

Resolution 17 - _____

A RESOLUTION TO AMEND THE UNIFIED ZONING REGULATIONS FOR THE CITY OF BILLINGS AND YELLOWSTONE COUNTY JURISDICTIONAL AREA BY REVISING ALL OF SECTIONS 27-100 THROUGH 27-1800 TO DELETE LANGUAGE AND ADD LANGUAGE TO SEPARATE THE CITY AND COUNTY ZONING REGULATIONS AND TO CLARIFY THE REGULATION AND ADOPT THE REVISION AS AN AMENDMENT TO THE ZONING REGULATIONS

WHEREAS, pursuant to Title 76, Chapter 2, Montana Code Annotated, the County Zoning Commission of Yellowstone County held a public hearing on July 17, 2017; and

WHEREAS, the County Zoning Commission considered the proposed amendments to the zoning regulations and is forwarding a recommendation of approval to the Board of County Commissioners of Yellowstone County, Montana; and

WHEREAS, the Board of County Commissioners of Yellowstone County, Montana held a public hearing and adopted a resolution of intent on the 15th day of August, 2017, on the following proposed amendments and additions to the City of Billings – Yellowstone County Unified Zoning Regulations, to create a separate zoning code for the city and county;

Section 1. That the Unified Zoning Regulations for the City of Billings and Yellowstone County Jurisdictional Area be amended by revising Sections 27-100 through 27-1800 as follows:

ARTICLE 27-100. - TITLE, PURPOSE AND SCOPE

Sec. 27-101. - Title.

This Resolution/~~Ordinance~~ [~~chapter~~] and maps shall be known and cited as ~~The City of Billings and Yellowstone County Zoning Regulations for the areas incorporated into the City of Billings, Montana and the in the unincorporated Yellowstone County, Montana 4½ Mile Jurisdictional Area.~~

Sec. 27-102. - Purpose.

The zoning regulations, classifications, and the districts as herein set forth are in accordance with MCA 76-2-101, MCA 76-2-201, et seq. (County Zoning) ~~and MCA 76-2-301, et seq. (Municipal Zoning).~~

These regulations have been established in accordance with the 1990 Yellowstone County Comprehensive Plan and have been deemed necessary and developed with consideration, among other things, to the character of each zoning district and its peculiar suitability for particular uses, to conserve the value of buildings, to stabilize property values, to preserve recreation and agriculture lands from conflict with urban development, to promote the interest of health, safety and general welfare, to secure safety from

fire and to provide adequate open space for light and air, and to facilitate the economic provision of adequate transportation, water, sewers, schools, parks and other public requirements. To achieve the above stated goals, these regulations shall govern the height and size of buildings and structures, the percentage of lots that may be occupied, the size of yards and open space, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes within ~~the Billings city limits and~~ the unincorporated Yellowstone County 4-1/2 Mile Jurisdictional Area.

~~The city council of the City of Billings and~~ board of county commissioners of Yellowstone County further declares these zoning regulations are adopted for the following specific purposes:

- (a) To promote and guide development consistent with the goals and objectives of the 1990 Yellowstone County Comprehensive Plan;
- (b) To prevent waste and inefficiency in land use;
- (c) To encourage innovations in residential development and renewal so that the needs of the community for housing may be met by greater variety in type and design of dwellings and by conservation of open space; and
- (d) To provide adequate land and space for the development of commercial and industrial uses and to encourage such developments in locations calculated to benefit the community at large and in a manner consistent with the goals and objectives of the 1990 Yellowstone County Comprehensive Plan.

Sec. 27-103. - Scope.

- (a) This chapter applies to all lands within the ~~City of Billings and the~~ unincorporated portions of the Yellowstone County 4-½ Mile Jurisdictional Area.
- (b) In their interpretation and application, the provisions of this Resolution/~~Ordinance~~ may be regarded as the minimum requirements for the protection of the public health, safety, comfort, prosperity and welfare.
- (c) This Resolution/~~Ordinance~~ is not intended to abrogate or annul any building permit, certificate of occupancy, variance or other lawful permit issued before the effective date of this Resolution/~~Ordinance~~.

ARTICLE 27-200. - DEFINITIONS

Sec. 27-201. - Definitions.

For the purpose of this chapter, certain terms or words used herein are defined as follows:

The word *person* includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular; the word *shall* is mandatory, the word *may* is permissive; the words *used* or *occupied* include the words *intended, designated, or arranged to be used or occupied*; and the word *lot* includes the words *plot, tract or parcel*. Where other definitions are necessary and are not defined herein, the dictionary may define such terms.

Accessory: A use, building or structure, part of a building or other structure, which is subordinate to, and the use of which is incidental to that of the main building, structure or use on the same lot, including a private garage.

- (1) *Attached accessory structure*: Any structure or building which has any roof or wall in common with the principal structure. For purposes of zoning, an attached accessory structure is considered part of the principal structure.
- (2) *Detached accessory structure*: Any structure or building which does not have any roof or wall in common with any principal structure or building. For purposes of zoning, a detached accessory structure must maintain a minimum distance of six (6) feet from any other building or structure.

Adult foster family care home: See *Community residential facilities*.

Agriculture: The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, grazing land, animal and poultry husbandry, horticulture, floriculture, viticulture, including all uses customarily incidental thereto but not including any agriculture industry or business such as commercial feed lots, animal hospitals, food processing plants, fur farms or similar uses.

Airport or aircraft landing field: Any runway, landing area or facility whether publicly or privately owned and operated, and which is designed, used or intended to be used either by public carriers or by private aircraft for landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.

Alterations: A change or rearrangement of the structural parts of existing facilities, or an enlargement by extending the sides or increasing the height or depth or the moving from one (1) location to another. In buildings for business, commercial, industrial or similar uses, the installation or rearrangement of partitions affecting more than one third of a single floor area shall be considered an alteration.

Antenna: See ~~BMCC~~ Section 27-610.

Apartment house: See *Dwelling, multiple-family*.

Automobile or vehicle salvage or wrecking yard: The dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled, or partially dismantled, obsolete, or wrecked vehicles or their parts or any establishment or place of business which is maintained or used for the storage, keeping, buying or selling of wrecked, scrapped or dismantled motor vehicles or motor parts. The presence on any lot or parcel of land of two or more motor vehicles, which, for a period exceeding thirty (30) days, have not been capable of operating under their own power and from which parts have been removed for reuse or sale, shall constitute a salvage or wrecking yard.

Automobile sales area: See *Vehicle sales area*.

Bars, taverns and cocktail lounges: An establishment where alcoholic beverages are sold and consumed on the premises.

Bed and Breakfast inn: A house, or a portion thereof, that contains short-term guest rooms where lodging, with or without meals, is provided for compensation. The operator of the inn shall live on the same property upon which the inn is located.

Board: The board of adjustment of ~~the City of Billings or the board of adjustment of~~ Yellowstone County.

Boarding or lodging house: "Boarding house" means the same as lodging house, but where meals (with or without lodging) are provided for compensation and by prearrangement for a definite period for three (3) or more persons. Boarding houses shall not be construed to mean rest homes or convalescent homes. This definition shall also exclude "Bed and Breakfast Inns".

Boat sales area: See *Vehicle sales area*.

Building: Any structure having a roof, but excluding all forms of vehicles even though immobilized. When a use is required to be within a building, or where special authority granted pursuant to this chapter requires that a use shall be within an entirely enclosed building then the term "building" means one so designed and constructed from the ground to the roof line, and shall contain no openings except for windows and doors which are designed so that they may be closed.

Building height: The vertical distance from the highest point of a structure to the "grade", excluding permissible height exceptions in ~~BMCC~~ sections 27-308 and 27-309.

Building, principal: The primary building or use on a lot that accommodates the principal use to which the premises are devoted.

Camp, public and private: Any area or tract of land used or designed to accommodate two (2) or more camping parties, including cabins, tents, travel trailers and other camping outfits.

Carport: A structure to house or to protect motor vehicles owned or operated by the occupants of the main building which is open on three (3) or fewer sides.

Car wash: A building or area that provides facilities for washing and cleaning motor vehicles, excluding semi-tractors and/or semi-trailers, which may use production line methods with a conveyor, blower or other mechanical devices. This term also includes facilities which require hand labor in the cleaning of the vehicle.

Child care facilities:

- (1) *Family day care home:* A private residence in which supplemental parental care is provided for up to six (6) children, including the operator's children, from separate families on a regular basis. Such day care home shall be licensed by the Montana Department of Social and Rehabilitation Services under M.C.A., Title 53, Chapter 4, Part 5, as required by state law.
- (2) *Group day care home:* A private residence in which supplemental parental care is provided for seven (7) to twelve (12) children, including the operator's children, on a regular basis and which is licensed by the Montana Department of Social and Rehabilitation Services under M.C.A., Title 53, Chapter 4, Part 5, as required by state law.
- (3) *Day care center:* A place in which supplemental parental care and/or adult supervision is provided to thirteen (13) or more children, including the operator's children, on a regular basis, and which may include nursery schools, private kindergartens or after school care and supervision. Such day care center shall be licensed as required by the state, city or county and conducted in accordance with applicable state and local requirements.

Church or other place of worship: A building which is used primarily for religious worship and related religious activities, including but not limited to churches, convents, monasteries, shrines and temples.

Clinic, medical: A building designed and used for the medical, dental and surgical diagnosis and treatment of patients under the care of doctors and nurses, but where no surgery other than minor emergency care is performed and where no overnight care is provided.

Clinic, surgical: A clinic where surgery is performed on an outpatient basis only.

Club, fraternal: A group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal membership requirements. This definition includes such organizations as the Knights of Columbus, Masons, Elks and other similar organizations.

Club, service: Any nonprofit organization, the services of which are devoted entirely to the betterment or improvement of community in which it is located, including organizations such as the Lions, Kiwanis, Rotary, Optimists and other similar organizations.

Community group home: See Community residential facilities.

Community residential facilities:

- (1) *Adult foster family care home:* A private home licensed by the Montana Department of Public Health and Human Services owned by one (1) or more persons eighteen (18) years of age or older which offers light personal care or custodial care to disabled adults who are not related to the owner by blood or marriage or which offers light personal care or custodial care to aged persons. The number of aged persons or disabled adults in an adult foster family care home may total no more than four (4).
- (2) *Community group home:* A family oriented residence or home licensed by the appropriate state agency designed to provide residential services and facilities for developmentally, severely disabled or mentally disabled persons, but does not provide skilled or intermediate nursing care.
- (3) *Halfway house:* A place operated in accordance with the regulations of the Montana Department of Public Health and Human Services for the rehabilitation of alcohol or drug dependent persons.
- (4) *Youth foster home:* A youth care facility licensed by the Montana Department of Public Health and Human Services in which substitute care is provided to one (1) to six (6) foster children or youths, other than the foster parents' own children, stepchildren or wards.

- (5) *Youth group home*: A youth care facility licensed by the Montana Department of Public Health and Human Services in which substitute care is provided to seven (7) to twelve (12) children or youth.
- (6) *Assisted living facility*: An assisted living facility licensed by the Montana Department of Public Health and Human Services in a congregate residential setting that provides or coordinates personal care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-related services for persons eighteen (18) years old or older.

Condominium: Property that is owned as single units with common elements located on property submitted to the provisions of MCA Title 70 Chapter 23. This term does not include a townhome or townhouse.

Convenience store: A retail store that is designed and stocked to sell primarily food, beverages and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is designed to attract, and depends upon, a large volume of stop-and-go traffic. Illustrative examples of convenience stores are those operated by the "7-11" and "Kwik-Way" chains. These stores may also include pumps and/or storage tanks from which fuels are dispensed at retail. No servicing, maintenance or repair work shall be conducted on the business premises. This definition shall exclude truck stops.

Day care center: See *Child care facilities*.

Drive-in service: A use whose character is dependent on a driveway approach, a drive-through and/or parking space for motor vehicles so as to either serve customers while in the vehicle or permit consumption of food or beverages in a vehicle obtained on the premises. Drive-in or drive-up window restaurants, drive-in banking, pickup windows for beverages or food, and other drive-in or drive-through services are included in this category. This definition shall exclude car washes and insurance adjusters.

Duplex: See *Dwelling, two-family*.

Dwelling: A building designed exclusively for residential purposes, including single-family, two-family, and multiple-family dwellings, but not including hotels or motel units, bed and breakfast guest rooms, boarding or lodging houses, or travel trailers and/or vehicles.

Dwelling, types of:

- (1) *Dwelling, single-family*: A building constructed and designed for occupancy by one (1) family and containing one (1) dwelling unit.
- (2) *Dwelling, two-family (duplex)*: A building constructed and designed for occupancy by two (2) families living independently of each other, and containing two (2) dwelling units, where the dwelling units share a common separation such as a ceiling, wall, etc. (including, without limitation, the wall of an attached garage or porch) and where access cannot be gained between the units through an internal doorway.
- (3) *Dwelling, multiple-family*: A building constructed and designed for occupancy by three (3) or more families living independently of each other, and containing three (3) or more dwelling units, where the dwelling units share a common separation such as a ceiling, wall, etc. (including, without limitation, the wall of an attached garage or porch) and where access cannot be gained between the units through an internal doorway, excluding common hallways.

Dwelling unit: One (1) or more rooms designed for or occupied by one (1) family for living or sleeping purposes and may contain kitchen and/or bathroom facilities for use solely by one (1) family. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit. A studio/efficiency apartment constitutes a dwelling unit within the meaning of this chapter.

Enclosed structure: A building that protects the contents thereof from the elements, including sight obscuring walls on all sides and a roof.

Family: Any number of individuals, related by blood, marriage, adoption or other legal means, including any number of minor children in foster care, and/or any number of unrelated persons (including any domestic servants or caregivers) living together in a dwelling unit. The total number of persons living

together in the dwelling unit cannot exceed the recommended guidelines, as amended time to time by HUD, of two (2) persons per bedroom (24 CFR Part 4, Section 982.401). A "family" is distinguished from a group occupying a boarding house, lodging house, bed and breakfast inn, fraternity/sorority house, hotel or clubhouse.

Family day care home: See *Child care facilities*.

Fence: A barrier composed of posts connected by boards, rails, panels or wire for the purpose of enclosing space to separate parcels of land. This term also includes a masonry wall.

Fireworks: Those substances and/or articles which are more specifically defined in M.C.A. 50-37-101 through 50-37-103.

Fireworks stand: A structure from which fireworks are sold, displayed or offered for sale. A fireworks stand is specifically limited to an approved temporary structure, as regulated in ~~BMCC~~ section 27-614.

Fireworks storage building: A structure used for the storage of fireworks.

Floodplain or floodway: In all cases of interpretation, designated floodplain or floodway definitions as established by the Montana Department of Natural Resources and Conservation shall apply.

Fraternity/sorority house: A dwelling or dwelling unit occupied by and maintained exclusively for fraternity or sorority members, their guests or visitors and affiliated with and acknowledged as a fraternity/sorority house by an academic or professional college or university or other recognized institution of higher learning.

Gambling establishment: See ~~BMCC~~ Section 27-612.

Garage, residential: An accessory building or an accessory portion of the main building, enclosed on more than three (3) sides and designed or primarily used only for the shelter or storage of vehicles owned and operated by the occupants of the buildings.

Grade (adjacent ground elevation): The lowest point of elevation of the finished surface of the ground, or the lowest point of elevation of the finished surface of the ground between the exterior wall of the building and the property line, if it is less than five (5) feet distance from the wall. In cases where walls are parallel to and within five (5) feet of a public sidewalk, alley or other public way, the grade shall be the elevation of the sidewalk, alley, or public way.

Gross floor area: The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Group day care home: See *Child care facilities*.

Halfway house: See *Community residential facilities*.

Hazardous waste facilities: See ~~BMCC~~ Sections 27-605, et seq.

Height: The vertical distance from the highest point of a structure to the "grade", excluding permissible height exceptions in ~~BMCC~~ section 27-310.

Heliport: Any facility whose primary purpose is for the landing or taking off of helicopters. This would include any accessory uses or structures related to the principal use as a heliport, such as maintenance and overhaul, fueling, service, storage, tie-down areas and hangars.

Home occupation: See ~~BMCC~~ Section 27-606.

Hospital, animal: A building or premises including veterinary hospitals for the medical or surgical treatment of animals or pets, including dogs and cats, also including the boarding of hospitalized animals subject to medical or surgical treatment.

Hospital, general: An institution specializing in giving clinical, temporary and emergency services of a medical or surgical nature to human patients and licensed by state law to provide facilities and services in surgery, obstetrics and general medical practice, as distinguished from treatment of mental and nervous disorders and alcoholism, but not excluding surgical and post-surgical treatment of mental cases. Nursing homes and convalescent homes are excluded from this definition.

Hospital, mental: An institution licensed by state agencies under the provisions of law to offer facilities, care and treatment for cases of mental and nervous disorders.

Hotel: A building, or portion thereof, designed or used for temporary lodging, being less than thirty (30) days, where lodging with or without meals is provided for compensation. A central dining room, banquet meeting hall, kitchen, plus accessory shops and services catering to the general public can be provided.

Inoperable vehicle: Any vehicle incapable of immediate operation under its own power safely and in concurrence with governing and applicable traffic ordinances and statutes or any vehicle not having current license plates lawfully affixed thereto.

Junk: Any worn out cast off or discarded article or material which is ready for destruction or has been collected or stored as salvage, for conversion to some other use or for reduction into components. Junk includes but is not limited to old or scrap brass, rope, rags, batteries, paper, tires, rubber debris or waste, iron, steel and other old or scrap ferrous or non-ferrous material.

Junkyard: An open area where wastes, or used or secondhand materials are bought, sold, exchanged, stored, processed or handled, which are not intended to be recycled. Materials shall include, but are not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles.

Kennel, commercial: Any lot, building, structure or premises where more than two (2) dogs or cats over the age of six (6) months, other than those owned by the kennel owner are kept or maintained for boarding, training, breeding or selling, exclusive of medical care or for quarantine purposes in excess of twenty-four (24) hours. Female dogs bred for the sole purpose of the sale of puppies for profit, and female dogs numbering more than three (3) constitute a Commercial Kennel.

Kennel, noncommercial: A kennel at, in, or adjoining a private residence where more than two (2) dogs or cats are kept for the hobby of the householder in using them in shows or obedience trials, personal pleasure or for the guarding or protecting of the householder's property. The occasional raising of a litter of puppies or kittens at the kennel and the occasional sale of puppies or kittens by the keeper of a noncommercial kennel should in no way change the character of the residential property.

Landscaping: The combination of living and nonliving elements, as further described in ~~BMCC~~ sections 27-1101, et seq.

Limited pharmaceutical manufacturing: Establishments primarily engaged in manufacturing bulk organic and inorganic medicinal chemicals and their derivatives and processing bulk botanical drugs and herbs. This definition also includes premises engaged in manufacturing, fabricating, or processing drugs in pharmaceutical preparations for human or veterinary use.

Livestock and fowl: Livestock shall include all animals of the equine, bovine and swine class, including goats, sheep, mules, horses, hogs, cattle and other grazing animals. Fowl shall include chickens, geese, ducks, turkeys and other poultry.

Lot: A tract of land, no matter how legally described whether by metes and bounds, Certificate of Survey and/or by lots and block designation as in a recorded plat.

Lot area: The total area circumscribed by the boundaries of a lot, except that when the legal instrument creating a lot extends into a public street right-of-way and/or easement, then the lot boundary for purposes of computing the lot area shall be the street right-of-way.

Lot coverage: The total area of a lot covered by buildings or roofed areas, excluding allowed projecting eaves, balconies and similar features. Lot coverage includes, but is not necessarily limited to the following: principle structures, accessory structures, carports, and covered decks and patios. Uncovered decks less than thirty (30) inches in height shall not be counted towards lot coverage.

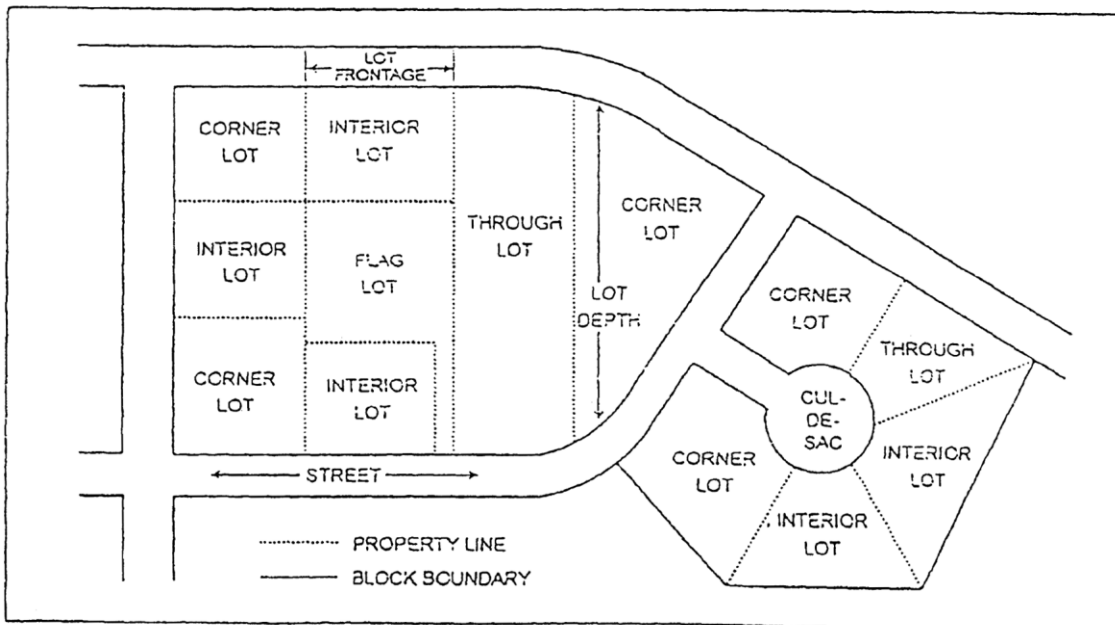
Lot frontage: That portion of the lot nearest the public street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to public streets shall be considered frontage, and yards shall be provided as indicated in ~~BMCC~~ sections 27-308 and 27-309, District Regulations.

Lot line: A line of record bounding a lot which divides one lot from another lot or from a public or private street, alley or other public space.

- (1) *Front lot line*: The lot line or lines abutting a public or private street.
- (2) *Rear lot line*: The lot line not intersecting a front lot line that is most distant from and most clearly parallel to the front lot line.
- (3) *Side lot line*: Any lot line that is not a front or a rear lot line.

Lot types:

- (1) *Corner lot*: A lot located at the intersection of two (2) or more streets.
- (2) *Interior lot*: A lot other than a corner lot with only one (1) frontage on a street other than an alley.
- (3) *Through lot or double frontage lot*: A lot other than a corner lot with frontage on more than one (1) street other than an alley.



Lot types

Manufactured home: A factory assembled structure or structures, equipped with the service connections necessary to be used as a dwelling unit, and constructed to be readily movable as a unit or units either on its own running gear or other system. Since 1976 manufactured home construction has been regulated by the federal Manufactured Housing Construction and Safety Standards Act as administered by the Department of Housing and Urban Development (HUD), and are not constructed in accordance with the standards set forth in the Uniform Building Code, applicable to site-built homes. See **BMCC** section 27-608.

Manufactured home park or court: Land designed or used that contains temporary or permanent parking for two (2) or more manufactured homes spaces which are available to the general public for use as residences. This term does not include a parcel composed of individually platted lots, each lot of which is filed with the Yellowstone County clerk and recorder, which contain only one manufactured home per lot.

~~*Medical corridor*: The area defined by the Billings Medical Corridor Study as the medical development impact area. This area is of special concern to the city as a potential location for medical or medically related uses, as well as, supporting uses and residential development. See **BMCC** Sections 27-901, et seq.~~

Merchandise: All items of movable personal property offered for sale to the public for which no title is required to be registered with or issued by the state.

Mobile home or trailer: See *Manufactured home*.

Motel: A group of attached or detached buildings containing individual sleeping units where a majority of such units open individually and directly to the outside, or to a common corridor and where a garage is attached to or a parking space is conveniently located at each unit, all for the temporary use, being less than thirty (30) days, by automobile tourist or transient and such word shall include tourist courts, motor courts, automobile courts and motor lodges.

Motor vehicle: A two (2) or more wheeled or track vehicle designed to transport one (1) or more persons or properties from one (1) location to another including without limitation: trucks, buses, cars, motorcycles, scooters, farm and industrial equipment.

Multi-unit developments:

- Condominium, townhome, townhouse or commercial development projects that include common, private facilities shared by buildings or lots.
- Residential developments that have more than two (2) dwelling units and include common, private facilities shared by buildings or lots.

Nonconforming lot: See ~~BMCC~~ Section 27-402.

Nonconforming structure: See ~~BMCC~~ Section 27-404.

Nonconforming use: See ~~BMCC~~ Sections 27-403 and 27-405.

Nursing homes, convalescent homes, orphanages and charitable institutions: A home operated similarly to a boarding house but not restricted to any number of guests or guest rooms, and the operator of which is licensed by the state, city or county to give special care and supervision to his/her patients. In such homes, nursing, dietary and other personal services are furnished to convalescents, invalids and aged persons, but within which homes are kept no persons suffering from a contagious or communicable disease, and within which are performed no surgery, maternity or other primary treatments such as are customarily provided in sanitariums or hospitals, and within which no persons are kept to be served who normally would be admitted to a mental hospital. Adult Foster Family Care Homes are not included in this definition.

Occupied: Includes the words intended, designated or arranged to be occupied.

Open storage: The storage for a period of five (5) consecutive days or more of junk, salvage, trash, inoperable vehicles and/or merchandise outside of an enclosed structure.

Parking, public: An open area other than a street used for the temporary parking of more than four (4) automobiles and available for public use whether free, for compensation or as an accommodation for clients or customers.

Pawn shop: See *Secondhand store and/or antique shops*.

Planned development: See ~~BMCC~~ Sections 27-1301, et seq.

Planning board: The Yellowstone County Board of Planning as authorized under the provisions of M.C.A., Title 76, Chapter 1, Part 1, Section 76-1-101.

Planning director: The individual appointed by the City, after consideration of the recommendations from the County Commissioners and Board of Planning. The Director's duties and responsibilities shall be those defined in the Interlocal Agreement on Planning.

Principal use: The primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory. The uses listed in ~~BMCC~~ sections 27-305 and 27-306, District Regulations, are principal uses.

Project animal: An animal raised exclusively for educational purposes and/or for participation in programs such as F.F.A., 4-H, or other similar types of programs.

Projection: The distance any part of a structure extends beyond the building setback line. See ~~BMCC~~ Section 27-310 for a list of permitted projections.

Recreation, commercial: An area operated for profit and devoted to facilities and equipment for recreational purposes; swimming pools, tennis courts, playgrounds, golf courses, community clubhouses and other similar uses whether the use of such area is limited to private membership or whether open to the public upon the payment of a fee or service charge.

Recreation, noncommercial: An area devoted to facilities and equipment for recreational purposes; swimming pools, tennis courts, playgrounds, community clubhouses and other similar uses maintained and operated by a nonprofit club, homeowners' association or other corporate structure and whose membership is limited to the residents within the area.

Recreational vehicle: See *Travel trailer*.

Recreational vehicle park: See *Travel trailer park*.

Recycling center: A facility that is not a junkyard and in which recoverable resources, such as newspaper, glassware and metal cans are collected, stored, flattened, crushed or bundled. This term does not include automobile or vehicle salvage or wrecking yards.

Retirement home: A place of residence for several families or individuals in apartment-like quarters, rented or condominiums, which may feature services to retired persons such as limited nursing facilities, minimum maintenance living accommodations and recreation programs and facilities.

Right-of-way: A strip of land dedicated or acquired for use as a public way, or that is acquired through an easement.

Salvage: Something saved as valuable or useful from trash, rubbish, worn out equipment, or junk.

Satellite dish antenna: See *BMCC* Section 27-610.

School, college or university: A public or private institution for higher learning (beyond grade 12) providing instruction as approved by the Montana Department of Education or a national collegiate or university accreditation agency.

School, elementary, junior, and senior high, including public, private and parochial: An institution of learning which offers instruction in the several branches of learning and study required to be taught in the schools by the Montana State Board of Education.

School, trade or vocational-technical: A building where instruction is given to pupils in arts, crafts, or trades and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation.

Scrap or waste processing yard: See *Junkyard*.

Secondhand store and/or antique store: Any retail establishment in which the principal portion of the articles, commodities, or merchandise handled, offered for sale, or sold on the premises are used or not new. Pawn shops are included in this definition.

Service station, automobile: A place where fuel and/or lubricants are dispensed at retail and where light maintenance activities such as engine tuneups, lubrication, tire repair, battery servicing and air conditioning service may be conducted. Service stations do not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, body work and/or drive-train repair and rebuilding are conducted.

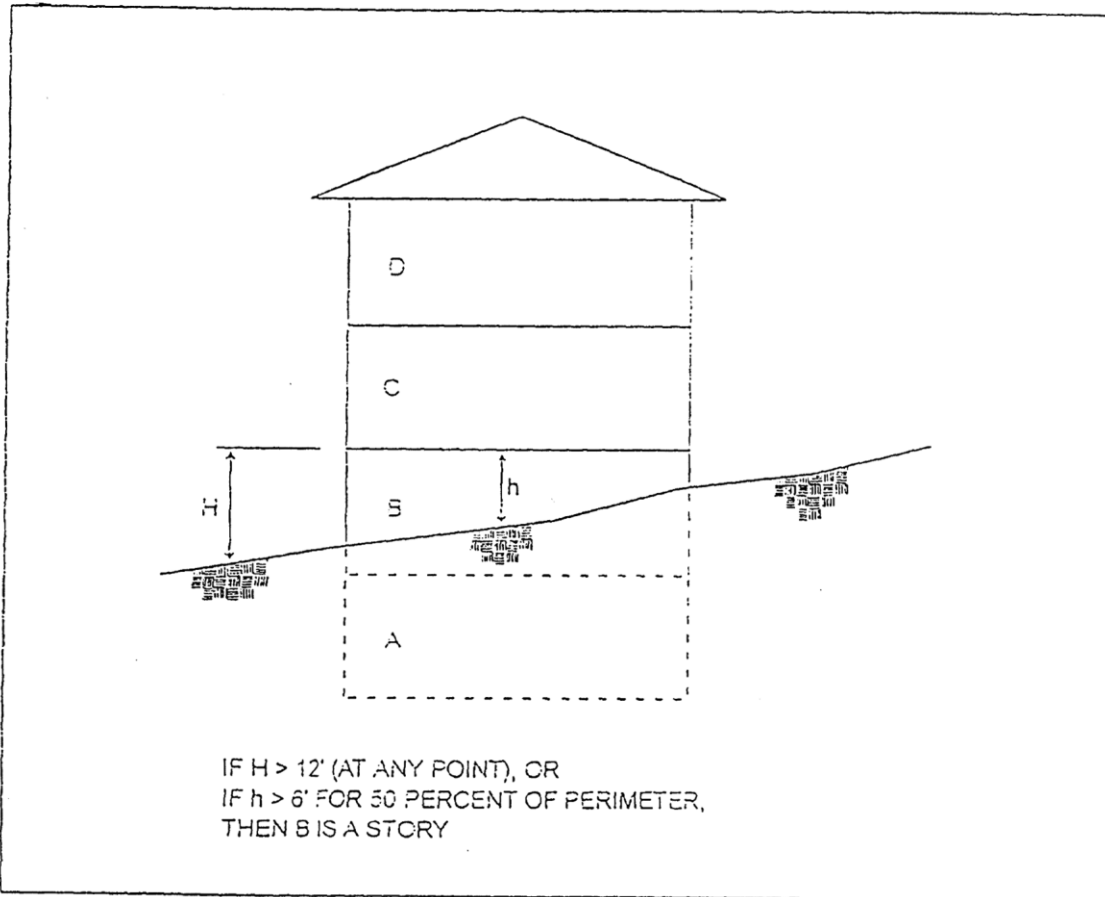
Setback: That distance measured from the lot or property line to a supporting point(s) or wall(s) of a structure or building.

~~*Sexually oriented business:* An "adult" arcade, "adult" bookstore, "adult" cabaret, "adult" video store, "adult" motel or "adult" motion picture theater, as those terms are defined in *BMCC* section 27-611.~~

Stable, private: A detached accessory building in which horses or other beasts of burden owned by the occupant of the premises are kept, and in which no such animals are kept for hire, remuneration or sale, and are kept for the owner's private use only.

Stable, commercial: A stable other than a private stable.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar or unused under-floor space shall be considered a story.



Story

Streets:

- (1) **Street:** A public way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place, or however otherwise designated which has been dedicated to or acquired for public use and which extends the full width between right-of-way lines, which includes areas acquired or prescribed through an easement.
- (2) **Alley:** A minor way which is used primarily for vehicular service access or for utility lines to the back or the side of properties otherwise abutting on a street.
- (3) **Arterial street:** A street which is intended to provide for high operating speeds, high levels of service and to serve longer trips through access management and the interconnection of major development areas such as the central business district, large commercial and industrial developments and major residential areas.
- (4) **Collector street:** A street that functions as a link between local streets and arterial streets and provides both access and movement functions within residential, commercial and industrial areas.

- (5) *Cul-de-sac*: A street that terminates in a vehicular turnaround.
- (6) *Local street*: A street whose primary function is access and whose movement function is incidental and involves traveling to and from a collector. In addition, local streets are characterized by short trip lengths, low traffic volumes, slow speeds and deliberately discouraging through traffic.

Structure: A building or anything constructed in the ground or anything erected which requires location on the ground or water, or is attached to something having location on or in the ground, but not including fences less than six (6) feet in height or paved areas.

Structure, principal: A structure accommodating the principal use to which the property is devoted.

Temporary structure: A structure established for a fixed period of time as established by this chapter.

Temporary use: A use established for a fixed period of time as established by this chapter.

Theater, drive-in: An establishment to provide entertainment through projection of motion pictures on an outdoor screen for audiences whose seating accommodations are provided by their own motor vehicles parked in car spaces provided on the same site with the outdoor screen.

Townhome or townhouse: Property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities.

Trailer sales area: See *Vehicle sales area*.

Trash: Something worth little or nothing.

Travel trailer: A portable structure, not more than eight (8) feet wide, built on a chassis designed to be used as a temporary dwelling for travel, recreational and vacation use. Recreational Vehicles are included within this definition.

Travel trailer park: Any area or tract of land designed or used that contains two (2) or more spaces which are available for rent to the general public for parking or placement of temporary recreational or vacation housing units. This term does not include a parcel composed of individually platted lots.

Truck stop: Any occupancy which provides a service for highway travel directly or indirectly related to the servicing, repairing, and/or refueling of semi-trucks (also commonly known as tractors), semi-trailers, and their components. A truck stop is a point at which semi-trucks may stop for refueling or where truck drivers can park their trucks, trailers and components and seek lodging and/or food services, as well as, other services related to highway trucking needs.

Truck wash: A building or area that provides facilities specifically designed for washing and cleaning semi-tractors and/or semi-trailers and recreational vehicles, which may use production line methods with a conveyor, blower or other mechanical devices. This term also includes facilities which require hand labor in the cleaning of the vehicle.

Usable open space: That space on the same lot and contiguous to the principal building or buildings and which is either landscaped or developed and maintained for recreational purposes and excludes that portion of the lot which is utilized for off-street parking or loading space or for front yard setback requirements. Usable open spaces can be provided within a building or the roof top where facilities are provided for residents of the development.

Used: Includes the words intended, designated or arranged to be used.

Utility, public: A private business organization performing some public service and subject to special governmental regulations or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include, but are not limited to, water supply, electric power, gas and transportation for persons and freight.

Variance: See ~~BMCC~~ Sections 27-1501, et seq.

Vehicle sales area: An open area other than a street, used for the display, sale or rental of new or used automobiles, boats, trailers, motorcycles, snowmobiles or semi-tractors and/or trailers; and where no repair work is done except minor incidental repair excluding body and fender work or spray painting on the vehicle(s) to be displayed, sold or rented on the premises.

Walking distance: That distance measured along the shortest path accessible to foot traffic.

Watercourse: Any natural stream, river, creek or drainage in which water flows either continuously or intermittently and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow. This term shall not include any facility created exclusively for the conveyance of irrigation water.

Wholesale: An establishment primarily engaged in the sale of goods and merchandise for resale instead of for direct consumption.

Yard: An open space about a building, other than a court, unoccupied and unobstructed from the ground to the sky, except as otherwise specifically provided in this Chapter.

- (1) *Front yard:* A yard extending along the full length of the front lot line or lines and which is situated between a principal building and the front lot line or lines.
- (2) *Rear yard:* A yard extending along the full length of a rear lot line and situated between the principal building and the rear lot line.
- (3) *Side yard:* A yard not designated as a front or a rear yard.

Youth foster home: See *Community residential facilities*.

Youth group home: See *Community residential facilities*.

Zoning coordinator: The person designated by the Planning Director to oversee the administration of this Chapter, unless otherwise noted.

ARTICLE 27-300. - ZONING DISTRICTS AND OFFICIAL MAPS

Sec. 27-301. - Zoning Districts.

It is the intent of this section to establish zones wherein compatible uses of land may be located to create, protect and maintain a desirable living environment, to stabilize and protect residential harmony and to conduct profitable businesses. It is also the intent of this Chapter to make it possible to efficiently and economically design and install public facilities in terms of size and capacity to adequately meet the needs resulting from a defined intensity of land use.

To carry out the provisions of this chapter, the ~~city and~~ county 4½ mile jurisdictional area is hereby divided into the following zoning districts in which the erection, construction, alteration, reconstruction, repair or use of buildings, structures and land shall be regulated and restricted. The regulations in each district shall be uniform throughout each district but may differ from those in other districts.

A-1	Agricultural-Open Space (County Only)
A-S	Agricultural-Suburban (County Only)
R-150	Residential 15,000 (County Only)
R-96	Residential 9,600
R-80	Residential 8,000

R-70R	Residential 7,000 Restricted
R-70	Residential 7,000
R-60R	Residential 6,000 Restricted
R-60	Residential 6,000
R-50	Residential 5,000
RMF	Residential Multi-Family
RMF-R	Residential Multi-Family - Restricted
RMH	Residential Manufactured Home
RP	Residential Professional
NC	Neighborhood Commercial
CC	Community Commercial
HC	Highway Commercial
CBD	Central Business District
CI	Controlled Industrial
HI	Heavy Industrial
P	Public
ELC	Entryway Light Commercial
EGC	Entryway General Commercial
EMU	Entryway Mixed Use
ELI	Entryway Light Industrial
	South 27th Street Corridor Zoning District
	Medical Corridor Permit Zoning District

A-1 Agricultural-Open Space (county only): A district to protect and preserve agricultural lands for the performance of a wide range of agricultural functions. The intent is to limit the scattered intrusion of uses not compatible with an agricultural environment; to encourage agricultural pursuits and protect environmental concerns.

A-S Agricultural-Suburban (county only): A district to protect and preserve agricultural lands for the performance of limited agricultural functions and to provide a buffer between urban and unlimited agricultural uses and to encourage concentration of such uses in areas so that potential conflict between uses will be minimized.

R-150 Residential 15,000 (county only): A zone intended to provide for low density, single-family residential developments in areas which may or may not be serviced by a public water and/or sewer system.

R-96 Residential 9,600: A zone intended to promote primarily a single-family residential environment on lots that are served by public water and sewer service.

R-80 Residential 8,000: A residential zone intended to primarily provide a single-family residential environment with provisions for duplexes that are served by public water and sewer service.

R-70R Residential 7,000 Restricted: a residential zone intended to primarily provide a single family residential environment on smaller lots at a medium density that are served by a public water and sewer service.

R-70 Residential 7,000: Primarily a single-family residence district, with provisions for duplexes on lots that are served by public water and sewer services.

R-60R Residential 6,000 Restricted: A residential zone intended to primarily provide a single family residential environment on smaller lots at a medium density that are served by a public water and sewer service.

R-60 Residential 6,000: A zone intended to provide for medium density residential dwellings on lots served by public water and sewer services, with provisions for multi-family dwellings with a maximum of ten (10) dwelling units per structure.

R-50 Residential 5,000: A primarily single-family district provides for higher density development on lots served by public water and sewer services, with provisions for duplexes.

RMF Residential Multi-family: A residential classification intended to provide adequate sites for multi-family developments including high-rise apartment complexes. Dwelling unit density is increased in this classification to encourage development in areas where it will complement existing developments. Land within the classification should be located with access to major arterial transportation routes plus financial, cultural and retail stores and be served by public water and sewer services.

RMF-R Residential Multi-family-Restricted: A residential classification intended to provide adequate sites for multi-family developments. The classification is intended to provide higher density apartment development, which may establish a buffer between single-family residence areas and other zoning classifications. Lots are to be served by public water and sewer services.

RMH Residential Manufactured Home: A zone intended to provide stable environments for individual manufactured homes, manufactured home parks and compatible accessory uses.

RP Residential Professional: A zone intended to accommodate limited commercial and professional offices as would be compatible with adjoining residential districts and consistent with the objectives of the comprehensive plan.

NC Neighborhood Commercial: A zone for commercial centers and limited retail activities conducted in a unified development designed to serve the surrounding neighborhood with shopping facilities consisting of convenience retail and personal service establishments which secure their principal trade by supplying the daily needs of the neighboring population. Only uses serving the above purpose without undue detriment to surrounding residences should be permitted.

CC Community Commercial: The community commercial zone is intended primarily to accommodate community retail, service and office facilities offering a greater variety than would normally be found in a neighborhood or convenience retail development. Facilities within the classification will generally serve the community, and is commensurate with the purchasing power and needs of the present and potential population within the trade area. It is intended that these business facilities be provided in business corridors or in islands (thirty (30) acres) centrally located in the trade area rather than a strip development along arterials.

HC Highway Commercial: The highway commercial zone is intended to provide areas for commercial and service enterprises which are intended primarily to serve the needs of the tourist, traveler, recreationist or the general traveling public. Areas designated as Highway Commercial should be located in the vicinity of, and accessible from interstate interchanges, intersections on limited access highways, or adjacent to primary or secondary highways. The manner in which the services and commercial activities are offered should be carefully planned in order to minimize the hazard to the safety of the surrounding community and those who use such facilities.

~~*CBD Central Business District:* The central business district classification is intended to primarily accommodate stores, hotels, governmental and cultural centers and service establishments at the central focal point of the city's arterial and transportation system, where the C.B.D. can conveniently serve the population of the entire urban area with a varied and specialized selection of goods and services. In order to protect the public interest and welfare and facilitate an attractive, efficient and prosperous C.B.D., the emphasis is on larger scale building and specialty shops.~~

CI Controlled Industrial: The controlled industrial zone is intended to accommodate a variety of business, warehouse and light industrial uses related to wholesale plus other business and light industries not compatible with other commercial zones, but which need not be restricted in industrial or general commercial zones, and to provide locations directly accessible to arterial and other transportation systems where they can conveniently serve the business and industrial centers of the city and county.

HI Heavy Industrial: A zone intended to accommodate manufacturing, processing, fabrication, and assembly of materials and products. Areas designated as Heavy Industrial should have access to two (2) or more major transportation routes, and such sites should have adjacent space for parking and loading facilities.

P Public: The public zone is intended to reserve land exclusively for public or semi-public uses in order to preserve and provide adequate land for a variety of community facilities which serve the public health, safety and general welfare.

ELC Entryway Light Commercial: See ~~BMCC~~ section 27-1004.

EGC Entryway General Commercial: See ~~BMCC~~ section 27-1004.

EMU Entryway Mixed Use: See ~~BMCC~~ section 27-1004.

~~*South 27th Street corridor zoning district:* See ~~BMCC~~ Sections 27-801, et seq.~~

~~*Medical Corridor Permit Zoning District:* See ~~BMCC~~ Sections 27-901, et seq.~~

Sec. 27-302. - Official zoning map.

- (a) ~~The city and county are~~ is hereby divided into zoning districts as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.
- (b) The official zoning map shall be identified by the signature of the mayor ~~attested by the city clerk and also by the~~ county commissioners attested by the county clerk and recorder and shall bear the words "the official zoning map of ~~the City of Billings and~~ Yellowstone County, Montana 4½ mile jurisdictional area". Regardless of the existence of purported copies of the official zoning map which from time to time may be made or published, a copy of the official map shall be located in the offices of both the Yellowstone County board of planning and the Yellowstone County clerk and recorder.

