs may offer reduced rate mortgages while Low Income Housing Tax Credit (LIHTC) are available for rental rehabilitation and construction.
- **USDA Rural Development** - Rural Development has a number of programs for homeownership, rentals and home repair including several financing mechanisms.
- **Montana Home Ownership Network** – An affiliate of Neighborhood Housing Services of Great Falls. MHN works with local service partners throughout the state to provide homebuyers education, one-to-one housing counseling, loans for down payment and closing costs, due-on-sale loans for "gap financing" and development of new owner-occupied homes. MHN is funded primarily by the Montana Board of Housing, Other funding includes the Wells Fargo Housing Foundation, The Fannie Mae Foundation, Rural Development and Neighborhood Reinvestment.
- **Weatherization** - Bonneville Power Association and Northwest Energy provide weatherization assistance. Assistance is based on need. The program is administered through the Northwest Montana Human Resources in Kalispell.

3. Infrastructure

- **Treasure State Endowment Grant** - The Treasure State Endowment Program (TSEP) is a state-funded program that has been designed to help address that "affordability" problem by providing grants to lower the cost of constructing public facilities projects. (http://comdev.mt.gov/CDD_TSEP.asp)
- **CDBG Public Facilities Grant** – In Public Facilities projects, CDBG funds are most often used in combination with other federal, state, or local funds to make basic community infrastructure improvements, such as water and sewer facilities, affordable to low and moderate income families. Public facility projects can also include facilities designed for use predominantly by persons of low and moderate income such as nursing homes, senior centers, Head Start centers, or mental health centers. (http://comdev.mt.gov/CDD_CDBG_FC.asp)
- **General Obligation Bonds** - General obligation bonds are backed by the full faith and credit of the city and must be approved by the voters in an election. General obligation bonds are generally payable from ad valorem taxes (based on the value of property) and expressed in mills. General obligation bonds are attractive to bond buyers because they have voter approval and are not as vulnerable to fluctuations in revenue. Cities are assigned a bond debt limit based on a percentage of taxable valuation. General obligation bonds must fall within this limit.
- **Public Works Program** - Economic Development Administration - The Economic Development Administration (EDA) is an agency within the U.S. Department of Commerce. The purpose of the Public Works Program is to assist communities with the funding of public works and development facilities that contribute to the creation or retention of private sector jobs and to the alleviation of unemployment and underemployment. Grants are awarded up to a participation level of 80 percent but the average EDA grant covers approximately 50 percent of project costs.

