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10 *Attorneys for Plaintiff*

CLEAR OF DISTRICT COURT

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11 **MONTANA ELEVENTH JUDICIAL DISTRICT COURT, FLATHEAD COUNTY**

12 WESTSIDE NEIGHBORS ASSOCIATION,  
13 INC.,

14 Plaintiff,

15 -vs-

16 CITY OF KALISPELL,

17 Defendant.

Cause No. DV-15- 800C

**HEIDI J ULBRICHT**

**COMPLAINT AND DEMAND  
FOR JURY TRIAL**

18 COMES NOW Plaintiff, by and through counsel, and alleges as follows:

- 19 1. The Westside Neighborhood Association, Inc. is an association of citizens advocating for  
20 safe, quiet, friendly neighborhoods and for policies needed to maintain and improve  
21 property values and quality of life. The Association is comprised of Kalispell residents,  
22 primarily living within an area of Kalispell known as the Westside Neighborhood which  
23 is roughly bounded by the 500, 600, 700, 800 blocks of streets and avenues on 3<sup>rd</sup>  
24 Avenue West and 2<sup>nd</sup> Avenue West and the 800 and 900 blocks of 4<sup>th</sup> Avenue West.
- 25 2. The City of Kalispell is a municipality in the State of Montana.
- 26 3. The members of Westside Neighbors Association, Inc. have for years experienced safety  
27 and congestion issues arising and continuing from students, employees, and faculty of  
28 Flathead High School who park on the streets near Flathead High School.

- 1 4. Flathead High School does not provide sufficient parking for its students and teachers.
- 2 5. The City of Kalispell has not enforced its parking requirements against Flathead High
- 3 School.
- 4 6. Demand for curbside parking by students and teachers far exceeds the curbside spaces
- 5 available.
- 6 7. Streets near Flathead High School are congested.
- 7 8. Congestion from parking has resulted in emergency vehicles being blocked or hindered in
- 8 their performance of their duties including a Kalispell fire truck attempting to reach a
- 9 burning garage in the winter of 2015.
- 10 9. Congestion from parking has resulted in blocked driveways for which residents have had
- 11 to request police assistance to be able to leave their driveways or homes.
- 12 10. Congestion from parking has resulted in inadequate snow removal and safety issues.
- 13 11. Safety for residents and in the roadways near Flathead High School has been
- 14 compromised.
- 15 12. Residents near Flathead High School cannot park outside their residence.
- 16 13. Students have littered in the streets and yards/boulevards along the streets where they
- 17 park their vehicles.
- 18 14. Students have disturbed the peace with loud vehicles and music.
- 19 15. Property values of homes near Flathead High School have diminished as a result of this
- 20 parking issue.
- 21 16. The Montana legislature has provided that excessive curb parking of motor vehicles and
- 22 the lack of adequate off-street parking is against the public interest. § 7-14-4601, MCA.
- 23 17. The City of Kalispell recognizes that streets are congested.
- 24 18. The City of Kalispell recognizes that safety has been compromised.
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- 1 19. Between 2012 and 2015, a series of community meetings and a number of public  
2 hearings were held at the planning board, city council work sessions, and city council  
3 meetings.  
4  
5 20. On August 3, 2015, the City of Kalispell passed Ordinance 1759 which, among other  
6 things, created a parking district in which residents are entitled to two free permits and  
7 may purchase guest passes and students and teachers are entitled to purchase unlimited  
8 permits.  
9 21. The ordinance does not limit the number of students or teachers who are allowed to park  
10 in the district.  
11 22. The ordinance does not reduce congestion or improve safety.  
12 23. The ordinance does not satisfy the public policy stated by the Montana Legislature.  
13 24. The ordinance is unconstitutional under substantive due process.  
14 25. The ordinance is an unconstitutional denial of equal protection.  
15 26. The Court should declare that the Ordinance does not achieve the public interest and  
16 policy set forth in Montana's statutes and the Kalispell zoning regulations.  
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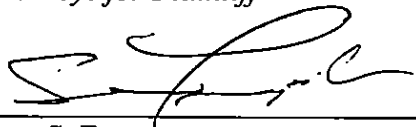
19 WHEREFORE, Plaintiffs pray for judgment as follows:  
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- 21 1. That Ordinance 1759 be declared unconstitutional and invalid.  
22 2. Invalidating or voiding Resolution 572 which established parking permit fees for the  
23 Westside Neighborhood Parking Management Zone.  
24 3. Declaring that the City should be required to establish a parking district as soon as  
25 possible to solve the traffic, safety, and over-parking issues in the neighborhood.  
26 4. That it be awarded fees and costs.  
27 5. For any other relief the court deems just.  
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DATED this 7 day of September, 2015.

MORRISON & FRAMPTON, PLLP  
*Attorneys for Plaintiff*

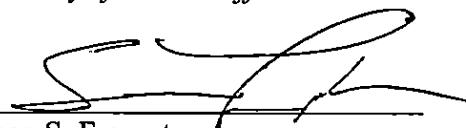
By:   
Sean S. Frampton  
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**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a jury trial on all counts to which it is so entitled.

DATED this 2 day of September, 2015.

MORRISON & FRAMPTON, PLLP  
*Attorneys for Plaintiff*

By:   
Sean S. Frampton  
Johnna J. Preble