- (c) Changes made in district boundaries shall be promptly entered on the official zoning map after amendment by ~~either the~~ the governing body. Amendments to the official zoning map shall not become effective until entered on the map.
- (d) No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the provisions set forth in this chapter. In the event the official zoning map is damaged or destroyed, the ~~city council and~~ county commissioners may, by resolution/~~ordinance~~, adopt a new official zoning map. No such map shall have the effect of amending the official zoning map or any subsequent amendment thereof.

Sec. 27-303. - Rules for interpretation of district boundaries.

- (a) Boundaries indicated as appearing to follow the centerline of streets, highways or alleys shall be construed to follow such centerlines;
- (b) Boundaries indicated as appearing to follow platted lot lines shall be construed as following such lot lines;
- ~~(c) Boundaries indicated as appearing to follow City Limits shall be construed as following City Limits;~~
- (d) Boundaries indicated as appearing to follow 4½ Mile Jurisdictional Limits shall be construed as following 4½ Mile Jurisdictional Limits;
- (e) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- (f) Boundaries indicated as following shore lines shall be construed to follow such shore lines. In the event of change in the shore line, they shall be construed as moving with the actual shore line. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines. In the event of change in the location of streams, rivers, canals, lakes or other bodies of water, the boundaries shall be construed as moving with the actual body of water and following the centerlines; and
- (g) Boundaries indicated as parallel to or extensions of features indicated in above Subsections A. through F. above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map or by specific distances enumerated in a Resolution/~~Ordinance~~ amending the Official Zoning Map.

Sec. 27-304. - Application and general rules.

Within the various zoning districts as hereinbefore defined and as indicated on the official zoning map and subject to the requirements of ~~BMCC~~ sections 27-301 through 27-1511, no building or structure shall be erected, reconstructed or structurally altered, nor shall any land, building or structure be used for any purpose except as they are allowed in the district in which such building, land or use is located. The regulations set forth by this chapter within each zone shall be minimum regulations and shall apply uniformly to each class or type of structure or land except as hereinafter provided:

- (a) No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered after the effective date of this chapter unless in conformity with all of the regulations herein specified for the zone in which it is located except nonconforming uses and structures as provided in ~~BMCC~~ sections 27-401, et seq.;
- (b) No building or other structure shall hereafter be erected or altered:
 - (1) To exceed the height limitation;
 - (2) To accommodate or house a greater number of families;
 - (3) To occupy a greater percentage of lot area; or
 - (4) To have a narrower or smaller rear yard, front yard, side yard or other open space than herein required, or in any manner contrary to the provisions of this chapter.

~~(c) Temporary suspension of various zoning and other regulations. Upon approval by resolution, the city council may temporarily suspend the requirements and restrictions imposed by sections 7-603, 15-602, 27-304, 27-305, 27-601 and 27-606 of the City Code in order to accommodate the temporary increase in visitor population created by large special events held within the City of Billings when the city's public lodging capability is actually or predicted to be at or near maximum capacity. The city council may suspend ordinances related to the following general areas of regulation in any combination deemed appropriate under the circumstances created by a special event. The resolution of suspension shall become effective forty-eight (48) hours prior to the official start of the scheduled event and shall terminate forty-eight (48) hours after official conclusion of the event.~~

~~(1) Parking;~~

~~(2) Camping;~~

~~(3) Business licensing and/or health department inspections.~~

Sec. 27-305. - District regulations: Residential uses.

Titles and Description of Industries SR - Special Review A - Allowed	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000 Restricted	Residential - 7,000	Residential - 6,000 Restricted	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
Accessory Uses and Structures Associated with a Permitted Principal Structure	A	A	A	A	A	A	A	A	A	A	A	A	A
Agricultural Uses	A	A											
Amateur Radio Antenna Support Structures:													
100 Feet or Less in Height (See Section 27-619 for Additional Requirements)	A	A	A	A	A	A	A	A	A	A	A	A	A
Greater Than 100 Feet in Height	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Auction Houses (Excluding Livestock)	SR												
Auction Yards (Including Livestock)	SR												
Blacksmiths	A												

Boarding, Lodging, and Bed and Breakfast Houses	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Broadcasting (Radio and Television) Stations and Studios and antenna support structures (see section 27-621 for additional requirements)													
Alternative antenna support structures located on school, government-owned utility and other government sites.	A	A	A	A	A	A	A	A	A	A	A	A	A
Roof-mounted antennae located on school, government-owned utility and other government sites.	A	A	A	A	A	A	A	A	A	A	A	A	A
Antennae co-located on existing or approved alternative antenna support structures or antenna support structures.	A	A	A	A	A	A	A	A	A	A	A	A	A
Antenna support structures 50 feet or less in height (see additional requirements in section 27-621).	A												

Antenna support structures greater than 50 feet in height.	SR												
Broadcast antenna or tower farm	SR												
Campgrounds, Public or private	SR	SR											
Cemeteries	A	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Child Care Facilities:													
Family day care home	A	A	A	A	A	A	A	A	A	A	A	A	A
Group day care home	A	A	A	A	A	A	A	A	A	A	A	A	A
Day care center	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Churches and Other Places of Worship, including Sunday School Buildings	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Community Residential Facilities Serving Eight (8) or Fewer Persons, Providing Care on a 24-hour-a-day Basis	A	A	A	A	A	A	A	A	A	A	A	A	A
Community Residential Facilities Serving Nine (9) or More Persons	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR

Community Residential Facilities not Providing Care on a 24-hour-a-day Basis	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Commercial Antenna Support Structures:													
Alternative antenna support structures located on school, government-owned utility and other government sites.	A	A	A	A	A	A	A	A	A	A	A	A	A
Roof-mounted antennae located on school, government-owned utility and other government sites.	A	A	A	A	A	A	A	A	A	A	A	A	A
Antennae co-located on existing or approved alternative antenna support structures or antenna support structures.	A	A	A	A	A	A	A	A	A	A	A	A	A
Antenna support structures 50 feet or less in height (see additional requirements in section 27-620)	A												

Antenna support structures greater than 50 feet in height	SR												
Tower Farms	SR												
Convalescent Nursing Homes, Retirement Homes, Orphanages, and Charitable Institutions	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Convents	SR	SR	SR	SR	SR		SR		SR	SR	A	A	SR
Dwellings:													
Single-family	A	A	A	A	A	A	A	A	A	A	A	A	A
Two-family					A		A		A	A	A	A	
Multiple-family									SR		A	A	
Manufactured Homes													
Class A	A	A	A										A
Class B	A	SR	SR										A
Class C	SR	SR	SR										A
Modular Homes	A	A	A	A	A	A	A	A	A	A	A	A	A
Farm Tenant Houses	A												

Emergency Services, including Fire Stations and Ambulance Services	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Extractive Industries:													
Excavation of sand and gravel (county)	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Excavation of sand and gravel (city)													
Fraternity/Sorority House									SR		A	A	
Fur Farms	SR												
Grain Elevators:													
Commercial	SR												
Private	A												
Greenhouses:													
Commercial	A	SR	SR										
Domestic	A	A	A	A	A	A	A	A	A	A	A	A	A
Gun and Archery Range:													
Indoor and/or Outdoor	SR												

Home Occupations	A	A	A	A	A	A	A	A	A	A	A	A	A
Kennels:													
Commercial	A	SR											
Noncommercial	A	A	A	A	A	A	A	A	A	A	A	A	A
Landfills: Reclamation, Sanitary Dump Sites and Sanitary Incinerators	SR												
Libraries, Museums and Art Galleries	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Livestock: Commercial Feeding Yards and Auction Houses	SR												
Livestock*	A*	A*	A*	A*			A*						A*
Fowl including Chicken Hens*	A*	A*	A*	A*			A*						A*
Chicken Hens (<i>Gallus gallus domesticus</i>)	A	A	A	A	A	A	A	A	A	A	A	A	A
* (County Only) See BMCC Section 27-607 for Minimum Area Requirements in the County Zoning 4-													

½ Mile Jurisdictional Area													
Lumber, Plywood and Shingle Mills	SR												
Manufactured Home Parks	SR	SR	SR										A
Parking, Public	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Pipelines and Distribution Lines (oil and gas) and Accessory Structures	A	A	A	A	A	A	A	A	A	A	A	A	A
Publicly-owned or Government Operated Buildings and Uses	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Recreation:													
Commercial	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Noncommercial	A	A	A	A	A	A	A	A	A	A	A	A	A
Rodeos and Indoor and/or Outdoor Roping Arenas	SR												
Schools (public or private):													

Preschool, elementary, junior or senior high	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Colleges and universities	SR	SR											
Trade or vocational-technical	SR	SR											
Stables:													
Commercial	A	SR											
Private*	A*	A*	A*	A*			A*						A*
* See BMCC Section 27-607 for minimum Area Requirements													
Transmission and Distribution Lines (electric) and Accessory Structures	A	A	A	A	A	A	A	A	A	A	A	A	A
Travel Trailer Parks	SR	SR											
Utilities (Public Service Installations):													
Station only	A	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Storage yard	SR												
Veterinary Clinics:													

Boarding	A	SR											
Outpatient only	A	SR											

Sec. 27-306. - District regulations—Commercial and industrial uses.

Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
DIVISION A - AGRICULTURE, FORESTRY AND FISHING									
01 Agricultural Production - Crops:									
Offices only	A	A	A	A	A	A	A		A
Production only	A	A	A	A	A	A	A	A	
Sales		A	A	A	A	A	A		
02 Agricultural Production - Livestock and Animal Specialties:									
Offices only	A	A	A	A	A	A	A		A
021 Livestock, except dairy and poultry							SR		
07 Agricultural Services (except below):				A		A	A		
Offices only	A	A	A	A	A	A	A		A

0741 Veterinary services for livestock:									
Boarding						A	A		
Outpatient only				SR		A	A		
0742 Veterinary services for animal specialties:									
Boarding			SR	A		A	A		SR
Outpatient only		SR	A	A		A	A		A
075 Animal services, except veterinary (except below):				A		A	A		
Dog grooming*		A*	A	A		A	A		
Public animal shelters								A	
*In NC zones no outdoor exercise areas or kennels allowed									
08 Forestry:									
Offices only	A	A	A	A	A	A	A		A
Retail sales			A	A	A	A	A		A
Equipment storage and wholesale sales				A		A	A		
09 Fishing, Hunting and Trapping (except below):				A		A	A		
Offices only	A	A	A	A	A	A	A		A
092 Fish hatcheries and preserves						SR	SR		

DIVISION B - MINING									
Offices only	A	A	A	A	A	A	A		A
1081, 1231, 1241, 1381, 1382, 1389 Mining and oil and gas field services with equipment storage				A		A	A		
1442 Construction sand and gravel mining	SR	SR	SR	SR	SR	SR	SR	SR	SR
DIVISION C - CONSTRUCTION									
15 Building Construction - General Contractors and Operative Builders:									
Offices only	A	A	A	A	A	A	A		A
152, 153, 154 Residential, operative, and nonresidential buildings with open storage of equipment and supplies			A	A		A	A		A
Restricted to open storage as allowed by Sec. 27-601									
16 Heavy Construction Other Than Building Construction - Contractors:									
Offices only	A	A	A	A	A	A	A		A
Open storage of equipment and supplies				A		A	A		A
Restricted to open storage as allowed by Sec. 27-601									
17 Construction - Special Trade Contractors:									
Offices only	A	A	A	A	A	A	A	A	A
Shop with enclosed storage of equipment or supplies			A	A	A	A	A		A

Open storage of equipment and supplies				A		A	A		
See division F and G for wholesale and retail sales of equipment and supplies. Restricted to open storage as allowed by Sec. 27-601									
DIVISION D - MANUFACTURING									
20 Food and Kindred Products:									
Offices only	A	A	A	A	A	A	A		A
2011 Packing plants							SR		
2013 Meat products						SR	A		
2015 Poultry slaughtering and processing plants						SR	SR		
202 Dairy products					SR	A	A		
203 Canned, frozen, and preserved fruits, vegetables, and food specialties						SR	A		
204 Grain mill products						SR	SR		
205 Bakery products			SR	A		A	A		SR
2061, 2062, 2063 Sugar manufacturing and refining							SR		
2064, 2066, 2067, 2068 Candy; chocolate; chewing gum; salted and roasted nuts and seeds manufacturing						SR	A		
207 Fats and oils							SR		
2082, 2083, 2084, 2085 Alcoholic beverages manufacturing and bottling (except below):						SR	A		

1,500 to 5,000 31-gallon barrels per year			SR	SR	SR	A	A		SR
Less than 1,500 31-gallon barrels per year			A	A	A	A	A		A
2086, 2087 Soft drinks and flavorings extracts manufacturing and bottling				SR		A	A		
2091 Canned and cured fish and seafoods							SR		
2092 Prepared fresh or frozen fish and seafoods						SR	A		
2095, 2096, 2098 Roasted coffee; potato or corn chips; macaroni manufacture						A	A		
2097 Manufactured ice				A		A	A		
2099 Food preparations, not elsewhere classified						SR	A		
21 Tobacco Products:						SR	A		
Offices only	A	A	A	A	A	A	A		A
22 Textile Mill Products:				SR		A	A		
Offices only	A	A	A	A	A	A	A		A
23 Apparel and Other Finished Products Made From Fabrics and Similar Materials:				SR		A	A		
Offices only	A	A	A	A	A	A	A		A
24 Lumber and Wood Products, Except Furniture:									
Offices only	A	A	A	A	A	A	A		A
2411 Logging							SR		

2421 Sawmills and planing mills						SR	A		
2426, 2429 Hardwood and special product sawmills				SR		A	A		
2431, 2435, 2436, 2439, Millwork, plywood veneer, wood members manufacture				SR		A	A		
2434 Cabinet manufacture			SR	SR		A	A		
244 Wood container manufacture			SR	SR		A	A		
245 Wood buildings and mobile home manufacture				SR		A	A		
249 Miscellaneous wood products manufacture						A	A		
25 Furniture and Fixtures:				SR		A	A		
Offices only	A	A	A	A	A	A	A		A
26 Paper and Allied Products:						SR	A		
Offices only	A	A	A	A	A	A	A		A
27 Printing, Publishing, and Allied Industries:			SR	A	A	A	A		SR
Offices only	A	A	A	A	A	A	A		A
28 Chemicals and Allied Products							A		
Offices only	A	A	A	A	A	A	A		A
2833—Medicinal and botanical products				A		A	A		
2834—Pharmaceutical Preparations				A		A	A		

29 Petroleum Refining and Related Industries:									
Offices only	A	A	A	A	A	A	A		A
291 Petroleum refining							SR		
All others							A		
30 Rubber and Miscellaneous Plastics Products:						SR	SR		
Offices only	A	A	A	A	A	A	A		A
31 Leather and Leather Products:				SR		A	A		
Offices only	A	A	A	A	A	A	A		A
32 Stone, clay, Glass, and Concrete Products (except below):						A	A		
Offices only	A	A	A	A	A	A	A		A
3231, 3269, 3281 Products made from purchased glaze, pottery products, cut stone products				SR		A	A		
324, 325, 327 Hydraulic cement; structural clay products; concrete, gypsum, and plaster products						SR	A		
33 Primary Metal Industries (except below):						SR	A		
Offices only	A	A	A	A	A	A	A		A
332, 336 Foundries							A		
3312, 333, 334 Blast furnaces, primary and secondary smelters							SR		

34 Fabricated Metal Products, Except Machinery and Transportation Equipment (except below):						SR	A		
Offices only	A	A	A	A	A	A	A		A
348 Ordnance and accessories, except vehicles and guided missiles							SR		
35 Industrial and Commercial Machinery and Computer Equipment:						SR	A		
Offices only	A	A	A	A	A	A	A		A
36 Electronic and Other Electrical Equipment and Components, Except Computer Equipment:						SR	A		
Offices only	A	A	A	A	A	A	A		A
37 Transportation Equipment:							A		
Offices only	A	A	A	A	A	A	A		A
38 Measuring, Analyzing, and Controlling Instruments; Photographic, Medical, and Optical Goods; Watches and Clocks						A	A		A
Offices only	A	A	A	A	A	A	A		A
39 Miscellaneous Manufacturing Industries:						A	A		
Offices only	A	A	A	A	A	A	A		A
391, 393, 394 Jewelry, silverware, plated ware; musical instruments; dolls, toys, games, sporting, and athletic goods				A		A	A		A
395, 396, 399 Pens, pencils, and artists materials; costume jewelry and novelties; miscellaneous manufacturing industries				A		A	A		A

DIVISION E - TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SEWER									
40 Railroad Transportation:									
Offices only	A	A	A	A	A	A	A		A
Switching yards							A		
Passenger and freight terminals					A	A	A		
41 Local and Suburban Transit and Interurban Highway Passenger Transportation:				A	A	A	A	A	
Offices only	A	A	A	A	A	A	A	A	A
4173 Bus terminal operation only, without maintenance facilities				A	A	A	A	A	A
42 Motor Freight Transportation and Warehousing:									
Offices only	A	A	A	A	A	A	A		A
421, 423 Trucking terminal and maintenance facilities (except below):				A		A	A		
4215 Courier services, except by air (without truck terminal facilities)				A	A	A	A		
422 Public warehousing (except below):						A	A		
4225 General warehousing and storage			A	A		A	A		SR
4226 Special warehouse and storage							A		
43 U.S. Postal Service:									

Without truck terminal facilities	A	A	A	A	A	A	A	A	A
With truck terminal facilities				A		A	A	A	
44 Water Transportation:									
Offices only	A	A	A	A	A	A	A		A
45 Transportation By Air:								A	
Offices only	A	A	A	A	A	A	A	A	A
4513 Air courier services (without truck terminal facilities)				A	A	A	A	A	
46 Pipelines, Except Natural Gas:	SR	SR	SR	SR	SR	SR	SR	SR	SR
Offices only	A	A	A	A	A	A	A		A
47 Transportation Services:									
Offices only	A	A	A	A	A	A	A		A
Warehouses, terminals				A		A	A		
48 Communications:									
Offices only	A	A	A	A	A	A	A	A	A
Amateur Radio Antenna Support Structures									
100 feet or less in height (See Section 27-619 for additional requirements)	A	A	A	A	A	A	A	A	A
Greater than 100 feet in height	SR	SR	SR	SR	SR	SR	A	SR	SR

Broadcasting (Radio and Television) Services:									
Stations and studios	SR	SR	A	A	A	A	A	A	A
Antenna Support Structures that meet the height restrictions for buildings in BMCC Section 37-309	SR	SR	A	A	A	A	A	A	A
Antenna Support Structures exceeding the maximum height for buildings in BMCC , Section 27-309, or exceeding 50 feet in height, whichever is less	SR	SR	SR	SR	SR	SR	A	SR	SR
Broadcast antenna or tower farms	SR	SR	SR	SR		SR	A	SR	
Commercial Antenna Support Structures:									
Alternative antenna support structures	A	A	A	A	A	A	A	A	A
Antenna support structures located on school, government-owned utility or other government sites.	A	A	A	A	A	A	A	A	A
Antennae co-located on existing or approved alternative antenna support structures or antenna support structures.	A	A	A	A	A	A	A	A	A
Roof-mounted antenna	SR	SR	A	A	A	A	A	A	A
Antenna support structures 50 feet or less in height (see additional requirements in Section 27-620)	SR	SR	A	A	A	A	A	A	A
Antenna support structures greater than 50 feet in height	SR	SR	SR	SR	SR	SR	A	SR	SR
Tower farms			SR	SR		SR	A	SR	
Dishes over 12" in diameter	SR	SR	A	A	A	A	A	SR	SR
49 Electric, Gas, and Sanitary Services:									

Offices only	A	A	A	A	A	A	A		A
Municipal water supply (4941) or sewerage (4952) treatment facilities							A	A	
4953 Refuse systems*							SR		
Sanitary landfills								SR	
Transmission and distribution, electric and gas	A	A	A	A	A	A	A	A	A
Production, manufacture and generation, electric or gas						SR	SR		
All others this group						SR	SR		
* See BMCC Sec. 27-605 Hazardous Waste Facilities									
DIVISION F - WHOLESALE TRADE									
50 Wholesale Trade - Durable Goods:									
Offices only	A	A	A	A	A	A	A		A
Warehouses with enclosed storage				A		A	A		A
Open storage			SR	A		A	A		
5093 Scrap and waste materials (auto wrecking)						SR	SR		
Restricted to open storage as allowed by Sec. 27-601									
51 Wholesale Trade - Nondurable Goods:									
Offices only	A	A	A	A	A	A	A		A

511, 512, 513 Paper, drugs and apparel				A		A	A		
514, 518 Groceries; beer, wine and distilled beverages				SR		A	A		
515 Farm product raw materials (except below):						A	A		
5154 Livestock auctions							SR		
516 Chemicals and allied products						SR	A		
517 Petroleum and petroleum products							A		
5191, 5198 Farm supplies; paints, varnishes, and supplies						A	A		
5192, 5193, 5194, 5199 Books, periodicals, and newspapers; flowers, nursery stock and florists' supplies; tobacco and tobacco products; nondurables not elsewhere classified				SR		A	A		
DIVISION G - RETAIL TRADE									
* Under 10,000 square feet gross floor area (GFA). A special review is required if over 10,000 square feet GFA. No warehousing of storage in excess of twenty-five (25) percent of total GFA. Restricted to open storage as allowed by Sec. 27-601.									
52 Building Materials, Hardware, Garden Supply, and Mobile Home Dealers:									
521 Lumber and other building materials stores			SR	A		A	A		A
523, 525 Paint, glass and wallpaper; hardware stores		A*	A	A	A	A	A		A
526 Nurseries, lawn and garden supply stores			A	A	A	A	A		A
527 Mobile home dealers (manufactured homes)				A		A	A		

53 General Merchandise Stores		A*	A	A	A	A	A		A
54 Food Stores		A*	A	A	A	A	A		A
Convenience store with gas pump islands		A*	A	A	A	A	A		A
55 Automotive Dealers and Gasoline Service Stations (except below):			A	A	A	A	A		A
553 Auto supply		A*	A	A	A	A	A		A
554 Gasoline service stations									
Convenience store		A*	A	A	A	A	A		A
Service station		SR	A	A	A	A	A		A
Accessory car wash with above two uses		SR	A	A	A	A	A		A
Truck stop				A		A	A		A
556 Recreational vehicle dealers			A	A		A	A		A
56 Apparel and Accessory Stores		A*	A	A	A	A	A		A
57 Home Furniture, Furnishings, and Equipment Stores		A*	A	A	A	A	A		A
58 Eating and Drinking Places (see BMCC Section 27-612)									
Without the sale of alcoholic beverages		A	A	A	A	A	A		A
With the sale of beer and wine only for on-premise consumption, without gaming			A	A	A	A	A		A
With the sale of beer and wine only for on-premise consumption with gaming			SR	SR	SR	SR	SR		SR

With the sale of all alcoholic beverages for on-premise consumption, with gaming			SR	SR	SR	SR	SR		SR
*Establishments with drive-in service shall comply with BMCC Section 27-612									
59 Miscellaneous Retail (Strictly Carryout), (except below):		A*	A	A	A	A	A		A
598 Fuel dealers			A	A	A	A	A		A
* Fireworks stands shall comply with BMCC Section 27-614.									
** Sexually oriented business, as classified and defined in BMCC Section 27-611.									
DIVISION H - FINANCE, INSURANCE, AND REAL ESTATE (See BMCC Section 27-612).									
60 Depository Institutions	A	A	A	A	A	A	A		A
61 Nondepository Credit Institutions	A	A	A	A	A	A	A		A
62 Security and Commodity Brokers, Dealers, Exchangers, and Services	A	A	A	A	A	A	A		A
63 Insurance Carriers	A	A	A	A	A	A	A		A
64 Insurance Agents, Brokers, and Service	A	A	A	A	A	A	A		A
65 Real Estate (except below):	A	A	A	A	A	A	A		A
6515 Operators of residential mobile home sites									
6553 Cemetery subdividers and developers								A	
66 Combinations of Real Estate, Insurance, Loans, or Law Offices	A	A	A	A	A	A	A		A

67 Holding and Other Investment Offices	A	A	A	A	A	A	A		A
DIVISION I - SERVICES									
70 Hotels, Rooming Houses, Camps and Other Lodging Places:									
701 Hotels and motels			A	A	A	A	A		A
702, 704 Rooming, boarding houses; organization hotels and lodging houses, on a membership basis		A	A	A	A	A	A		A
703 Camps and recreational vehicle parks			A	A		A	A	A	
72 Personal Services:									
7211, 7213, 7217, 7218 Power laundries, family and commercial; linen supply; carpet and upholstery cleaning; industrial launderers				SR	SR	A	A		
7212, 7216, 7219 Garment pressing and agents for laundries and drycleaning plants, except rug cleaning; laundry and garment services, not elsewhere classified; (10,000 SF GFA MAX)	SR	A	A	A	A	A	A		A
Over 10,000 SF GFA MAX		SR	A	A	A	A	A		A
7215 Coin-operated laundries and drycleaning		A*	A	A	A	A	A		A
722 Photographic studios	A	A	A	A	A	A	A		A
723, 724, Beauty, and barber shops	A	A	A	A	A	A	A		A
725 Shoe repair shops and shoeshine parlors		A	A	A	A	A	A		A
726 Funeral service and crematories	A	A	A	A	A	A	A	A	A

729 Miscellaneous personal services, except 7291			A	A	A	A	A		A
7291 Tax return preparation services	A	A	A	A	A	A	A		A
73 Business Services:									A
Offices only	A	A	A	A	A	A	A		A
With retail sales		A*	A	A	A	A	A		A
With use of vehicles over 8,000 GVW			A	A		A	A		A
With research, testing, and development laboratories (See also manufacturing industries)			SR	A		A	A		SR
75 Automotive Repair, Services, and parking (except below):			A	A	A	A	A		A
7513, 7519 Truck rental and leasing; utility trailer and recreational vehicle rental			A	A		A	A		SR
752 Automobile parking	A	A	A	A	A	A	A		A
7542 Car washes		SR	A	A	A	A	A		A
76 Miscellaneous Repair Services (except below):			A	A	A	A	A		A
763 Watch, clock, and jewelry repair	A	A	A	A	A	A	A		A
78 Motion Pictures (except below):			A	A	A	A	A		A
7833 Drive-in motion picture theaters				SR		SR			
79 Amusement and Recreation Services*:									
791 Dance studios, schools, and halls	A	A	A	A	A	A	A		A

792 Theatrical producers, bands, orchestras, and entertainers		A	A	A	A	A	A		A
793, 799 Bowling centers; miscellaneous amusement and recreation services, and gambling operations* (except below):			A	A	A	A	A		A
Public swimming pools								A	
Riding stables						SR	SR		
Martial arts instruction	A	A	A	A	A	A	A		A
7992 Public golf courses								A	
794 Commercial sports			SR	A	SR	A	A	A	SR
*See BMCC Section 27-612.									
80 Health Services (except below):	A	A	A	A	A	A	A	A	A
Establishments where retail sales constitutes more than an accessory use		A	A	A	A	A	A		A
81 Legal Services	A	A	A	A	A	A	A		A
82 Educational Services (except below):		A	A	A	A	A	A	A	A
821 Elementary and secondary schools	A	A	A	A	A	A	A	A	A
822 Colleges, universities, professional schools, and junior colleges	SR	SR	SR	SR	SR	SR	SR	A	SR
83 Social Services (except below):	A	A	A	A	A	A	A	A	A
833 Job training and vocational rehabilitation services	SR	SR	A	A	A	A	A	A	A
84 Museums, Art Galleries, and Botanical and Zoological Gardens:									

841 Museums and art galleries		A	A	A	A	A	A	A	A
842 Arboreta and botanical or zoological gardens								A	SR
86 Membership Organizations (except below):	A	A	A	A	A	A	A		A
864 Civic, social and fraternal associations*			A	A	A	A	A		A
*See also BMCC Section 27-612.									
87 Engineering, Accounting, Research, Management, and Related Services (except below):			A	A	A	A	A		A
871, 872 Engineering, architectural and surveying services; accounting, auditing and bookkeeping services	A	A	A	A	A	A			A
8731 Commercial physical and biological research			SR	A	A	A	A		A
8733 Noncommercial research organizations			SR	A	A	A	A		A
8734 Testing laboratories			SR	A	A	A	A		A
8744 Facilities support management services other than below				A	A	A	A		A
- Privately operated correctional facilities						SR		SR	
88 Private Households	A	A	A	A	A	SR			A
89 Services, Not Elsewhere Classified	A	A	A	A	A	A	A	A	A
DIVISION J - PUBLIC ADMINISTRATION									
91 Executive, Legislative, and General Government, Except Finance	A	A	A	A	A	A	A	A	A

92 Justice, Public Order, and Safety (except below):	A	A	A	A	A	A	A	A	A
9223 Correctional institutions								SR	
93 Public Finance, Taxation, and Monetary Policy	A	A	A	A	A	A	A	A	A
94 Administration of Human Resource Programs	A	A	A	A	A	A	A	A	A
95 Administration of Environmental Quality and Housing Programs	A	A	A	A	A	A	A	A	A
96 Administrative of Economic Programs	A	A	A	A	A	A	A	A	A
97 National Security and International Affairs	A	A	A	A	A	A	A	A	A
DIVISION K - NONCLASSIFIABLE ESTABLISHMENTS									
99 Nonclassifiable Establishments: The Zoning District and Requirements of These Establishments Will Be Determined By The Planning Director.									
Dwellings									
Single-family*	A	A	A	A	A	SR			
Two-family		A	A	A	A				
Multiple-family		A	A	A	A				A
Modular home*	A	A	A	A	A	SR			A
*Chicken Hens Allowed See Section 27-607									

Sec. 27-307. - Adoption of Standard Industrial Classification Manual, 1987.

There is adopted by the ~~city council and~~ board of county commissioners for the purpose of classifying the industries set forth in ~~BMCC~~ section 27-306, the whole 1987 Edition of the Standard Industrial Classification Manual, published by the Executive Officer of the President, Office of

Management and Budget, of which manual one copy is now filed in the offices of the ~~city clerk and the~~ county clerk and recorder, and the same is adopted and incorporated as fully as if set out at length in his chapter, and from the date on which this Resolution/~~Ordinance~~ is adopted said manual shall take effect.

Sec. 27-308. - Area, yard and height requirements—Residential.

	ZONING CLASSIFICATION DISTRICTS												
ZONING REQUIREMENTS	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000 Restricted	Residential - 7,000	Residential - 6,000 Restricted	Residential - 6,000(c)	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
Minimum Lot Area Per Dwelling Unit: (a) (b)													
One Unit	10A	1A	15,000	9,600	8,000	7,000	7,000	6,000	6,000	5,000		6,000	6,000
Two Units (attached or detached)					10,000		9,600		7,000	8,000		7,000	
Three Units (attached)									8,500			8,500	
Four Units (attached)									10,000			10,000	
Five Units (attached)									11,500			11,500	
Six Units (attached)									13,000			13,000	
Seven Units (attached)									14,500			14,500	

Eight Units (attached)									16,000		16,000		
Nine Units (attached) Ten Units (attached)									17,500 19,000		400 each add. (attached) unit	1,500 each add. (attached) unit	
Minimum Yard Requirements: (d) (e)													
Front (f) (g)	35	25	25	20	20	20	20	15	15	15	15	20	
Side (h) (k)	15	10	10	5	5	5	5	5	5	5	5	8	
Side Adjacent to Street (l)	35	25	25	10	10	10	10	10	10	10	10	10	
Rear	35	25	25	20	20	20	20	20	20	20	15	20	
Maximum Height (m) (n)	34	34	34	34	34	34	34	34	34	34	N/A	40	34
Maximum Lot Coverage in Percent	15	25	30	30	30	30	30	40	40	40	55	30	

- (a) In the A-1 & A-S districts, minimum lot area figures are in Acres. All other minimum lot area figures denote square footage.
- (b) The above requirements are applicable to all structures located on a single lot. For building groups see ~~BMC~~ subsection 27-310(b).
- (c) In the Residential-6,000 zone, three-plexes up through ten-plexes up require special review approval, see ~~BMC~~ section 27-1503 or 27-1509.

- (d) For arterial setback and watercourse setback requirements, see ~~BMCC~~ sections 27-602 and 27-616, respectively.
- (e) For yard setbacks on corner lots, refer to definitions of lot frontage and yard (side) in ~~BMCC~~ section 27-201.
- (f) Block frontages which have buildings constructed prior to the effective date of this resolution/ordinance shall have a minimum 20-foot front setback for all districts.
- (g) Garages and carports that have their approach from a street shall be setback a minimum of twenty (20) feet.
- (h) Required side yards shall be increased to eight (8) feet in distance from the nearest second story portion of the building, plus one (1) foot for each story in excess of two (2).
- (i) Reserved.
- (j) Reserved.
- (k) In the Residential Manufactured Home district, a site built structure complying with the CABO One and Two Family Dwelling Code, may be setback a minimum of five (5) feet from the side property line, unless the structure contains two (2) or more stories.
- (l) Front yard setbacks as required in the district shall be provided on side streets when a side street frontage exceeds one hundred fifty (150) feet.
- (m) In the A-1 district, maximum height restrictions apply to buildings designed and constructed for human occupancy.
- (n) Where there is a change in the adjacent grade of three (3) feet or more the maximum height will be increased one (1) foot for each two (2) feet of grade change.

NOTE:

- All height and setback requirements denote feet.
- For height exceptions, see ~~BMCC~~ subsection 27-310(f).
- For permitted projections, see ~~BMCC~~ subsection 27-310(g).
- For setbacks for detached accessory structures, see ~~BMCC~~ subsection 27-310(i).
- N/A = Not Applicable

Sec. 27-309. - Area, yard and height requirements—Commercial and industrial.

ZONING REQUIREMENTS	ZONING CLASSIFICATION DISTRICTS								
	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	27th Street Corridor
Minimum Lot Area Requirement in Square Feet: (a)	10,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Minimum Yard Requirements: (a) (b)									
Front	20	20	20	20	N/A	20	20	20	(d)
Side (e)	10	0	0	0	N/A	0	0	0	(d)
Side Adjacent to Street	10	10	10	10	N/A	10	10	10	(d)
Rear (e)	0	0	0	0	N/A	0	0	0	(d)
Maximum Height	34	34	45	45	N/A	70	N/A	N/A	(d)
Maximum Lot Coverage in Percent (a)	50	50	50	75	N/A	75	75	50	50

(a) For minimum lot size, yard and lot coverage requirements for residential dwellings in Commercial or Industrial zones, see **BMCC** section 27-310.

(b) For arterial setback and watercourse setback requirements, see **BMCC** sections 27-602 and 27-616, respectively.

~~(c) Additional development standards apply where commercial or industrial zones are within fifty (50) feet of residentially zoned property or residential uses. See subsection 27-615(e).~~

~~(d) Minimum yard requirements and maximum height for property located in the South 27th Street Corridor zoning District are located in **BMCC** sections 27-810 and 27-811, respectively.~~

Note:

- All height and setback requirements denote feet; all minimum lot area figures denote square footage.

- For height exceptions, see ~~BMCC~~ section 27-310(F).
- For permitted projections, see ~~BMCC~~ section 27-310(G).
- N/A = Not Applicable.

Sec. 27-310. - Supplemental area, yard and height restrictions.

The following requirements provide exceptions or qualify and supplement the specific district regulations set forth in this part. Planned developments shall be governed by ~~BMCC~~ section 27-1301, et seq.

- (a) *Access for buildings.* All buildings and structures shall have vehicular access to a minimum width public street or an approved private street. Where the provision of the zoning code on this matter is more restrictive than the building code, then the zoning code restrictions shall be applied. A street shall provide the primary means of pedestrian access for any dwelling unit. Alleys, where they exist, shall provide only a secondary means of access.
- (b) *Building groups.* In any residential or agricultural district, more than one (1) principal structure housing a permitted use may be located on a single lot or combination of lots provided that:
 - (1) Area requirements are met for each structure as though it were on an individual lot;
 - (2) A minimum of ten (10) feet is maintained between principal structures;
 - (3) Side yard setbacks are provided between adjacent properties as required in the district;
 - (4) Principal structures are setback from alleys a minimum of twenty (20) feet; and
 - (5) Front yard setbacks as required in the district are provided on side streets when a side street frontage exceeds one hundred and fifty (150) feet.
 - (6) The requirements of section 27-622 are met where applicable for condominium and multi-unit developments.
- (c) *Division of lots.* No recorded lot or combination of lots shall be divided into smaller lots unless such division results in the creation of lots which conform to all of the applicable regulations of the zoning district in which the property is located.
- (d) *Lot sizes.* Yards or lots created after the effective date of this resolution/~~ordinance~~ shall conform to all of the applicable requirements of the zoning district in which the property is located. In such case as no public water and/or sewer services are available, lot sizes shall also meet the minimum requirements of the Montana Department of Environmental Quality.
- (e) *Dwellings in commercial/industrial zones.*
 - (1) In the residential professional, neighborhood commercial, community commercial, highway commercial, ~~South 27th Street corridor~~ and controlled industrial zones: Lot area, yard, and lot coverage requirements for dwelling units shall be the same as those in the RMF-R district.
 - ~~(2) In the central business district zone: Lot area, yard, height, and lot coverage requirements for dwelling units shall not be applicable.~~
- (f) *Height exceptions.* The following requirements supplement those specific district regulations set forth in ~~BMCC Sections 27-308 and 27-309:~~
 - (1) The height limitations shall not apply to spires, belfries, cupolas, antennas, water towers or tanks, chimneys or smokestacks, power transmission lines, cooling or elevator towers or similar and necessary appurtenances not used for human occupancy.
 - (2) Churches, schools, hospitals, nursing or retirement homes, or public buildings may exceed the height limitations of the district if the minimum depth of the front, side and rear yard setbacks are increased two (2) feet for every one (1) foot by which the structure exceeds the height limitation of the district. This allowed height shall not exceed two (2) times the allowed height in the zoning district in which it is located, without approval through the Variance procedure, as described in ~~BMCC Sections 27-1506 (City) and Section 27-1511 (County).~~
 - (3) The maximum building height may be increased by up to ten (10) percent in all zoning districts when the majority of the roof pitch is 7:12 or steeper.
- (g) *Permitted projections.*

- (1) Residential districts: The following projections shall be permitted in required setbacks in residential districts:
 - a. Fireplaces and bay windows not to exceed two (2) feet;
 - b. Roof overhangs, eaves, gutters, cornices or other architectural features not to exceed two (2) feet;
 - c. Open exterior stairways or decks not to exceed two (2) feet in side yards, four (4) feet in front yards, nor eight (8) feet in the rear yards;
 - d. Covered unenclosed porches over front stoops or walkways not to exceed four (4) feet;
 - e. The above projections are not permitted if they protrude into or hang over public right-of-way.
- (2) Commercial and industrial districts: The following projections shall be permitted in required setbacks in commercial and industrial districts:
 - a. Roof overhangs, eaves, gutters, cornices or other architectural features not to exceed two (2) feet;
 - b. Canopies not to exceed four (4) feet. For the purposes of this subsection, "canopies" are defined as covers that are solely attached to and supported by the structure on which it is attached to and which can be removed without destroying any part of that supporting structure.
- (3) Ramps that provide accessibility.
- (4) Exception. The above projections are not permitted if they protrude into or hang over public right-of-way.
- (h) Required yards. No part of a yard, other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this resolution/ordinance shall be included as part of a yard, open space for any other building.
- ~~(i) Yards and setbacks for accessory buildings in residential zones within the Billings city limits. The following setbacks shall be provided for accessory buildings in residential zones:

 - ~~(1) Detached garages, carports, patios, tool or storage sheds, playhouses, greenhouses or other accessory buildings shall meet the setbacks required in below Table 1.~~~~

~~TABLE 1. Setbacks from Property Lines for Detached Garages, Carports, Tool or Storage Sheds, Greenhouses or Other Detached Accessory Structures~~

	Front (b)	Side Adjacent to Street (b)	Side	Rear with Alley (c)	Rear Without Alley
Buildings Less Than 18 Feet In Height (a) (d) (e)					
—Approach from a street	20	20	3	0	3
—Approach at right angle from an alley	20	10	3	6	N/A
—All others	20	10	3	0	3

Buildings Greater Than 18 Feet In Height Up To And Including The Maximum Allowed Height (a) (d) (e)					
— Approach from a street	20	20	8	6	8
— Approach at right angle from an alley	20	40	8	6	N/A
— All others	20	40	8	6	8

~~(a) All setbacks are denoted in feet from the property line.~~

~~(b) In districts with front or side adjacent to street setbacks greater than those required in above Table 1, the structure shall meet the most restrictive setback requirement.~~

~~(c) No above building or structure nor any part thereof shall protrude into or hang over the public right-of-way.~~

~~(d) Structures located adjacent to arterial streets must meet the arterial setbacks as outlined in BMCC section 27-602.~~

~~(e) The side wall of detached accessory buildings in the R-9,600, R-8,000, R-7,000, R-7,000R, R-6,000, R-6,000R, R-5,000 and Residential Manufactured Home zoning districts within the Billings city limits shall be no greater in height than the side walls, excluding a gable wall, of an existing or proposed principal structure on the property.~~

~~N/A = Not Applicable~~

~~(2) Garages, carports and other accessory buildings attached to a dwelling shall be considered to be part of the dwelling and setbacks shall be the same as those required for such dwelling. In addition, garages and carports attached to the dwelling that have their approach from a street shall be setback from that street property line a minimum of twenty (20) feet or meet the front setback in the zoning district in which it is located, whichever is greater.~~

~~(3) In the R-9,600, R-8,000, R-7,000, R-7,000R, R-6,000, R-6,000R, R-5,000 and Residential Manufactured Home zoning districts within the Billings city limits detached accessory structure(s) greater than two hundred (200) square feet in size shall not exceed the principal building first story square footage on the lot or one thousand (1,000) square feet, whichever is less. If the lot is greater than one quarter (.25) acres maximum total square footage of a detached accessory structure shall be as calculated as follows or equal to the principal building first story square footage, whichever is less.~~

~~— Lots containing less than one quarter (.25) acres = one thousand (1,000) square feet maximum size.~~

~~— Lots containing one quarter (.25) acres up to one (1) acre shall use the following formula:~~

$$\text{(667} \times \text{lot acreage)} + 833 = \text{maximum detached structure size}$$

~~— Lots containing more than one (1) acre = one thousand five hundred (1,500) square foot maximum size.~~

~~No detached accessory structure within these residential zoning districts in the Billings city limits shall exceed one thousand five hundred (1,500) square feet or that amount which, when added to the square footage of the principal structure(s), will achieve the maximum lot coverage allowable in that district, whichever is less. The maximum total square footage in detached accessory structures on any lot within these residential zoning districts in the Billings city limits shall not exceed two thousand (2,000) square feet or the total principal building first story square footage on the lot, whichever is less.~~

~~(4) For watercourse setbacks, see BMCC section 27-616.~~

~~(5) No above allowed building or structure nor any part thereof shall protrude into or hang over any public right-of-way.~~

~~(6) In the R-9,600, R-8,000, R-7,000, R-7,000R, R-6,000, R-6,000R, R-5,000 and Residential Manufactured Home zoning districts within the Billings city limits, horizontal exterior siding is required on detached accessory structures greater than two hundred (200) square feet in size, unless the principle structure has vertical siding or a combination of horizontal and vertical siding. The detached accessory structure siding shall match the design and material of the principle structure to the maximum extent practicable.~~

~~(j)(i) Yards and setbacks for accessory buildings in residential zones outside the Billings city limits and within the county jurisdictional zoning area. The following setbacks shall be provided for accessory buildings in residential zones:~~

~~(1) Detached garages, carports, patios, tool or storage sheds, playhouses, greenhouses or other accessory buildings shall meet the setbacks required in below Table 1.~~

TABLE 1. Setbacks From Property Lines For Detached Garages, Carports, Tool Or Storage Sheds, Greenhouses Or Other Detached Accessory Structures

	Front (b)	Side Adjacent to Street (b)	Side	Rear with Alley (c)	Rear Without Alley
Buildings Less Than 18 Feet In Height (a) (d) (e)					
Approach from a street	20	20	3	0	3
Approach at right angle from an alley	20	10	3	6	N/A
All others	20	10	3	0	3
Buildings Greater Than 18 Feet In Height Up To And Including The Maximum Allowed Height (a) (d) (e)					
Approach from a street	20	20	8	6	8
Approach at right angle from an alley	20	10	8	6	N/A

All others	20	10	8	6	8
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- (a) All setbacks are denoted in feet from the property line.
- (b) In districts with front or side adjacent to street setbacks greater than those required in above Table 1, the structure shall meet the most restrictive setback requirement.
- (c) No above building or structure nor any part thereof shall protrude into or hang over the public right-of-way.
- (d) Structures located adjacent to arterial streets must meet the arterial setbacks as outlined in ~~BMCC~~ section 27-602.
- (e) Detached accessory buildings used to house, keep or shelter livestock or fowl shall meet the setbacks described in ~~BMCC~~ section 27-607.