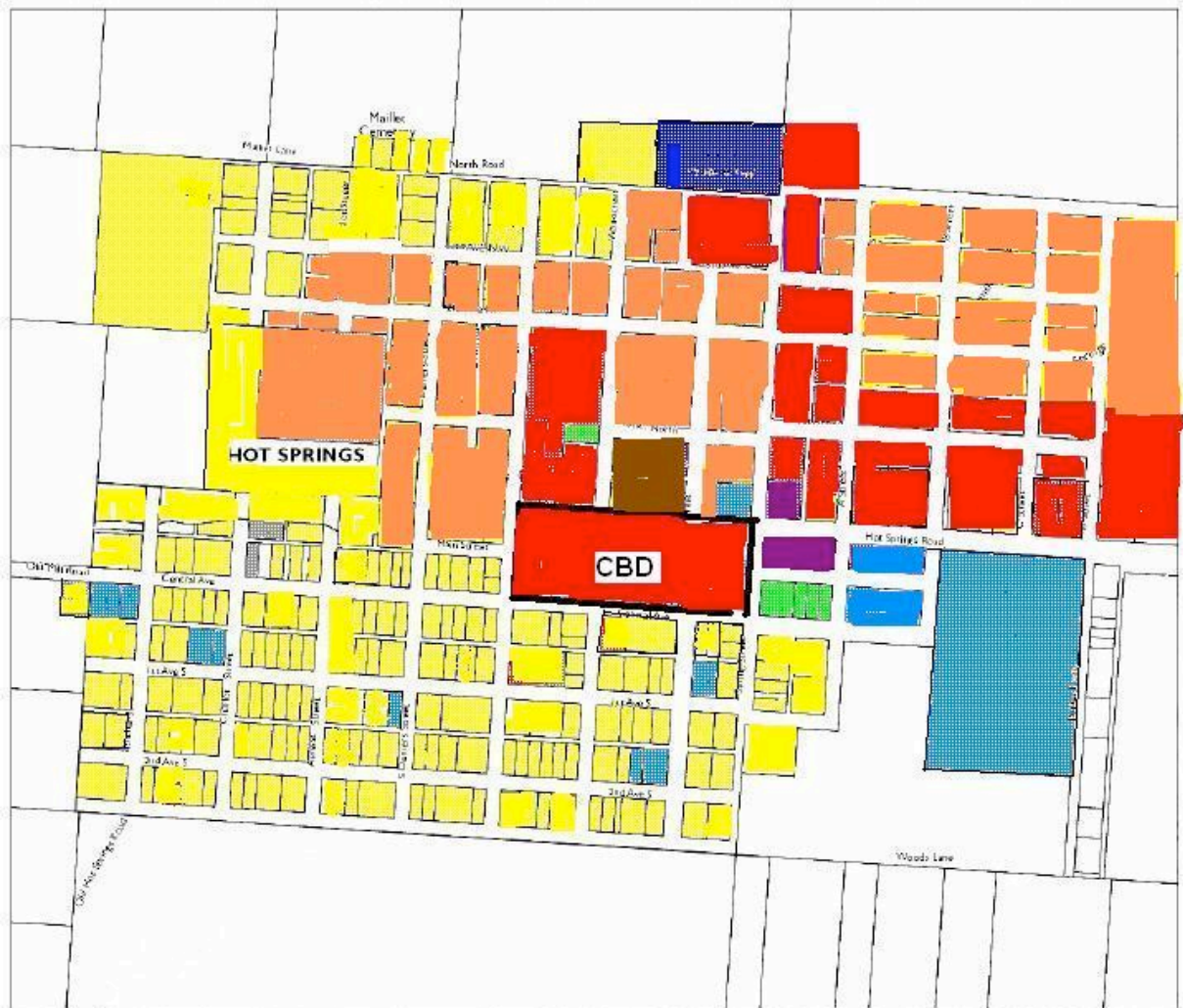
4. Transportation

- **Community Transportation Enhancement Program** - Under 23 USC 133 (d) (2) (Federal Code) 10 percent of the Surface Transportation Program monies are awarded to each state for transportation enhancements such as trails and historic preservation. Montana is unique in that enhancements are made available to communities under the Community Transportation Enhancement Program (CTEP) administered by the Montana Department of Transportation. The MDT distributes these funds for all counties and cities that are 1st, 2nd, and 3rd class cities, and tribal governments. Local governments are responsible for providing the required 13 percent of project costs as non-federal match for their transportation enhancement projects.
- **Special Improvement Districts** - Under 7-12-101, MCA, cities and towns can create special improvement districts for a number of activities such as streets, roads, sidewalks, water and sewer lines and other infrastructure.

Table 1: Intergovernmental Coordination

<p>State Agencies</p>	<p>Information sharing, public participation, coordinated review processes with the following agencies:</p> <p>Department of Environmental Quality reviews water & sewer systems. Development musts comply with variety of State regulations. Hazardous waste & solid waste regulations. Water & Air Quality.</p> <p>Montana Department of Transportation maintains State Highways in the County</p> <p>State Historic Preservation Office consult on issues regarding historic resources</p> <p>Montana Geothermal Program</p>
<p>Confederated Salish and Kootenai Tribes</p>	<p>The Town is located on the Flathead Reservation and several tribal facilities are located within the Town limits. The Town will work with tribes by sharing information, meeting periodically with the Tribal Council on issues of common concern and identifying areas of cooperation that can be reflected in Inter-governmental agreements.</p>
<p>School District</p>	<p>Notify of new subdivisions. Shared use of facilities. Cooperate on Youth leadership programs.</p>
<p>Irrigation Districts</p>	<p>Participation would include information sharing, notify of pending development reviews, and invite input on land development regulations.</p>
<p>Utilities</p>	<p>Information sharing, notify of pending development reviews, and invite input on land development regulations.</p>
<p>U.S. Environmental Protection Agency</p>	<p>Wetlands, Hazardous Waste. Information sharing. Distribution of educational materials.</p>
<p>Fire Districts</p>	<p>Coordination through the County Department of Emergency Services. Notify of pending developments. Invite input on land development regulations.</p>
<p>Bureau of Indian Affairs</p>	<p>Coordinate on planning for facilities in land in planning area.</p>

Map 1: Future Land Use



Legend

- | | | |
|---------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
|  Single-Family |  General Commercial |  Park - Open Space |
|  Multi-Family |  Highway-Auto Commercial |  Industrial |
|  Mobile Home |  Institutional |  Vacant |

Prepared by Applied Communications - 11/06

Map 2 Planning Area Map