

SETTLEMENT AGREEMENT

Flathead Warming Center v. City of Kalispell

This case is settled as follows:

- 1. Occupancy Agreement.** The Warming Center agrees to continue to enforce the terms of its Occupancy Agreement. The Warming Center periodically updates its Occupancy Agreement and may do so as it deems necessary; however, it will not make the “Good Neighbor” and “Enforcement” provisions on page 1 more permissive/less restrictive.
- 2. Improvement of Relationships for the neighborhood:**
 - a. Lines of Communication**
 - i. **Phone.** The Center shall use its phone number for persons to call into or contact the Center to receive and make a record of complaints.
 - ii. **Web.** The Center shall maintain a form on its website for submission of complaints or concerns.
 - iii. **Email.** The Center shall use flatheadwarmingcenter@gmail.com for persons to report complaints.
 - iv. **Quarterly Board Meeting.** The Center agrees to hold an in person board meeting quarterly, part of which is open to the public, and provides a opportunity to members of the public to raise complaints or concerns about the Center’s impact on the neighborhood.
 - b. Prompt Response.** The Center agrees to timely respond to complaints and concerns raised by third parties, including neighborhood residences and businesses. The response shall be documented in writing.

- 3. Transportation of Guest or Patrons into and outside Neighborhood.** It remains the Center's goal to provide transportation to guests. The Center has sought and will continue to seek grant funding on this issue.
- 4. Periodic Clean-up Patrols.** The Center shall conduct periodic clean-up patrols of the sidewalks within a quarter mile of the Warming Center on a routine and regular basis to assist with reducing and cleaning up litter.
- 5. City Point of Contact.** The City designates its City Manager as the point of contact for the public on homelessness issues, including the point of contact for the Warming Center. The City Manager will, with reasonable promptness, respond to such contacts. The response will be documented in writing.
- 6. Subsequent resolution.** The City will pass a resolution to settle the case, rescind Resolution 6227, and reinstate the CUP without qualification. As the Court found in its preliminary injunction order, "KalisPELL Zoning Code provides that '[t]he Conditional Use Permit shall run with the lot, building, structure, or use and shall not be affected by changes in ownership.' 27.33.060(1). This language indicates the existence of a vested property right" subject to the terms and conditions of the CUP.
- 7. Apology to Tonya.** The City shall publicly apologize to Tonya Horn as follows: "The CUP rescission process and litigation has resulted in various accusations, some of which have unfairly landed on the Warming Center's executive director, Tonya Horn. The City does not believe Ms. Horn committed perjury or lied in the Warming Center's CUP application process. The City apologizes to Ms. Horn."
- 8. Attorneys' Fees.** The City agrees to pay \$140,000 in attorney's fees in resolution of this matter.
- 9. Release.** The parties will execute a standard mutual MDL release of all claims related in any way to the subject matter of this cause, incorporating the terms of this agreement and attaching this agreement as an exhibit.

10. Consent Agreement. The parties will submit the terms of this settlement agreement to the Court for entry as a consent decree.

11. City Council Approval. This agreement is contingent upon City Council approval. Approval process not to be unreasonably delayed or withheld.


o/b/o City of Kalispell


o/b/o Flathead Warming Center