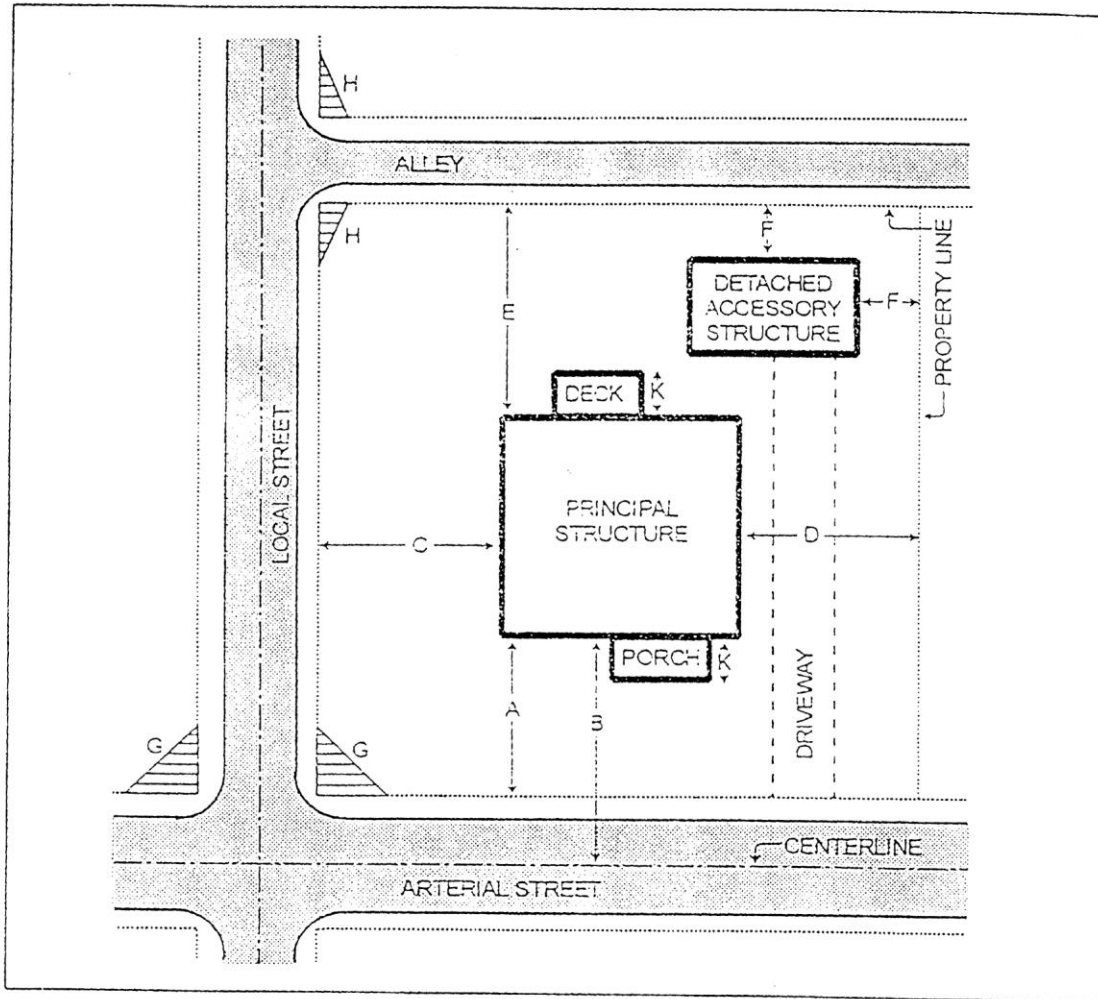
N/A = Not Applicable

- (2) Garages, carports and other accessory buildings attached to a dwelling shall be considered to be part of the dwelling and setbacks shall be the same as those required for such dwelling. In addition, garages and carports attached to the dwelling that have their approach from a street shall be setback from that street property line a minimum of twenty (20) feet or meet the front setback in the zoning district in which it is located, whichever is greater.
- (3) The maximum size allowed for detached accessory structures shall be based on the following criteria, based on the size of the lot:
 - Lots containing less than one-quarter (.25) acres = one thousand (1,000) square feet maximum size.
 - Lots containing one-quarter (.25) acres up to one (1) acre shall use the following formula:

$$(667 \times \text{lot acreage}) + 833 = \text{maximum detached structure size}$$
 - Lots containing more than one (1) acre = one thousand five hundred (1,500) square foot maximum size.

This provision shall not apply in the Agricultural-Open Space or Agricultural-Suburban zoning districts.
- (4) The maximum total square footage in detached accessory structures on any lot shall not exceed three thousand (3,000) square feet or that amount which, when added to the square footage of the principal structure(s), will achieve the maximum lot coverage allowable in that district, whichever is less. This three thousand (3,000) square foot limit shall not apply in the Agricultural-Open Space zoning district.
- (5) See ~~BMCC~~ section 27-607, for setbacks regarding detached structures used to house livestock or fowl.
- (6) For watercourse setbacks, see ~~BMCC~~ section 27-616.
- (7) No above allowed building or structure nor any part thereof shall protrude into or hang over any public right-of-way.

FIGURE 1: YARD REQUIREMENTS: RESIDENTIAL



- (a) Front setback
- (b) Arterial setback
- (c) Side adjacent to street setback
- (d) Side setback
- (e) Rear setback
- (f) Detached accessory structure setback
- (g) Clear vision triangle at street intersections
- (h) Clear vision triangle at alley and drive entrances
- (i) (k) Permitted projections

FIGURE 2: YARD REQUIREMENTS: COMMERCIAL AND INDUSTRIAL

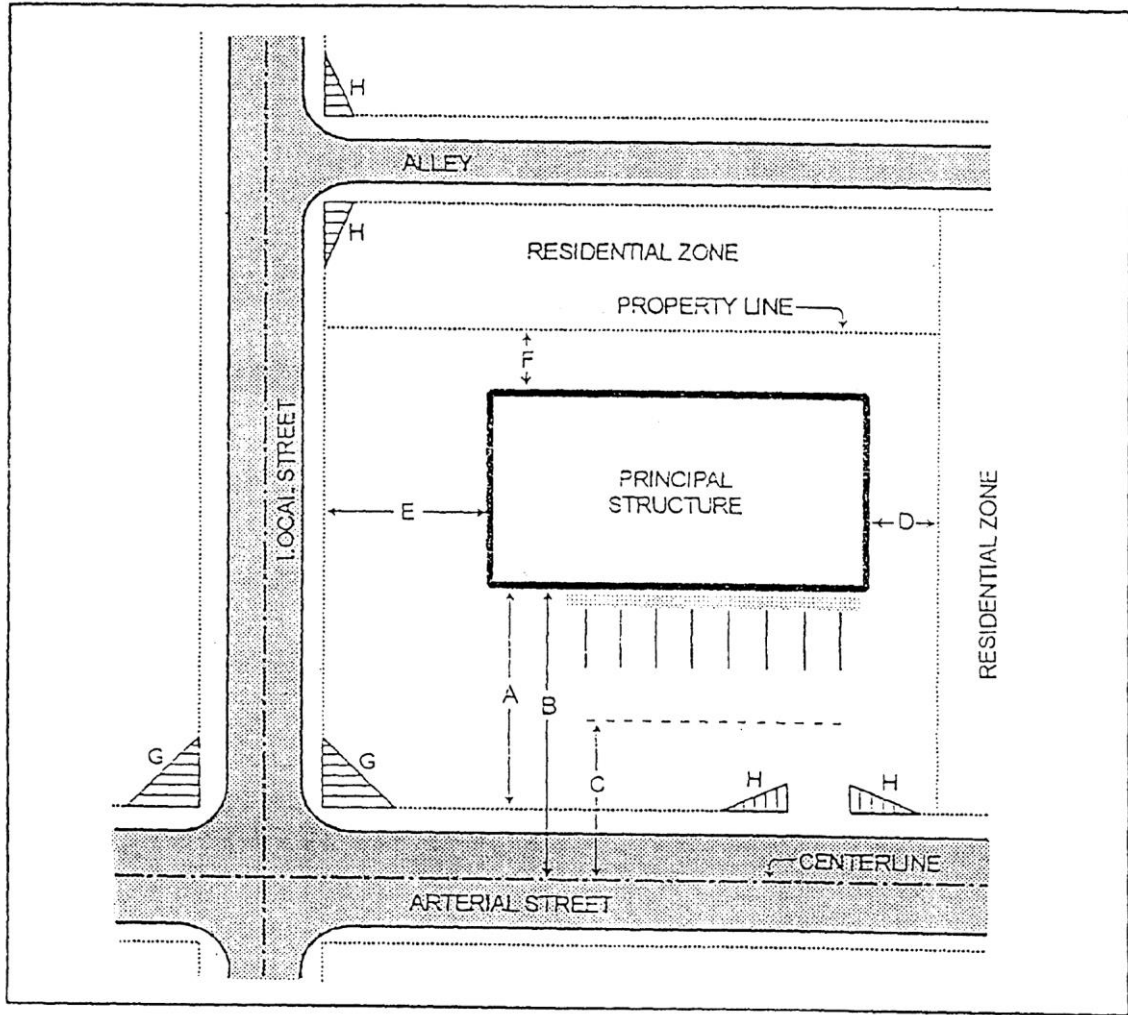


Figure 2

- (a) *Front setback*
- (b) *Arterial setback: structures*
- (c) *Arterial setback: Required Parking and Driving Isle*
- (d) *Side setback*
- (e) *Side adjacent to street setback*
- (f) *Rear setback*
- (g) *Clear vision triangle at street intersections*
- (h) *Clear vision triangle at alley and drive entrances*

~~**Side Minimum setbacks are fifteen (15) feet when contiguous to residential zones~~

ARTICLE 27-400. - NONCONFORMING LOTS AND USES OF LAND, STRUCTURES,
NONCONFORMING STRUCTURES AND USES OF STRUCTURES

Sec. 27-401. - Intent.

- (a) The provisions of this chapter shall apply to buildings, structures, lands and uses which become nonconforming as a result of the application of this Resolution/~~Ordinance~~ [~~Ord. No. 97-5048, adopted Dec. 22, 1997~~] to them, or from classification or reclassification of property under ~~Ord. No. 97-5048~~ or any subsequent amendments thereto. If a use originally authorized by a variance, special review or other valid use permit prior to the effective date, as defined in below subsection (b) of this resolution/~~ordinance~~ is located within a district in which such use is not permitted by the terms of this resolution/~~ordinance~~, such use shall be a nonconforming use; however, pre-existing valid uses requiring a special review after the effective date of this resolution/~~ordinance~~ shall not require a special review.
- ~~(b) The effective date for these regulations is May 3, 1972 for any property that was located within the limits of the City of Billings on or before that date.~~
- (b) The effective date for any property located within the Yellowstone County 4½ mile jurisdictional area, but outside the limits of the City of Billings is on or before November 6, 1973.
- (c) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of ~~Ord. No. 97-5048~~ these regulations and upon which actual building construction has been carried on diligently. "Actual construction" is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Sec. 27-402. - Nonconforming lots of record.

- (a) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this resolution/~~ordinance~~, a single-family dwelling and customary accessory buildings may be erected on any vacant single lot of record at the effective date of adoption, as defined in above subsection (b), or amendment of this resolution/~~ordinance~~. Such lot must be in separate ownership and not of contiguous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area, that are generally applicable in the district, provided that the yard dimensions, lot coverage and other requirements not involving area of the lot shall conform to the regulations of the district in which such lot is located. An additional variance of area and yard requirements shall be obtained only through affirmative action by the board of adjustment (see ~~BMCC~~ sections 27-1501, et seq.)
- (b) If two (2) or more vacant lots or combinations of lots and portions of lots with contiguous frontage in single ownership or record exist at the time of adoption, as defined in Section 27-401, subsection B, or amendment of this resolution/~~ordinance~~, and if all or part of the lots do not meet the requirements for lot area as established by this resolution/~~ordinance~~, the land involved shall be considered to be an undivided parcel for the purpose of this resolution/~~ordinance~~, and no portion of the parcel shall be used or sold which does not meet lot area requirements established by this resolution/~~ordinance~~, nor shall any division of the parcel be made which leaves remaining any lot, with area below the requirements stated in this resolution/~~ordinance~~.

Sec. 27-403. - Nonconforming uses of land.

Where, on the effective date of adoption, as defined in Section 27-401, subsection B, or amendment of this resolution/~~ordinance~~, lawful use of land exists that is no longer permissible under the terms of this resolution/~~ordinance~~ as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (a) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption, as defined in Section 27-401, subsection B, or upon amendment of this resolution/~~ordinance~~.
- (b) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption, as defined in Section 27-401, subsection B, or upon amendment of this resolution/~~ordinance~~.
- (c) If any such nonconforming use of land ceases for any reason for a period of one (1) year or more, any subsequent use of such land shall conform to the regulations specified by this resolution/~~ordinance~~ for the district in which such land is located.

Within a period of one (1) year or less, a manufactured home used for residential purposes which is a legal nonconforming use of land may be replaced by another manufactured home for residential purposes, so long as the new home is not substantially larger than the manufactured home that it replaced. In addition, the new manufactured home shall meet the minimum yard setback requirements including arterial setbacks (see ~~BMCC~~ Section 27-602), along with lot coverage requirements for the zoning district in which it is located.

Sec. 27-404. - Nonconforming structures.

Where a lawful structure exists at the effective date of adoption, as defined in Section 27-401, subsection b, or amendment of this resolution/~~ordinance~~ that could not be built under the terms of this resolution/~~ordinance~~ by reason of restriction on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains lawful, subject to the following provisions:

- (a) No such structure may be enlarged or altered in a way which increases its nonconformity unless an enlargement or structural alteration makes the building more conforming or is required by law.
- (b) Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this resolution/~~ordinance~~.
- (c) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.
- (d) Structural alterations may be permitted if necessary to adapt a nonconforming building to new technologies or equipment pertaining to uses housed in such building. Any enlargement necessary to adapt to new technologies shall be authorized only by a variance, as described in ~~BMCC sections 27-1506 (City) and section 27-1511 (County)~~.

Sec. 27-405. - Nonconforming uses of structures.

If a lawful use of a structure or of structures and premises in combination exists at the effective date of adoption, as defined in Section 27-401, subsection B, or amendment of this resolution/~~ordinance~~, that would not be allowed in the district under the terms of this resolution/~~ordinance~~, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (a) No existing structure devoted to a use not permitted by this resolution/~~ordinance~~ in the zone in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located.
- (b) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption, as defined in section 27-401, subsection (b), or amendment of the resolution/~~ordinance~~, but no such use shall be extended to occupy any land outside such building.

- (c) If no structural alterations are made, any nonconforming use of a structure, or structures and premises, may be changed to another nonconforming use provided that the governing body with jurisdiction on the property shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the governing body with jurisdiction on the property may require appropriate conditions and safeguards in accordance with the provisions of this chapter. Any proposed change from one nonconforming use to another nonconforming use shall be processed and reviewed under the special review provisions of ~~BMCC~~ sections 27-1501, et seq., and the following criteria shall be considered:
 - (1) The nature and purpose of the existing nonconforming use;
 - (2) The difference in quality and character of the proposed use;
 - (3) The difference in the degree of use of the proposed use, including but not limited to hours of operation and parking requirements;
 - (4) The reasons for the proposed change; and
 - (5) The overall impact of the proposed use on the surrounding property.
- (d) Any structure, or structures and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure(s) is located, and the nonconforming use may not be thereafter resumed.
- (e) When a nonconforming use of a structure, or structures and premises in combination, is discontinued or abandoned for one (1) year or more, the structure, or structures and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Abandonment shall include, but not be limited to, cessation of the use for one (1) year or more.
- (f) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty (50) percent of the replacement cost at time of destruction.
- ~~(g) Any sexually oriented business, located within the limits of the City of Billings, existing upon passage of this chapter which does not comply with the requirements established herein shall be deemed a legal nonconforming use. All existing legal nonconforming sexually oriented businesses, as of the effective date of this chapter, or any amendment hereto, shall comply with the provisions of this chapter within four (4) years from the date of the enactment of this section or any amendment thereto. (Refer also to BMCC Section 27-611.)~~

Sec. 27-406. - Repairs and maintenance.

Any building or other structure containing a nonconforming use, or any nonconforming building or portion thereof, declared unsafe by the ~~Building Official~~ County Fire Marshal may be strengthened or restored to a safe condition.

Sec. 27-407. - Unlawful use.

Nothing in this resolution/~~ordinance~~ shall be interpreted as authorization for or approval of a continuance of the use of a structure or premises in violation of the zoning regulations in effect at the time of the effective date of this resolution/~~ordinance~~.

ARTICLE 27-500. - HISTORIC PRESERVATION – IS DELETED IN ITS ENTIRETY

ARTICLE 27-600. - SUPPLEMENTARY GENERAL PROVISIONS

Sec. 27-601. - Parking and storage restrictions.

- (a) *Residential*. The following standards for off-street parking and storage shall apply in all residential zoning districts and on property that is developed for residential use.
- (1) Open storage and off-street parking of licensed and operable motor vehicles is an allowed accessory use as defined in section 27-201.
 - (2) Open storage and off-street parking of inoperable motor vehicles for more than five (5) consecutive days is a prohibited use.
 - (3) Within the city limits open storage and off-street parking of licensed and operable motor vehicles in any front or side yard shall be on a surface prepared with asphalt or concrete. Open storage and off-street parking of licensed and operable motor vehicles in any rear yard may be on any type of surface. (See also sections ~~6-1203, 24-401 and~~ 27-1201.)
 - (4) Open storage and off-street parking of one (1) licensed and operable motor vehicle used for commercial or business purposes is an allowed accessory use provided it does not exceed twelve thousand (12,000) pounds in G.V.W. (gross vehicle weight). ~~Outside the city limits on~~ On property zoned agriculture open space or agriculture suburban this motor vehicle weight limitation shall not apply.
 - (5) Display of merchandise other than for a garage sale or a use allowed by permit under the temporary use section (section 27-614) is prohibited.
 - (6) Open storage and off-street parking of licensed and operable recreational vehicles including but not limited to snowmobiles, boats, and campers, all-terrain vehicles, off-road motorcycles, and sport/utility trailers is an allowed accessory use in any rear yard. Open storage and off-street parking of licensed and operable recreational vehicles is an allowed accessory use in a front or side yard only if there is no access to a rear yard. ~~Within the Billings city limits open storage and off-street parking of licensed and operable recreational vehicles in a front or side yard shall be on a surface prepared with asphalt or concrete.~~ Open storage of licensed and operable recreational vehicles in a rear yard may be on any type of surface. Open storage and off-street parking of licensed and operable recreational vehicles in any yard shall provide at least a five-foot separation between such recreational vehicle and any door, window or other opening of a dwelling or accessory building that provides ventilation or access to the structure. Open storage and off-street parking of licensed and operable recreational vehicles in any yard shall provide setbacks to property lines at a minimum of three (3) feet to a side or rear property line and eight (8) feet from the back of a sidewalk. If no sidewalk exists, all measurements shall be made from the front and side adjacent to street property lines.
 - (7) The use of any recreational vehicle for living or sleeping purposes for more than five (5) consecutive days is prohibited when parked off-street or stored in any residential zoning district or in an area developed for residential use.
 - (8) Open storage for more than five (5) consecutive days of junk, salvage and trash is prohibited.
- (b) *Commercial and industrial*. The following standards for off-street parking and storage shall apply in all commercial and industrial zoning districts.
- (1) Open storage for more than five (5) consecutive days of junk, salvage and trash is prohibited.
 - (2) Open storage for more than five (5) consecutive days of material collected as salvage for recycling, re-use, dismantling to remove parts for re-use or for separation prior to recycling or destruction is a special review use of property only in highway commercial (SIC 5015), controlled industrial (SIC 5093) and heavy industrial (SIC5093).
 - (3) Open storage and off-street parking of inoperable motor vehicles for more than five (5) consecutive days is a special review use of property only in highway commercial (SIC 5015), controlled industrial (SIC 5093) and heavy industrial (SIC5093).
 - (4) Open storage and off-street parking of inoperable motor vehicles for more than five (5) consecutive days is an allowed accessory use of property for principal uses classified as automotive repair

shops (SIC 753). The open storage and off-street parking area shall be located in the rear or side yard, and inoperable motor vehicles or vehicle parts shall not be visible from any right of way or adjoining property. A sight obscuring fence of at least six (6) feet in height from grade shall be required to enclose the storage or off-street parking area for inoperable motor vehicles. Chain link fence may be allowed as a sight obscuring fence if opaque slat inserts are used.

- (5) Outside display of merchandise is permitted in residential professional, neighborhood commercial, community commercial, highway commercial, and controlled industrial zoning districts only if the merchandise is related to the principal use of the property, and such merchandise is removed each night into an enclosed structure. The continuous outside display of merchandise is permitted when the principal use of property is for lumber and construction materials (SIC 503, 521 and 525), wholesale and retail nurseries, lawn and garden supply (SIC 078, 081, 5191, 5193, and 526) or for temporary uses and structures regulated by section 27-614.
- (6) Bufferyards and required landscaping shall not be used for the displaying of merchandise in any commercial or industrial zoning district.
- (7) ~~Outside the city limits,~~ The use of any recreational vehicle for living or sleeping purposes for more than five (5) consecutive days is prohibited when parked off-street or stored on property zoned for commercial or industrial uses or on property developed for commercial or industrial uses.
- (8) Open storage of equipment and supplies is an allowed accessory use of property as limited in section 27-306. Any property where open storage of equipment and supplies is an allowed accessory use, the open storage area shall be located in the rear or side yard. A sight obscuring fence of at least six (6) feet in height from finished grade shall be required to enclose the storage area. Chain link fence may be allowed as a sight obscuring fence if opaque slat inserts are used.

~~(c) Penalties. A violation of this section is designated as a municipal infraction, and punishable by civil penalties as specified in section 18-1304.~~

Sec. 27-602. - Arterial setbacks.

- (a) In any residential or public zoning district, no building or structure shall be erected within eighty (80) feet of the centerline of a principal arterial street, or within seventy (70) feet of the centerline of a minor arterial street. In addition, within any such residential or public zoning district, no required parking area or portion thereof, shall be constructed or located within seventy (70) feet of the centerline of a principal arterial street or within sixty (60) feet of the centerline of a minor arterial street.
- ~~(b) In any commercial or industrial zoning district located within the Billings city limits, no building or structure shall be erected or maintained within sixty (60) feet of the centerline of an arterial street. In addition, within any such commercial or industrial zoning district, no required parking area or portion thereof, including driving aisles, shall be constructed or located within fifty (50) feet of the centerline of a principal arterial street or within forty (40) feet of the centerline of a minor arterial street. The central business district (CBD) zoning district shall be exempt from this section.~~
- (b) In any commercial or industrial zoning district located outside the Billings city limits, but within the county zoning jurisdiction, no building or structure shall be erected or maintained within eighty (80) feet of the centerline of a principal arterial street, or within seventy (70) feet of the centerline of a minor arterial street. In addition, within any such commercial or industrial zoning district, no required parking area or portion thereof, including driving aisles, shall be constructed or located within seventy (70) feet of the centerline of a principal arterial street or within sixty (60) feet of the centerline of a minor arterial street.
- (c) Any new construction that increases the number of required off-street parking spaces, must locate these additional required parking spaces in areas that comply with above subsections (A) and (B). The term "new construction" shall be defined as construction on a previously vacant lot or parcel, construction of new structures after existing structures are demolished or removed, or expansion of existing structures.
- (d) Approved advertising signs and public use controls and systems, trees trimmed up eight (8) feet and canopies with at least eight (8) feet clearance, shall be permitted in this setback area. For the purpose

of this subsection, canopies shall be defined as covers that are solely attached to and supported by the structure on which it is attached to and which can be removed without destroying any part of that supporting structure. This shall only apply to canopies attached to the principal structure.

- (e) The designation of a street as an arterial shall be recommended by the city engineer, county public works director or in conformity with the most recent urban transportation plan.
- (f) The centerline of such arterials shall be established by the City of Billings or Yellowstone County:
 - (1) By actual physical establishment by the ~~City Engineer's~~ or County Public Works Office, and approval thereof by the ~~City Council~~ or Board of County Commissioners; or
 - (2) If not possible to establish the centerline by physical establishment, then the centerline shall be established by resolution/~~ordinance~~.
- (g) *Permitted projections.* The following projections shall be permitted within the setback areas on arterial streets in residential districts:
 - (1) Fireplaces and bay windows not to exceed two (2) feet;
 - (2) Roof overhangs, eaves, gutters, cornices or other architectural features not to exceed two (2) feet;
 - (3) Open exterior stairways or decks not to exceed two (2) feet in side yards, four (4) feet in front yards, nor eight (8) feet in rear yards;
 - (4) Covered unenclosed porches over front steps or walkways not to exceed four (4) feet;
 - (5) Ramps that provide accessibility; and
 - (6) The above projections are not permitted if they protrude into or hang over the public right-of-way.

Sec. 27-603. - Building permits issued prior to adoption.

Where construction has started pursuant to a building permit validly issued by ~~the City of Billings building division~~ State of Montana, or by a Zoning Compliance Permit issued by the Planning Director or designee prior to the effective date of this resolution/~~ordinance~~ [~~Ord. No. 97-5048, adopted Dec. 22, 1997~~], it may be completed (under the regulations in effect at the time of issuance) thereunder without regard to this resolution/~~ordinance~~.

Sec. 27-604. - Fences, walls and hedges.

- (a) Fences, walls and hedges may be erected or maintained in any zoning district provided the height, setback, and material provisions outlined below are followed and a permit is secured. "Fence" for the purposes of this section means any fence, wall or hedge. No fence shall be erected or maintained in a public right-of-way.
- (b) Height. Height for the purposes of this section shall be defined as the vertical distance from the top rail, board or wire to the ground directly below.
- (c) Setbacks required. Fences, walls or hedges of up to four (4) feet may be erected or maintained in the required front yard setback as defined in sections 27-308 or 27-309. Fences, walls or hedges between a height of four (4) and six (6) feet may be erected or maintained anywhere outside of the front yard setback, except as described in subsection (d) below. (see figure 6, section 27-618). Any fence, wall or hedge in excess of six (6) feet shall meet all of the yard setback requirements for structures as defined in sections 27-308 or 27-309. None of the above setback requirements shall apply to lands located in the agricultural-open space (A-1), ~~central business district (CBD)~~, controlled industrial (CI), or heavy industrial (HI) zones.
- (d) Setbacks for clear vision areas. No fence, wall or hedge greater than thirty (30) inches in height may be erected or maintained in any zoning district within a clear vision zone pursuant to section 27-615 and as illustrated in figures 1, 2, and 3 of section 27-618.

- (e) Material permitted-residential and commercial zones. All fences in residential, agricultural and commercial zoning districts shall be constructed from materials which are commonly used for fencing and shall not be constructed from railroad ties, wood pallets, tires, rubble or salvaged material. Commonly used fence materials include wood, brick, stone, split railing, chain-link, wire, vinyl, ornamental iron work. Materials not listed are subject to special review.
- (f) Material permitted—Industrial zones. All fences in industrial zoning districts shall be constructed from materials commonly used for fencing and shall not be constructed from railroad ties, wood pallets, rubble, or salvaged material. Commonly used fence materials include wood, brick, stone, split railing, chain-link, wire, vinyl, ornamental iron work, finished or coated steel or aluminum building panels. Materials not listed are subject to special review.
- (g) Material exception—Barbed wire or electric fence. ~~In the city limits, no barbed wire or electrical fencing shall be permitted in any residential zoning district.~~ Barbed wire and electrically charged fencing is allowed in the A-1 and A-S districts within Yellowstone County. When electrically charged fences are used in an A-1 or A-S district, such fences shall be posted with warning signs or fluorescent markings at intervals not to exceed one hundred fifty (150) feet, where such fences are adjacent to public rights-of-way.

~~In the city limits, no electrical fencing shall be permitted in any commercial or industrial zoning district.~~ Electrically charged fencing is allowed in commercial or industrial districts within Yellowstone County provided that such fences shall be posted with warning signs or fluorescent markings at intervals not to exceed one hundred and fifty (150) feet, where such fences are adjacent to public rights-of-way. Barbed wire fencing is allowed in commercial or industrial zoning districts ~~both within the city limits and Yellowstone County~~ when such material is located not less than eight (8) feet above grade.
- (h) Permit required. Any fence between a height of four (4) feet and six (6) feet shall require a permit from the planning department. Any retaining wall exceeding a height of four (4) feet or any fence exceeding a height of six (6) feet shall require a permit from the building department.
- ~~(i) Penalties. A violation of this section is designated as a municipal infraction, and punishable by civil penalties as specified in section 18-1304.~~

Sec. 27-605. - Hazardous waste facilities.

- (a) Intent. The purpose and intent of this section is to establish review criteria for the citing of any new hazardous waste facility as defined herein, in order to prevent any significant threat to human health or the environment. When used in citing new hazardous waste facilities, the criteria shall:
 - (1) Protect the residents of ~~the City of Billings and~~ Yellowstone County;
 - (2) Ensure the structural stability of the new hazardous waste facility;
 - (3) Protect surface water;
 - (4) Protect groundwater;
 - (5) Provide for the safe transportation of hazardous waste to new hazardous waste facilities;
 - (6) Protect environmentally sensitive areas; and
 - (7) Protect air quality.
- (b) *Definitions.* For the purposes of this Section, the following definitions shall apply:
 - 1. *Hazardous waste:* Means a waste or combination of wastes that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:
 - a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness;
 - b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed; or

- c. A material which is classified by the Environmental Protection Agency (EPA) as being Hazardous or Extremely Hazardous.
- (2) *Facility (hazardous waste management facility)*: Means all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous wastes. A facility may consist of several treatment, storage or disposal operational units.
- (3) *Transfer facility*: Means any transporter-owned or operated land, structure, or improvement, including loading docks, parking areas, holding sites, and other similar areas used for the transfer and temporary storage of hazardous wastes and where shipments of hazardous waste are held temporarily for a period of ten (10) days or less during the normal course of transportation, up to but not including the point of ultimate treatment, storage, or disposal.
- (4) *Long-term storage facility*: This facility is the same as a "transfer facility", except that it is designed to store hazardous wastes for a period longer than ten (10) days.
- (c) *Use allowed*. Any hazardous waste facility shall only be allowed in the heavy industrial (HI) zoning district and must be approved through the special review procedure as outlined in ~~BMCC~~ section 27-1501, et seq.
- (d) *Supplemental requirements*. Any hazardous waste facility shall, in addition to meeting all other requirements of this resolution/ordinance, comply with the following supplemental requirements:
 - (1) Submit with the required special review application, twenty (20) copies of a community and environmental impact statement which shall include the following elements:
 - a. Description of impact of proposal upon existing environmental conditions:
 - 1. Population and land use.
 - 2. Soils.
 - 3. Drainage.
 - 4. Vegetation.
 - 5. Topography.
 - 6. Wildlife.
 - 7. Air quality.
 - 8. Surface water quality.
 - 9. Ground water quality.
 - 10. Floodplain data.
 - 11. Scenic vistas.
 - 12. Historic and cultural sites.
 - b. Description of impact of proposal upon existing and required services:
 - 1. Public Utilities
 - i. Water
 - ii. Sewer
 - iii. Drainage
 - iv. Electric
 - v. Gas
 - vi. Telephone

2. Schools

- c. The applicant(s) shall document the adequacy and availability of fire, police, medical and other emergency management facilities and services in the area, as well as, their familiarity with the substance(s) being treated, disposed or stored. Documentation shall also be required as to the adequacy and availability of transportation means and routes for the purposes of evacuation of the population at risk in the event of an accident. Evacuation methods and routes shall be indicated. In addition, information shall be provided on spill mitigation measures and pollution risk analysis.

Applicants requesting special review for a hazardous waste facility shall address each element of the community and environmental impact statement, indicating what impacts are foreseen. Methods shall be proposed to avoid or to mitigate any potential adverse impacts. Failure to provide sufficient documentation for each element or failure to demonstrate effective avoidance or mitigation techniques shall be considered sufficient grounds for denial of the application.

Statements in writing which grant preliminary, tentative or conditional approvals as required by any local, county, state, federal, or public authority shall be submitted to the planning department along with all other materials as required by this chapter. These documents shall be submitted along with the information required through the special review process.

The applicant shall submit any information or documentation, in addition to the above, that the Planning Department deems necessary to fully evaluate the proposal.

- (e) *Review criteria.* The planning department, zoning commission and governing body, shall, at every step of the review process, take into consideration the following:
 - (1) The density of population in proximity to the facility;
 - (2) The size and type of the facility;
 - (3) The type of waste expected to be present at the facility;
 - (4) The transportation means and routes available to evacuate the population at risk in an accident, including both spills and fires;
 - (5) The size and types of other hazardous waste facilities and facilities that handle hazardous waste materials in the adjacent area; and
 - (6) The availability of fire, police, and other emergency management personnel and medical facilities in the area.
- (f) *Citing criteria.* Any new hazardous waste facility shall, in addition to all other requirements of this resolution/~~ordinance~~, meet the following citing criteria:
 - (1) No hazardous waste treatment facility shall be located any closer than two thousand (2,000) feet from any residence, school, playground, public park, public recreation area, church or other public building.
 - (2) No hazardous waste disposal or long-term storage facility, as defined in this section, shall be located any closer than two thousand and six hundred (2,600) feet from any residence, school, playground, public park, public recreation area, church or other public building.

Sec. 27-606. - Home occupations.

A *home occupation* is defined as an occupation carried on by an occupant of a dwelling, which is located in a residential zoning district, as an accessory and incidental activity to the main residential use of the building.

The *planning department* recognizes that the restrictions set forth in this section do not anticipate all possible types of home occupations. Therefore, to guide the planning department in the enforcement of this section, the department has adopted the following policies:

- (1) The home occupation should not generate traffic before 7:30 a.m. or after 6:00 p.m.
- (2) The occupation should not generate, on average, more than four (4) vehicle trips to the residence during any hour.

The home occupation shall comply with all of the following restrictions:

- (a) The occupation to be performed must be a use which is allowed outright in the Residential Professional (RP) zoning district. In addition, the following uses, listed by Standard Industrial Classification (S.I.C.), may also be allowed:

S.I.C. Number	Description
7231	Beauty shops
7241	Barber shops
7251	Shoe repair shops
7291	Tax return preparation services
7631	Watch, clock and jewelry repair
76—	Office only for miscellaneous repair services
7911	Dance studios, schools and halls

Uses not listed above may be allowed with written approval from the zoning coordinator, if they meet the spirit and intent of this section and will conform to all of the restrictions of this section.

- (b) No person shall be employed other than the residents of the dwelling.
- (c) The occupation shall be conducted entirely within the dwelling or an accessory building.
- (d) The floor area devoted to the occupation shall not exceed five hundred (500) square feet or twenty-five (25) percent of the total ground area occupied by the buildings, whichever is less.
- (e) The occupation shall not produce light, noise, vibration, glare, fumes, odors, electrical interference, etc., which is inconsistent with the character of the residential area.
- (f) There shall be no sign advertising or calling attention to the home occupation on the premises.
- (g) There shall be no display, evidence or activity apparent from the exterior of the lot which would indicate that the premises are being used for any purpose other than that of a dwelling.
- (h) There shall be no group instruction, assembly or activity for greater than five (5) persons.
- (i) One (1) business vehicle that is associated with the home occupation and which does not exceed eight thousand (8,000) pounds gross vehicle weight (G.V.W.), may be parked or stored on the premises. In addition, there shall be no outside storage of materials or equipment related to the home occupation, except the one (1) allowed business vehicle.

Sec. 27-607. - Livestock and fowl.

Livestock, as defined in ~~BMCC~~ section 27-201, ~~shall not~~ may be maintained in any zoning district ~~located within the limits of the city except as provided within section 27-305 or 27-306. Horses may be permitted in the city when located within a planned development, as described in section 27-1303, that is specifically designed to accommodate horses and/or equestrian centers.~~ Fowl, as defined in ~~BMCC~~ section 27-201 except chicken hens, shall not be maintained in any zoning district located within the limits of city. Chicken hens may be kept within the limits of the city in residential zoning districts or on property used for residential purposes as provided in section 27-305 or 27-306 subject to limitations and permitting requirements in ~~BMCC~~ section 4-303. Chicken hens may be kept outside the city limits as provided in section 27-305 and subject to the provisions below.

Areas ~~located outside the limits of the city, but within certain agricultural or residential zoning districts, as shown in the residential district regulations (see BMCC section 27-305), shall be permitted to have livestock and/or fowl. In addition, livestock and/or fowl may be permitted as part of a planned development, as described in section 27-1303, and are also exempt from the following animal unit standards, unless specifically referenced within the planned development agreement. However, the standards outlined below must be satisfied, depending upon the size of the property.~~

The allowance of livestock and/or fowl in commercial or industrial zoning districts, ~~situated outside the limits of the city,~~ may be permitted when the regulations established in below subsection (b) are met, regardless of the lot size. However, if the number of animals requested exceeds the allowed limit in below subsection (b), then the property must conform to the uses allowed by right or through special review, as shown in the commercial/industrial district regulations matrix in ~~BMCC~~ section 27-306.

- (a) Lots which are 2.5 net acres or less in size are allowed to have livestock and/or fowl provided that all of the following regulations are satisfied.
 - (1) One (1) livestock and/or fowl unit is allowed per twenty thousand (20,000) square feet of land devoted exclusively to the raising of the animal(s). Livestock or fowl that are listed in the livestock and/or fowl unit table(s) below are allowed types of animals under this subsection, with the exception of bison.
 - (2) Supplemental feeding of the animal(s) is required.
 - (3) Any keeping of animal(s) in this section shall be secondary and accessory to the primary residential use of the property. Commercial breeding and/or commercial raising of any type of animal or fowl shall be prohibited, except as allowed by right or through special review in the residential district regulations matrix located in ~~BMCC~~ section 27-305.
 - (4) In addition to the above regulations, project animal(s), as defined in ~~BMCC~~ section 27-201, are allowed, but shall be limited to one (1) livestock or fowl unit (as defined below) per youth actively enrolled in F.F.A., 4-H or other similar types of programs. In addition, project animals are required to be supplementally fed and shall only be allowed to remain on the property for no more than six (6) months during any twelve (12) month period. Breeding projects shall be exempt from the above time limit.
 - (5) All accessory structures used for the purpose of housing, keeping or sheltering livestock or fowl shall be setback a distance of fifty (50) feet from any property line and fifty (50) feet from any dwelling.
 - (6) No accessory building or structure used for the housing of livestock or fowl shall occupy any portion of a required front yard in any district, except in the agricultural-open space (A-1) zoning district. See ~~BMCC~~ section 27-310, for the allowed maximum size of detached accessory structures.
- (b) Lots which are 2.51 to 9.99 net acres in size are allowed to have livestock and/or fowl provided that all of the following regulations are met.

- (1) One (1) livestock and/or fowl unit per one (1) acre of land devoted exclusively to the raising of the animal(s), in which the animal(s) is supplementally fed and/or is on irrigated pasture land.
 - (2) One (1) livestock and/or fowl unit per four (4) acres of land devoted exclusively to the raising of the animal(s), in which there is no supplemental feeding and/or the animal is on unirrigated pasture land.
 - (3) In addition to the above regulations, project animal(s), as defined in BMCC section 27-201, are allowed, but shall be limited to one (1) livestock or fowl unit (as defined below) per youth actively enrolled in F.F.A., 4-H or other similar types of programs. In addition, project animals are required to be supplementally fed and shall only be allowed to remain on the property for no more than six (6) months during any twelve (12) month period. Breeding projects shall be exempt from the above time limit.
 - (4) All accessory structures used for the purpose of housing, keeping or sheltering livestock or fowl shall be setback a distance of one-hundred (100) feet from any property line and fifty (50) feet from any dwelling.
 - (5) No accessory building or structure used for the housing of livestock or fowl shall occupy any portion of a required front yard in any district, except in the agricultural-open space (A-1) zoning district. See BMCC section 27-310, for the allowed maximum size of detached accessory structures.
- (c) Lots which are greater than 9.99 net acres shall be exempt from this section.
- (d) Livestock and fowl units, for the purpose of this section, shall be defined as follows:

Livestock Class	Livestock Units
Cow - Mature	1.00
Cow with calf	1.00
Bull - Mature	1.00
Bull - Yearling	.50
Calf - Weaned or under 6 months	.50
Steer - One year or older	1.00
Heifer - One year or older	1.00
Horse - Mature	1.50
Horse with colt	1.50
Colt - Weaned	1.00
Ewe - Mature	.25

Ewe with lamb	.25
Lamb - Weaned or under 6 months	.25
Ram - Mature	.25
Goat - Mature	.25
Goat with kid	.25
Kid - Weaned or under 6 months	.25
Bison - Mature	2.00
Bison with calf	2.00
Bison calf - Weaned or under 6 months	1.50
Hog - Mature	.25
Hog - Weaned	.10
Llama	1.00
Fowl Class	Fowl Units
Hens, roosters or ducks	.25 each
Turkeys or geese	.50 each

Livestock and/or fowl units for animals not listed herein shall be determined by the zoning coordinator.

~~(e) Penalties. A violation of this section is designated as a municipal infraction, and punishable by civil penalties as specified in section 18-1304.~~

Sec. 27-608. - Manufactured home parks and individual manufactured homes.

For the purposes of this section, the following definitions shall be utilized in determining the appropriate classification of manufactured homes and modular homes:

- (1) *Manufactured home*: A dwelling unit that: (a) is constructed in accordance with the standards set forth by the U.S. Department of Housing and Urban Development, (b) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to

be transported to the home site on its own chassis, and (c) exceeds forty (40) feet in length and eight (8) feet in width.

- (2) *Manufactured home, Class A:* A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:
 - a. The home has a length not exceeding four (4) times its width;
 - b. The pitch of the home's roof has a minimum vertical rise of three (3) inches for each twelve (12) inches of horizontal run (3:12), and the roof is finished with a type of shingle that is commonly used in standard residential construction;
 - c. The exterior siding consists of wood, hardboard, aluminum or vinyl siding comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
 - d. A continuous, permanent perimeter foundation, which complies with the Uniform Building Code, is installed under the home; and
 - e. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.
- (3) *Manufactured home, Class B:* A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a Class A manufactured home.
- (4) *Manufactured home Class C:* Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home.
- (5) *Manufactured home park:* A residential use in which more than one manufactured home is located on a single lot. Manufactured home parks must also comply with the subdivision regulations for the jurisdiction in which it is located ~~and when located within the limits of the City of Billings, Article 15-500 of the Billings, Montana City Code.~~
- (6) *Modular home:* A dwelling unit constructed in accordance with the standards set forth in the Uniform Building Code and bearing the insignia of the State of Montana, applicable to site-built homes, and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the Uniform Building Code Standards applicable to site-built homes), or a series of panels or room sections transported on a truck and erected or joined together on the site.
- (7) *Commercial use:* Trailers or manufactured homes shall not be used for any commercial use other than an on-premise office in connection with a trailer or manufactured home sales area.

Sec. 27-609. - Plats recorded after effective date.

Notwithstanding any other provisions of this resolution/~~ordinance~~, any subdivision or certificate of survey, where a completed application has been received by the Planning Department before the effective date of this resolution/~~ordinance~~, shall be required to comply with the minimum lot area requirements which were in effect at the time the completed application is received. Said lot(s) or tract(s) shall be deemed nonconforming for the purpose of this resolution/~~ordinance~~.

Any subdivision, resubdivision, or certificate of survey, where a completed application was not received by the Planning Department before the effective date of this resolution/~~ordinance~~ shall be required to comply with the minimum lot area requirements of this resolution/~~ordinance~~, depending upon the zone within which it is located.

Nothing in this section shall be interpreted to grant relief from any requirement of the State of Montana regarding minimum lot or tract area for sanitary restrictions.

Sec. 27-610. - Satellite antennas and dishes.

- (a) For the purpose of this section, the following definitions shall apply:
- (1) *Satellite dish antenna*: A device incorporating a reflective surface that is solid, open mesh or bar configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition shall include but not be limited to what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), direct satellite systems (D.S.S.) and satellite microwave antennas.
 - (2) *Satellite signal, usable*: That level of signal received via the satellite dish antenna which will run the television and/or radio with a minimum level of distortion, a distortion level that is barely discernible to the naked eye and a picture quality consistent with other reception in the area.
- (b) *Residential districts*. The following setbacks and height restrictions shall apply in residential zoning districts:
- (1) Satellite dish antennas shall be placed only in the rear yard.
 - (2) In the event that a usable satellite signal cannot be obtained from the rear yard, the satellite dish antenna may be located on the side or front yard provided that no satellite dish antenna shall be placed in a required front or side setback or arterial setback.
 - (3) In the event that a usable satellite signal cannot be obtained by locating the satellite dish antenna on the rear, side or front yard of the property, such satellite dish antenna may be placed on the roof of the dwelling structure. These satellite dish antennas or pole mounted antennas shall not extend more than ten (10) feet above the height limit established for the zone in which the structure is located.
 - (4) In either above subsections (2) or (3), it is the responsibility of the owner to provide proof, satisfactory to the zoning coordinator, that a usable satellite signal cannot be obtained from the required location.
 - (5) No satellite dish antenna shall exceed a diameter of twelve (12) feet.
 - (6) No satellite dish antenna may be installed on a portable or movable device except as a temporary means (not to exceed 30 days) to test for a usable satellite signal.
- (c) *Commercial and industrial districts*. The following setbacks and height restrictions shall apply in commercial and/or industrial zoning districts:
- (1) No satellite dish antenna shall be placed in any required front yard, side adjacent to street or arterial setback.
 - (2) No satellite dish antenna shall be placed in any required side setback when contiguous to residentially zoned property.
 - (3) A satellite dish antenna may be permanently mounted or may be installed on a portable or movable device.
 - (4) No satellite dish antenna (whether permanent or portable) shall be installed in a required parking space.
 - (5) No satellite dish antenna shall exceed the maximum height of the zoning district.
- (d) *Permit required*. Before any satellite antenna is erected in any zoning district, the property owner(s) shall first obtain the applicable permits from the Building Official.
- (1) A building permit is not required for installation of satellite dish antennas which are four (4) feet or less in diameter.

- (2) All satellite dish antennas and the construction and installation thereof shall conform to the building and electrical codes adopted by the building division.
- (3) Satellite dish antennas shall meet all manufacturer's specifications, be of noncombustible and corrosive-resistant material, and be erected in a secure, wind-resistant manner.

~~Sec. 27-611. Sexually oriented businesses.~~

~~(a) Purpose and intent. It is the purpose of this section to regulate sexually oriented businesses to promote the health, safety, morals, and the general welfare of the citizens of the city and to establish reasonable uniform regulations to prevent the continued deleterious location and concentration of sexually oriented businesses within the city. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly it is not the intent or effect of these regulations to restrict or deny access by adults to distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of these regulations to condone or legitimize the distribution of obscene materials.~~

~~(b) Findings and determinations. The city council hereby finds and determines that:~~

- ~~(1) The establishment of adult uses in business districts which are immediately adjacent to and which serve residential neighborhoods has a deleterious effect on both the business and residential segments of the neighborhood, causing or contributing to blight and a downgrading of property values.~~
- ~~(2) The establishment of more than two (2) adult uses within six hundred (600) feet of each other has a deleterious effect on surrounding residential and business areas and the fostering of such businesses within a close proximity tends to create a "skid row" atmosphere.~~
- ~~(3) The location of several adult uses in the same neighborhood tends to attract an undesirable quantity and quality of transients, a circumstance which adversely affects property values, causes an increase in crime and encourages residents and businesses to move elsewhere.~~
- ~~(4) Concern for, and pride in, the orderly planning and development of a neighborhood should be encouraged and fostered in those persons comprising residential and business segments of that neighborhood.~~

~~(c) Definitions. Terms used in this section, that are not specifically defined below, may be found in section 27-201. Where other definitions are necessary and are not defined in this section or section 27-201, the dictionary may define such terms.~~

- ~~(1) Adult arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."~~
- ~~(2) Adult book store or adult video store means a commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:
 - ~~a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, video reproductions, slides, or other visual representations which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas"; or~~
 - ~~b. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."~~~~
- ~~(3) Adult cabaret means a commercial establishment which regularly features:
 - ~~a. Persons who appear nude or in a state of nudity or semi-nudity; or~~~~

- b. ~~Live performances which are characterized by the exposure of specified anatomical areas or by the exhibition of specified sexual activities;~~
- (4) ~~Adult motel means a hotel, motel, or similar commercial establishment which:~~
- a. ~~Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;~~
 - b. ~~Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or~~
 - c. ~~Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.~~
- (5) ~~Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."~~
- (6) ~~Church or other place of worship means a building which is used primarily for religious worship and related religious activities, including but not limited to churches, convents, monasteries, shrines, and temples.~~
- (7) ~~City means the City of Billings, Montana.~~
- (8) ~~Establishment means and includes any of the following:~~
- a. ~~The opening or commencement of any sexually oriented business as a new business;~~
 - b. ~~The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;~~
 - c. ~~The additions of any sexually oriented business to any other existing sexually oriented business; or~~
 - d. ~~The relocation of any sexually oriented business.~~
- (9) ~~Nudity or a state of nudity means:~~
- a. ~~The appearance of a human bare buttock, anus, male genitals, female genitals, or areola or nipple of the female breast; or~~
 - b. ~~A state of dress which fails to opaquely and fully cover human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.~~
- (10) ~~Sexually oriented business means an adult arcade, adult book store, adult cabaret, adult video store, adult motel, or adult motion picture theater.~~
- (11) ~~Specified anatomical area means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.~~
- (12) ~~Specified sexual activities means and includes any of the following:~~
- a. ~~The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;~~
 - b. ~~Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;~~
 - c. ~~Masturbation, actual or simulated; or~~
 - d. ~~Excretory functions as part of or in connection with any of the activities set forth in subsections a. through c.~~

~~(13) Transfer of ownership or control of sexually oriented business means and includes any of the following:~~

- ~~a. The sale, lease, or sublease of the business;~~
- ~~b. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or~~
- ~~c. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.~~

~~(d) Classification. Sexually oriented businesses are classified as follows:~~

- ~~(1) Adult arcades;~~
- ~~(2) Adult book stores or adult video stores;~~
- ~~(3) Adult cabarets;~~
- ~~(4) Adult motels; and~~
- ~~(5) Adult motion picture theaters.~~

~~(e) Location of sexually oriented business.~~

~~(1) No person, whether as a principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any sexually oriented business within one thousand (1,000) feet of the following residential zones:~~

- ~~a. Agricultural suburban (A-S) zone;~~
- ~~b. Agriculture open space (A-1) zone;~~
- ~~c. Residential 15,000 (R-150) zone;~~
- ~~d. Residential 9,600 (R-96) zone;~~
- ~~e. Residential 8,000 (R-80) zone;~~
- ~~f. Residential 7,000 restricted (R-70R) zone;~~
- ~~g. Residential 7,000 (R-70) zone;~~
- ~~h. Residential 6,000 restricted (R-60R) zone;~~
- ~~i. Residential 6,000 (R-60) zone;~~
- ~~j. Residential 5,000 (R-50) zone;~~
- ~~k. Residential multi-family (RMF) zone;~~
- ~~l. Residential multi-family Restricted (RMF-R) zone;~~
- ~~m. Residential manufactured home (RMH) zone;~~
- ~~n. Entryway mixed use (EMU) zone; or~~
- ~~o. Any planned development zone that allows residential uses unless such zone is separated from the location of a sexually oriented business by an Interstate Highway.~~

~~(2) No person, whether as a principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any sexually oriented business within one thousand (1,000) feet of the following land uses:~~

- ~~a. Public library;~~
- ~~b. Public playground or park (for purposes of this section, publicly owned multiuse trails shall be deemed to be a park);~~

- e. — Public or private school and its grounds, from pre-school through twelfth grade;
 - d. — A state licensed community residential facility, family day care home, group day care home, or day care center; Church or other place of worship; or
 - e. — A cemetery.
- (3) — No person, whether as a principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own or operate any sexually oriented business within six hundred (600) feet of another sexually oriented business.
 - (4) — For purposes of this section, specified distances will be measured in a straight line, without regard to intervening structures, from the property line of the sexually oriented business to the property line of the preceding land uses or zoning districts.
 - (5) — In addition to the preceding requirements, sexually oriented businesses are permitted in the following zones only:
 - a. — Central business district (CBD) zone;
 - b. — Highway commercial (HC) zone;
 - c. — Controlled industrial (CI) zone; or
 - d. — Heavy industrial (HI) zone.
- (f) — ~~Nonconforming use — Amortization period established. (Refer to subsection 27-405(g))~~

SEC. 27-611. SEXUALLY ORIENTED BUSINESSES. (ADOPTED FOR COUNTY ZONING JURISDICTION June 20, 2006)

(a) Purpose and Intent. It is the purpose of this section to regulate sexually oriented businesses to promote the health, safety, morals, and the general welfare of the citizens of Yellowstone County, and to establish reasonable uniform regulations to prevent the continued deleterious location and concentration of sexually oriented businesses within the County jurisdictions. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly it is not the intent or effect of these regulations to restrict or deny access by adults to distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of these regulations to condone or legitimize the distribution of obscene materials.

(b) Findings Yellowstone County Commission hereby finds and determines that:

Based upon evidence concerning the adverse secondary effects of sexually oriented businesses on the community presented in hearings and reports made available to the City Council and Board of County Commissioners, and upon findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.* 475 U.S.41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *Arcara v. Cloud Books, Inc.* 478 U.S. 697 (1986); *California v. LaRue*, 409 U.S. 109 (1972); *Iacobucci v. City of Newport, Ky*, 479 U.S. 92 (1986); *United States v. O'Brien*, 391 U.S. 367 (1968); *DLS Inc. v. City of Chattanooga*, 107 F 3rd 403(6th Cir. 1997); *Kev. Inc. v. Kitsap County*, 793 F. 2nd 1053 (9th Cir 1986); *Hang On Inc. v. City of Arlington*, 65 F. 3rd 1248 (5th Cir. 1995); *South Florida Free Beaches Inc. v. City of Miami*, 7344 F 2n 608 (11th Cir 1984); and *N.W. Enterprises v. City of Houston*, 27 F. Supp. 2d 754 (S.D. Tex. 1998), as well as studies conducted in other cities including but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and findings reported in the Final Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the City of Billings and Yellowstone Commission find that:

- (1) Sexually oriented business lend themselves to ancillary unlawful and unhealthy activities that are currently uncontrolled by the operators of the establishments. Further, there is currently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.
- (2) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located. See, e.g. Studies of the cities of Phoenix, Arizona; Indianapolis, Indiana; and Austin, Texas.
- (3) Sexual acts, including masturbation, sadomasochistic abuse, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos or live sex shows. See, e.g. *California v LaRue*, 409 U.S. 109, 111 (1972); See also Final Report of the Attorney General's Commission on Pornography (1986) at 377.
- (4) Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions. See, e.g. Final Report of Attorney Generals' Commission on Pornography (1986) at 367-77.
- (5) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses, for the purpose of engaging in sex within the premises of such sexually oriented businesses. See e.g. *Arcara v. Cloud Books Inc.* 478 U.S. 697, 698 (1986), see also Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.
- (6) At least 50 (fifty) communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV- AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections, See, e.g. Study of Fort Meyers, Florida.
- (7) As of December 31, 1996, the total number of reported cases of AIDS in the United States caused by the human immunodeficiency virus (HIV) was 581, 429. See, e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (8) As of December 31, 1999, there have been 92 (ninety-two) reported cases of AIDS in the State of Montana for the years 1997 through 1999.
- (9) The total number of cases of genital Chlamydia trachomatis infection in the United States reported in 1997 was 526,653, an 8% increase over the year 1996. See, e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (10) The total number of cases of early (less than one year) syphilis in the United States reported during the twelve year period 1985-1997 was 387,233. See, e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (11) The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,901,365 cases reported during the period 1993-1997. See e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (12) The Surgeon General of the United States, in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (13) According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts, See, e.g. Findings of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

- (14) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted therein are unhealthy, and, in part, because of the unregulated nature of the activities and the failures of the owners and operators of the facilities to self-regulate those activities and maintain those facilities. See, e.g. Final Report of the Attorney General's Commission on Pornography (1986) at 377, and testimony to the Montana Senate Judiciary Committee February 9, 2001, in reference to SB399.
- (15) Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually oriented businesses where persons view "adult" oriented films. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 377.
- (16) Studies show nude dancing in adult establishments increases prostitution, increases sexual assaults, and attracts other criminal activity. See, e.g., Barnes v. Glen Theatre, 501 U.S. 560, 583 (1991).
- (17) Nude dancing in adult establishments increases the likelihood of drug dealing and drug use. See, e.g., Kev, Inc. v. Kitsap County, 793 F .2d 1053, 1056 (9th Cir. 1986).
- (18) The findings noted in paragraphs numbered (1) through (17) raise substantial governmental concerns.
- (19) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (20) Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing illegal and unsanitary sexual activity occurring in adult establishments.
- (21) The general welfare, health, morals and safety of citizens in Yellowstone County will be promoted by enactment of this regulation.
- (c) Definitions.
- (1) Adult Arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (2) Adult Book Store or Adult Video Store means a commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:
- a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, video reproductions, slides, or other visual representations which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
- b. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."
- (3) Adult Motel means a hotel, motel, or similar commercial establishment which:
- a. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by an emphasis on the depiction or description or "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;

- b. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- (4) Adult Motion Picture Theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (5) Church or Other Place of Worship means a building which is used primarily for religious worship and related religious activities, including but not limited to churches, convents, monasteries, shrines, and temples.
- ~~(6) City means the City of Billings, Montana.~~
- (7) County means Yellowstone County, Montana.
- (8) Establishment means and includes any of the following:
- (a) The opening or commencement of any sexually oriented business as a new business;
 - (b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - (c) The additions of any sexually oriented business to any other existing sexually oriented business; or
 - (d) The relocation of any sexually oriented business.
- (9) Nudity or State of Nudity means a male appearing without clothing to conceal his genitals or anal cleft or a female appearing without clothing to conceal her breasts, genitals or anal cleft. A male or female's genitals or anal cleft are concealed when they are not visible. A female's breasts are concealed when her areolas and nipples are not visible.
- (10) Sexually Oriented Business means an adult bookstore, adult theater, adult motel, adult massage parlor, adult sauna, adult entertainment center, adult cabaret, adult health/sport club, adult steam room/bathhouse facility and/or nude dancing establishment
- (11) Specified Anatomical Area means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.
- (12) Specified Sexual Activities means and includes any of the following:
- (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 - (c) Masturbation, actual or simulated; or
 - (d) Excretory functions as part of or in connection with any of the activities set forth in above (a) through (c).
- (13) Transfer of Ownership or Control of sexually oriented business means and includes any of the following:
- (a) The sale, lease, or sublease of the business;
 - (b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or

- (c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.
- (14) Viewing Room/Booth/Adult Arcade means a room or booth of less than one hundred fifty (150) square feet of floor space to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (d) Classification. Sexually oriented businesses are classified as follows:
- (1) Adult Arcades;
 - (2) Adult Book Stores or Adult Video Stores;
 - (3) Adult Motels; and
 - (4) Adult Motion Picture Theaters.
- (e) Location of Sexually Oriented Business.
- (1) No person, whether as a principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any sexually oriented business within one thousand (1,000) feet of the following residential zones:
 - (a) Agricultural Suburban (A-S) Zone;
 - (b) Residential 15,000 (R-150) Zone;
 - (c) Residential 9,600 (R-96) Zone;
 - (d) Residential 8,000 (R-80) Zone;
 - (e) Residential 7,000 Restricted (R-70R) Zone;
 - (f) Residential 7,000 (R-70) Zone;
 - (g) Residential 6,000 Restricted (R-60R) Zone;
 - (h) Residential 6,000 (R-60) Zone;
 - (i) Residential 5,000 (R-50) Zone;
 - (j) Residential Multi-Family (RMF) Zone;
 - (k) Residential Multi-Family - Restricted (RMF-R) Zone;
 - (l) Residential Manufactured Home (RMH) Zone; or
 - (m) Entryway Mixed Use (EMU) Zone.
 - (2) No person, whether as a principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any sexually oriented business within one thousand (1,000) feet of the following land uses:
 - (a) Public library;
 - (b) Public playground or park;
 - (c) Public or private school and its grounds, from kindergarten through twelfth grade;
 - (d) A state licensed family day care home, group day care home, or day care center; or

- (e) Church or other place of worship.
- (3) No person, whether as a principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own or operate any sexually oriented business within six hundred (600) feet of another sexually oriented business.
- (4) For purposes of this section, specified distances will be measured in a straight line, without regard to intervening structures, from the property line of the sexually oriented business to the property line of the preceding land uses or zoning districts.
- (5) In addition to the preceding requirements, sexually oriented businesses are permitted in the following zones only:

 - ~~(a) Central Business District (CBD) Zone;~~
 - (b) Highway Commercial (HC) Zone;
 - (c) Controlled Industrial (CI) Zone; or
 - (d) Heavy Industrial (HI) Zone.
- ~~(f) Nonconforming Use - Amortization period established. (Refer to BMCC Section 27-405(G))~~
- (g) Applicability. The provision of this section shall apply to all existing and future sexually oriented businesses. Pursuant to MCA 76-2-208 and Section 27-401 of these regulations, any such existing business that does not meet the zoning district restrictions or the distance limitations, may continue its existence as a nonconforming use; but such nonconforming use will be subject to curtailment by current state law and these regulations. If a sexually oriented business is nonconforming to these regulations and such use is discontinued or abandoned for a period of thirty (30) consecutive days the nonconforming status shall lapse and any subsequent use of the property shall conform to the regulations specified by this resolution/ordinance for the district in which such land is located.
- (h) Sign Limitations. Notwithstanding any other city ordinance or county resolution, code or regulations to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.

 - (1) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:

 - a. not contain any flashing lights;
 - b. be a flat plane, rectangular in shape;
 - c. not exceed seventy-five (75) square feet in area or the maximum size allowed under any other relevant city ordinance or county resolution, whichever is less; and
 - d. not exceed ten (10) feet in height or ten (10) feet in length or the maximum size allowed under any other relevant city ordinance or county resolution, whichever is less.
 - (2) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations of any type and may contain only the name of the business.
 - (3) Each letter forming a word on a primary sign shall be of solid color, and each letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be uniform and solid color.
 - (4) Secondary signs shall have only one (1) display surface. Such display surface shall:

 - a. be a flat plane, rectangular in shape;

- b. not exceed twenty (20) square feet in area or the maximum size allowed under any other relevant city or county regulations, whichever is less;
 - c. not exceed five (5) feet in height and four (4) feet in width or the maximum size allowed under any other relevant city or county regulations, whichever is less; and
 - d. be affixed or attached to any wall or door of the business.
- (5) Each sexually oriented business operation must post a sign on each door stating with "Adults only" or "No Minors Allowed".
- (i) Operating Standards. All sexually oriented businesses shall operate in accordance with the following:
- (1) No employee shall solicit business outside the building in which the business is located;
 - (2) All live entertainment in sexually oriented businesses shall be performed on a platform or other exclusive area provided for such purpose, and no entertainer or performer shall be permitted to leave such platform or area while entertaining or performing. This platform or other exclusive area shall be constructed in such a manner as to keep the performers at least nine (9) feet away from patrons;
 - (3) Nudity and specified sexual activities while on the premises of a sexually oriented business, other than adult motel, shall be prohibited. Nothing in these regulations shall be construed to prohibit a person from appearing in a state of nudity while using a restroom. Restrooms may not contain video reproduction equipment or be used in any way to circumvent this zoning regulation;
 - (4) No sexually oriented business shall operate between the hours of 12:01 am and 9:00 am;
 - (5) No sexually oriented business, other than an adult motel, shall be located in any building where alcoholic beverages are dispensed or consumed; and
 - (6) No minors shall be allowed in sexually oriented businesses.
- (j) Operating Standards that Pertain to Establishments that Exhibit Sexually Explicit Films, Videos or any other Images. A sexually oriented business which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, other video reproduction that specified sexual activities or specified anatomical areas, shall comply with the following requirements:
- (1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose, excluding restrooms. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations, excluding restrooms. The view required in this subsection must be direct line of sight from the manager's station;
 - (2) No opening or holes of any kind shall exist between viewing booths/rooms or adult arcades;
 - (3) No doors shall be allowed on viewing booths/rooms or adult arcades;
 - (4) The premises shall be equipped with and have in continuous operation, while patrons are present, overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candle as measured at the floor level; and

(5) All floor coverings and walls in viewing booths/rooms and adult arcades are to be constructed of nonporous, easily cleanable surfaces, with no rugs or carpeting.

(k) Building Exterior Appearance.

(1) It shall be unlawful for an owner or operator of sexually oriented business to allow merchandise or activities of the establishment to be visible from outside the establishment.

(2) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, words, lettering, photographs, silhouettes, drawings, or pictorial representations of any type except to the extent permitted by the provisions of this section.

(3) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single monochromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

(a) The establishment is part of a commercial multi-unit center; and

(b) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

(4) Nothing in this section shall be construed to require painting of an otherwise unpainted exterior portion of a sexually oriented business.

Sec. 27-612. - Supplemental commercial development standards.

Certain commercial uses shall be specifically restricted as follows:

(a) *Eating and drinking places.* The use of any premises or the construction or alteration of any new or existing building or structure where alcoholic beverages are served for on-premises consumption as a primary or accessory use shall only be allowed in commercial or industrial zoning districts as regulated by section 27-306. No building, structure or premises shall be used for the on-premise consumption of alcoholic beverages unless:

(1) A distance of six hundred (600) feet between property lines, measured in a straight line, is maintained from any building that is predominantly used as a church or school or from a public park that contains a children's playground or playfield.

~~a. Properties or establishments which are located in the Central Business District zoning district are exempt from subsection (1).~~

~~(a)~~ Properties may be granted a waiver from the 600-foot separation required in subsection (1) if the governing body finds that a physical barrier exists between the proposed use requiring the 600-foot separation. These barriers include, but are not limited to, the following:

1. An arterial street with no existing or proposed signalized pedestrian crossing;
2. A building or buildings that entirely obstruct the view between the separated uses; and
3. No direct physical access exists between the separated uses. The person applying for the special review must provide the governing body with proof that the proposed property or establishment meets one of the above described physical barriers or that other types of physical barriers exist that warrant the waiving of the 600-foot separation.

Exemptions to above subsection (a) for establishments previously granted a special review are located in ~~BMCC~~ section 27-613.

- (b) *Drive-in service.* Any persons desiring to use any premises or to erect, construct or alter any new or existing building or structure for a drive-in service as defined in BMCC section 27-201 shall satisfy the following criteria, based upon the adjoining zoning district(s).
- (1) When a drive-in establishment adjoins (including any location across an alley) residentially zoned property, the use shall obtain approval of a Special Review as outlined in BMCC sections 27-1503 and 27-1509. ~~The application will conform to all the standards within subsection 27-612(e).~~
 - (2) All other drive-in establishments, including those which are located across a public street from residentially-zoned property, shall meet the following criteria:
 - a. A traffic accessibility study shall be completed and approved by the city engineer or county public works director; and
 - b. The use shall comply with all other sections of ~~the~~ this Code.
- ~~(c) *Gambling operation.* Any gambling operation as defined in Article 7-1100 of the Billings, Montana City Code, other than for nonprofit organizations, shall be allowed only in those zones specified in BMCC section 27-306, and shall meet all of the rules, regulations and requirements of this chapter pertaining to bars, taverns and lounges, except that this provision shall not apply to bingo.~~
- (d) *Neighborhood Convenience Store.* Any person desiring to construct or remodel an existing structure for use as a Neighborhood Convenience Store in a residential zoning district shall apply for special review approval as shown in Section 27-305 of this chapter. In RMF-R and RMF districts a special review approval is not required to establish a Neighborhood Convenience Store. In addition to conditions that maybe imposed as part of a special review approval the following standards shall apply to every Neighborhood Convenience Store in a residential zoning district.
- (1) Limited to 3,000 square feet or less of gross floor area not including any outdoor seating area.
 - (2) Located no closer than 1,500 feet from another Neighborhood Convenience Store.
 - (3) Comply with the underlying zoning district setbacks, building height and lot area per dwelling unit if dwelling units are included as part of the store development.
 - (4) Lot coverage may be up to 55% regardless of the underlying zoning district.
 - (5) Shall include one off-street parking space per 500 square feet of gross floor area of retail space, one of which will be a handicapped accessible space.
 - (6) If a dwelling unit is included in a store development, one additional off-street parking space shall be provided per dwelling unit.
 - (7) The off-street parking requirements in subsections d(5) and d(6) supersedes and replace the off-street parking standards in Section 6-1203 and Sections 27-1202 through 27-1211 of the BMCC. Design and construction standards for curb cuts, driveways, size of off-street parking spaces, storm water control and paving standards shall otherwise apply.
 - (8) No such store shall take delivery of goods before 8:00 am or after 8:00 pm.
 - (9) At least two trash receptacles shall be provided per store that are accessible to the public on the store property. These trash receptacles will be emptied daily near the time of close of business.
 - (10) Lighting on the building, in the parking lot or other yard area shall have full cut-off shields.

- (11) No light fixture shall exceed 15 feet in height from grade to the top of the fixture.
- (12) Signage shall be limited to one non-illuminated wall sign of 24 square feet or less per retail business.
- (13) No store shall have an outdoor announcement or music system.

~~(e) Commercial and industrial uses within the city. All commercial and industrial uses, as listed within section 27-306, within fifty (50) feet of any Residential zoning district, including a planned development that allows residential use, shall comply with these site development standards:~~

- ~~(1) All buildings in excess of thirty (30) feet in height shall be setback a minimum of thirty (30) feet from a property line that adjoins a residential zone and a minimum of ten (10) feet from a property line that parallels but does not adjoin a residential zone.~~
- ~~(2) All outdoor lighting, with the exception of signage, shall have full cutoff shields so no part of the fixture or lens projects below the cutoff shield. Light pole standards must be twenty (20) feet in height or less.~~
- ~~(3) Mechanical equipment, including but not limited to air conditioning units, air handling units, back-up power generators, installed at ground level or on a roof must be fully screened from view. The screening shall be at least the height of the mechanical equipment. Mechanical equipment that generates or is expected to generate noise in excess of fifty-five (55) decibels (DbA) within three (3) feet of the equipment location must provide sound abatement or suppression which may require the equipment to be enclosed in a structure.~~
- ~~(4) Loading docks, if necessary or required by the operation, must be located the farthest distance practicable from the residential zone. However, if the property adjoins an arterial street, the loading dock must be set back far enough such that no trucks will be loading, unloading, or backing within the street. Loading shall be done from alleys when possible.~~
- ~~(5) Outdoor storage of merchandise or equipment must be within an area enclosed with a sight obscuring fence at least six (6) feet in height that is architecturally coordinated in color and design with the building. Vehicle sales lots and plant materials may be displayed outside of an approved building or enclosed area so long as they are on the same site wherein the business displays the bulk of its goods for sale. Outside promotional displays are allowed during business hours only.~~
- ~~(6) No fascia of a building or canopy may be internally illuminated.~~
- ~~(7) No signs may be placed on a building wall that parallels a residential zone. No freestanding advertising signs may be placed within thirty (30) feet of a property line that adjoins a residential zone or within ten (10) feet of a property line that parallels a residential zone.~~
- ~~(8) No outdoor waste storage on the commercial or industrial property shall be located within thirty (30) feet of a property line that adjoins a residential zone or within ten (10) feet of a property line that parallels a residential zone. This requirement shall not apply where the property is separated from a residential zone or residential use by an alley or street. All on-site solid waste storage shall be located within an area enclosed with a solid, masonry wall that is architecturally coordinated in color and design with the building.~~
- ~~(9) No outdoor announcement system or music system, whether permanent or temporary, is allowed.~~
- ~~(10) Existing developments that do not conform to one or more of these development standards, may continue unless the site is re-developed for a new use, a new building is added to the existing development, or the floor area of the existing structures is increased by more than~~

~~ten (10) percent of the gross floor area. At the time of re-development, change in use or expansion, the property will conform to these standards.~~

Sec. 27-613. - Supplemental special review standards.

- (a) *Eating and drinking places.* The following exemptions from the special Review requirements, as regulated by section 27-306, shall apply to those establishments where alcoholic beverages are served for on-premise consumption, which have previously been approved pursuant to a special review by the ~~city council or~~ board of county commissioners:
- (1) Such an establishment shall be allowed to remodel, expand or relocate within the same structure without an additional special review, as regulated by section 27-306 provided that:
 - a. The gross floor area of the remodeled, expanded or relocated establishment is not over ten (10) percent greater than the gross floor area originally occupied by the establishment;
 - b. The number of potential occupants is not increased by more than ten (10) percent, than the number that is currently allowed;
 - c. The number of new parking stalls is not more than ten (10) percent greater than the original number of spaces; and
 - d. All other requirements of this resolution/~~ordinance~~ and/or this Code are met.
 - (2) Such an establishment in which additions and/or remodels include an outdoor patio lounge shall be required to obtain special review approval, as regulated by section 27-306 and as outlined in sections ~~27-1503 and~~ 27-1509.
- (b) *Churches.* Churches and other places of worship shall be reviewed as a special review use in all residential zones pursuant to ~~BMCC~~ section 27-305. The following exemptions from the special review requirements shall only apply to those churches and other places of worship which have previously been approved pursuant to a special review by the ~~city council or~~ board of county commissioners or which are legal nonconforming uses:
- (1) Such a church or place of worship shall be allowed to remodel or expand without an additional special review provided that:
 - a. The number of potential occupants is not increased by more than ten (10) percent, than the number that is currently allowed;
 - b. The gross floor area of the facility after such remodeling or expansion is not over ten (10) percent greater than the gross floor area originally occupied by the facility;
 - c. The number of new parking stalls is not more than ten (10) percent greater than the original number of spaces; and
 - d. All other requirements of this resolution/~~ordinance~~ and/or the ~~Billings, Montana City Code~~ are met.
 - (2) If, at the time the original or subsequent Special Review was conducted and approved, the applicant submitted a master plan showing: (a) future additions to the structure(s); (b) future structure(s); and/or (c) future parking area(s), those future improvements may be constructed without additional Special Review provided that these future improvements were considered in the Special Review approval and all other requirements of this resolution/~~ordinance~~ and/or the ~~Billings, Montana City Code~~ are met. Minor modifications and expansions to the future improvements identified on the master plan may also be constructed without additional Special Review provided that such modifications and/or expansions to the master plan meet the provisions of above subsection (1).
- (c) *Other special review uses.* Uses not listed in above subsections (a) or (b), which have been approved pursuant to a special review by the ~~city council or~~ board of county commissioners, may be allowed to expand or remodel without an additional special review, provided that the expansion or remodeling meets all of the following criteria:

- (1) The gross floor area of the remodeled or expanded establishment is not over ten (10) percent greater than the gross floor area originally occupied by the establishment;
- (2) The number of potential occupants is not increased by more than ten (10) percent, than the number that is currently allowed;
- (3) The number of new parking stalls is not more than ten (10) percent greater than the original number of spaces; and
- (4) All other requirements of this resolution/~~ordinance and/or the Billings, Montana City Code~~ are met.

Sec. 27-614. - Temporary uses and structures.

- (a) *Definitions.* For the purposes of this section, the definitions found in section 27-201 for both temporary uses and temporary structures shall be used in the regulation of such uses and structures. In addition, all uses contained in temporary structures shall be considered temporary uses of property and therefore must comply with the provisions of this section. ~~All temporary uses and structures shall also comply with the adopted fire code.~~

~~This section shall not apply to sidewalk vendors governed by article 7-1200 of the City Code.~~

- (b) *Temporary uses in nonresidential zoning districts.*

- (1) *Group 1 temporary uses.* This group shall be defined as temporary uses of property continuing for less than seventy-two (72) hours. Group 1 uses do not require a temporary use/structure permit from planning and community development. Uses in this group shall comply with the following:

- a. Such use shall be an allowed use in the underlying zoning district;
- b. Any temporary structure must be setback five (5) feet behind all property lines;
- c. No part of the temporary use or temporary structure shall block any defined clear vision area (section 27-615) for driving aisles, drive approaches from streets, or at the intersection of streets or alleys;
- d. Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed one-hundred (100) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of any freestanding sign is eight (8) feet from finished grade. Paper or cardboard signs are prohibited. ~~Banner signs are exempt from the limitations found in the City Sign Code [subsection 27-700(b)(1)b.].~~
- e. All signage and temporary structures must be removed at the time the temporary use has ceased on the property.

- (2) *Group 2 temporary uses.* This group shall be defined as temporary uses of property continuing for longer than seventy-two (72) hours but less than sixty-one (61) days and are required to obtain a temporary use/structure permit from the planning and community services department.

- a. The following temporary uses may be allowed in this temporary use group:
 1. Carnival, circus, seasonal sales or other uses as allowed in the district regulations in section 27-306.
- b. Supplemental standards. Uses in this group shall comply with the following:
 1. Such use shall be an allowed use in the underlying zoning district;
 2. Any temporary structure must be setback five (5) feet behind all property lines;
 3. No part of the temporary use or temporary structure shall block any defined clear vision area (section 27-615) for driving aisles, drive approaches from streets, or at the intersection of streets or alleys;

4. Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed one hundred (100) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of any freestanding sign is eight (8) feet from finished grade. Paper or cardboard signs are prohibited. ~~Banner signs are exempt from the limitations found in the City Sign Code {subsection 27-700(b)(1)b.}~~
 5. All signage and temporary structures must be removed at the time the temporary use has ceased on the property.
 6. New access drives to public right-of-ways must be approved by the ~~city engineering division or~~ county public works department as required.
 - ~~7. A business license for temporary uses located within the city limits must be obtained if required by Billings Municipal City Code (BMCC) chapter 13-400 (finance and revenue).~~
- (3) *Group 3 temporary uses.* This group shall be defined as temporary uses of property continuing for longer than sixty-one (61) days but less than one (1) year and are required to obtain a temporary use permit from the planning and community services department.
- a. The following temporary uses may be allowed in this temporary use group, but must be located in a district that allows the use, as specified in the district regulations in sections 27-305 and 27-306:
 1. Greenhouses or other similar seasonal-oriented uses, as determined by the zoning coordinator;
 2. Portable classrooms;
 3. Portable offices; or
 4. Other uses, such as carry-out food and/or beverage service.
 - b. Location restrictions.
 1. Any group 3 temporary use/structure existing upon adoption of this chapter, which does not comply, depending upon its location, with the applicable ~~city or~~ county site development regulations, shall comply with such standards within one (1) year from the date of the enactment of this section or any amendment thereto;
 2. Any new or relocated temporary use must be located on a site which complies, depending upon its location, with the applicable ~~city or~~ county site development regulations, including landscaping, surfacing and number of required off-street parking spaces;
 3. The structure shall be a factory-built structure and shall not have an axle(s). Temporary structures which do not comply with one or both of these requirement(s) and which exist on the date of adoption of these regulations, shall be deemed legal nonconforming structures and may continue to be used as a temporary structure, provided the temporary use and structure complies with all other requirements of this section; and
 4. Temporary uses as listed in subsection (3)a.4. shall also comply with the following criteria:
 - a. Maximum size of the structure shall be ten (10) feet by twelve (12) feet or one hundred twenty (120) square feet;
 - b. Site circulation shall be approved by the city traffic engineer or county public works director, along with the location of any drive-in window. This group of temporary uses shall be exempt from any special review requirements for drive-in service;
 - c. The temporary use must provide the required number of paved off-street parking spaces. In addition, the temporary use shall not utilize any parking spaces that

would make the principal use deficient in the required number of off-street parking spaces;

- d. Utilities to serve the temporary use shall be located underground or suspended overhead, in compliance with all applicable codes; and
- e. All structures are subject to local, county and state requirements and must obtain all relevant licenses before a temporary use/structure permit is issued.

c. Supplemental standards.

1. When submitting for a temporary use/structure permit, a group 3 use shall provide the following:
 - a. Existing site plan, including parking stalls and buildings;
 - b. Proposed site plan, including location of temporary use and its relationship to existing site circulation and off-street parking spaces and driving aisles, including existing and proposed surfacing;
 - c. Location of drive-in service, if applicable;
 - d. Setbacks from property lines and arterial streets;
 - e. Size of temporary structure; and
 - f. Proposed use of the temporary structure.
2. Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed one-hundred (100) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of a freestanding sign is eight (8) feet from finished grade. Banner signs, paper or cardboard signs are prohibited.
3. The temporary use must provide sufficient space to accommodate the structure and paved off-street parking for customer and use-related vehicles;
4. Clear vision standards set forth in section 27-615 shall be followed;
5. Access to any public right-of-way must be approved by the ~~city engineering division or~~ county public works department;
6. It shall be the responsibility of the owner of the temporary structure to ensure that the structure is secured to withstand an eighty (80) miles per hour (m.p.h.) wind load and to meet all applicable Americans with Disabilities Act (A.D.A.) and accessibility standards;
7. ~~All group 3 temporary structures, regardless of size, which contain electrical wiring, and are placed on property within the city limits, shall have such electrical wiring permitted, inspected and approved by the city building division.~~ All temporary structures that exceed one hundred twenty (120) square feet, except greenhouses, shall have the structure permitted, inspected and approved by the ~~city building division~~ State of Montana or labeled as a factory-built structure by the State Building Codes Bureau prior to issuance of a temporary use/structure permit. A temporary use/structure permit shall be obtained by the owner and a business license, if required, shall be obtained by the operator. Such temporary use/structure permit shall be valid for a period of not more than one (1) year. An annual renewal may be given by the zoning coordinator, provided that the use complies with the above requirements. However, permits for portable offices or classrooms may be renewed only one time per location.

- (c) *Temporary uses in residential or agricultural zoning districts.* In any residential district, the temporary use of land for uses listed below may be allowed for a period not to exceed sixty-one (61) days and are required to obtain a temporary use permit from the planning and community services department.

- (1) *Seasonal sales.* The sales of seasonal items including but not limited to holiday decorations in residential zoning districts shall be allowed when all of the following restrictions are met:
 - a. The sale must be conducted on a church, school or other tax exempt premises which provides sufficient space to accommodate the seasonal sales and off-street parking for customer and other sale related vehicles;
 - b. Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed thirty-two (32) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of any freestanding sign is eight (8) feet from finished grade. Banner signs, paper or cardboard signs are prohibited.
 - c. Clear vision standards set forth in section 27-615 shall be followed; and
 - d. All signage and temporary structures must be removed at the time the temporary use has ceased on the property.
- (2) *Roadside stands.* The sale of flowers or produce at temporary roadside stands shall be allowed when all of the following restrictions are met:
 - a. Only items which are produced on the premises may be sold on the premises;
 - b. Any structure used must be portable and removed after the temporary use/structure has ceased operation. However, structures which are located in the agricultural-open space (A-1) zoning district may be used even if they are permanent;
 - c. Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed thirty-two (32) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of any freestanding sign is eight (8) feet from finished grade. Banner signs, paper or cardboard signs are prohibited.
 - d. The use must provide sufficient space to accommodate the stand and off-street parking for customer and other sale related vehicles;
 - e. No structure, either temporary or permanent, nor any parking area shall be located within any public right-of-way and shall meet the clear vision standards set forth in section 27-615;
 - f. New access to any public right-of-way must be approved by the ~~city engineering division or~~ county public works department; and
 - g. All signage and temporary structures must be removed at the time the temporary use has ceased on the property.
- (d) *Fireworks stands.* The erection of a temporary fireworks stand may be permitted if it meets the following restrictions:
 - (1) The stand is located outside the limits of the city and is situated in one of the following zoning districts:
 - a. Public (P) zone;
 - b. Community commercial (CC) zone;
 - c. Highway commercial (HC) zone;
 - d. Controlled industrial (CI) zone;
 - e. Heavy industrial (HI) zone; or
 - f. Agricultural-open space (A-1) zone.
 - (2) No fireworks stand shall be allowed to operate within five hundred (500) feet of any other structure. Nor shall any fireworks stand be allowed to operate within one thousand five hundred

(1,500) feet of structures which have any flammable or combustible liquid handling, distribution or sales (including gas pumps);

- (3) All fireworks stands shall display warning signs in red letters on white background with letters not less than three (3) inches in height and one-half (½) inch in stroke. Such signs shall state:
 - a. Danger - Explosives
 - b. No smoking
 - c. No discharge of fireworks within five hundred (500) feet
 - d. No parking of flammable or combustible liquid transportation vehicles within five hundred (500) feet
 - (4) There must be a minimum of fifty (50) feet clear cut radius measured from the corner of each exterior wall. Vegetation within this radius shall be a maximum of two (2) inches in height and shall be raked clean of any dead vegetation. Any trees within this radius will be subject to review and approval by the county fire marshal;
 - (5) Each fireworks stand shall have a minimum of two (2) pressurized water extinguishers (class 2A or approved equivalent) on premises at all times;
 - (6) Location of each stand shall also be approved by the county fire marshal;
 - (7) Each fireworks stand shall be setback a minimum of fifty (50) feet from any public right-of-way;
 - (8) All fireworks stands shall receive fire protection from a fire protection service licensed or registered in the state;
 - (9) An application for a permit must be submitted a minimum of fifteen (15) working days prior to the fireworks season, as defined by M.C.A. 50-37-106. The sale of fireworks shall only be allowed within this time period. However, the fireworks stand, without any sales occurring, may be allowed to be erected between June 17 through July 12;
 - (10) Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed one hundred (100) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of any freestanding sign is eight (8) feet from finished grade. Banner signs, paper or cardboard signs are prohibited. All signage and temporary structures must be removed at the time the temporary use has ceased on the property.
 - (11) The fireworks stand must provide sufficient space to accommodate the stand and off-street parking for customer and other sale-related vehicles;
 - (12) An "Application For Sale of Fireworks" must be obtained and signed by the planning department, county fire marshal, Yellowstone county treasurer and the applicant. In addition, the applicant must obtain "Proof of Fire Protection";
 - (13) No structure, either temporary or permanent, nor any parking area shall be located within any public right-of-way; and
 - (14) Access to any public right-of-way must be approved by the county public works office.
- (e) *Temporary uses and structures.*
- (1) *Construction equipment, sheds and materials.* The temporary staging and storage of equipment and materials and use of buildings or modular structures for offices or equipment sheds during construction projects may be permitted in any zoning district. A temporary use/structure permit is not required if the equipment, materials and structures are part of an approved construction project. In addition, all equipment, materials and structures shall meet the following criteria:
 - a. Equipment, materials and structures include any items procured by a contractor that are necessary to complete the approved construction project including, but not limited to:

1. Heavy equipment, pipe, fittings, manholes, and the appurtenances;
 2. Gravel, sand, soil, concrete mix, forms, lumber and similar materials;
 3. Traffic control devices and stacked pallets of materials; and
 4. Modular offices and equipment sheds.
- b. Staging and storage of equipment and materials shall be conducted in a safe, neat and orderly manner at all times;
 - c. Any such equipment, materials and structures shall be removed upon completion of the construction project; and
 - d. No such structure shall be used for living or sleeping purposes.
- (2) *Other temporary structures.* Temporary structures not used for construction or equipment sheds may be allowed when the following criteria are met:
- a. For group 3 uses, the structure shall meet the applicable setbacks for the zone in which it is located, including arterial setbacks as found in section 27-602;
 - b. The structure shall meet the clear vision standards set forth in section 27-615;
 - c. No such structure shall be used for living or sleeping purposes; and
 - d. The use of the structure shall comply with subsections 27-614(b) and 27-614(c), whichever is applicable.
 - e. A temporary use/structure permit shall be obtained for each location by the owner for group 2 and group 3 uses as defined in subsection 27-614(b).
 - f. A temporary use/structure permit shall be obtained for each location by the owner for seasonal sales and roadside stands in residential and noncommercial zoning districts as defined in subsection 27-614(c).
- (3) *Time limit established.* The zoning coordinator shall establish the time period that a building or modular structure can be used on a temporary basis. This time period shall coincide with the temporary use/structure permit time period established under above subsection (b) or (c), whichever is applicable. The structure shall be removed when the temporary use is discontinued or the permit has expired. An extension for the renewal of the temporary structure permit only, may be granted by the zoning coordinator, if it is found that unusual and/or extraordinary circumstances exist.
- (f) *Temporary use/structure permit required.* Before any group 2 or group 3 temporary use or structure is established, the property owner shall obtain a temporary use/structure permit for each location from the zoning coordinator or his/her designee. ~~For group 3 temporary uses, the temporary use permit holder shall post a one thousand five hundred (\$1,500.00) bond, money order or cashiers check for each location with the planning and community services department to ensure timely removal of the use and/or structure.~~ Before any seasonal sale or roadside stand is established in a residential or noncommercial zoning district, the property owner shall obtain a temporary use/structure permit for each location from the zoning coordinator or his/her designee.

Sec. 27-615. - Visibility at intersections.

- (a) On corner lots at the intersection of all streets, except those intersections which are controlled by stop signs, yield signs or traffic signals, no fence, hedge, wall, shrub, structure or vision impediment over thirty (30) inches in height above an established top-of-curb grade shall be located within a triangular area formed by the intersecting street centerlines and a straight line joining such intersecting lines at points measured back from the point where the centerlines or the extension of the centerlines intersect a distance as shown in Table 1 (See section 27-618, figures 3a, 3b, and 3c).

Table 1—Clear Vision Areas at Intersections

INTERSECTION TYPE	Clear Vision Area Required:	Reference Figure in Section 27-618
Minor Street Stop	Entering a Local Street—10' × 55' (along property lines)	Fig. 2a
	Entering Collector Street—10' × 75' (along property lines)	
	Entering Arterial Street—10' × 95' (along property lines)	
All-Way Stop	20' × 20' along property lines	Fig. 2b
Yield	25' × 60' along property lines	Fig. 2c
Traffic Signal	Same as minor street stop looking toward approaching traffic in nearest travel lanes Same as all-way stop looking opposite direction	Fig. 2d
<i>Open (uncontrolled)</i>		
4-legged	110' × 110' along street centerline	Fig. 3a
2-legged (right angle curve with street centerline radius of 100 feet or less)	80' × 80' along street centerlines (extended)	Fig. 3b
"T" intersection	25' along stem × 60' along top of "T" measured along property lines (see Note 1)	Fig 3c

Notes and exceptions for Table 1:

- (1) Only applies to "permanent" T-intersections where there is no chance of the street extending through. Intersections where the property along the top of the "T" is not subdivided or is split into lots significantly larger than the majority of lots in the subdivision, or where there is a private street extending into the adjacent property opposite the stem of the "T" will be treated as a four-legged intersection.
- (2) In cases where there is a curve coming into the intersection or the street alignment near the intersection deviates by more than five (5) degrees from tangent may be subject to increased (additional) restrictions based on technical review by the ~~city traffic engineer~~ county public works director.
- (3) Along arterial and collector streets where the "major" street curbline is more than twenty (20) feet from the property line, the clear vision area may be reduced to that provided for a stop controlled local street intersection.

- (4) For minor street stop (case 2a) entering a street with a posted speed limit greater than forty-five (45) mph, the required clear vision area will be based on an engineering review subject to approval by the ~~city traffic engineer~~ county public works director.
- (5) Along private streets where there is no property line, controlled intersection areas shall be measured as though there is a property line twelve (12) feet behind the curblines of the private street.
- (b) On corner lots at intersections where one (1) or more approaches are controlled by a stop sign, yield sign, or a traffic signal, no fence, hedge, wall, shrub, structure or vision impediment over thirty (30) inches in height above an established top-of-curb grade shall be located within a triangular area formed by the intersecting lines measured along the property lines as provided in Table 1 (See section 27-618, figures 2a, 2b, 2c, and 2d).
- (c) On the street side of all lots where an alley or private driveway enters the street right-of-way, a clear vision area shall be maintained. Such area shall be measured as defined in Table 2. No fence, hedge, wall, shrub or structure over thirty (30) in height above an established top-of-curb grade shall be erected or maintained within the above defined this clear vision area (See section 27-618, figure 1a). If no sidewalk exists, all measurements shall be made from and along the property line.

Table 2—Clear Vision Area at Driveways and Alley Approaches

Clear Vision Area For:	Clear Vision Area Required
Vehicular Traffic	<i>Entering local street</i> —Triangle measured along centerline of the driveway or alley fourteen (14) feet from back of curb by one hundred seventy-five (175) feet along the curb line or the extension of the curb line on the cross street
	<i>Entering collector street</i> —Triangle measured along centerline of the driveway or alley fourteen (14) feet from back of curb by two hundred fifty (250) feet along the curb line or the extension of the curb line on the cross street
	<i>Entering arterial street</i> —Triangle measured along centerline of the driveway or alley fourteen (14) feet from back of curb by three hundred fifteen (315) feet along the curb line or the extension of the curb line on the cross street (See Note 1)
Pedestrian Traffic	Triangle ten (10) feet from back of walk into property measured along the edge of the drive, and twenty (20) feet along the back of sidewalk measured from the edge of the driveway

Notes for Table 2:

- (1) For commercial driveways the point of reference for "centerline" shall be the actual marked centerline separating inbound and outbound traffic when there are two (2) or more exit lanes.
- (2) For driveways entering a street with a posted speed limit greater than forty-five (45) mph, the required clear vision area will be based on an engineering review subject to approval by the county public works director ~~city traffic engineer~~.
- ~~(d) Central business district. On corner lots at intersections within the central business district no fence, hedge, wall, shrub, structure or vision impediment over thirty (30) inches in height above an established top-of-curb grade shall be located within a triangular area formed by the intersecting lines measured along the street centerline and the back of curblines as provided in Table 3 (See section 27-618, figure 2e). In cases where the clear vision area at intersections extends two (2) feet or less on to private property, the city engineer is authorized to review and may waive the clear vision area.~~

On the street side of all lots within the central business district where an alley or driveway enters the street right-of-way, a vehicular and pedestrian clear vision area shall be maintained. Such areas shall be as defined in Table 4. No fence, hedge, wall, or shrub over thirty (30) in height above an established top-of-curb grade shall be erected or maintained within these clear vision areas (See section 27-618, figure 1b). The clear vision area for alleys and driveways shall not apply to buildings or pertinent parts thereof within the central business district.

Table 3—CBD Clear Vision Areas at Intersections

INTERSECTION TYPE	Clear Vision Area Required:	Reference Figure in Section 27- 618
Stop Sign or Traffic Signal	<p>Entering 25 mph Street—Triangle 14 feet along centerline on the stop controlled approach measured from back of curb on the intersecting street by 205 feet along the curblines or the extension of the curb on the cross street</p> <p>Entering 35 mph Street—Triangle 14 feet along centerline on the stop controlled approach measured from back of curb on the intersecting street by 290 feet along the curblines or the extension of the curb on the cross street</p> <p>Entering street with speed limit above 35 mph—the required clear vision area will be based on an engineering review subject to approval by the city traffic engineer</p>	Fig. 2e
Yield	The required clear vision area will be based on a site specific engineering review subject to approval by the city traffic engineer	None
Open (uncontrolled)	The required clear vision area will be based on a site specific engineering review subject to approval by the city traffic engineer	None

Table 4—CBD Clear Vision Areas at Alleys and Driveways

Clear Vision area for:	Clear Vision Area Required: The clear vision area for alleys and driveways shall not apply to buildings or pertinent parts thereof within the central business district.	Reference Figure in Section 27-618
Vehicular traffic	<p>Entering 25 mph Street—Triangle measured along centerline of the driveway or alley 14 feet from back of curb by 175 feet along the curblines or the extension of the curblines on the cross street</p> <p>Entering 35 mph Street—Triangle measured along centerline of the driveway or alley 14 feet from back of curb by 250 feet along the curblines or the extension of the curblines on the cross street</p> <p>Entering street with speed limit above 35 mph—the required clear vision area will be based on an engineering review subject to approval by the city traffic engineer</p>	Fig. 1b
Pedestrian Traffic	The clear vision area is defined by a triangle 10 feet along edge of alley or driveway and 20 feet along back of sidewalk	Fig. 1b

- (e) Approved advertising signs, and public use controls and systems may be permitted in any of the above defined clear vision areas. In addition, trees with a maximum trunk diameter of one (1) foot measured four (4) feet above the ground line, and trimmed of all branches between the ground line and eight (8) feet in height, may be permitted in the above defined clear vision areas.
- ~~(f) Penalties. A violation of this section is designated as a municipal infraction, and punishable by civil penalties as specified in section 18-1304.~~

Sec. 27-616. - Watercourse setbacks.

- (a) The following watercourse standards have been established to help minimize or prevent any destruction of improvements when flood events occur in areas which do not have a delineated floodplain. This section shall only apply to areas ~~which are outside the limits of the City of Billings and~~ which lie on a watercourse listed in below subsection (c).
- (b) Any newly constructed structure, addition to an existing structure or other similar improvements shall meet one of the following watercourse standards when located adjacent to a watercourse, as defined in ~~BMCC~~ section 27-201, which does not have a floodway/floodplain delineated by the Federal Emergency Management Agency (FEMA).
 - (1) The structure, addition or similar improvement shall be setback fifty (50) feet from the centerline of the watercourse; or
 - (2) The structure, addition or similar improvement shall have a finished floor level which is located two (2) feet in elevation, above the highest point on the adjacent watercourse bank (See ~~BMCC~~ section 27-618, Figure 4).

The Yellowstone County floodplain administrator shall make any required determinations regarding the location of the watercourse centerline or its bank elevation, whether by physical inspection and/or submittal of survey documents.

- (c) For the purposes of this section, the following creeks and drainages shall be classified as "watercourses" and shall conform to the restrictions in above subsection (B). These "watercourses" include: the South Fork of Alkali Creek, Basin Creek, Bitter Creek, Brockway Coulee, Dirt Creek, Five Mile Creek, Hogans Slough and the undelineated portions of Dry Creek and Unnamed Creek.

Sec. 27-617. - Reserved.

Sec. 27-618. - Illustrations.

FIGURE 1a. VISIBILITY AT ALLEY AND DRIVE APPROACHES

At the intersection of any alley or any driveway and a public street outside of the central business district, the illustrated clear vision area shall be maintained.

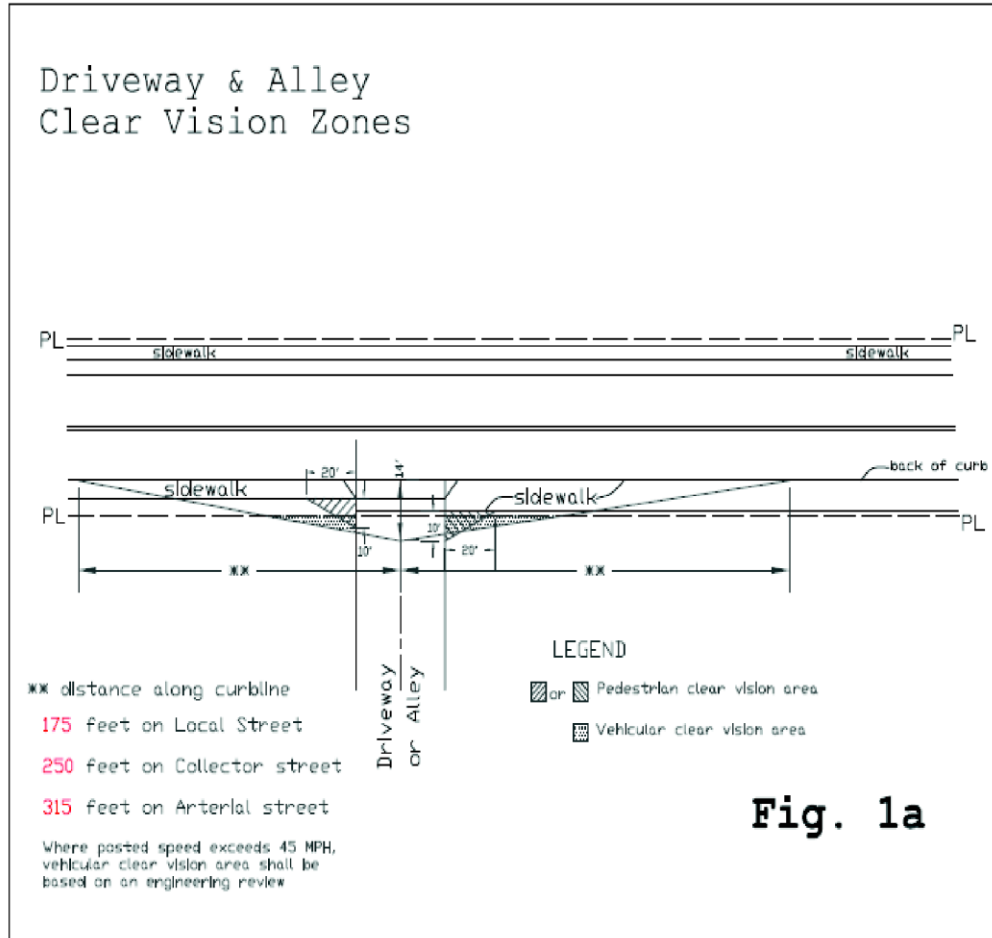


FIGURE 1b. VISIBILITY AT ALLEY AND DRIVE APPROACHES

At the intersection of any alley or any driveway and a public street within the central business district, the illustrated clear vision areas shall be maintained. The clear vision area for alleys and driveways shall not apply to buildings or pertinent parts thereof within the central business district.

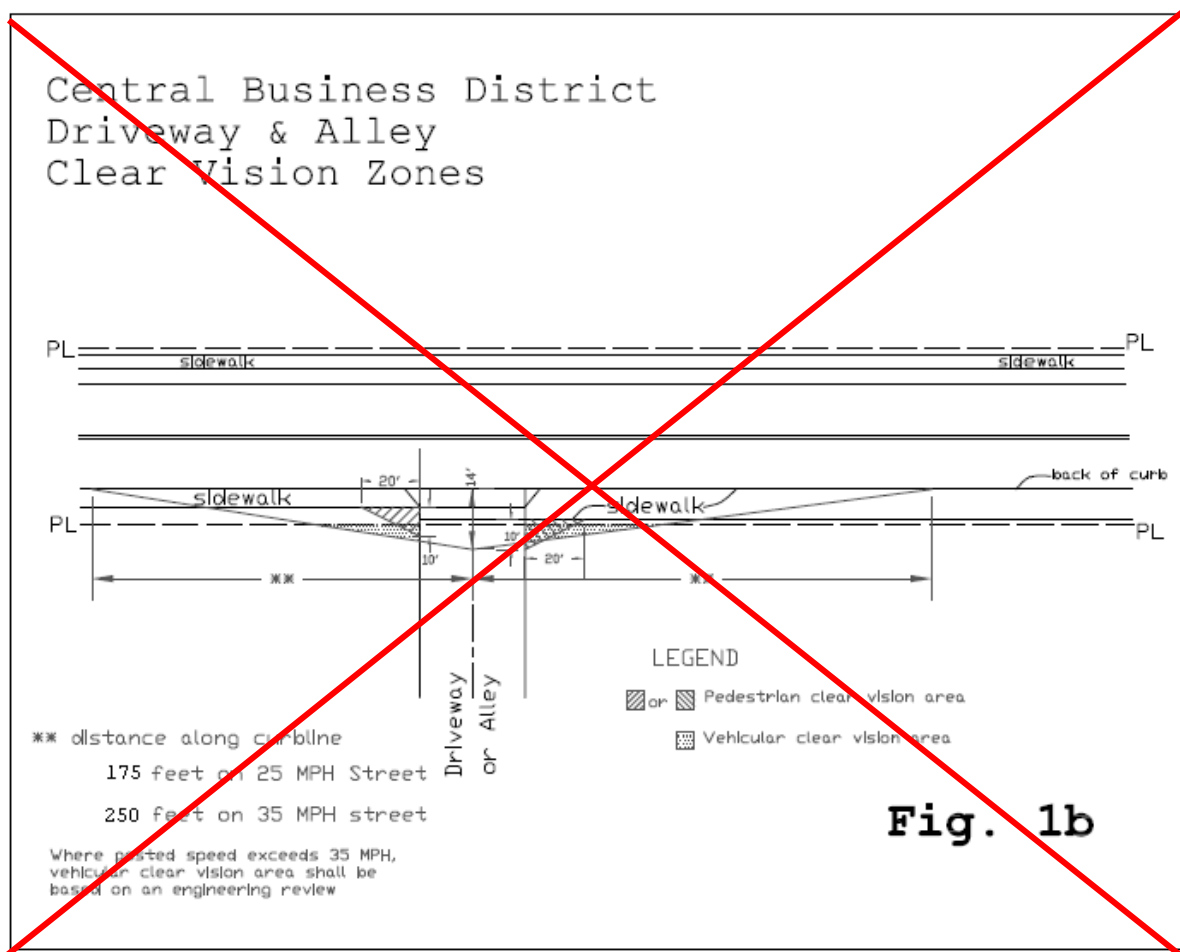


FIGURE 2a. VISIBILITY AT INTERSECTIONS: MINOR STREET STOP CONTROL

At any intersection where one (1) or more approaches is controlled by a stop sign the illustrated clear vision area shall be maintained.

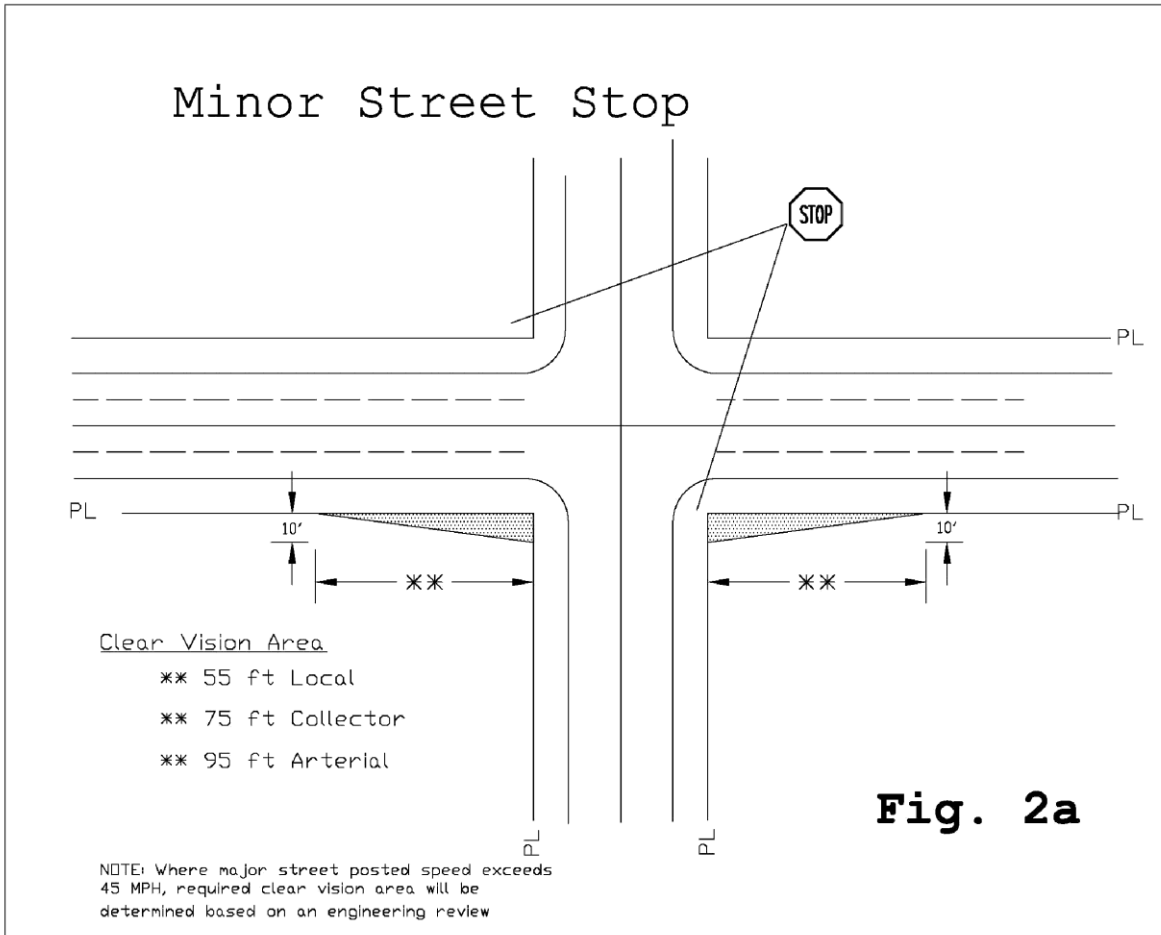


FIGURE 2b. VISIBILITY AT INTERSECTIONS: ALL-WAY STOP CONTROL

At any intersection where all approaches are controlled by stop signs the illustrated clear vision area shall be maintained.

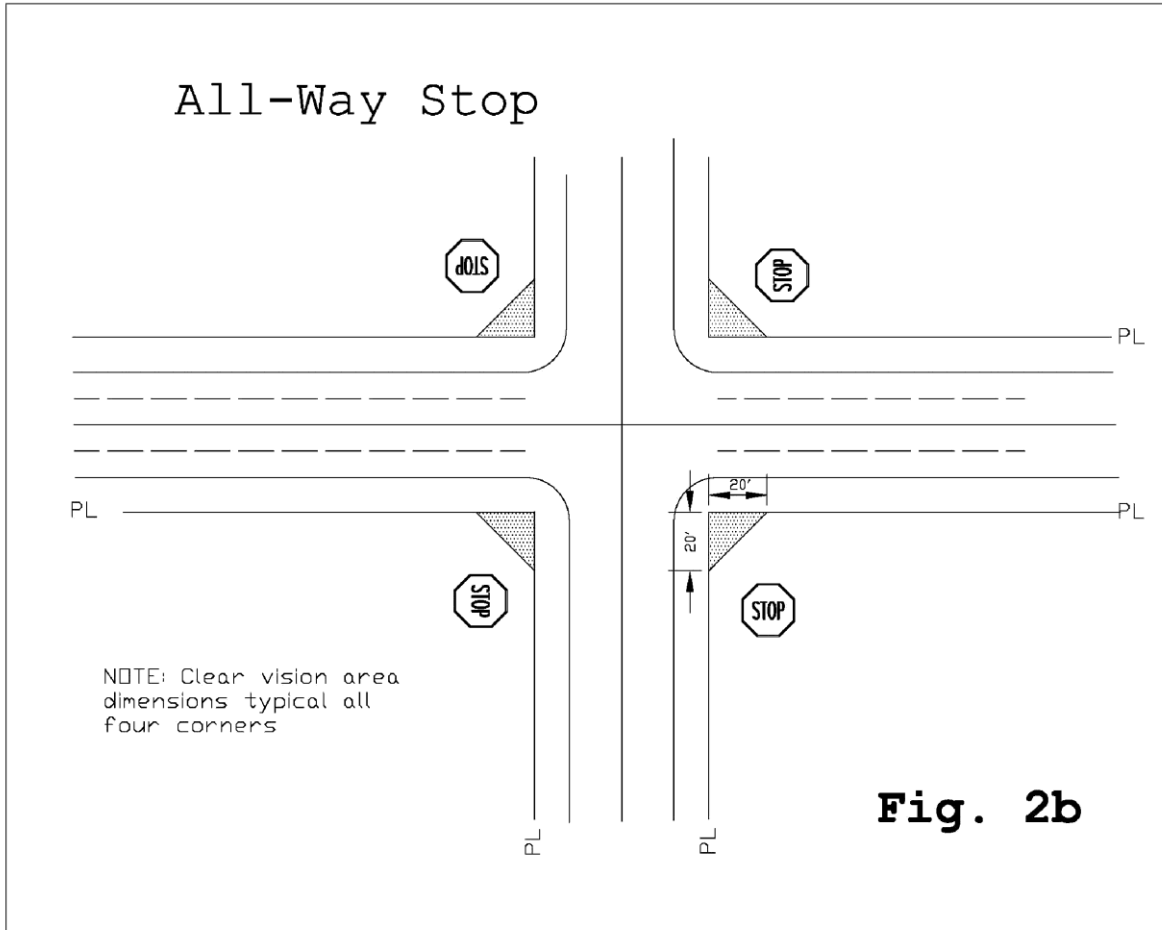


FIGURE 2c. VISIBILITY AT INTERSECTIONS: YIELD CONTROL

At any intersection where one (1) or more approaches is controlled by a yield sign the illustrated clear vision area shall be maintained.

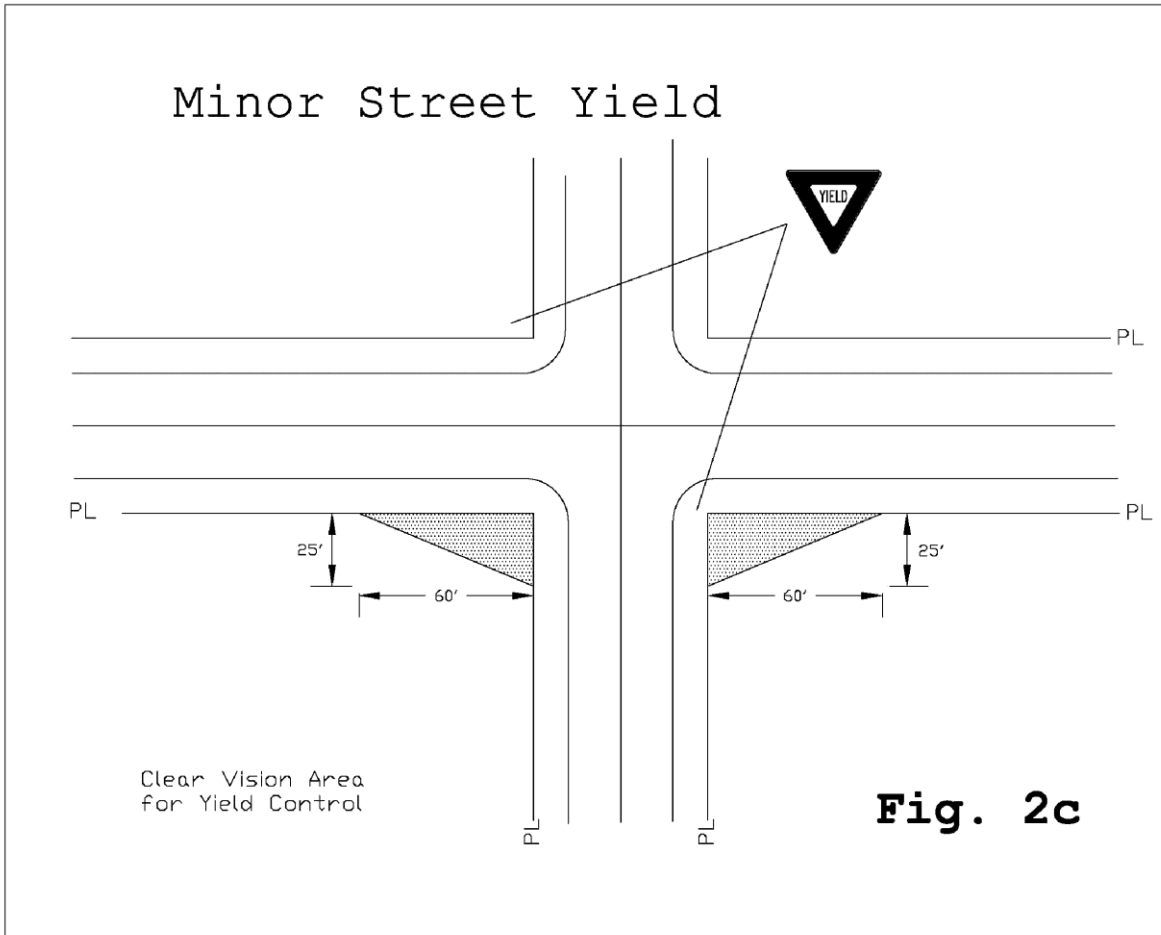
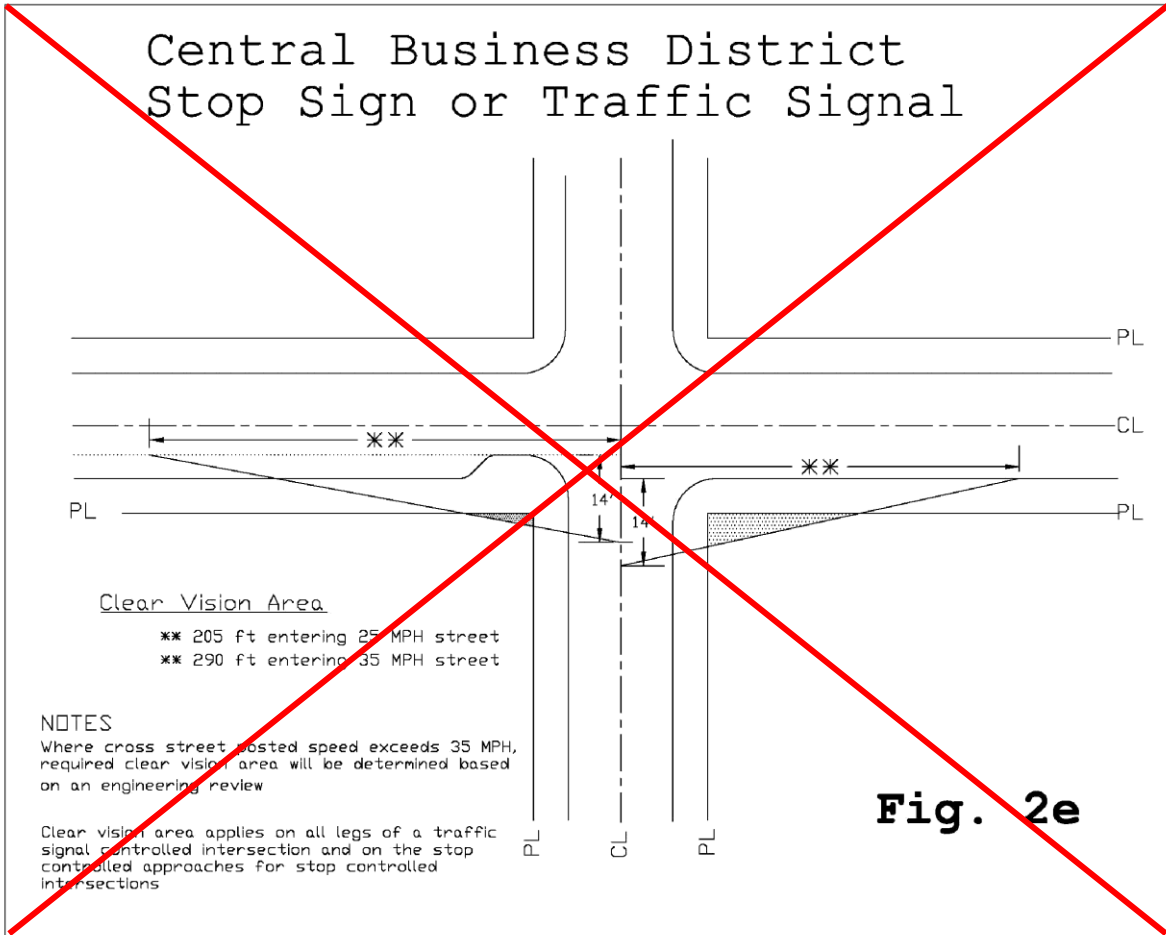


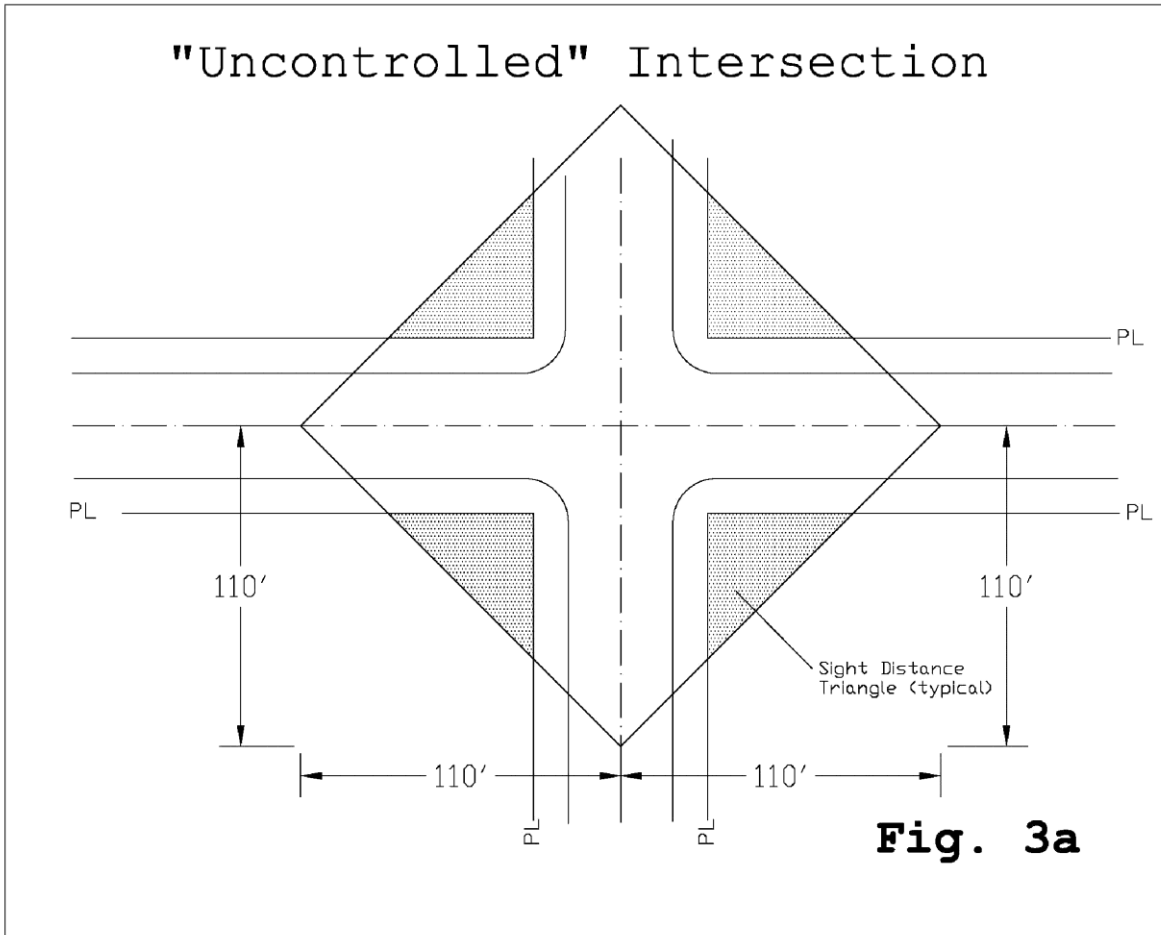
FIGURE 2e. VISIBILITY AT STOP SIGN AND TRAFFIC SIGNAL CONTROLLED INTERSECTIONS IN THE CENTRAL BUSINESS DISTRICT

At any intersection within the central business district where traffic is controlled by stop signs or traffic signals the illustrated clear vision area shall be maintained.



FIGURES 3a., 3b., and 3c. VISIBILITY AT INTERSECTIONS: UNCONTROLLED

At any intersection where none of the approaches are controlled by a stop sign, yield sign or traffic signal, the illustrated clear vision areas shall be maintained.



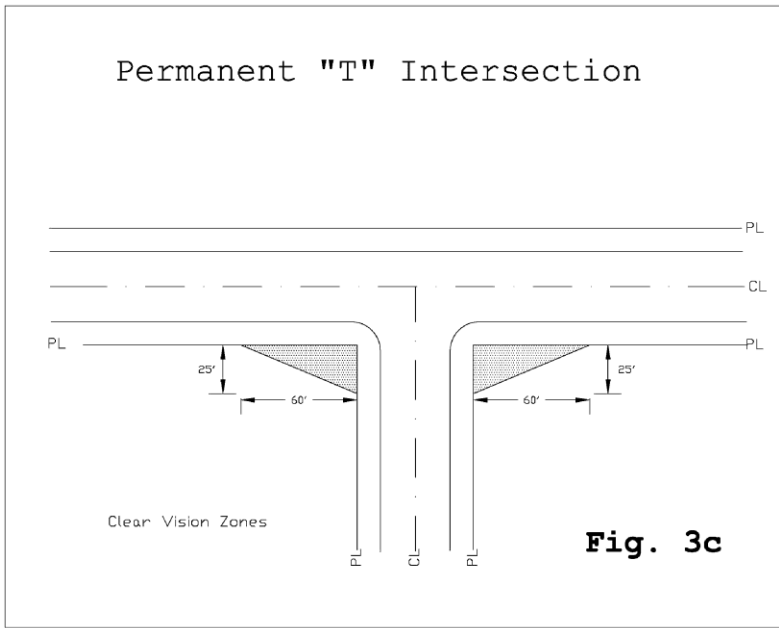
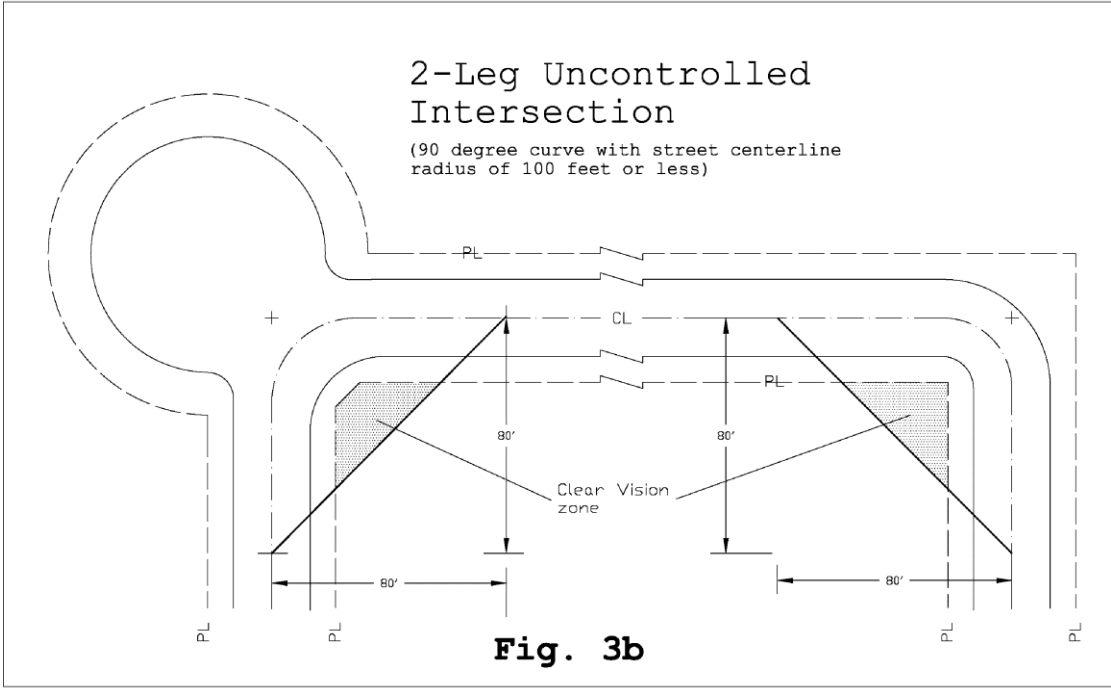


FIGURE 4. WATERCOURSE SETBACKS

Any new structure, addition to an existing structure or similar improvements, located adjacent to a watercourse not delineated with a floodway/floodplain by FEMA, shall either be setback 50' from the watercourse centerline or have a finished floor level which is 2' in elevation above the highest point of the adjacent watercourse bank (See also BMCC Section 27-616).

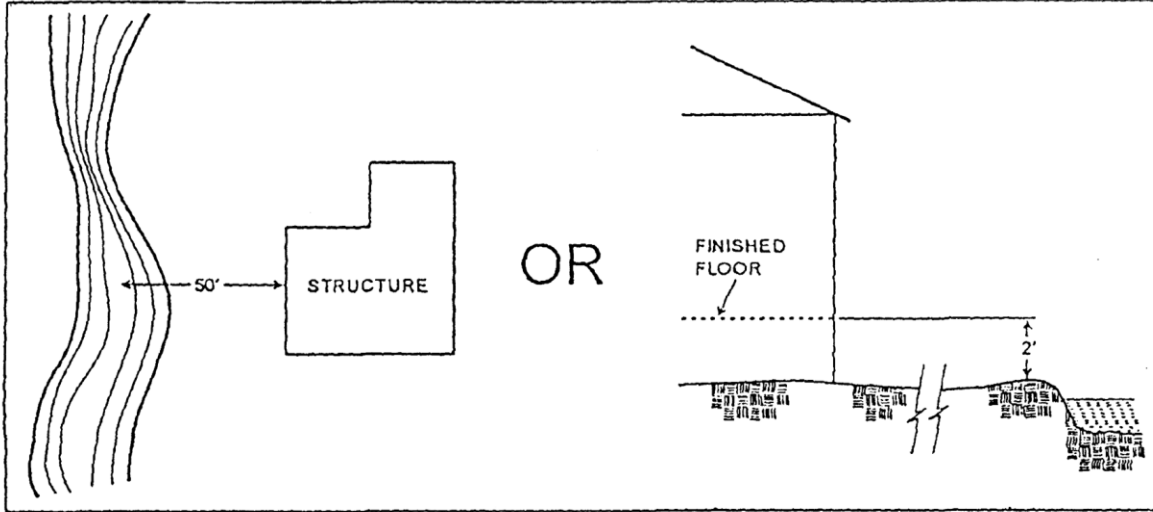
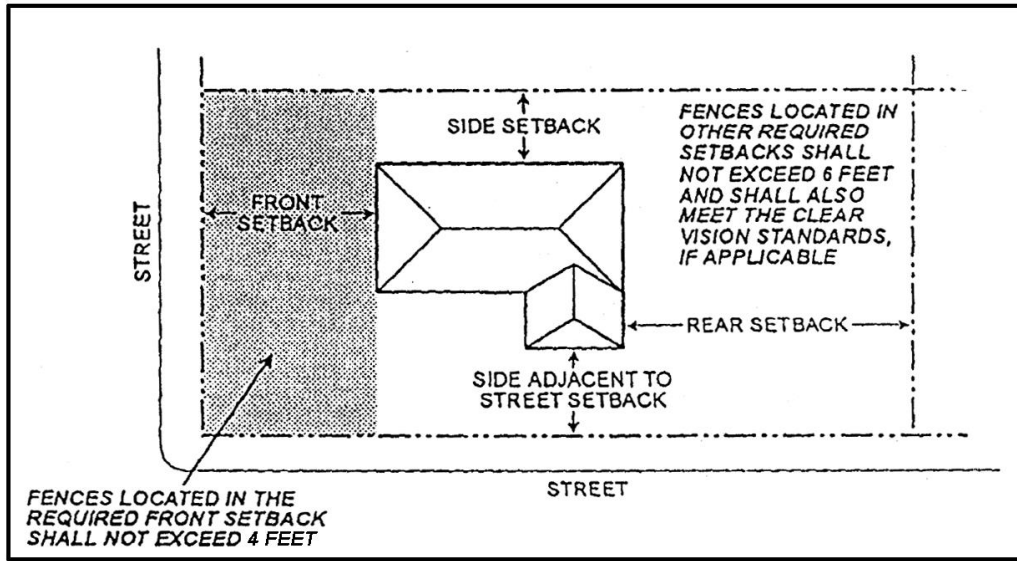


FIGURE 5. RESERVED

FIGURE 6. FENCES



Sec. 27-619. - Standards for amateur radio antenna support structures.

- (a) *Definitions.* For the purposes of this section, the terms used shall be defined as follows:
- (1) *Amateur radio antenna:* A ground-, building- or tower-mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, 49 CFR § 97 and as designated by the Federal Communications Commission (FCC).
 - (2) *Amateur radio antenna support structure:* Any structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing amateur radio antennae. The term includes the structure and any support thereto.
 - (3) *Antenna support structure height:* The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure including any attached antennae. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.
- (b) *General provisions.* All amateur radio towers shall comply with the following requirements:
- (1) Amateur radio antenna support structures and antennae shall be located only within the rear yard and shall not be placed within any required setback and shall be located so as to minimize their impact on adjacent residential properties and adjacent rights-of-way while maintaining acceptable signal quality.
 - (2) Amateur radio antenna support structures and antennae exceeding six (6) feet in height above grade (if ground-mounted) or above the roof or ridge of the building on which they are located (if building-mounted), shall require a building permit. With each building permit, the applicant shall submit evidence as is required to show that the device is adequately anchored, designed and/or constructed so as to safeguard the general public and/or adjacent property from damage in the event of failure of the device.
 - (3) It is recommended that amateur radio antenna support structures be designed, installed, and maintained so as to blend into the surrounding environment through the use of color and alternative designs, except in instances where the color is dictated by the Federal Aviation Administration (FAA).
 - (4) In accordance with the FCC's preemptive ruling PRB1, 101 FCC 2d 952 (1985), antenna support structures erected for the primary purpose of supporting amateur radio antennae may exceed the height limitations of the underlying zoning as indicated in section 27-305, **BMCC**.
 - (5) Attachments to amateur radio antenna support structures, such as guy wires, shall not cross any property line or any existing or proposed easement.
 - (6) No lighting shall be permitted on any amateur radio antenna support structures except as mandated by the FAA.
 - (7) No signage, other than required warning signs, or displays of any type shall be permitted on any amateur radio antenna support structure.
- (c) *Applicability.* All amateur radio antenna support structures and antennae located within the city and/or the Yellowstone County zoning jurisdiction whether upon private or public lands shall be subject to this section. This section shall apply to amateur radio antenna support structures and antennae upon state and federal lands to the extent of the city's and/or county's jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise. Only the following facilities shall be exempted from the application of this section.

Pre-existing amateur radio antenna support structures and pre-existing amateur radio antennae shall not be required to meet the requirements of this section, so long as said pre-existing antenna support structures and antennae have received all required approvals, permits and exceptions prior to adoption of this section.

Sec. 27-620. - Standards for wireless communication facilities.

- (a) *Purpose.* The purpose of this section is to establish regulations for the siting of antenna support structures and antennae on public and private property. The goals of this section are to:
- (1) Encourage the location of antenna support structures in non-residential areas and minimize the total number of antenna support structures throughout the community;
 - (2) Strongly encourage the joint use of new and existing antenna support structures;
 - (3) Require wireless communication facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal;
 - (4) Require wireless communication facilities to be configured in a way that minimizes the adverse visual impact of the towers and antennae; and
 - (5) Enhance the ability of the providers of wireless communication services to provide such services to the community, as quickly, effectively, and efficiently as possible.
- (b) *Definitions.*
- (1) *Abandoned antenna support structures:* Any antennae or antenna support structures that are not utilized for the provision of wireless communications services for a continuous period of six (6) months shall be considered abandoned.
 - (2) *Alternative antennae support structure:* An antenna support structure designed to shield, conceal or disguise the presence of antennae or towers and blend with the surrounding setting. Alternative structures may include, but are not limited to, unobtrusive architectural features on new or existing structures, utility poles, clock towers, flagpoles and church steeples. Examples of alternative antenna support structures are illustrated in subsection (o) of this section.
 - (3) *Antenna:* Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennae, such as panels, microwaves dishes, and satellite dishes, and omni-directional antennae, such as whip antennae but not including satellite earth stations.
 - (4) *Antenna support structure:* Any structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennae. Antenna support structures may include, but are not limited to, self-supporting lattice towers, guyed towers, or monopole towers. The term also includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative antenna support structures, and the like. The term includes the structure and any support thereto. Types of antenna support structures are illustrated in subsection (o) of this section. Land mobile radio and radio and television antenna support structures are regulated under section 27-621 of these regulations.
 - (5) *Antenna/antenna support structure height:* The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure including any attached antennae. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height. The height of roof-mounted antenna support structure height does not include the height of building on which they are mounted.
 - (6) *Wireless communication facility antenna or tower farm:* An antenna or tower farm is a tract of land that contains no more than three (3) antenna support structures within seven hundred fifty (750) linear feet of each other. No antenna support structures located in tower farms shall exceed two hundred fifty (250) feet in height. Legal tracts must be adjacent to each other to be included in this definition.
 - (7) *Co-location:* The use of a wireless communications facility by more than one wireless communications provider.
 - (8) *Commercial wireless communications services:* Licensed commercial wireless telecommunication services including cellular, personal communications services (PCS),

specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

- (9) *Equipment enclosure*: A structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies, and emergency generators.
- (10) *Wireless communication facility*: An unstaffed facility for the transmission and/or reception of radio frequency (RF), microwave or other signals for commercial communications purposes, typically consisting of an equipment enclosure, an antenna support structure and one or more antennae. Amateur radio, land mobile radio, and commercial radio and television facilities are excluded from this definition.
- (11) *FAA*: Federal Aviation Administration.
- (12) *FCC*: Federal Communications Commission.
- (c) *Applicability*. All wireless communication facilities located within the city and/or the Yellowstone County zoning jurisdiction whether upon private or public lands shall be subject to this section. This section shall apply to wireless communication facilities upon state and federal lands to the extent of the city's and/or county's jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise. Only the following facilities shall be exempted from the application of this section.
 - (1) Amateur radio stations and antenna support structures (See sections 27-305; 27-306 and 27-619, **BMCC**.)
 - (2) Antennae and antenna support structures for land mobile radio and radio and television (See sections 27-305, 27-306 and 27-621 **BMCC**).
 - (3) Pre-existing antenna support structures or antennae. Pre-existing antenna support structures and pre-existing antennae shall not be required to meet the requirements of this section, so long as said pre-existing antenna support structures have received all required approvals, permits and exceptions prior to adoption of this section. (See subsection (h) of this section.)
- (d) *Commercial antenna support structures and antennae located in residential zoning districts*.
 - (1) Antenna support structures and antennae shall be permitted as an allowed use in all residential zoning districts provided they meet all of the following criteria:
 - a. Alternative antenna support structures conforming to all applicable provisions of this Code and roof-mounted antennae that do not add more than twenty (20) feet to the total height of the building on which they are mounted shall be permitted as an allowed use only when located on school, government-owned utility, and other government sites. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in sections ~~27-1503 and~~ 27-1509 of these zoning regulations, or may be submitted to the board of adjustment for a hearing, whichever is the preference of the owner/agency. The board of adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with subsection ~~27-1505(c) or~~ 27-1510(c), **BMCC**. The board of adjustment shall forward comments and recommendations to the affected government agency for their consideration.
 - b. Antennae co-located on existing or approved alternative antenna support structures or existing or approved antenna support structures which have previously received all required approvals and permits shall be permitted as an allowed use.
 - (2) Antenna support structures and antennae shall be permitted in the Agricultural-Open Space (~~A-1~~A-1Q) zoning district provided the following conditions and all applicable setback, lot coverage, and building (commercial equipment enclosures) height requirements are met:
 - a. Antenna support structures conforming to all applicable provisions of this Code shall be permitted when:

1. Located on school, government-owned utility, and government sites and alternative antenna support structures or roof-mounted antenna are used. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in sections ~~27-1503 and~~ 27-1509 of these zoning regulations, or may be submitted to the board of adjustment for a hearing, whichever is the preference of the owner/agency. The board of adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with subsection ~~27-1505(e) or~~ 27-1510(c); ~~BMCC~~. The board of adjustment shall forward comments and recommendations to the affected government agency for their consideration.
 2. Antenna support structures fifty (50) feet or less in height.
 - b. Antenna support structures that are greater than fifty (50) feet in height shall be required to obtain special review approval.
 - c. Antennae co-located on existing or approved alternative antenna support structures or existing or approved antenna support structures which have previously received all required approvals and permits shall be permitted as an allowed use.
 - d. Wireless communication facility tower farms are permitted by special review.
- (e) *Commercial antenna support structures and antennae located in commercial zoning districts.*
- (1) Alternative antenna support structures shall be permitted as an allowed use in all commercial zoning districts.
 - (2) Antenna support structures shall be permitted as an allowed use in all commercial zoning districts when located on school, government-owned utility, and other government sites. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in sections ~~27-1503 and~~ 27-1509 of these zoning regulations, or may be submitted to the board of adjustment for a hearing, whichever is the preference of the owner/agency. The board of adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with subsection ~~27-1505(e) or~~ 27-1510(c); ~~BMCC~~. The board of adjustment shall forward comments and recommendations to the affected government agency for their consideration.
 - (3) Antennae co-located on existing alternative antenna support structures or existing antenna support structures which have previously received all required approvals and permits shall be permitted as an allowed use in all commercial zones.
 - (4) Antenna support structures and antennae located in Residential Professional (RP), Neighborhood Commercial (NC), and Entryway Mixed Use (EMU) that do not meet the requirements of subsections E 1, E 2, and E 3 shall be required to obtain special review approval. Wireless communication facility tower farms are not allowed in these zoning districts.
 - ~~(5) New antenna support structures erected in the medical corridor shall be required to follow the permit zoning approval procedures in section 27-901, BMCC. Antennae may be placed on existing antenna support structures and alternative antenna support structures that have previously received all required approvals and permits and meet the provisions and requirements of these regulations, without obtaining permit zoning approval.~~
 - (6) Antenna support structures and antennae located in Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI), ~~South 27th Street, Central Business District (CBD),~~ Entryway Light Commercial (ELC), Entryway General Commercial (EGC), Entryway Light Industrial (ELI) and Public (P) zoning districts shall be permitted as an allowed use provided that the towers meet the requirements subsections E 1, E 2, and E 3, or:
 - a. Roof-mounted antenna that do not add more than twenty (20) feet to the total height of the building on which it is mounted shall be permitted as an allowed use. See additional requirements for roof-mounted antenna in subsection (g)(10)b. of this section.

- b. Antenna support structures fifty (50) feet in height or less shall be permitted as an allowed use.
 - c. Antenna support structures that are greater than fifty (50) feet in height shall be required to obtain special review approval.
 - ~~d. Wireless communication facility tower farms are permitted with special review approval, except in the CBD and South 27th Street zoning districts.~~
- (7) All antenna support structures located in Heavy Industrial (HI) shall be permitted as an allowed use, including tower farms.
- (f) *Antenna support structures located in parks.* The presence of certain wireless communication facilities may conflict with the purpose of some city and county owned parks. Wireless communication facilities will be considered only following a recommendation by the city-county planning department; the city parks, recreation, and cemetery advisory board or county parks board, and approved by the ~~city council or county commissioners~~. Factors that will be considered include:
- (1) Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use;
 - (2) Commercial recreation areas and major playfields; and,
 - (3) Park maintenance facilities.
- (g) *General requirements.* The requirements set forth in this section shall govern the location and construction of all wireless communications facilities governed by this section.
- (1) *Building codes and safety standards.* To ensure the structural integrity of wireless communication facilities, the owner of a facility shall ensure that it is maintained in compliance with standards contained in applicable ~~local~~ state building codes and the applicable standards for such wireless communication facilities, as amended from time to time.
 - (2) *Regulatory compliance.* All wireless communication facilities must meet or exceed current standards and regulations of the FAA, the FCC, and other local, state or federal agencies with the authority to regulate facilities governed by this section. All wireless communication facilities must comply with all revised standards and regulations within the date established by the agency promulgating the standards or regulations.
 - (3) *Setbacks.*
 - a. Antenna support structures adjacent to residential uses or zoning. Antenna support structures must be set back, from all property lines, a distance equal to one-half (½) the height of the structure from any off-site residential structure or residentially zoned lot. Accessory structures must maintain a minimum of a 15-foot setback from any lot line adjacent to a residential structure or residentially zoned lot, or the required setback of the zoning district where the antenna support structure is located, whichever is greater.
 - b. Commercial and industrial zoning setbacks antenna support structures and accessory facilities must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.
 - (4) *Lot coverage and height.* Antenna support structures and accessory structures shall not exceed lot coverage requirements for the zoning district in which they are located. Accessory structures shall not exceed the height restrictions for the zoning district in which they are located.
 - (5) *Fencing and buffering.*
 - a. *Fencing.* A chain link or solid wood fence, or masonry wall at least six (6) feet in height (eight (8) feet if razor or barbed wire is to be used) shall be constructed and maintained around the perimeter of the antenna support structure site. Climb-proof shields can be substituted for a fence or wall around the structure. Solid fences, at least six (6) feet in height are required adjacent to residential uses and residentially zoned property.

- b. *Landscaping.* For all facilities the following will be required: a continuous evergreen hedge at least four (4) feet in height when planted, shall be planted and maintained around the perimeter of the antenna support structure outside of the required fencing and spaced close together to provide a continuous visual screen. Shrubs shall also be planted and maintained around the guy anchors for visual screening purposes.

A performance bond or letter of credit for one hundred fifty (150) percent of the landscaping and fencing materials and labor costs shall be posted with the planning department, prior to building permit approval, to ensure the placement of required landscaping and fencing in accordance with section 27-1110, BMCC.

- c. *Commercial landscaping.* Landscaping requirements shall not apply to antenna support structures located in the Heavy Industrial (HI) zoning district.

- ~~d. *Exceptions for city airport airfield area.* If federal safety and security standards within the city airport's airfield area prevent an antenna support structure from being fenced or landscaped, items (5)(a) and (5)(b) will not apply. Documentation of these standards must be submitted with the building permit or special review applications.~~

- (6) *Lighting.* Antenna support structures shall not be artificially lighted unless required by the FAA or other local, state, or federal agency. If the FAA requires safety lighting, the use of red beacons is preferred to flashing strobe lights. Security lighting on site may be mounted up to twenty (20) feet high on the tower, and shall be directed towards the ground to reduce light pollution, prevent off-site light spillage, and avoid illuminating the tower.

Cut-off security lighting must be used adjacent to residential uses or residentially zoned lots. When incorporated into the approved design of the facility, light fixtures used to illuminate sports fields, parking lots, or similar areas may be included in the facility.

- (7) *Signage.* Signage shall be limited to non-illuminated warning and equipment identification signs.

- (8) *Co-location.*

- a. Antenna support structures should be designed in all respects to accommodate both the applicant's antennae and antennae for at least two (2) additional comparable antennae if the antenna support structure is over one hundred (100) feet in height or for at least one (1) additional comparable antennae if the tower is between fifty (50) feet and one hundred (100) feet in height.
- b. All new antennae must co-locate on existing or approved antenna support structures or alternative antenna support structures unless it can be demonstrated co-location is not feasible as provided for in subsection (k)(7) of this section.

- (9) *Maintenance.*

- a. Equipment at a wireless communication facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.
- b. All property used for the siting of an antenna support structure or antenna shall be maintained, without expense to the city and/or county, so as to be safe, orderly, attractive, and in conformity with city and/or county codes including those regarding the removal of weeds, trash and landscape maintenance.

- (10) *Visual impact/aesthetics.*

- a. Wireless communication facilities shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable local, state, or federal agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.

- b. If an antenna is installed on a structure other than a tower, the antenna and associated electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible. Antennae and antenna support structures may be mounted on existing buildings that are thirty (30) feet or more in height above the street grade.
 - c. Roof-mounted antennae and antenna support structures shall not add more than twenty (20) feet to the total height of the building on which they are mounted. Roof-mounted equipment shall be made visually unobtrusive to match existing air conditioning units, stair, elevator towers or other architectural elements. Only monopole antennae support structures with omni-directional (whip) or low profile single-directional (panel) shall be installed on building roofs. Examples of acceptable designs are shown in subsection (o) of this section. Crow's nest antennae arrays are prohibited on roof-top structures.
 - d. Wireless communication facilities attached to new or existing structures shall be designed to blend with the structure's architecture and should be placed directly above, below or incorporated with vertical design elements of a structure.
 - e. Wireless communication facilities shall be located as to minimize their visibility and not be placed within historic or scenic view corridors as designated by the ~~city council~~ or the Yellowstone County Commission, or by any state or federal law or agency.
- (11) *Antenna support structure separation.* All antenna support structures over fifty (50) feet in height, regardless of the zoning district in which the structure is located, shall be located at least one (1) mile from any other antenna support structure that is over fifty (50) feet. Up to three (3) antenna support structures located within an approved wireless communication facility tower farm shall be located at least one (1) mile from any other tower farm.

Exceptions to the terms of subsection (g)(11) of this section may be granted by the governing body during the special review process when it is found that no existing or approved antenna support structure within the required separation distance of the proposed site can accommodate the applicant's proposed antenna or a critical need exists for the proposed location and it is technically infeasible to locate or co-locate structures at or beyond the required separation distance.

- (h) *Nonconforming wireless communication facilities.* Antenna support structures and/or facilities in existence on the date of the adoption of these regulations, that do not comply with the requirements of these regulations, (nonconforming antenna support structures) are subject to the following provisions:
 - (1) Nonconforming antenna support structures may continue their present use, but may not be expanded or increased in height without complying with these regulations, except as further provided in this section.
 - (2) Nonconforming antenna support structures which are hereafter damaged and destroyed, by less than fifty (50) percent of its replacement value, due to any reason or cause may be repaired and restored to their former use, location, and physical dimensions subject to obtaining a building permit and other necessary approvals thereof, but without otherwise complying with these regulations. If an antenna support structure is destroyed or damaged by more than fifty (50) percent of its replacement the antenna support structure must be brought into compliance with these regulations.
 - (3) The owner of any nonconforming antenna support structure may make minor modifications in order to improve the structural integrity of the facility, to allow the facility to accommodate co-located antennae or facilities, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of these regulations.
- (i) *Modifications of existing wireless communication facilities that meet the requirements of these regulations.*

- (1) *Minor modifications.* Minor modifications to facilities permitted under these regulations shall be approved by the city-county planning department so long as they comply with the original approved design. Minor modifications are as follows: the addition of more antenna arrays to any existing antenna support structure, so long as the addition of the antenna arrays add no more than twenty (20) feet in height to the facility and the increase in height of the support structure is no greater than ten (10) percent. Placement of additional antennae, up to the number the antenna support structure was originally designed to accommodate, shall be considered a minor modification.
 - (2) *Major modifications.* Major modifications to antenna support structures permitted under these regulations shall be approved through a special review. Major modifications are any that exceed the definition of minor modifications.
- (j) *Abandonment.* Wireless communications facilities will be considered abandoned if they are unused by all providers at the facility for a period of six (6) months. Determination of abandonment shall be made by the city-county planning department, which shall have the right to request documentation from the facility owner regarding support or antenna usage. Upon abandonment, the facility owner shall have ninety (90) days to:
- (1) Re-use the facility, or transfer the facility to another owner who will re-use it; or
 - (2) Dismantle the facility. If the facility is not removed within ninety (90) days of abandonment, the city and/or county may remove the facility at the facility and/or property owner's expense. If the facility is removed, city and/or county approval of the facility will expire.

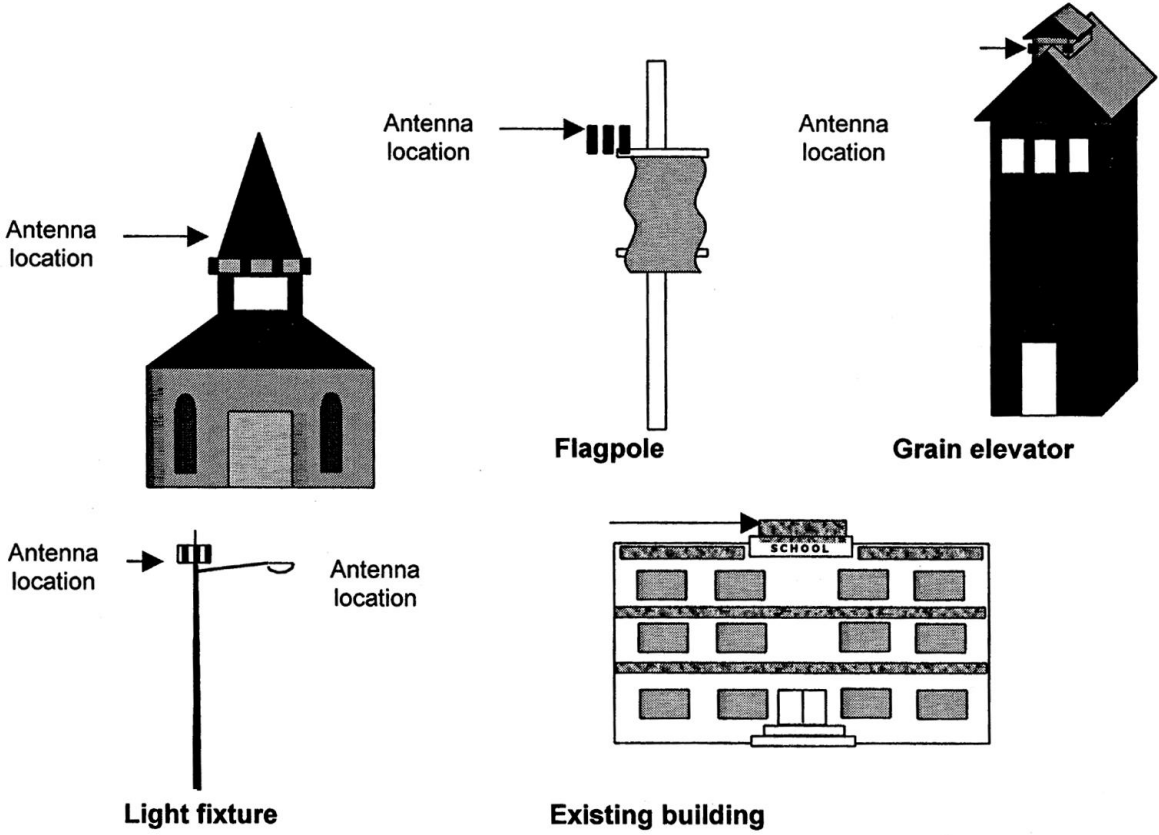
If the facility owner is unable to remove the facility within the ninety (90) days due to unusual circumstances, the city-county planning department may grant the facility owner an additional ninety (90) days in which to comply with the requirements of this section.

- (k) *Special review submittal requirements.* The applicant of new wireless communication facilities shall provide the following documentation for review by the city-county planning department:
- (1) A map to scale showing the service area of the proposed wireless communication facility and an explanation of the need for that facility.
 - (2) A site/landscaping plan showing the following items:
 - a. North arrow.
 - b. The location and dimensions of all vehicular points of ingress and egress, drives, alleys and streets.
 - c. Property boundaries and lot line dimensions.
 - d. The locations and dimensions of all existing and proposed buildings, structures, and improvements including those that will be removed. All information must be labeled.
 - e. Setbacks from all property boundaries for existing and proposed structures and buildings.
 - f. Centerline and names of major and minor arterial streets relevant to the application.
 - g. Elevation drawing of proposed wireless communication facility including the antenna support structure, antenna platforms and associated equipment enclosures. Also indicate the maximum number of antenna platforms that can be supported.
 - h. Detailed landscaping plan of the site.
 - i. Location of artificial light sources and the areas of illumination.
 - j. Applications for tower farms shall include items a. through i. of this subsection (k)(2) and an overall development plan showing the location of future structures and equipment enclosures.
 - k. Latitude, longitude and height of proposed antenna support structures.

- I. Other pertinent features as determined by the zoning coordinator or development review committee.
- (3) Area map showing the property boundaries of adjacent property and the location of existing buildings.
- (4) Inventory of existing and approved sites. Each applicant for one or more antenna support structure shall provide to the city-county planning department a map showing the locations and service area of existing and approved antenna support structures operated or utilized by the applicant, including specific information on the location, height, and design of each antenna support structure. The city-county planning department shall maintain an inventory of existing and approved antenna support structures, including specific information about the location, height, and design of each antenna support structures. The city may share such information with other persons, organizations or governmental authorities.
- (5) Documentation of minimum light requirements from the FAA or other local, state or federal agency for the antenna support structure and/or antennae. Where applicable, applicant will provide documentation of the FAA airspace review and a copy of comments from the FAA.
- (6) When the applicant is a wireless service provider, proof that the applicant is licensed by the FCC to provide the wireless communication services that the proposed facility is designed to support.
- (7) Availability of suitable existing or approved antenna support structures. No new antenna support structure shall be permitted unless the applicant clearly demonstrates, in writing, to the reasonable satisfaction of the city-county planning department that no existing or approved antenna support structure within the required separation distance of the proposed site can accommodate the applicant's proposed antenna. Closer separation distances may be approved if the applicant clearly demonstrates a critical need for the alternative location and the infeasibility of locating or co-locating wireless communication facility at or beyond the required separation distance. Evidence submitted to demonstrate that no existing or approved structure can accommodate the applicant's proposed antenna must include a discussion of the following items, if relevant.
 - a. No existing or approved antenna support structures are located within the geographic area required to meet the applicant's engineering requirements.
 - b. Existing or approved antenna support structures are not of sufficient height to meet the applicant's engineering requirements.
 - c. Existing or approved antenna support structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment and cannot be reinforced to provide sufficient structural strength.
 - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing or approved antenna support structures, or the antenna on the existing or approved antenna support structures would cause interference with the applicant's proposed antenna.
 - e. The fees or costs required to share an existing or approved antenna support structure or to adapt an existing or approved antenna support structures for sharing are unreasonable. Costs below new tower development are presumed reasonable.
 - f. Property owners or owners of existing or approved antenna support structures are unwilling to accommodate the applicant's needs.
 - g. The applicant demonstrates that there are other limiting factors that render existing or approved antenna support structures unsuitable.
- (8) Co-location agreement. If co-location is feasible, the owner of the antenna support structure shall certify, prior to permit approval, that the owner will accept for co-location any FCC licensed wireless communication provider using compatible technology on commercially reasonable terms

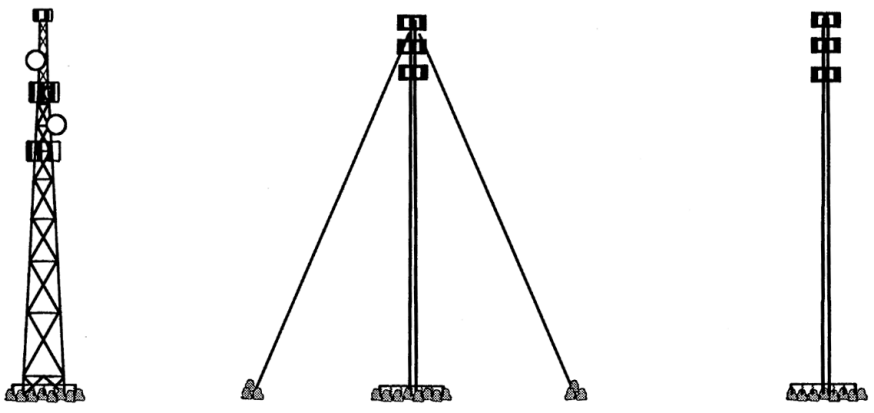
up to the antenna support structure's capacity to accommodate additional antennae. The applicant shall also include a statement on how requests for co-locators will be processed.

- (9) Effect of surrounding property values. The applicant must submit information that substantiates there will be no adverse effects on surrounding property values resulting from the proposed facility.
- (l) *Special review uses.*
 - (1) A request for a special review shall be initiated by application to the city-county planning department and handled in accordance with the special review procedure provided in sections ~~27-1503 and~~ 27-1509 of these zoning regulations. The ~~city council~~ or Yellowstone Board of County Commissioners may issue special review approval under these sections provided they have determined that the requirements of these regulations have been satisfied and, further, that the benefits of and need for the proposed wireless communication facilities are greater than possible depreciating effects and damage to neighboring properties.
 - (2) In granting special review approval, the ~~city council~~ or Yellowstone Board of County Commissioners may impose additional conditions to the extent determined necessary to buffer or otherwise minimize adverse effects of the proposed wireless communication facilities on surrounding properties.
 - (3) Expiration of special review approval.
 - a. A building permit must be applied for within six (6) months of special review approval and the project shall be completed within one (1) year from the date the special review is granted by the ~~city council~~ or county commission. For the purpose of these regulations, the term standard of construction shall be defined as the installation of a permanent foundation for the antenna support structure. The city council and/or county commission may grant one (1) six-month extension of the period to start construction upon written request by the applicant.
 - b. The ~~city council~~ or county commission shall not approve an extension unless the development plan is brought into conformance with any relevant zoning regulations that have been amended subsequent to the original approval and unless the applicant provides adequate evidence that construction is able to begin within the time period sought. This evidence shall include, but not be limited to, the acquisition of any or all required government approvals and project financing, the ~~city council~~ or county commission may as a condition of approval of a special review establish the period of time such special review may remain in effect.
- (m) *Appeals.* Appeals from any decision of the city-county planning department may be taken by any person aggrieved or any official of the ~~city~~ or county affected by the decision of the city-county planning department. Such appeal shall be to the ~~city and/or county board of adjustment pursuant to section 27-1506 or section~~ 27-1511 of the city and Yellowstone County ~~Unified Zoning Regulations~~.
- (n) *Nuisances.* Wireless communication facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the ~~city and/or county noise regulations~~, shall not be operated so as to cause the generation of heat that adversely affects a building occupant and shall not be maintained or operated in such a manner as to be a nuisance.
- (o) *Wireless communication facilities.* Illustrated examples.
 - (1) Alternative antenna support structures:



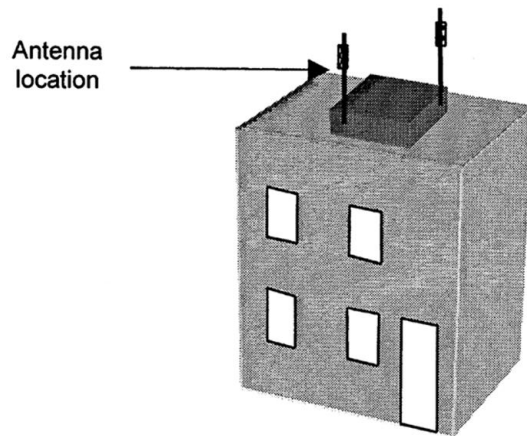
Alternative antenna support structures

(2) Antenna support structures:



Antenna support structures

(3) Roof-mounted antenna support structures and antennae:



Roof-mounted antenna support structures and antennae

Sec. 27-621. - Standards for land mobile radio and radio and television broadcast antennae and antenna support structures.

- (a) *Purpose.* The purpose of this section is to establish regulations for the siting of broadcast facilities, including land mobile radio services and radio and television broadcast antennae, antenna support structures and associated equipment and buildings on public and private property. The goals of this section, developed with the assistance and participation of the Broadcast and Land Mobile Radio industry in Yellowstone County, are to:
- (1) Encourage the location of broadcast facilities in non-residential areas and minimize the total number of antenna support structures throughout the community;
 - (2) Strongly encourage the joint use of new and existing broadcast antenna support structures;
 - (3) Require broadcast facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal;
 - (4) Require broadcast facilities to be configured in a way that minimizes the adverse visual impact of antenna support structures and antennae; and
 - (5) Enhance the ability of the providers of land mobile radio services and radio and television broadcast services to provide such services to the community, as quickly, effectively, and efficiently as possible.
- (b) *Definitions.* For the purposes of this section, the terms used shall be defined as follows:
- (1) *AM:* Amplitude-modulated broadcasting in the frequency band 535-1, 705 Kilohertz.
 - (2) *Antenna/antenna support structure height:* The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure including any attached antennae. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.
 - (3) *Broadcast antenna:* A ground-, building- or tower-mounted antenna operated as a land mobile radio service or as a broadcast radio and/or television service as defined by the Federal Communications Commission (FCC) under Code of Federal Regulations and subsequent title amendments:
 - a. Title 47, PART 90 (47 CFR § 90)—PRIVATE LAND MOBILE RADIO SERVICES;

- b. Title 47, PART 73 (47 CFR § 73) RADIO BROADCAST SERVICES, which includes AM, FM, and Television Services; and
 - c. Title 47, PART 74 (47 CFR § 74) EXPERIMENTAL RADIO, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES.
- (4) *Broadcast antenna support structure*: Any structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennae. Antenna support structures may include, but are not limited to, self-supporting lattice towers, guyed towers, or monopole towers. In this section, the term applies to land mobile radio service and broadcast radio and television transmission antenna support structures. The term includes the structure and any support thereto.
 - (5) *Broadcast antenna or tower farm*: A tract of land that contains three (3) or more broadcast or land mobile radio service antenna support structures, any two (2) are spaced no more than seven hundred fifty (750) linear feet of each other. Legal tracts must be adjacent to each other to be included in this definition. The term is inclusive of all antenna support structures, equipment enclosures, buildings and any additions thereto.
 - (6) *Broadcast facilities*: An unstaffed facility for the transmission and/or reception of radio signals for communications purposes, typically consisting of an equipment building or enclosure, an antenna support structure and one (1) or more antennae. This definition applies exclusively to land mobile radio fixed systems, and radio and television broadcast transmission facilities.
 - (7) *FAA*: Federal Aviation Administration.
 - (8) *FCC*: Federal Communications Commission.
 - (9) *Land mobile radio service (LMRS)*: A mobile service between base stations and land mobile stations or between land mobile stations as defined in Title 47, PART 90 (47 CFR § 90)—Private Land Mobile Radio Services.
- (c) *Applicability*. All land mobile radio service and radio and television broadcast antenna and antenna support structures located within the city and/or the Yellowstone County zoning jurisdiction whether upon private or public lands shall be subject to this section. This section shall apply to broadcast antenna and antenna support structures upon state and federal lands to the extent of the city's and/or county's jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise.

Pre-existing land mobile radio and radio and television broadcast antenna support structures and antennae shall not be required to meet the requirements of this section, except as provided under subsection 27-621(g), "Nonconforming broadcast facilities."

- (d) *Broadcast antenna support structures and antennae located in residential zoning districts*.
- (1) Land mobile radio and radio and television broadcast antenna support structures and antennae shall be permitted as an allowed use in all residential zoning districts provided they meet all of the following criteria:
 - a. Alternative broadcast antenna support structures conforming to all applicable provisions of this Code and roof-mounted antennae that do not add more than twenty (20) feet to the total height of the building on which it is mounted shall be permitted as an allowed use only when located on school, government-owned utility, and other government sites. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in sections ~~27-1503 and~~ 27-1509 of these zoning regulations, or may be submitted to the board of adjustment for a hearing, whichever is the preference of the owner/agency. The board of adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with subsection ~~27-1505(c) or~~ 27-1510(c), ~~BMCC~~. The board of adjustment shall forward comments and recommendations to the affected government agency for their consideration.

- b. Antennae co-located on existing or approved alternative broadcast antenna support structures or existing or approved broadcast antenna support structures, which have previously received, all required approvals and permits shall be permitted as an allowed use.
 - (2) Broadcast antenna support structures and antennae shall be permitted in the Agricultural-Open space (AO-1) zoning district provided the following conditions and all applicable setback, lot coverage, and building (commercial equipment enclosures) height requirements are met:
 - a. Broadcast antenna support structures conforming to all applicable provisions of this Code shall be permitted when:
 - 1. Located on school, government-owned utility, and government sites and alternative antenna support structures or roof-mounted antenna are used. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in sections ~~27-1503~~ and 27-1509 of these zoning regulations, or may be submitted to the board of adjustment for a hearing, whichever is the preference of the owner/agency. The board of adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with subsection 27-1505(c) or 27-1510(c); **BMCC**. The board of adjustment shall forward comments and recommendations to the affected government agency for their consideration.
 - 2. Broadcast antenna support structures fifty (50) feet or less in height.
 - b. Broadcast antenna support structures that are greater than fifty (50) feet in height shall be required to obtain special review approval.
 - c. Broadcast antennae co-located on existing or approved alternative broadcast antenna support structures or existing or approved broadcast antenna support structures that have previously received all required approvals and permits shall be permitted as an allowed use.
 - d. Broadcast antenna or tower farms are permitted by special review.
- (e) Broadcast antenna support structures and antennae located in commercial zoning districts.
 - (1) Broadcast antenna support structures fifty (50) feet in height or less shall be permitted as an allowed use.
 - (2) Broadcast antenna support structures that exceed fifty (50) feet in height or the maximum height limitations in the underlying commercial and industrial zoning districts as indicated in section 27-306, **BMCC** (whichever is greater) are permitted by special review.
 - (3) Broadcast antenna or tower farms are permitted by special review, ~~except in the CBD and South 27th Street zoning districts.~~
 - (4) All broadcast antenna support structures located in heavy industrial (HI) shall be permitted as an allowed use, including broadcast antenna or tower farms.
 - (5) All broadcast facilities located within the boundaries of an approved or preexisting broadcast antenna or tower farm shall be permitted as an allowed use.
- (f) *General requirements.* The requirements set forth in this section shall govern the location and construction of all land mobile radio service and radio and television transmission facilities governed by this section.
 - (1) *Building codes and safety standards.* To ensure the structural integrity of broadcast facilities, the owner of a facility shall ensure that it is maintained in compliance with standards contained in applicable ~~local~~ state building codes and the applicable standards for such facilities.
 - (2) *Regulatory compliance.* All broadcast facilities must meet current standards and regulations of the FAA, the FCC, and other local, state or federal agencies with the authority to regulate facilities governed by this section.
 - (3) *Setbacks.*

- a. Broadcast antenna support structures adjacent to residential uses or zoning. Broadcast antenna support structures must be set back, from all property lines, a distance equal to one-half (½) the height of the structure from any off-site residential structure or residentially zoned lot. Accessory structures, such as equipment enclosures or transmitter buildings, must maintain a minimum of a 15-foot setback from any lot line adjacent to a residential structure or residentially zoned lot, or the required setback of the zoning district where the antenna support structure is located, whichever is greater.
 - b. Commercial and industrial zoning setbacks: Broadcast antenna support structures and accessory facilities must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.
 - c. Broadcast facilities in broadcast antenna or tower farms: Antenna support structures and accessory facilities located in antenna or tower farms must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.
- (4) *Lot coverage and height.* Broadcast antenna support structures and accessory structures shall not exceed lot coverage requirements for the zoning district in which they are located. Building and equipment enclosures shall not exceed the height restrictions for the zoning district in which they are located.
- (5) *Fencing and buffering.*
- a. Fencing. A chain link or solid wood fence, or masonry wall at least six (6) feet in height (eight (8) feet if razor or barbed wire is to be used) shall be constructed and maintained around the perimeter of the broadcast antenna support structure site. Climb-proof shields can be substituted for a fence or wall around the structure. Solid fences, at least six (6) feet in height are required adjacent to residences and residentially zoned property. All AM broadcast antenna support structures must be surrounded by a suitable fence as required by FCC regulations.
 - b. Landscaping adjacent to residential uses and/or residential zoning. For broadcast facilities located in a residential zoning district, adjacent to a residential use, or adjacent to a residentially zoned parcel, the following will be required: a continuous evergreen hedge at least four (4) feet in height when planted, shall be planted and maintained around the perimeter of the antenna support structure outside of the required fencing and spaced close together to provide a continuous visual screen. Shrubs shall also be planted and maintained around the guy anchors for visual screening purposes. AM Broadcast stations are exempt from this requirement due to overriding FCC regulations regarding vegetation in ground radial systems.

A performance bond or letter of credit for one hundred fifty (150) percent of the landscaping and fencing materials and labor costs shall be posted with the planning department to ensure the placement of required landscaping and fencing in accordance with section 27-1110, **BMCC**.
 - c. *Commercial landscaping.* Landscaping requirements shall not apply to broadcast antenna support structures located in Agricultural-Open Space, commercial or industrial zoning districts or approved broadcast antenna or tower farms.
 - d. ~~*Exceptions for city airport airfield area.* If federal safety and security standards within the city airport's airfield area prevent a broadcast antenna support structure from being fenced or landscaped, items (5)(a) and (5)(b) will not apply. Documentation of these standards must be submitted with the building permit or special review applications.~~
- (6) *Lighting.* Broadcast antenna support structures shall not be artificially lighted unless required by the FAA or other local, state, or federal agency. Security lighting may be placed on a support structure no higher than twenty (20) feet above ground. Cut-off security lights must be used in or adjacent to residential areas to prevent light spillage onto adjacent property.

- (7) *Signage.* Signage shall be limited to non-illuminated warning and equipment identification signs unless otherwise required by the FAA and/or FCC.
- (8) *Maintenance.*
- a. Equipment at a broadcast facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.
 - b. All property used for the siting of a broadcast antenna support structure or antenna shall be maintained, without expense to ~~the city and/or~~ county, so as to be safe, orderly, attractive, and in conformity with ~~city and/or~~ county codes including those regarding the removal of weeds, trash and landscape maintenance.
- (9) *Visual impact/aesthetics.*
- a. Broadcast antenna support structures shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable local, state, or federal agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.
 - b. If a broadcast antenna is installed on a structure other than a tower, the associated electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the related equipment as visually unobtrusive as possible. Broadcast antennae and antenna support structures may be mounted on existing buildings that are thirty (30) feet or more in height above the street grade.
 - c. Roof-mounted antennae and antenna support structures shall not add more than twenty (20) feet to the total height of the building on which they are mounted. Roof-mounted equipment shall be made visually unobtrusive to match existing air conditioning units, stair, elevator towers or other background. Crow's nest antennae arrays are prohibited on rooftop structures.
 - d. Broadcast antenna or antenna support structures attached to new or existing structures shall be designed to blend with the structure's architecture and should be placed directly above, below or incorporated with vertical design elements of a structure.
- (g) *Nonconforming broadcast facilities.* Broadcast facilities in existence on the date of the adoption of these regulations, that do not comply with the requirements of these regulations, are subject to the following provisions:
- (1) Nonconforming broadcast facilities may continue their present use, but may not be expanded without complying with these regulations, except as further provided in this section.
 - (2) Nonconforming broadcast antenna support structures which are hereafter damaged and destroyed, by less than fifty (50) percent of its replacement value, due to any reason or cause may be repaired and restored to their former use, location, and physical dimensions subject to obtaining a building permit and other necessary approvals thereof, but without otherwise complying with these regulations. If a broadcast antenna support structure is destroyed or damaged by fifty (50) percent or more of its replacement the broadcast antenna support structure must be brought into compliance with these regulations.
 - (3) The owner of any nonconforming broadcast antenna support structure may make minor modifications in order to improve the structural integrity of the structure, to allow the structure to accommodate co-located antennae, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of these regulations.
- (h) *Modifications of existing or broadcast facilities that meet the requirements of these regulations.*

- (1) *Minor modifications.* Minor modifications to facilities permitted under these regulations shall be approved by the city-county planning department so long as they comply with the original approved design. Minor modifications are as follows:
 - a. The addition of one (1) or more antenna arrays to any existing antenna support structure, so long as the addition of the antenna arrays add no more than twenty (20) feet in height to the facility and the increase in height of the support structure is no greater than ten (10) percent.
 - b. Placement of additional antennae, up to the number the antenna support structure was originally designed to accommodate, shall be considered a minor modification.
 - c. Repairs to or replacement of existing antennae or feedlines or support members (such as guy wires) are not considered modifications under this part.
 - (2) *Major modifications.* Major modifications to antenna support structures permitted under these regulations shall be approved through a special review. Major modifications are any that exceed the definition of minor modifications.
- (i) *Abandonment.* Broadcast facilities will be considered abandoned if they are unused by all providers at the facility for a period of six (6) months. Determination of abandonment shall be made by the city-county planning department which shall have the right to request documentation from the facility owner regarding support or antenna usage. Upon abandonment, the facility owner shall have ninety (90) days to:
- (1) Re-use the facility or transfer the facility to another owner who will re-use it; or
 - (2) Dismantle the facility. If the facility is not removed within ninety (90) days of abandonment, the ~~city and/or~~ county may remove the facility at the facility and/or property owner's expense. If the facility is removed, ~~city and/or~~ county approval of the facility will expire. If the facility owner is unable to remove the facility within the ninety (90) days due to unusual circumstances, the city-county planning department may grant the facility owner an additional ninety (90) days in which to comply with the requirements of this section.
- (j) *Special review submittal requirements.* The applicant of new broadcast facilities shall provide the following documentation for review by the city-county planning department:
- (1) A map to scale showing the service area of the proposed broadcast facility.
 - (2) A site/landscaping plan showing the following items:
 - a. North arrow.
 - b. The location and dimensions of all vehicular points of ingress and egress, drives, alleys and streets.
 - c. Property boundaries and lot line dimensions.
 - d. The locations and dimensions of all existing and proposed buildings, structures, and improvements including those that will be removed. All information must be labeled.
 - e. Setbacks from all property boundaries for existing and proposed structures and buildings.
 - f. Centerline and names of major and minor arterial streets relevant to the application.
 - g. Elevation drawing of proposed broadcast facility including the antenna support structure, antenna platforms and associated equipment enclosures.
 - h. Latitude, longitude and height of proposed antenna support structures.
 - i. Location of artificial light sources and the areas of illumination.
 - j. Applications for tower farms shall include items a. through h. of this subsection (j)(2) and a general overall development plan showing the location of future structures and equipment enclosures.
 - k. Detailed landscaping plan of the site when applicable.

- I. Other pertinent features as determined by the zoning coordinator or development review committee.
- (3) Area map showing adjoining property boundaries and the location of existing buildings within a distance equal to the required setbacks as set forth in section F (3).
 - (4) Documentation of minimum light requirements from the FAA or other local state or federal agency for the antenna support structure and/or antennae. Where applicable, applicant will provide documentation of the FAA airspace review and a copy of the comments provided by the FAA. Where an application has been filed with the FAA for the services proposed and decision on minimum light requirements by the FAA is still pending, submittal of a copy of the proposed application shall be sufficient to meet the requirements of this paragraph.
 - (5) When the applicant is a land mobile radio service provider, or a radio or television broadcaster, proof must be provided that the applicant is licensed by the FCC to provide the services that the proposed facility is designed to support or the applicant must prove the necessary application have been filed with the FCC and/or FAA for the services proposed, together with proof all filing fees have been paid.
- (k) *Special review uses.*
 - (1) A request for a special review shall be initiated by application to the city-county planning department and handled in accordance with the special review procedure provided in sections ~~27-1503 and 27-1509, BMCC~~ of these zoning regulations. The ~~city council or Yellowstone Board of County Commissioners~~ may issue special review approval under these sections provided they have determined that the requirements of these regulations have been satisfied.
 - (2) In granting special review approval, the ~~city council or Yellowstone Board of County Commissioners~~ may impose additional conditions to the extent determined necessary to buffer or otherwise minimize adverse effects of the proposed broadcast facilities on surrounding properties.
 - (3) Expiration of special review approval.
 - a. A state building permit must be applied for within six (6) months of a special review approval and the project shall be completed within one (1) year from the date the special review is granted by the ~~city council or~~ county commission. For the purpose of these regulations, the term standard of construction shall be defined as the installation of a permanent foundation for the antenna support structure. The ~~city council and/or~~ county commission may grant one (1) six-month extension of the period to start construction upon written request by the applicant.
 - b. The ~~city council or~~ county commission shall not approve an extension unless the development plan is brought into conformance with any relevant zoning regulations that have been amended subsequent to the original approval and unless the applicant provides adequate evidence that construction is able to begin within the time period sought. This evidence shall include, but not be limited to, the acquisition of any or all required government approvals and project financing, the ~~city council or~~ county commission may as a condition of approval of a special review establish the period of time such special review may remain in effect.
 - c. Small increases in the height of existing antenna support structures approved by special review may be approved by the city-county planning department on an administrative basis provided that the increase in the height of the antenna support structure is ten (10) percent or less.
 - d. Special review approvals for broadcast antenna or tower farms shall not expire until such time as all facilities within the boundaries of the antenna or tower farm have been abandoned.
 - (l) *Appeals.* Appeals from any decision of the city-county planning department may be taken by any person aggrieved or any official of the city affected by the decision of the city-county planning

department. Such appeal shall be to the ~~city and/or~~ county board of adjustment pursuant to section ~~27-1506 and/or section 27-1511~~ BMCC.

- (m) *Nuisances.* Broadcast facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the ~~city and/or~~ county noise regulations, shall not be operated so as to cause the generation of heat that adversely affects a building occupant and shall not be maintained or operated in such a manner as to be a nuisance.

~~Sec. 27-622. - New condominiums, townhome, townhouse and multi-unit developments.~~

~~New condominiums, townhouse, townhome and multi-unit developments are allowed in all zoning districts if they meet all applicable zoning district requirements, and supplementary general provisions, site development, building and fire safety regulations as per sections 6-1200, 14-300, 27-622 and 27-623 of the Billings Municipal Code. Projects subject to these regulations include condominium, townhome, townhouse or commercial development projects that include common, private facilities shared by buildings or lots, and residential developments that have more than two (2) dwelling units and include common, private facilities shared by buildings or lots.~~

~~Prior to filing a condominium, townhome or townhouse declaration of unit ownership with the county clerk and recorder, or applying for building permits for the multi-unit development, the owner(s) shall submit to the planning division:~~

- ~~(1) A city approved master site plan showing the dimensions of the lot(s) containing the condominium, townhouse, townhome units or multiple commercial units and the location and dimensions of all buildings containing the units.~~
- ~~(2) A copy of the declaration of unit ownership if creating a condominium, townhouse or townhome.~~

~~Only after determining that the condominium, townhome, townhouse or multi-unit development project has a city approved master site plan, as required in subsection (1) above, that complies with the applicable zoning district requirements, and supplementary general provisions, site development, building and fire safety regulations as per sections 6-1200, 14-300, 27-622, and 27-623 of the Billings Municipal Code will the planning division issue a condominium, townhome or townhouse certificate of compliance or approve a building permit.~~

~~For condominiums, townhomes or townhouses, the certificate of compliance will be filed with the county clerk and recorder prior to recording the declaration of unit ownership. The certificate shall state:~~

- ~~(1) The legal description of the property.~~
- ~~(2) The condominium, townhomes or townhouse units are exempt from MCA 76-3-203, because they comply with zoning, or in the case of new development, comply with zoning based on the city approved master site plan.~~
- ~~(3) Any changes to the city approved master site plan must be reviewed by the city through the planning division.~~

Sec. 27-623. - Zoning compliance permits required.

- (a) *Permits required.* A zoning compliance permit is required for properties that are located ~~outside the limits of the city but~~ within the unincorporated jurisdictional area. ~~A building permit is required for properties located inside the limits of the city.~~
- (b) *County zoning compliance permit.*
 - (1) No change of land use may be made; or no building or other structure shall be erected, moved, enlarged, rebuilt, added to, or structurally altered without first having received a zoning compliance permit issued by the zoning coordinator or his/her designee, who shall determine that the permit is issued in compliance with the regulations set forth in this resolution/~~ordinance~~. The review of a zoning compliance permit application shall be limited only to a review of the applicable zoning regulations and shall not constitute a review of compliance with any applicable building codes. A separate sign permit is required prior to the erection of any sign.

- (2) Each application for a zoning compliance permit shall be accompanied by a site plan, building elevations and any other information requested by the zoning coordinator to adequately review the proposed project. Additionally, commercial projects require submittal of a landscaping plan and a site plan showing off-street parking, loading, etc. The board of county commissioners may set an application fee by resolution for review of a zoning compliance permit. The zoning coordinator or his/her designee may waive the submittal requirements for some of the above-mentioned plans. Zoning compliance permits are valid for a period of six (6) months from the date of approval and may be extended for an additional six (6) months with written approval from the zoning coordinator.

~~(c) City building permit.~~

- ~~(1) Any building permit application submitted to the city building division for the purpose of erecting, moving, enlarging, rebuilding, adding to, or structurally altering a structure must be reviewed and approved by the zoning coordinator or his/her designee for compliance with the applicable zoning regulations.~~
- ~~(2) Each building permit application shall be accompanied by a zoning compliance review fee established by council resolution. This fee shall be in addition to the building permit fee required under section 6-202. The fee shall be established by council resolution.~~

ARTICLE 27-700. – SIGNS – (The City Sign Code is deleted in its entirety and the existing County Sign Code (Article X) is proposed to be incorporated in its entirety here)

Sec. 27-701 INTENT.

(a) The purpose of this Article shall be to coordinate the type, placement and scale of signs within the different land-use zones to recognize the commercial communication requirements of all sections of the business community; to encourage the innovative use of design; to promote both renovation and property maintenance; to allow for special circumstances; and to guarantee equal treatment under the law. These shall be accomplished by regulation of the display, erection, use and maintenance of signs. The use of signs is regulated according to zoning district. The placement and scale of signs are regulated by type and length of street frontage. No sign shall be permitted as a main or accessory use except in accordance with the provisions of this Article.

(b) This Article shall not relate to building design. Nor shall this Article regulate official traffic or government signs; the copy and message of signs; signs not intended to be viewed from a public right-of-way; window displays; product dispensers and point of purchase displays; scoreboards on athletic fields; flags of any nation, government or fraternal organization; gravestones; barber poles; religious symbols; or any display or construction not defined herein as a sign.

Thus, the primary intent of this Section shall be to regulate signs of a commercial nature intended to be viewed from any vehicular or pedestrian public right-of-way.

Sec. 27-702 – DEFINITIONS.

Words and phrases used in this Section have the meanings set forth in this section. Principles for computing sign area and sign height are contained in 27-703.

Animated Sign: Any sign that uses movement or change or lighting to depict action or create a special effect or scene.

Area of Sign: Area of Sign: The entire area of a sign including the area within a perimeter which forms the outside shape including the frame, forming an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. The frame of a sign may be excluded from the area where such frame conveys no message and is constructed or affixed for aesthetic reasons beyond the necessary supports.

For computing the areas of any wall or canopy sign which consists of letters mounted or painted on a wall or canopy, the area shall be deemed to be the area of the smallest rectangular figures which can encompass all of the letters.

Banner Sign: Any sign (other than an official flag) made of cloth, paper or fabric of any kind, which is used to attract attention, whether or not imprinted with words or characters.

Beacon: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

Billboard: A sign which advertises products or services not sold or distributed on the premises on which the sign is located.

Building Marker: Any sign indicating the name of a building, date or other incidental information about its construction. A sign which is cut into a masonry surface or made of bronze or other permanent material.

Canopy Sign: Any sign that is a part of or attached to any awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area, and which does not extend horizontally beyond the limits of the canopy.

Changeable Copy Sign: A sign whose informational content can be changed or altered by manual or electric, electro-mechanical or electronic means. Changeable signs include the following types:

1. Manually Activated: Signs whose alphabetic, pictographic or symbolic information content can be changed or altered by manual means.
2. Electrically Activated: Signs whose alphabetic, pictographic or symbolic informational content can be changed or altered on a fixed display surface composed of electrically illuminated or mechanically driven changeable segments. Includes the following two types:
 - a. Fixed Message Electronic Signs: Signs whose basic informational content has been pre-programmed to include only certain types of information projections, such as time, temperature, predictable traffic conditions or other events subject to prior programming.
 - b. Computer controlled Variable Message Electronic Signs: Signs whose informational content can be changed or altered by means of computer-driven electronic impulses.

Copy: The graphic content of a sign surface in either permanent or removable letter, pictographic, symbolic or alphabetic form.

Directional/Informational Sign: An on-premise sign giving directions, instructions or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs. The sign may contain a logo provided that the logo may not comprise more than 20% of the total sign area.

Director: The Planning Director of the County or his/her designee.

Flag: Any fabric, banner or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

Freestanding Sign: Any sign supported by structures or supports that are placed on or anchored in, the ground and that are independent from any building or other structure, including monument signs.

Government Sign: Any temporary or permanent sign erected and maintained by the city, county, state or federal government for traffic direction or for designation of or direction to any school, hospital, historical site or public service, property or facility.

Height of Sign: The vertical distance measured from the highest point of the sign to the crown of the adjacent street. This does not include the interstate highway.

Lot: Any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record, that is recognized and intended as a unit for the purpose of transfer or ownership.

Maintenance: For the purposes of this Resolution, the cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the structure of the sign.

Monument Sign: A sign mounted directly to the ground with maximum height not to exceed six (6) feet.

Nonconforming Sign: A sign which was erected legally, but does not comply with subsequently enacted sign restrictions and regulations.

Portable Sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs, designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

Principal Building: The building in which is conducted the principal use of the lot on which it is located. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages and other clearly accessory uses shall not be considered principal buildings.

Projecting Sign: A sign, other than a flat wall sign, which is attached to and projects from a building, wall or other structure not specifically designed to support the sign. Supports shall be covered in a neat and orderly fashion. Guy wire support shall be prohibited.

Roof Sign, Above-peak: Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Roof Sign, Integral: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

Setback: The distance from the property line to the nearest part of the applicable building, structure or sign, measured perpendicularly to the property line.

Sign: Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

Sign Administrator: The Planning Director or his/her designee.

Street: A public way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, thoroughway, road, avenue, boulevard, land, place or however otherwise designated which has been dedicated to or acquired for public use and which extends the full width between right-of-way lines.

Street Frontage: The length of the property line of any one (1) premises along each public right-of-way it borders excluding alleys and serviceways.

Suspended Sign: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Temporary Sign: A non-permanent sign erected and maintained for a specific limited period of time.

Wall Sign: Any sign attached parallel to a wall, painted on the wall surface or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface. Sign depth shall not exceed twenty-two (22) inches, measured from the face of the structure.

Wind Driven Sign: Any sign consisting of one (1) or a series of two (2) or more banners, flags, pennants, ribbons, spinners, streamers or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind or breeze.

Window Sign: Any sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Sec. 27-703. GENERAL PROVISIONS

(a) It shall hereafter be unlawful for any person to erect, place or maintain a sign in the Jurisdictional Area of Yellowstone County except in accordance with the provisions of this Section.

(b) Signs Prohibited. All signs not expressly permitted under this Section or exempt from regulation hereunder in accordance with the previous section are prohibited in the County. Such signs include, but are not limited to:

(1) Beacons;

(2) Wind driven sign, except flags as defined in Section 27-702 of this Section;

(3) Strings of lights not permanently mounted to a rigid background, except those exempt under Section 27-703(c).

(4) Inflatable signs and tethered balloons;

(5) All portable signs not specifically permitted under Section 27-704;

(6) Animated signs;

(7) All above-peak roof signs;

(8) All banner signs except as permitted under Section 27-704;

(9) Abandoned signs;

(10) Signs attached to trees, telephone poles, public benches, streetlights or placed on any public property or public right-of-way; and

(11) Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said signs (this does not apply to allowed portable signs or to signs or lettering on buses, taxis or vehicles operating during the normal course of business).

(c) Permits Required. Unless otherwise provided by this Section, all signs shall require permits and payment of fees as described in Section 27-707 of this Section. No permit is required of the maintenance of a sign or for a change of copy on painted, printed or changeable copy sign. Prior to any structural maintenance, the sign owner or the sign contractor is required to apply for and obtain a permit and to notify the Sign Administrator for an inspection when the maintenance is complete.

(1) Signs Not Requiring Permits. The following types of signs are exempted from permit requirements but must be in conformance with all other requirements of this Section:

(a) Construction signs of sixteen (16) square feet or less;

(b) Special event or holiday lights or decorations;

(c) Nameplates of two (2) square feet or less;

(d) Public signs or notices, or any sign relating to an emergency;

(e) Real estate signs;

(f) Political signs;

(g) Interior signs not visible from the exterior of the building;

(h) Directional signs not to exceed twelve (12) square feet in area or six (6) feet in height; and

- (i) Temporary signs for seasonal agricultural sales in the Agricultural Open Space (A-1) district only. Such signs shall not exceed sixteen (16) square feet and may only be erected for sixty (60) days. One (1) sign per use per calendar year shall be allowed.

(d) Calculation of Sign Area. The entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between and adjacent elements of the same. Such perimeter shall not include any structural elements lying outside the limits of such sign which do not form any integral part of the display.

The gross area of a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two (2) identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure, the sign area shall be computed by the measurement of one on the faces.

For computing the area of any wall or canopy sign which consists of letters mounted or painted on a wall or canopy, the area shall be deemed to be the area of the smallest rectangular figures which can encompass all of the letters.

(e) Clear Vision Triangle. No sign shall be placed within any clear vision triangle as illustrated in Sec. 27-618 of these regulations.

(f) Maintenance. All signs shall be properly maintained. Exposed surfaces shall be clean and painted if paint is required. Defective parts shall be replaced. The Administrator shall have the right under Section 27-708 to order the repair or removal of any sign which is defective, damaged or substantially deteriorated.

(g) Lighting. Unless otherwise prohibited by this Section, all signs may be illuminated.

(h) Changeable Copy. Unless otherwise specified by this Section, any sign herein allowed may use manual or fixed message electronic sign.

Computer controlled variable message electronic signs shall be permitted provided that the bottom of the message center is ten (10) feet above the crown of the adjacent road. Computer controlled variable message electronic signs shall be permitted only in Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI) and Heavy Industrial (HI).

(i) Sign Contractor's License. No person may engage in the business or erecting, altering, relocating, constructing or maintaining signs without a valid contractor's licenses and all required state and federal licenses.

(j) Indemnification and Insurance. All persons involved in the maintenance, installation, alteration or relocation of signs shall agree to hold harmless and indemnify the County, its officers, agents and employees against any and all claims of negligence resulting from such work insofar as this Section has not specifically directed the placement of a sign.

All persons involved in the maintenance, installation, alteration or relocation of signs shall maintain all required insurance and shall file with the state and the county a current satisfactory certificate of insurance to indemnify the state and the county against any form of liability.

Sec. 27-704 REGULATION BY ZONE

In any zoning district no sign may be placed or designed so as to simulate or interfere with traffic control devices or official highway directional/informational signs.

(a) Signs Permitted in Residential Zones

These requirements apply to the following zoning districts: Agricultural Open Space (A-1), Agricultural Suburban (A-S), Residential 15,000 (R-150), Residential 9600 (R-96), Residential 7000 (R-70), Residential 7000 Restricted (R-70-R), Residential 6000 (R-6000), and Residential 6000 Restricted (R-60-R)

- (1) One non-illuminated sign for each street frontage of a construction project, not to exceed forty-eight (48) square feet in sign area. Such signs may be erected thirty (30) days prior to beginning of construction and shall be removed thirty (30) days following completion of construction.
- (2) One non-illuminated real estate sign per lot or premises not to exceed sixteen (16) square feet in sign area. Such signs must be removed fifteen (15) days following sale, rental or lease of the real estate involved.
- (3) One non-illuminated attached building nameplate per occupancy, not to exceed two (2) square feet in sign area.
- (4) One non-illuminated political sign not to exceed sixteen (16) square feet in sign area. Such signs shall not be erected more than forty-five (45) days prior to the election or referendum concerned and shall be removed ten (10) days following such election or referendum. Political signs may be placed only on private property and only with the permission of the property owner.
- (5) One subdivision sign per street frontage not to exceed forty-eight (48) square feet in sign area in each location.
- (6) One identification sign per entrance to apartment or condominium complex, not to exceed forty-eight (48) square feet in sign area.
- (7) One ranch identification sign at each public entrance, not to exceed forty-eight (48) square feet in sign area or thirty-two (32) feet in height. This sign is permitted in the Agricultural Open Space (A-1) district only.
- (8) One temporary sign not to exceed thirty-two square feet in area or eight (8) feet in height for the sale of agricultural products produced on site. This shall be permitted in the Agricultural - Open Space (A-1) district only. Each sign may be erected for no more than sixty (60) days. A temporary sign permit shall be required.
- (9) For permitted non-commercial and non-residential uses such as schools, churches and synagogues, one freestanding sign, not to exceed forty-eight (48) square feet in sign area, and one wall sign not to exceed forty-eight (48) square feet in sign area.

Special regulations for residential zones are as follows:

- (10) All allowed freestanding signs, except permitted ranch signs, shall have a maximum height limit of six (6) feet and shall have a setback of fifteen (15) feet from the property line.

(b) Signs Permitted in Residential Professional (RP) and Neighborhood Commercial (NC) Zones.

Signs are allowed as follows in the Residential Professional (RP) and the Neighborhood Commercial (NC) zones:

- (1) All signs as permitted in Section 27-704(a).
- (2) The total square feet of all signs located on the property, including, but not limited to freestanding, wall, canopy, under canopy, and directional signs, shall not exceed two (2) square feet in sign area for each lineal foot of property frontage.
- (3) One freestanding sign or monument sign per street frontage not to exceed one (1) square foot in sign area for each lineal foot of property frontage on which the sign is placed. Such signs may not exceed a height of twenty (20) feet. Maximum sign size is seventy-five (75) square feet.
- (4) One (1) wall sign, canopy or electric awning sign not to exceed fifteen (15) percent of the area of the building elevation on which the signs are installed.
- (5) One (1) under-canopy or wall sign for each separate occupancy or separate entrance not to exceed eight (8) square feet in sign area. Under-canopy signs must have a minimum clearance of nine (9) feet from the sidewalk.

- (6) Window signs shall not exceed fifteen (15) percent of the window area. This includes permanent and temporary window signs.
- (7) Directional/informational signs as required.

Special regulations and allowances for Residential Professional (RP) and Neighborhood Commercial (NC) zones area as follows:

- (8) Where any occupancy is on a corner lot, a minimum clear vision zone is to be maintained in a triangulated area at the point of intersection to allow an unobstructed view of oncoming traffic.
- (9) Freestanding signs shall maintain a minimum clearance of ten (10) feet over any sidewalk and fourteen (14) feet over any parking lot, driveway or crown of the street, whichever is higher.
- (10) Minimum setback for the leading edge of the sign shall be five (5) inside the property line with a maximum height of ten (10) feet. For each additional foot the sign is setback the sign height may increase one (1) foot to a maximum of twenty (20) feet in height.

(c) Signs Permitted in Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI) and Heavy Industrial (HI)

Signs are allowed as follows in Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI) and Heavy Industrial (HI) zones:

- (1) All signs as permitted in Section 27-704(a) and 27-704(b).
- (2) The total square feet of all signs located on the property, including, but not limited to freestanding, wall, projecting, integrated roof, canopy, under-canopy, and directional signs, shall not exceed three (3) square feet in sign area for each lineal foot of property frontage.
- (3) One freestanding sign per street frontage not to exceed two (2) square feet of sign area for each lineal foot of property frontage on which the sign is placed, with a maximum sign size of one hundred-fifty (150) square feet. The maximum sign height shall be twenty-four (24) feet. Where street frontage exceeds five hundred (500) feet, one additional freestanding sign may be allowed per five hundred (500) foot increment.
- (4) Minimum setback for the leading edge of the sign shall be five (5) inside the property line with a maximum height of ten (10) feet. For each additional foot the sign is setback the sign height may increase one and one-half (1-1/2) feet to a maximum of twenty-four (24) feet in height.
- (5) Wall signs shall not exceed twenty percent (20%) of the square footage of the wall area upon which they are installed. Canopy signs and electric awning signs shall not exceed twenty percent (20%) of the square footage of the wall area upon which they are installed (see Section 3.04 for sign area calculations). The combination of wall signs, canopy signs and electric awning signs shall not exceed the allowable square footage for the wall upon which they are placed.
- (6) Integrated roof signs may be used instead of wall signs. The integrated roof sign size shall not exceed the allowable size for a wall sign. Integrated roof signs shall be constructed so as to conceal all structures and fastenings. The height of the sign shall not exceed the roof to which it is attached.
- (7) Window signs shall not exceed thirty (30) percent of the window area. This included permanent and temporary window signs.
- (8) Projecting signs may be used instead of any wall or freestanding signs provided they do not project beyond the property line and maintain a clearance of ten (10) feet over sidewalk and fourteen (14) feet over any parking lot, driveway or crown of the street, whichever is higher. Projecting sign size shall not exceed the allowable size of wall signs. The height of the sign shall not exceed the roof of the wall to which it is attached.

- (9) One (1) under-canopy sign or wall sign for each separate occupancy or separate entrance not to exceed eight (8) square feet in sign area. Under-canopy signs must have a minimum clearance of ten (10) feet over the sidewalk.
- (10) On-premises directional signs as required

(d) Signs Permitted in the Interstate Corridor

Signs are allowed as follows in the Interstate Corridor.

- (1) All signs as permitted in Sections 27-704(a), 27-704(b) and 27-704(c).
- (2) The total square feet of all signs located on the property, including, but not limited to freestanding, wall, projecting, integrated roof, canopy, under-canopy, and directional signs, shall not exceed three (3) square feet in sign area for each lineal foot of property frontage. This frontage shall be calculated using local streets, not the interstate highway.
- (3) Freestanding signs within the Interstate Corridor may be installed to a height of forty (40) feet and may be a maximum of three hundred-fifty (350) square feet if the principal purpose of such signs is to address interstate traffic.
- (4) Minimum setback for the leading edge of the sign shall be five (5) feet inside the property line with a maximum height of ten (10) feet. For each additional foot the sign is setback the sign height may increase one and one-half (1-1/2) feet to a maximum of forty (40) feet, if it is a freestanding sign addressing interstate traffic or twenty-four (24) feet for all other freestanding signs.
- (5) Freestanding signs which do not address interstate traffic must comply with the requirements for the zoning districts as outlined in Sections 27-704(a), 27-704(b) and 27-704(c).

(e) Shopping Center Signs

Shopping Center signs shall be allowed in the following zoning districts: Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI) and Heavy Industrial (HI). Shopping Center signs may not be used in conjunction with a Common Signage Plan.

- (1) Shopping Centers shall be allowed one (1) freestanding directory sign per frontage. The sign may be one hundred-fifty (150) square feet plus five percent (5%) of the one hundred-fifty (150) square feet per tenant. Maximum sign size shall not exceed three hundred-fifty (350) square feet or the allowable square footage for the frontage on which the sign is installed. The setback requirements in Section 27-704(c) (4) shall apply.

(f) Billboards

- (1) Billboards shall be permitted in the Interstate Corridor (660 feet either side of the right-of-way of the Interstate Highway) on properties zoned CC, HC, CI or HI as follows:
 1. Billboards located within the Interstate Corridor shall have a maximum size of six hundred (600) square feet in size and shall be no more than forty (40) feet in height.
 2. Minimum distance between billboards shall five hundred (500) feet.
 3. Lighting shall be designed to minimize glare and interference with any adjacent residential uses or traffic.

Billboards not located in the interstate corridor are allowed as indicated below.

- (2) Billboards shall be permitted in Highway Commercial (HC) as follows:

- a. Billboards shall be a maximum of three hundred (300) square feet in size and a maximum of thirty (30) feet in height.
- b. Minimum distance between billboards shall be seven hundred (700) feet.
- c. Lighting shall be designed to minimize glare and interference with any adjacent residential uses or traffic.

(3) Billboards shall be permitted in Community Commercial (CC) as follows:

- a. Billboards shall be a maximum of two hundred eighty-eight (288) square feet in size and a maximum of thirty (30) feet in height.
- b. Minimum distance between billboards shall be seven hundred fifty (750) feet.
- c. Lighting shall be designed to minimize glare and interference with any adjacent residential uses or traffic.

(4) Billboards shall be permitted in Controlled Industrial (CI) and Heavy Industrial (HI) as follows:

- a. Billboards shall be a maximum of three hundred seventy-eight (378) square feet in size and a maximum of forty (40) feet in height.
- b. Minimum distance between billboards shall be five hundred fifty (500) feet.
- c. Lighting shall be designed to minimize glare and interference with any adjacent residential uses or traffic.

(g) Temporary Signs. Temporary Sign Permits: Temporary signs shall be allowed on private property only upon issuance of a Temporary Sign Permit, which shall be subject to the following requirements:

- (1) Term: A temporary sign permit shall allow the use of a temporary sign for new businesses or to existing businesses which are relocating and shall be limited in use to one (1) time for no more than sixty (60) days.
- (2) Number: Only one (1) temporary sign permit shall be issued to the same business license holder on the same lot in any calendar year.
- (3) Other Conditions: A Temporary sign shall be allowed only NC, CC, HC, CI, and HI zoning districts.

(h) Banner Signs. Permits for Banner Signs in the Public Right-of-Way: Permits for banner signs in the public right-of-way shall be issued in accordance with the following conditions:

- (1) Application: A banner sign application, which has been signed and approved by the owners of all private property to which the sign will be affixed, shall be submitted.
 - a. The banner sign application must be submitted to and approved by the Director prior to placement of the banner sign.
 - b. Application for a banner sign may not be submitted earlier than six (6) months prior to the date when the sign will first be displayed.
- (2) Term and Number of Permits: The maximum time during which any banner sign may be displayed is thirty (30) days. One permit shall cover a maximum of five (5) banners and locations.
- (3) Message and Symbols on Banner Signs: Message and symbols are limited to public service messages with no commercial advertising of any nature appearing on the banner. This shall not preclude the identification of an event sponsor provided that such identification shall not occupy more than fifteen percent (15%) of the area of the banner.

- (4) Size of Banner Signs: The maximum allowable size of a banner sign is three (3) feet by twenty (20) feet.
- (5) Banner signs are permitted in the NC, CC, HC, CI and HI zoning districts.
- (6) Other Conditions: The County may require the applicant to indemnify the County and to provide insurance covering any liability that may occur as a result of placement of the banner sign.

Sec. 27-705 - COMMON SIGNAGE PLAN

- (a) Common Signage Plan: If the owners of two or more contiguous or adjacent (disregarding intervening streets and alleys) lots or the owner of a single lot with more than one building (excluding accessory buildings) or multiple use buildings, file with the Director for such lots a Common Signage Plan conforming with the provisions of this section, a twenty-five (25) percent increase in the maximum total sign area shall be allowed for each included lot. This bonus shall be allocated within each lot as the owner(s) elects.
- (b) Provisions of Common Signage Plan: The Common Signage Plan shall contain all of the following information:
 - 1. An accurate plot plan of the lot, at such scale as the Director may reasonably require;
 - 2. Location of buildings, parking lots, driveways, clear vision triangles and landscaped areas on such lot;
 - 3. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the lot(s) included in the plan under this Section; and
 - 4. An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not.
 - 5. Window signs may simply indicate the areas of the windows to be covered by window signs and the general type of the window signs (e.g., paper affixed to window, painted, etched on glass or some other material hung inside the window) and need not specify the exact dimension or nature of every window sign.

and shall also specify standards of consistency among all signs on the lots affected by the Plan with regard to:

- 1. Color scheme;
- 2. Letter or graphic style;
- 3. Lighting;
- 4. Location of each sign on the buildings;
- 5. Material; and
- 6. Sign proportions.

The above criteria does not apply to registered trademarks or established logos.

- (c) Limit on Number of Freestanding Signs Under Common Signage Plan: The Common Signage Plan, for all lots with multiple uses or multiple users, shall limit the number of freestanding signs to a total of one for each street on which the lots included in the plan have frontage and shall provide for shared or common usage of such signs.
- (d) Other Provisions of the Common Signage Plan: The Common signage Plan may contain other restrictions as the owners of the lots may reasonably determine.

- (e) Consent: Common signage Plan shall be signed by all owners or their authorized agents in such form as the Director shall require.
- (f) Procedures: Common Signage Plan shall be included in any development plan, site plan, planned unit development or other official plan required by the County for the proposed development and shall be processed simultaneously with such other plan.
- (g) Amendment: Common Signage Plan may be amended by filing a new or Common Signage Plan that conforms with all requirements of the Resolution then in effect.
- (h) Existing Signs Not conforming to Common Signage Plan: If any new or amended Common Signage Plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance, within five (5) years all signs not conforming to the proposed amended plan or to the requirements of this Resolution effect on the date of submission.
- (i) Binding Effect: After approval of a Common Signage Plan, no sign shall be erected, placed, painted or maintained, except in conformance with such plan, and such may be enforced in the same way as any provision of this Resolution. The Common Signage Plan may be dissolved at the request of the parties involved. Once the Common Signage Plan is dissolved all signage for the development must be brought into compliance with the provisions this Section within thirty (30) days of dissolution of the Common Signage Plan. In case of any conflict between the provisions of this Resolution and Common Signage Plan, the Resolution shall control.

Sec. 27-706 NONCONFORMING SIGNS

(a) Determination of Legal Nonconformity. Existing signs which do not conform to the specific provisions of this Section may be eligible for the designation "legal nonconforming" provided that:

- (1) The Administrator determines such signs are properly maintained and do not in any way endanger the public.
- (2) The sign was installed in conformance with a valid permit or variance, or complied with all applicable laws on the date of adoption of this Resolution.
- (3) The sign owner registers the sign with the Administrator within six (6) months of the adoption of this Resolution. If the owner fails to register the nonconforming sign with the Administrator, the sign then must be brought into compliance with this Section.

(b) Loss of Legal Nonconforming Status. A legal nonconforming sign may lose this designation if:

- (1) The sign is relocated or replaced.
- (2) The structure or size of this sign is altered in any way except toward compliance with this Section. This does not refer to change of copy or normal maintenance.

(c) Maintenance and Repair of Nonconforming Signs. The legal nonconforming sign is subject to all requirements of this Section regarding, safety, maintenance and repair. However, if the sign suffers more than fifty (50) percent damage or deterioration, as based on appraisal, it must be brought into conformance with this Section or removed. The Yellowstone County Appraisers Office appraisal shall be used. If the sign owner does not agree with the County's appraisal of the sign, he/she may then obtain a third party appraisal from a certified appraiser at his/her own expense.

Sec. 27-707 CONSTRUCTION SPECIFICATIONS

(a) Construction Specifications.

(1) All signs shall be installed in compliance with the Uniform Building Code (UBC) and the National Electric Code (NEC).

(b) All electrical freestanding signs, except billboards, must have underground electrical service to such signs.

Sec. 27-708 ADMINISTRATION AND ENFORCEMENT

(a) Sign Administrator. The Administrator shall be the Planning Director or his/her appointee and is authorized to process applications for permits and variances, hold public hearing as required, and enforce and carry out all provisions of this Section. The Administrator is authorized to promulgate regulations and procedures consistent with this function.

The Administrator is empowered, upon presentation of proper credentials, to enter or inspect any building, structure or premises in the County for the purpose of inspection of a sign and its structural and electrical connections to ensure compliance with all applicable laws and regulations. Such inspections shall be carried out during business hours unless an emergency exists.

(b) Applications for Permits. Applications for a permit for the erection, relocation or structural repair of a sign shall be made to the Administrator upon a form provided by the Administrator and shall include, but not be limited to, the following information:

(1) Name and address of the owner of the sign.

(2) Street address or location of the property on which the sign is to be located, along with the name and address of the property owner.

(3) The name, address and license number of the sign contractor installing the sign.

(4) The type of sign or sign structure as defined in this Section.

(5) A site plan with measurements showing the proposed location of the signs along with the locations of all existing signs on the same premises.

(6) Specifications and drawings showing the materials, design, dimensions, structural supports and electrical components of the proposed sign.

(c) Permit Fees. All applications for permits filed with the Administrator shall be accompanied by a payment of the initial permit fee for each sign as established by Resolution by the Yellowstone County Board of County Commissioners. Said permit fee may be revised from time to time by resolution and approval of the Yellowstone County Board of County Commissioners.

(d) Issuance and Denial. The Administrator shall issue a permit and permit sticker or tag for the erection, structural alteration or relocation of a sign within ten (10) working days of receipt of a valid application, provided that the sign complies with all applicable laws and regulations of the County. In all applications where a matter of interpretation arises, the more specific definition or higher standard shall prevail.

When a permit is denied, the Administrator shall within ten (10) working days, provide a written notice to the applicant along with a statement of the reasons for denial, citing sections of this Section and interpretation of possible nonconformity. The Administrator may suspend or revoke an issued permit for any false statement or misrepresentation of facts in the application.

(e) Permit Condition, Refunds, and Penalties. If a permit is denied, the permit fee will be refunded to the applicant.

A permit is valid for ninety (90) days upon issuance of the permit. A one (1) time extension for sixty (60) days may be granted by the Administrator, provided that the written request for the extension is made prior to the expiration date of the issued permit.

If any sign is installed or placed on any property prior to receipt of a permit, the specified permit fee shall be doubled. However, payment of the doubled fee shall not relieve any person or any other requirements or penalties prescribed in this Section.

(f) Inspection Upon Completion. Any person installing, structurally altering or relocating a sign for which a permit has been issued shall notify the Administrator upon completion of the work. The Administrator may require a final inspection, including an electrical inspection and inspection of footings on freestanding signs.

The Administrator may require at the time of issuance of a permit written notification for an inspection be submitted prior to the installation of certain signs.

(g) Variances. All variances shall follow the procedure as outlined in Section 27-1511 of the Yellowstone County Zoning Regulations.

(h) Violations. When, in the opinion of the Administrator, a violation of this Section exists, the Administrator shall issue a written notice to the alleged violator. The notice shall specify those sections which the individual may be in violation of, and shall state that the individual has fourteen (14) days from the date of the order in which to correct the alleged violation.

If, upon, inspection, the Administrator finds a sign is abandoned or structurally, materially or electrically defective, or in any way endangers the public, the Administrator shall issue a written notice to the owner of the sign and the occupant of the premises stating the nature of the violation and requiring them to repair or remove the sign within fourteen (14) days of the date of the notice.

In cases of emergency, the Administrator may cause the immediate removal of a dangerous or defective sign without notice. Signs removed in this manner must present a hazard to the public safety as defined in the local building or traffic codes.

(i) Removal of Signs By The Administrator. The Administrator may cause the removal of an illegal sign in cases of emergency, or for failure to comply with the written orders of removal or repair. After removal or demolition of the sign, a notice shall be mailed to the sign owner stating the nature of the work and the date on which it was performed and demanding payment of the costs as certified by the Administrator.

If the amount specified in the notice is not paid within thirty (30) days of the notice, it shall become an assessment upon a lien against the property of the sign owner, and will be certified as an assessment against the property together with 1.5 percent per month penalty for collection in the same manner as the real estate taxes.

The owner of the property upon which the sign is located shall be presumed to be the owner of all signs thereon unless facts to the contrary are brought to the attention of the Administrator, as in the case of a leased sign.

For purposes of removal, the definition of sign shall include all sign embellishments and structures designed specifically to support the sign.

(j) Any person who fails to comply with the provisions of this Resolution may be subject to penalties as outlined in Section 27-1604 of the Yellowstone County Zoning Regulations.

ARTICLE 27-800. - SOUTH 27TH STREET CORRIDOR ZONING DISTRICT – Is Deleted in its entirety.

ARTICLE 27-900. - MEDICAL CORRIDOR PERMIT ZONING DISTRICT – Is deleted in its entirety.

ARTICLE 27-1000. - INTERCHANGE/ENTRYWAY ZONING DISTRICTS

Sec. 27-1001. - Intent.

The intent of the Interchange/Entryway zoning districts is to promote attractive, high quality development, to provide an appealing image of ~~the City of Billings~~ Yellowstone County, to the travelling public and also the community. Further, it is the intent of this district to maintain a sensitivity toward existing development while preserving scenic vistas and protecting environmentally sensitive areas, including the Yellowstone River Corridor.

Objectives

- (a) Promote a unique, attractive physical landscape through topographic variations, water areas, native vegetation and scenic vistas;
- (b) Create and preserve open space;
- (c) Preserve and enhance unique qualities of the total environment;
- (d) Encourage creativity in design;
- (e) Provide for harmonious land design and quality site planning, which will produce a more desirable and attractive environment;
- (f) Reduce the level of adverse impacts from the transportation system on adjoining lands;
- (g) Promote development patterns in harmony with the goals and objectives of the 1990 Yellowstone County Comprehensive Plan; and
- (h) Promote compatible land use transitions with a sensitivity toward existing residential uses.

Sec. 27-1002. - Application and approval process.

All plans and applications for development and signs shall be submitted to the city-county planning department. All applications must be submitted in person and signed by the property owner, lessee, the contract purchaser or the authorized agent of the property owner.

Planning department approval is to ensure compliance with the zoning regulations. This does not in anyway construe approval by any other ~~city or~~ county department. A state building permit and planning department approval are required prior to construction.

Each application shall include, but not be limited to the following information:

- (1) The name and address of the property owner;
- (2) The name and address of the applicant;
- (3) The legal description of the parcel;
- (4) A map drawn to scale showing the dimensions, acreage, location of the parcel, north arrow, streets and adjacent land uses;
- (5) A complete site plan drawn to a scale of no less than 1" = 40' showing the dimensions and locations of all structures, streets, paving, parking, landscaping, signage, waterways or other significant features of the development;
- (6) Complete elevation drawings drawn to scale including the dimensions and height of the structure; and
- (7) Signage plan specifications and location. (This applies to applications for signs only.)

Within fifteen (15) working days following the submittal of a complete application, the planning director or his/her designee shall issue planning department approval for development or a denial of the application, unless the applicant consents in writing to an extension of the review period. Should the application be denied, the applicant shall be notified in writing specifying all areas of noncompliance with this chapter.

Sec. 27-1003. - Definitions.

Terms not specifically defined in this chapter shall use the same meanings as they are defined in ~~BMCC~~ section 27-201. The standard dictionary meaning shall be applied to terms not otherwise defined.

(Ord. No. 97-5048, § 8, 12-22-97)

Sec. 27-1004. - Zoning districts.

(a) *Entryway light commercial zone (ELC)* The purpose of the entryway light commercial zone is to provide limited entryway commercial convenience facilities, serving the nearby community.

(1) *Permitted uses:* The following uses shall be less than three thousand (3,000) square feet gross floor area (GFA):

Accessory uses and structures associated with a permitted principal structure

Apparel and accessory stores

Bakeries, retail

Banking and financial institutions

Barber and beauty shops

Book and stationery stores

Coin-operated laundry and dry-cleaning pick up station

Convenience stores, with or without gas sales

Food stores

General merchandise stores

Hardware stores

Home furniture and furnishing stores

Mailing, photocopying, blueprinting and duplicating services

Newsstands

Offices

Paint stores

Pharmacies

Photo-finishing labs

Restaurants without the sale of alcoholic beverages

Shoe repair shops

Watch, clock and jewelry repair

(2) *Special review uses:* Any of the above-permitted uses greater than three thousand (3,000) square feet GFA

Car washes

Commercial recreation uses only as listed below:

Arcades

Batting cages

Boat Rentals

Bowling alleys

Canoe and kayak rentals

Day camps

- Driving ranges
- Golf courses
- Handball courts
- Ice skating rinks
- Miniature golf
- Parks
- Playing fields
- Racquetball courts
- Riding stables
- Roller skating rinks
- Schools and camps for sports instruction
- Swimming pools
- Tennis courts
- Waterslides

Gravel and/or sand extraction

Mixed use developments which include residential uses

Other retail uses similar in nature to those listed above

Restaurants with the sale of alcoholic beverages for on-premise consumption

(b) *Entryway general commercial zone (EGC)*. The purpose of the entryway general commercial zone is to provide a specialized classification for hotels, restaurants and other tourist-related facilities near major highway interchanges.

(1) *Permitted uses:*

Accessory uses and structures associated with a permitted principal structure

Apparel and accessory stores

Automobile and truck sales (new and used)

Automobile rental agencies

Automotive service stations

Bakeries, retail

Banking and financial institutions

Barber and beauty shops

Book and stationery stores;

Broadcasting studios, radio and television

Car washes;

Coin-operated laundry and dry-cleaning pick up station

Commercial recreation uses only as listed below:

- Arcades

- Batting cages

- Boat rentals

Bowling alleys
Canoe and kayak rentals
Day camps
Driving ranges
Golf courses
Handball courts
Ice skating rinks
Miniature golf
Parks
Playing fields
Racquetball courts
Riding stables
Roller skating rinks
Schools and camps for sports instruction
Swimming pools
Tennis courts
Waterslides
Convenience stores, with or without gas sales
Food stores
General merchandise stores
Hardware stores
Home furniture and furnishing stores
Hotels/Motels
Laundry and dry-cleaning establishments
Mailing, photocopying, blueprinting and duplicating services
Newsstands
Offices
Paint stores
Pharmacies
Photo-finishing labs
Recreational vehicle sales and service
Restaurants without the sale of alcoholic beverages
Retail nurseries, lawn and garden supply stores
Shoe repair shops
Signs, computer controlled variable message
Theaters (Indoor)
Tire sales

Watch, clock and jewelry repair

Wholesale uses not to exceed three thousand (3,000) square feet gross floor area (GFA)

(3) *Special review uses*

Campgrounds

Commercial Recreation uses only listed as below:

Go-cart tracks

Rodeos

Roping arenas

Gravel and/or sand extraction

Mixed use developments which include residential uses

Other retail uses similar in nature to those listed above

Restaurants with the sale of alcoholic beverages for on-premise consumption

Truck stops

Veterinary clinics

a. Boarding

b. Outpatient Only

Wholesale uses not to exceed ten thousand (10,000) square feet gross floor area (GFA)

Zoos

- (c) *Entryway mixed use zone (EMU)* The purpose of the entryway mixed use zone is to provide for commercial recreation development and a mixture of low intensity residential and low intensity commercial/office use. This zone allows for low impact commercial and residential development that will have minimal adverse effect on adjacent natural resources and existing uses.

(1) *Permitted uses:*

Accessory uses and structures associated with a permitted principal structure

Campgrounds

Commercial recreation uses only listed as below:

Batting cages

Boat rentals

Canoe and kayak rentals

Day camps

Driving ranges

Golf courses

Handball courts

Ice skating rinks

Miniature golf

Parks

Playing fields

Racquetball courts

Riding stables

Schools and camps for sports instruction

Swimming pools

Tennis courts

Mixed use developments (incorporating Office/Commercial uses permitted in the EGC zone and residential uses)

Residential, Single-family

Residential, Multi-family

Restaurants without the sale of alcoholic beverages for on-premise consumption

(2) *Special review uses:*

Commercial Recreation uses only listed as below:

Go-cart tracks

Rodeos

Roping arenas

Gravel and/or extraction

Restaurants with the sale of alcoholic beverages for on-premise consumption

(d) *Entryway Light Industrial (ELI)*. The purpose of the Entryway Light Industrial zone is to provide large lots located directly accessible to arterial and other transportation systems for warehousing and light manufacturing and allow for limited commercial facilities for the adjacent community and interstate travelers.

(1) *Permitted uses:*

Accessory uses and structures associated with a permitted principal structure

Automotive service stations

Auto repair

Auto supply stores

Bakery, wholesale

Broadcast studios, radio and television

Bus terminal operation with or without maintenance facilities

Car washes

Coin-operated laundry and dry cleaning with pick up station

Convenience stores, with or without gas sales

Cabinet and furniture manufacture

Engineering, physical and biological research laboratories

Funeral homes, mortuaries, and crematories

General warehousing and compartmentalized storage under 250,000 square feet

GFA

Heavy equipment sales and service

Hotels/motels

Laundry and dry-cleaning establishments

Light manufacturing:

Computer and office equipment (SIC-357)

Household audio and video equipment and audio recording (SIC-365)

Communication equipment (SIC-366)

Electronic components and accessories (SIC-367)

Measuring, analyzing and controlling instruments, photographic, medical and optical goods, watches, clocks (SIC-38)

Mailing, photocopying, blueprinting and duplicating services

Mobile Home Sales

Offices; professional, private, government

Photo-finishing labs

Recreational vehicle sales and service

Restaurants without the sale of alcoholic beverages

Retail Uses allowed in the entryway general commercial

Retail nurseries, lawn and garden supply stores

Tire sales

Truck stops

Trucking terminal with or without maintenance facilities

US Postal services with or without terminal facilities

Vet clinics

Wholesale trade (except SIC-5093)

(2) *Special review uses:*

Gravel and/or sand extraction

Mixed use developments

Passenger and freight terminals

Restaurants with the sale of alcoholic beverages for on-premise consumption

Wood container manufacturing

Wood building and mobile home manufacturing

Miscellaneous wood products manufacturing

Retail over 250,000 GFA

Warehousing over 250,000 GFA

Sec. 27-1005. - Development standards.

Minimum lot area for all non-residential development shall be twenty-thousand (20,000) square feet in the ELC, EGC, EMU and ELI zoning districts.

Residential developments shall meet the minimum lot area, setbacks, lot coverage and height limits of the Residential 9,600 (R-9,600) zoning district for single family projects or for the Residential Multi-Family - Restricted (RMF-R) zoning district for multiple-family developments, as listed in ~~BMC~~ section 27-308.

Minimum building setback from property line:

	ELC	EGC	EMU	ELI
*Adjacent to Interstate right-of-way	25 feet	25 feet	25 feet	25 feet
*Adjacent to any other right-of-way	25 feet	25 feet	25 feet	25 feet
Adjacent to a residential zone	25 feet	25 feet	25 feet	25 feet
Adjacent to a non-residential zone	10 feet	10 feet	10 feet	10 feet
Structure Height	30 feet	40 feet	30 feet	40 feet
Maximum Lot Coverage	50%	50%	50%	50%

*All arterial setbacks as outlined in ~~BMCC~~ section 27-602 must be maintained.

Setback areas not occupied by required bufferyards may be used for, but not limited to the following: display area, driveways and non-required parking.

All current City and County codes shall apply, including but not be limited to the following: building, zoning, site development, parking and drainage regulations that are not directly addressed in this chapter. Where requirements are addressed in one or more regulations, the most stringent shall apply.

Traffic accessibility studies Current traffic accessibility study requirements in the subdivision and site development regulations shall apply, in addition to those requirements outlined below.

The following uses shall be required to submit traffic accessibility studies:

Drive-through services

Truck stops

Sec. 27-1006. - Landscaping standards.

(a) *Definitions:*

(1) *Canopy tree:* A species of tree which normally bears crown foliage no lower than six (6) feet above ground level upon maturity. Minimum size of canopy trees shall be two and one-half (2½) inches in caliper.

(2) *Evergreen tree or shrub:* A tree or shrub of a species which normally retains leaves/needles throughout the year. Minimum size of evergreen trees shall be five (5) feet in height.

(b) *Street Frontage Landscaping.* All commercial zones are required to place a bufferyard (landscaping strip) adjacent to and along the length of all rights-of-way, excluding driveways. Rights-of-way include the following: ditches adjacent to streets, principal arterial streets, minor arterial streets, collector streets, local streets and US Interstate 90.

The developer shall have the option of bufferyard widths (see options below). Placement and landscaping design shall be at the discretion of the developer. It is recommended that a design professional or local nursery be contacted for assistance with the development of the landscape design.

Bufferyard Requirements The developer shall have the option of one (1) of the following three (3) bufferyards. Bufferyard depth is measured from the property line inward. Any buffer area which overlaps another buffer area shall be subtracted from the total to avoid double counting.

Number of trees and shrubs required per one hundred (100) feet of frontage:

- (1) Twenty-five (25) foot wide bufferyard
Five (5) Canopy or evergreen trees
Ten (10) Shrubs
- (2) Twenty (20) foot wide bufferyard
Ten (10) Canopy or evergreen trees
Fifteen (15) Shrubs
- (3) Fifteen (15) foot wide bufferyard
Fifteen (15) Canopy or evergreen trees
Twenty (20) Shrubs

The following criteria shall also apply to the bufferyards.

- (1) The landscape strip shall be contoured. Berming shall be one (1) foot of rise to four (4) feet of run with a minimum of three (3) feet in height. Depressions shall be no lower than the existing grade of the site.
 - (2) All landscaped areas shall contain ground cover such as sod, shrubs, flower beds or organic materials. No more than ten (10) percent of the landscaped area shall contain fountains, rock, bark chips, stepping stones or similar material.
 - (3) All landscaped areas shall be irrigated, maintained and kept free of weeds, debris and litter.
- (c) *Off-street parking lot landscaping.* Landscaping shall be provided within all parking areas. The following requirements shall apply:
- (1) A minimum of twenty (20) square feet of landscaped area shall be provided for each parking space.
 - (2) Two (2) canopy and/or evergreen trees and five (5) shrubs shall be required for every nine (9) parking spaces.
 - (3) All landscaped areas shall contain ground cover such as sod, shrubs, flower beds or organic materials. No more than ten (10) percent of the landscaped area shall contain fountains, rock, bark chips, stepping stones or similar material.
 - (4) The minimum width and/or length of any parking lot landscaped area shall be five (5) feet.
 - (5) Internal parking lot landscaping provided shall be proportionately dispersed, at the developers discretion, in order to define aisles and limit unbroken rows of parking. The maximum horizontal or vertical unbroken length shall be limited to one hundred (100) feet. Landscaped areas provided shall be in a scale proportionate to parking lot.
 - (6) Any development that has parking abutting a required bufferyard, may extend the width of that bufferyard a minimum of five (5) feet and include the additional required parking landscaping plant material. The minimum bufferyard width and landscaping material is required in addition to the parking landscaping.
 - (7) All landscaped areas shall be irrigated, maintained and kept free of weeds, debris and litter.

- (d) *Protection of landscaped areas.* Landscaped areas within parking lots or the along perimeter of the property must be protected from vehicular traffic through the use of continuous concrete curbs, extruded asphalt or other approved permanent barriers.
- (e) *Commercial uses abutting residential uses.* All commercial uses abutting residential uses shall install a bufferyard. The bufferyard shall be ten (10) feet wide and shall contain ten (10) evergreen and/or canopy trees and ten (10) shrubs per one hundred (100) lineal feet. A solid fence or wall that is architecturally compatible in color and design with the building, shall be required on the property line. The fence height shall be a minimum of six (6) feet. Chain link or other wire fencing material is prohibited.
- (f) *Recommended tree types.* It is recommended that the developer work with the ~~City Parks Department,~~ agricultural extension agent, a local greenhouse operator, landscape architect or other design professional to determine the species of trees that are most suitable for each situation. The use of native, drought-tolerant plant material is strongly encouraged. Evergreen trees are encouraged for bufferyards and canopy trees are encouraged for parking areas, however, the planting of trees should be done in such a manner as to provide maximum solar efficiency throughout the site.

A list of recommended native plant material shall be available at the Planning Department.

- (g) *Fractions in the calculation of number of trees and shrubs.* In the calculation of trees and shrubs for bufferyards or parking landscaping, all fractions shall be rounded to the nearest whole number.

Sec. 27-1007. - Building design standards.

- (a) All buildings shall be completed on all sides with an acceptable finishing material. The following materials are acceptable: brick, fluted block, colored textured block, glass, stucco, architectural concealed fastener metal panels, exterior insulation and finishing systems (i.e. Dryvit, etc.), stone or wood. Exposed seam metal buildings shall be prohibited unless covered with an acceptable finishing material.
- (b) Roofs shall be finished with a material that is architecturally compatible in color and design with the construction of the building. Metal roofs, fascia and mansards shall be limited to the following: standing seam, metal shakes or shingles and architectural metal treatments. All mechanical equipment placed on top of any roof shall be screened by a parapet or other similar architectural apparatus being at least the height of the mechanical equipment. Pitched roofs are encouraged whenever possible.
- (c) Long, flat facades, having local street or interstate highway frontage, having more than one hundred (100) lineal feet are prohibited. Buildings over one hundred (100) feet in length shall incorporate one of the following: recesses, off-sets, angular forms, landscaping features or other architectural features such as bell towers, clock towers, to provide a visually interesting shape. The break in the facade shall be minimum of eight (8) feet in length. A single uninterrupted length of a facade shall not exceed one hundred (100) lineal feet. It is encouraged that each offset area contain landscaping or other similar amenities which will complement the offset area.

Sec. 27-1008. - Additional provisions for commercial uses.

- (a) *Storage of merchandise.* Any permitted storage of merchandise outside an approved building shall be within an area enclosed with a sight obscuring fence at least six (6) feet in height that is architecturally compatible in color and design with the building. However, promotional displays, vehicle sales lots and plant materials may be displayed outside of an approved building or enclosed area so long as they are placed appurtenant to a building wherein the business displays the bulk of its goods for sale. In addition, retail nurseries shall be exempt from the enclosure of plant materials. Bufferyards or required landscaping shall not be used for the displaying of merchandise. Chain link or other type of wire fencing is prohibited.
- (b) *Site lighting:*
 - (1) All outdoor lighting shall be designed, located and mounted at heights no greater than:
 - a. Eighteen (18) feet above grade for non-cutoff lights; and

- b. Thirty-five (35) feet above grade for cutoff lights.
- (2) **Maximum Illumination.** All outdoor lighting shall be designed and located such that the maximum illumination measured in footcandles at the property line shall not exceed three-tenths (0.3) footcandle for non-cutoff lights and one and five-tenths (1.5) footcandles for cutoff lights.
- (c) **Storage of junk.** No person shall store junk, partially or completely dismantled vehicles, or salvaged materials in any commercial zone outside a building. In the case of automobile repair shops, such materials must be enclosed within a building or an area having a sight obscuring fence at least six (6) feet in height. Chain link or other type of wire fencing is prohibited.
- (d) **Solid waste area.** All solid waste storage facilities shall be located within an area enclosed with a sight obscuring fence or wall that is architecturally compatible in color and design with the building. Chain link or other type of wire fencing is prohibited.

Sec. 27-1009. - Signs.

- (a) **Intent.** This section shall not regulate official traffic or government signs; the copy and message of signs; signs not intended to be viewed from a public right-of-way; window displays; product dispensers and point of purchase displays; scoreboards on athletic fields; flags of any nation, government or fraternal organization; gravestones; barber poles; religious symbols; or any display or construction not defined herein as a sign.
- (b) **Definitions.** Words and phrases used in this section are defined in this section. Principles for computing sign area are outlined in subsection (e) of this section.

- (1) **Animated sign:** Any sign that uses movement or change or lighting to depict action or create a special effect or scene.
- (2) **Area of sign:** The entire area of a sign including the area within a perimeter which forms the outside shape including the frame, forming an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. The frame of a sign may be excluded from the area where such frame conveys no message and is constructed or affixed for aesthetic reasons beyond the necessary supports.

For computing the areas of any wall or canopy sign which consists of letters mounted or painted on a wall or canopy, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters. (See below subsection E for calculation of sign area.)

- (3) **Banner sign:** Any sign (other than an official flag) made of cloth, paper or fabric of any kind, which is used to attract attention, whether or not imprinted with words or characters.
- (4) **Beacon:** Any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same lot as the light source; also, any light with one (1) or more beams that rotate or move.
- (5) **Building marker:** Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.
- (6) **Canopy sign:** Any sign that is a part of or attached to any awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area, and which does not extend horizontally beyond the limits of the canopy.
- (7) **Changeable copy sign:** A sign whose informational content can be changed or altered by manual or electric, electro-mechanical or electronic means. Changeable signs include the following types:
 - 1. **Manually activated:** Signs whose alphabetic, pictographic or symbolic information content can be changed or altered by manual means.
 - 2. **Electrically activated:** Signs whose alphabetic, pictographic or symbolic informational content can be changed or altered on a fixed display surface composed of electrically

illuminated or mechanically driven changeable segments. Electrically activated signs include the following two (2) types:

- a. *Fixed message electronic signs*: Signs whose basic informational content has been pre-programmed to include only certain types of information projections, such as time, temperature, predictable traffic conditions or other events subject to prior programming.
 - b. *Computer controlled variable message electronic signs*: Signs whose informational content can be changed or altered by means of computer-driven electronic impulses.
- (7) *Copy*: The graphic content of a sign surface in either permanent or removable letter, pictographic, symbolic or alphabetic form.
 - (8) *Directional/informational sign*: An on-premise sign giving directions, instructions or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs. The sign may contain a logo provided that the logo may not comprise more than twenty (20) percent of the total sign area.
 - (9) *Director*: The planning director of the county or his/her designee.
 - (10) *Flag*: Any fabric, banner or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision or other entity.
 - (11) *Freestanding sign*: Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure, including monument signs.
 - (12) *Government sign*: Any temporary or permanent sign erected and maintained by the city, county, state or federal government for traffic direction or for designation of or direction to any school, hospital, historical site or public service, property or facility.
 - (13) *Height of sign*: The vertical distance measured from the highest point of the sign to the crown of the adjacent street, not including the interstate highway.
 - (14) *Lot*: Any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record, that is recognized and intended as a unit for the purpose of transfer or ownership.
 - (15) *Maintenance*: For the purposes of this chapter, the cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the structure of the sign.
 - (16) *Monument sign*: A sign mounted directly to the ground with maximum height not to exceed six (6) feet.
 - (17) *Nonconforming sign*: A sign which was erected legally, but which does not comply with subsequently enacted sign restrictions and regulations.
 - (18) *Portable sign*: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.
 - (19) *Principal building*: A structure accommodating the principal use to which the property is devoted. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages and other clearly accessory uses shall not be considered principal buildings.
 - (20) *Projecting sign*: A sign, other than a flat wall sign, which is attached to and projects from a building, wall or other structure not specifically designed to support the sign. Supports shall be covered in a neat and orderly fashion. Guy wire support is prohibited.

- (21) *Roof sign, above-peak*: Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
 - (22) *Roof sign, integral*: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.
 - (23) *Setback*: The distance from the property line to the nearest part of the applicable building, structure or sign, measured perpendicularly to the property line.
 - (24) *Sign*: Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.
 - (25) *Street*: A public way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated which has been dedicated to or acquired for public use and which extends the full width between right-of-way lines.
 - (25) *Street frontage*: The length of the property line of any one (1) premises along each public right-of-way it borders excluding alleys, serviceways and the interstate highway.
 - (26) *Suspended sign*: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
 - (27) *Temporary sign*: A non-permanent sign erected and maintained for a specific limited period of time.
 - (28) *Wall sign*: Any sign attached parallel to, painted on the wall surface or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface. Wall signs shall not exceed twenty-two (22) inches in depth measured from the face on the wall on which the sign is mounted.
 - (29) *Wind-driven sign*: Any sign consisting of one (1) or a series of two (2) or more banners, flags, pennants, ribbons, spinners, streamers or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind or breeze.
 - (30) *Window sign*: Any sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.
- (c) *Signs prohibited*. All signs not expressly permitted under this section or exempt from regulation hereunder in accordance with the following section are prohibited. Such signs include, but are not limited to:
- (1) Beacons;
 - (2) Wind-driven sign, except flags as defined in this section;
 - (3) Strings of lights not permanently mounted to a rigid background, except those exempt under the following section;
 - (4) Inflatable signs and tethered balloons;
 - (5) Portable signs;
 - (6) Animated signs;
 - (7) Above-peak roof signs;
 - (8) Banner signs;
 - (9) Abandoned signs;

- (10) Snipe signs or signs attached to trees, telephone poles, public benches, streetlights or placed on any public property or public right-of-way; and
 - (11) Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said signs (this does not apply to signs or lettering on buses, taxis, or vehicles operating during the normal course of business).
- (d) *Signs not requiring permits.* The following types of signs are exempted from permit requirements but must be in conformance with all other requirements of this section:
- 1. Construction signs of sixteen (16) square feet or less;
 - 2. Special event or holiday lights or decorations;
 - 3. Nameplates of two (2) square feet or less;
 - 4. Public signs or notices, or any sign relating to an emergency;
 - 5. Real estate signs; (see below subsection I, 2)
 - 6. Political signs; (see below subsection I, 4)
 - 7. Interior signs not visible from the exterior of the building; and
 - 8. Directional signs not to exceed twelve (12) square feet in area or six (6) feet in height.
- (e) *Calculation of sign area.* The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two (2) identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure, the sign area shall be computed by the measurement of one of the faces.
- (f) *Maintenance.* All signs shall be properly maintained. Exposed surfaces shall be clean and painted if paint is required. Defective parts shall be replaced.
- (g) *Lighting.* Unless otherwise prohibited by this section, all signs may be illuminated.
- (h) *Changeable copy.* Unless otherwise specified by this section, any sign herein allowed may use manual, or fixed message electronic sign.

Computer controlled variable message electronic signs shall be permitted provided that the bottom of the reader board is ten (10) feet above the crown of the adjacent road. Computer controlled variable message electronic signs shall not be permitted in the entryway light commercial (ELC) and the entryway mixed use (EMU) zones.

(i) *Signs permitted in residential districts:*

- (1) One (1) non-illuminated sign for each street frontage of a construction project, not to exceed forty-eight (48) square feet in sign area. Such signs may be erected thirty (30) days prior to beginning of construction and shall be removed thirty (30) days following completion of construction.
- (2) One (1) non-illuminated real estate sign per lot or premises not to exceed sixteen (16) square feet in sign area for residential properties and thirty-two (32) square feet for commercial properties. Such signs must be removed fifteen (15) days following sale, rental or lease of the real estate involved.
- (3) One (1) non-illuminated attached building nameplate per occupancy, not to exceed two (2) square feet in sign area.
- (4) One (1) non-illuminated political sign not to exceed sixteen (16) square feet in sign area. Such signs shall not be erected more than forty-five (45) days prior to the election or referendum concerned and shall be removed ten (10) days following such election or referendum. Political signs may be placed only on private property and only with the permission of the property owner.
- (5) One (1) subdivision sign per street frontage not to exceed forty-eight (48) square feet in sign area in each location.

- (6) One (1) identification sign per entrance to apartment or condominium complex, not to exceed thirty-six (36) square feet in sign area.
- (j) *Signs permitted in commercial districts:*
- (1) All signs permitted in residential districts as listed in above subsection I.
 - (2) The total square footage of all signs located on the property, including, but not limited to freestanding, wall, projecting, integrated roof, canopy, under-canopy and directional signs, shall not exceed three (3) square feet in sign area for each lineal foot of property frontage. This frontage shall be calculated using local streets, not the interstate highway.
 - (3) One (1) freestanding sign within the interchange/entryway zoning district may be installed to a height of forty (40) feet and may be a maximum of three hundred-fifty (350) square feet if the principal purpose of such signs is to address interstate traffic. The sign must be oriented perpendicularly to the interstate so the sign is visible to the interstate traveller. In addition, the property must be adjacent to the interstate right-of-way.
 - (4) Freestanding signs which do not address interstate traffic may be installed to a maximum height of twenty-four (24) feet and may have a maximum size of one hundred-fifty (150) square feet.
 - (5) The setback for the leading edge of freestanding signs shall be a minimum of ten (10) feet.
 - (6) No sign may be placed or designed so as to simulate or interfere with traffic control devices or official highway directional/informational signs.
 - (7) One (1) freestanding sign per frontage, including the interstate highway, shall be allowed. Where a street frontage exceeds five hundred (500) feet, one (1) additional freestanding sign may be allowed per five hundred (500) foot increment. Freestanding signs shall have a minimum distance of one hundred-fifty (150) feet between signs. The total square footage of all freestanding signs shall not exceed the total allowable square footage for freestanding signs.
 - (8) Wall signs shall not exceed twenty (20) percent of the square footage of the wall area upon which they are installed. Electric awning and canopy signs shall not exceed twenty (20) percent of the square footage of the wall area upon which they are installed. The combination of wall signs, electric awning, canopy signs and projecting signs shall not exceed twenty (20) percent of the allowed wall sign area.
 - (9) Integrated roof signs may be used instead of wall signs. The integrated roof sign size shall not exceed the allowable size for a wall sign. Integrated roof signs shall be constructed so as to conceal all structures and fastenings. The height of the sign shall not exceed the roof to which it is attached.
 - (10) Projecting signs may be used instead of any wall or freestanding signs provided they do not project beyond the property line and maintain a clearance of ten (10) feet over sidewalk and fourteen (14) feet over any parking lot, driveway or crown of the street, whichever is higher. Projecting sign size shall not exceed the allowable size for a wall sign.
 - (11) One (1) under-canopy sign for each separate occupancy or separate entrance not to exceed eight (8) square feet in sign area. Under-canopy signs must have a minimum clearance of nine (9) feet from the sidewalk.
 - (12) Window signs shall not cover more than thirty (30) percent of the window area.
 - (13) On-site directional signs as required.
- (k) *Shopping center signs:*
- (1) Shopping centers shall be allowed one (1) freestanding sign directory sign per frontage. The sign shall not exceed one hundred-fifty (150) square feet plus five (5) percent of the one hundred-fifty (150) square feet per tenant. Maximum sign size shall not exceed three hundred-fifty (350) square feet.
 - (2) Shopping centers signs shall not exceed the maximum allowable freestanding signage.

(3) Shopping center signs cannot be used if the Common Signage Plan is used.

(l) *Common signage plan:*

(1) *Common signage plan.* If the owners of two (2) or more contiguous or adjacent (disregarding intervening streets and alleys) lots or the owner of a single lot with more than one building (excluding accessory buildings) or multiple use buildings file with the planning director for such lot(s) a common signage plan conforming with the provisions of this section, a twenty-five (25) percent increase in the maximum total sign area shall be allowed for each included lot. This bonus shall be allocated within each lot as the owner(s) elects.

(2) *Provisions of common signage plan.* The common signage plan shall contain all of the following information:

- a. An accurate plot plan of the lot, at such scale as the Planning Director may reasonably require;
- b. Location of buildings, parking lots, driveways, clear vision triangles and landscaped areas on such lot;
- c. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the lot(s) included in the plan under this chapter; and
- d. An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not.
- e. Window signs may simply indicate the areas of the windows to be covered by window signs and the general type of the window signs (e.g., paper affixed to window, painted, etched on glass, or some other material hung inside the window) and need not specify the exact dimension or nature of every window sign.

The common signage plan shall also specify standards of consistency among all signs on the lots affected by the plan with regard to:

- a. Color scheme;
- b. Letter or graphic style;
- c. Lighting;
- d. Location of each sign on the building(s);
- e. Material; and
- f. Sign proportions.

(3) *Limit on number of freestanding signs under common signage plan.* The common signage plan, for all lots with multiple uses or multiple users, shall limit the number of freestanding signs to a total of one (1) for each street on which the lots included in the plan have frontage and shall provide for shared or common usage of such signs. Where street frontage exceeds five hundred (500) feet, one additional freestanding sign may be allowed per five hundred (500) foot increment.

(4) *Other provisions of the common signage plan.* The common signage plan may contain other restrictions as the owners of the lots may reasonably determine.

(5) *Consent.* Common signage plan shall be signed by all owners or their authorized agents in such form as the Planning Director shall require.

(6) *Procedures.* Common signage plan shall be included in any development plan, site plan, planned development or other official plan required by the city or county for the proposed development and shall be processed simultaneously with such other plan.

(7) *Amendment.* Common signage plan may be amended by filing a new common signage plan that conforms with all requirements of the chapter then in effect.

- (8) *Existing signs not conforming to common signage plan.* If any new or amended common signage plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance, within five (5) years, all signs not conforming to the proposed amended plan or to the requirements of this section effective on the date of submission.
- (9) *Binding effect.* After approval of a common signage plan, no sign shall be erected, placed, painted or maintained, except in conformance with such plan, and such may be enforced in the same way as any provision of this chapter. In case of any conflict between the provisions of this section and common signage plan, the section shall control.
- (10) *Dissolution of common signage plan.* If the signatories of a common signage plan wish to dissolve the common signage plan, written notice must be submitted to the planning director. All signs on the property for which the common signage plan was dissolved must bring all signs into conformance with this section within thirty (30) days of the date written notice was submitted to the planning director.
- (m) *Nonconforming signs.* Existing signs which do not conform to the specific provisions of this section may be eligible for the designation "legal nonconforming" provided that:
 - (1) The planning director determines such signs are properly maintained and do not in any way endanger the public;
 - (2) The sign was installed in conformance with a valid permit or variance or complied with all applicable laws on the date of adoption of this section; and
 - (3) The sign owner registers the sign with the planning director within six (6) months of the adoption of this section. If the owner fails to register the nonconforming sign with the planning director, the sign then must be brought into compliance with this section within thirty (30) days.

A legal nonconforming sign may lose this designation if:

- (1) The sign is relocated or replaced; or
- (2) The structure or size of this sign is altered in any way except toward compliance with this section. This does not refer to change of copy or normal maintenance.

The legal nonconforming sign is subject to all requirements of this section regarding, safety, maintenance, and repair. However, if the sign suffers more than fifty (50) percent damage or deterioration, as based on appraisal, it must be brought into conformance with this section or removed.

(n) *Construction specifications:*

- (1) All signs shall be installed in compliance with the ~~Uniform Building Code (UBC)~~ and the National Electric Code (NEC).
- ~~(2) All signs shall be inspected by the City of Billings building division for compliance with all applicable codes. (Including, but not limited to structure, wind load, and electrical hook-up.)~~
- (3) All electrical freestanding signs must have underground electrical service to such signs.

Sec. 27-1010. - Special review process.

Special reviews shall follow the procedure as outlined in ~~BMCC sections 27-1503 (City) and 27-1509 (County).~~

Sec. 27-1011. - Variances.

Variances from this chapter shall follow the process outlined in ~~BMCC sections 27-1506 (City) and 27-1511 (County).~~

ARTICLE 27-1100. - LANDSCAPING

Sec. 27-1101. - Purpose.

The purpose of this article is to provide landscaping and performance standards which:

- (a) Enhance and promote a unique image for the ~~Billings~~ Yellowstone County urbanizing area.
- (b) Protect the public health, safety and welfare by:
 - (1) Increasing parking lot traffic safety by guiding the circulation of cars and people and lowering traffic speeds;
 - (2) Minimizing noise, air, water and visual pollution;
 - (3) Screening and buffering incompatible land uses;
 - (4) Reducing the amount of reflected glare and heat absorbed in and around developments;
 - (5) Breaking up large expanses of parking lots;
 - (6) Preserving property values and neighborhood characteristics by lessening the impacts of potentially incompatible uses; and
 - (7) Providing screening from wind.
- (c) Conserve water resources by:
 - (1) Promoting the use of xeriscaping and drought-tolerant native plantings; and
 - (2) Promoting the utilization of stormwater detention as an irrigation source.
- (d) Ensure that landscaping is an integral part of the site design and development process.

Sec. 27-1102. - Scope.

Development which satisfies one of the following criteria shall be exempt from this section:

- (a) Single or two-family developments where each unit is located on an individual lot;
- (b) Submitted or approved plans, building zoning compliance permits and/or development existing prior to the effective date of this chapter shall comply with the regulations which were in effect at the time of approval; or
- (c) Development located within one of the following zoning classifications:
 - ~~(1) Central business district (C.B.D.) zone.~~
 - (2) Entryway light commercial (E.L.C.) zone.
 - (3) Entryway general commercial (E.G.C.) zone.
 - (4) Entryway mixed use (E.M.U.) zone.
 - (5) Heavy industrial (H.I.) zone.
 - ~~(6) Medical corridor permit zoning district.~~
 - (7) Planned development (P.D.) zone.
 - ~~(8) South 27th Street Corridor zoning district.~~

The provisions of this article shall apply to development which meets one of the following and is not exempt under above subsection (c):

- (a) All new development which has not applied for a building permit before the effective date of this chapter; or

- (b) Existing development in which the gross floor area (GFA) or the number of parking stalls is increased by twenty-five (25) percent.

Sec. 27-1103. - Administrative relief.

Administrative relief is provided to add flexibility in the application of the landscaping regulations in this section when a standard is inapplicable or inappropriate to a specific use or design proposal. However, the granting of administrative relief should not always mean that a requirement is reduced without compensation. For example, the granting of a reduced bufferyard depth should be compensated by the planting of additional trees, shrubs or other plants.

A written request for administrative relief shall be submitted to the planning director or his/her designee either before or in conjunction with the building permit review process. The written request shall include a justification in terms of the findings necessary to grant administrative relief. The written request shall close with a section for the planning department's use which will include a block for the decision of approval/denial, the planning director or his/her designee's signature, and decision date. The written request with decision shall be attached to the plan or retained in the applicable file, as appropriate. An example of this written request shall be available from the planning department.

The planning director or his/her designee must make all of the following findings in order to grant administrative relief:

- (a) The strict application of the regulation in question is unreasonable given the development proposal or the measures proposed by the applicant or that the property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same general area and such conditions will not allow a reasonable use of the property in its current zone in absence of relief;
- (b) The intent of the landscaping section and the specific regulation in question is preserved; and
- (c) The granting of the administrative relief will not result in an adverse impact upon surrounding properties.

The planning director or his/her designee shall render a decision on the request within five (5) working days of receipt of the request and all required information. An appeal of the planning director's decision may be made to the board of adjustment with jurisdiction over the property, within ten (10) days after the decision. At this time, the appeal will be put on the agenda for the next board of adjustment meeting which allows for the required public notice.

Policies:

- (1) The planning department recognizes that the specific landscape requirements in this section cannot and do not anticipate all possible landscape situations. In addition, the planning department recognizes that there may be landscape proposals which conform to the purpose, intent and objectives of the landscape regulations, but were not anticipated in the specific regulations. Therefore, the planning department may grant administrative relief in the event of these situations and proposals.
- (2) The planning department recognizes that a proposed development of a relatively small commercial or industrial lot which was created prior to the current landscape requirements may present unusual difficulties in complying with the current requirements.

The planning department shall attempt to balance the reasonable use of such lot with the provision of required landscaping. This balance will be affected by the site's characteristics, as well as, the proposed development plan.

The planning department also recognizes that to allow reasonable development there should be an upper limit to the amount of a site that is required to be landscaped. As a general guideline for relatively small commercial or industrial lots (such as one (1) acre or less), the requirements should not exceed twenty-five (25) percent of a site.

The reasonable development of a site may require the granting of administrative relief to some of the requirements. Although all of the categories of landscape requirements are considered important, the planning department generally assigns the following priorities for compliance with the landscape requirements:

First, adjacent residential uses should be buffered,

Second, an attractive appearance of the project should be provided along adjacent streets by landscaped setbacks and trees,

Third, the parking areas and building elevations which form major public views of the project should be visually softened and enhanced by trees and other plantings.

Compliance with the requirements, such as the third priority above, should not be "forced" into a site design. For both visual effect and ease of maintenance, relatively few, but larger landscaped areas, which are integrated with the other elements of the site design, are generally encouraged. In addition, relatively numerous and smaller landscaped areas, which are not integrated with the other elements of the site design, are generally discouraged.

Sec. 27-1104. - Definitions.

Berm: An earthen mound designed to provide visual interest, screen undesirable views and/or decrease noise levels.

Bufferyard: A combination of physical space and vertical elements, such as plants, berms, fences, or walls, the purpose of which is to separate and screen uses from one another.

Caliper: A standard for trunk measurement of nursery stock that is measured from a specified distance above the ground.

Commercial uses: Land uses which are allowed by right or through the special review process in the Residential Professional, Neighborhood Commercial, Community Commercial, or Highway Commercial zones, as listed in ~~BMCC~~ section 27-306 of the Zoning Regulations.

Coniferous: A plant with foliage that persists and remains green year-round.

Deciduous: A plant with foliage that is shed annually.

Development: The division of a parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure or any use or extension of the use of the land.

Dripline: A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

Drought avoidance: The ability of a plant to withstand drought without showing signs of stress.

Drought tolerance: The ability of a plant to withstand drought without dying.

Industrial uses: Uses of land which are allowed by right or through the special review process only in the Controlled or Heavy Industrial zoning classifications, as listed in ~~BMCC~~ section 27-306, of the Zoning Regulations.

Landscaping material, inorganic: Nonliving material such as river rock, stone, bark chips, mulch, flower tubs, fountains, outdoor plazas or other environmental amenities as approved by the Zoning Coordinator.

Landscaping material, organic: Living vegetative material such as trees, shrubs, vines, turf, and flower beds.

Perimeter landscaping: The landscaping located appurtenant to the outer property lines, exclusive of the property line(s) which abut a public street right-of-way.

Permanent tree protection devices: Structural measures, such as retaining walls or aeration devices, that are designed to protect the tree and its root system throughout its lifetime.

Public uses: Uses of land which are considered public in nature such as parks and recreation areas, public or private schools, colleges, playgrounds, day care centers or churches, or other public buildings.

Shrub: A woody plant that usually remains low and produces shoots or stems from the base and is not usually tree-like or single stemmed.

Vegetation, native: Plant life which is indigenous to a geographic region.

Vehicular use area: The area of a site devoted to vehicular parking and driving isles.

Vine: A woody plant whose stem requires support and climbs by tendrils or twining or creeps along the ground.

Wall or fence: An artificially constructed barrier of posts connected by boards, rails, or panels, erected for the purpose of enclosing space to separate parcels of land, or to screen or enclose areas of land. This term also includes a masonry wall.

Xeriscape: Landscape methods which conserve water through the use of drought-tolerant plants and planting techniques.

Sec. 27-1105. - Required bufferyards.

- (a) For developments with less than one hundred thirty thousand (130,000) square feet in lot area, the following standards shall apply:
 - (1) The development shall provide a minimum of ten (10) percent of the lot area for landscaping, less the square footage of the building footprint. In addition, fifty (50) percent of this required landscaping shall be placed so that it abuts adjoining public right-of-way, excluding alleys.
 - (2) A six (6) foot high sight-obscuring fence or wall shall be provided on the property line where commercial or industrial uses are adjacent or across an alley from residential uses. A continuous hedge may be substituted for the required fence or wall, as long as it has a minimum height at installation of three (3) feet and maintains such size or reaches six (6) feet or more at maturity.
- (b) For developments with one hundred thirty thousand (130,000) square feet or more in lot area, the following standards shall apply:
 - (1) *Street frontage landscaping* The area along any property line which abuts a public street right-of-way must be landscaped using one (1) or a combination of two (2) or more of the following four (4) options which the developer may choose.

Option 1:	20' minimum bufferyard width
	1 tree per 40 linear feet of frontage
Option 2:	10' minimum bufferyard width
	2 trees per 40 linear feet of frontage
Option 3:	Landscaped berm with 2' minimum average height
	1' rise: 4' run maximum slope

	No minimum or maximum berm width
	1 tree per 40 linear feet of frontage
Option 4:	5' minimum bufferyard
	1 tree per 40 linear feet of frontage
	30" high decorative or nondecorative wall located appurtenant to the parking area. A nondecorative wall shall be covered with vines on the street side of the wall.

Placement and landscaping design shall be at the discretion of the developer, including the placement of the required trees within the required bufferyard. Bufferyard depth is measured from the property line inward. Any buffer area which overlaps another buffer area shall be subtracted from the total to avoid double counting.

- (2) *Perimeter landscaping* The exterior boundaries of the lot which do not abut a public street right-of-way shall meet the bufferyard requirements shown below, depending upon the adjacent land use. If the adjacent land use is a vacant building or ground, then the zoning shall be used in place of the land use.

	Residential Uses	Commercial Uses	Industrial Uses	Public Uses
Residential Uses	A	C	D	A
Commercial Uses	C	A	B	B
Industrial Uses	D	B	A	D
Public Uses	A	B	D	A

Note: If a use does not conform with one of the above categories, the Zoning Coordinator shall determine which category best matches the use.

Bufferyard Classification Requirements:

Bufferyard A:	5' minimum bufferyard
	1 tree per 40 linear feet
Bufferyard B:	10' minimum bufferyard
	2 trees per 40 linear feet
Bufferyard C:	15' minimum bufferyard
	3 trees per 40 linear feet
	6' sight obscuring fence or wall located on the property line*
Bufferyard D:	15' minimum bufferyard
	4 trees per 40 linear feet
	6' sight obscuring fence or wall located on the property line*

*A continuous hedge may be substituted for the required fence or wall in Bufferyards C and D, as long as it has a minimum height at installation of three (3) feet and maintains such size or reaches six (6) feet or more at maturity.

Placement and landscaping design shall be at the discretion of the developer, including the placement of the required trees within the required bufferyard. Bufferyard depth is measured from the property line inward. Any buffer area which overlaps another buffer area shall be subtracted from the total to avoid double counting.

- (c) *Bufferyard standards for all developments.* All required bufferyards must contain a minimum of seventy-five (75) percent organic landscaping material, with a maximum of twenty-five (25) percent nonliving landscaping materials.

All required bufferyards shall be irrigated, maintained and kept free of weeds, debris and litter.

The use of coniferous trees is encouraged in the perimeter bufferyards.

Sec. 27-1106. - Off-street parking lot landscaping.

The following requirements shall be met for off-street parking lots which are not exempt from this chapter or for developments whose lot area is 130,000 square feet or more.

- (a) There shall be one (1) tree provided for every ten (10) parking stalls.
- (b) Depending on the number of spaces, the following square feet of landscaped area must be placed in the vehicle use areas. The required landscaped area shall be "stepped" up to the number of stalls which will be provided. For example, a parking lot with fifty-two (52) stalls shall provide no square feet for the first nine (9) parking stalls, stalls 10—25 shall provide fifteen (15) square feet per stall, stalls 26—50 shall provide eighteen (18) square feet per stall, and stalls 51—52 shall provide twenty-five (25) square feet per stall.

Number of Stalls	Required Landscaped Area
0—9	None required
10—25	15 sq. ft. per stall
26—50	18 sq. ft. per stall
51—99	25 sq. ft. per stall
100 or more	35 sq. ft. per stall

- (c) No parking stall shall be more than one hundred and twenty (120) feet from a required landscaped area.
- (d) The developer is encouraged to utilize landscaped terminal islands at the end of parking rows and/or divider strips between parking rows to help disperse the required landscaping throughout the entire parking lot.
- (e) Parking stalls that abut a required bufferyard may increase the width of this bufferyard a minimum of five (5) feet and count this toward the required off-street parking landscaped area.
- (f) Landscaped areas within parking lots or the along perimeter of the property must be protected from vehicular traffic through the use of continuous concrete curbs, extruded asphalt or other approved permanent barriers.
- (g) Clear vision areas within the off-street parking area must be established at intersections by maintaining a maximum height for shrubs and ground cover of thirty (30) inches and tree branches must be trimmed up eight (8) feet from the ground.
- (h) The minimum width or length of any landscaped area shall be five (5) feet, however the recommended minimum size is eight (8) feet. All of the required landscaped areas must contain a minimum of seventy-five (75) percent living landscaping material, with a maximum of twenty-five (25) percent nonliving landscaping material. Approved sidewalks are not counted toward this percentage.
- (i) Parking lots containing between 200-749 parking stalls are encouraged to divide the lot into two or more lots, separated by a landscaped strip which may be counted toward the required off-street parking landscaping area. Parking lots with more than 750 stalls are required to divide the lot into at least two parking lots with a landscaped strip separating them. The minimum width of these landscaping strips shall be ten (10) feet.
- (j) A landscaped divider strip that separates either parking rows or parking lots shall be allowed to count a sidewalk located within this divider strip toward a part of the required off-street parking lot landscaping. The intent of this sidewalk is to help facilitate safe pedestrian movement. This sidewalk must meet the following criteria if it is to be counted toward the required landscaping:
 - (1) The sidewalk has a five (5) foot wide walking path and shall add two (2) feet for vehicle overhang, if the sidewalk abuts a parking stall.
 - (2) The sidewalks runs the entire length of the divider strip.
 - (3) The sidewalk is bordered on at least one side by landscaping, of which the sidewalk cannot account for more than fifty (50) percent of the area of the divider strip.
- (k) Deciduous trees are encouraged within the parking lot.

Sec. 27-1107. - Supplemental standards.

All landscaped areas must comply with the clear vision standards for intersections as established in BMCC section 27-615 of the Zoning Regulations. These sections regulate the allowed height and placement of fences, walls, signs, landscaping materials, in addition to other objects.

Chain link or wire fencing is prohibited where a sight obscuring fence is required in a bufferyard.

All landscaping shall be located so that it does not interfere with utilities, easements or fire hydrants.

Where appropriate, the use of porous pavement and/or specially designed brick or block should be considered to increase on-site water retention for plant material and groundwater supplies and to reduce problems associated with runoff.

All solid waste storage facilities shall be enclosed on three (3) sides by a sight obscuring fence or wall and by a sight obscuring gate on the remaining side. This requirement shall exclude up to two (2) recycling centers for general public access which are set up in the parking lot of commercially zoned properties.

Any permitted outside storage of merchandise shall be enclosed by a sight obscuring fence or wall. Exceptions to this requirement are temporary promotional displays, vehicle sales lots and plant materials that are located appurtenant to an approved building.

Sec. 27-1108. - Landscaping plan requirements.

A landscaping plan must be approved by the planning director or his/her designee before the issuance of a building permit. The developer is encouraged to work with a local landscape architect, nurseryman or design professional to make the landscaping an integral part of the overall site design by using site-specific materials which are:

- (a) Appropriate to the conditions in which they are planted;
- (b) Have noninvasive growth habits;
- (c) Encourage low maintenance, high quality design; and
- (d) Be otherwise consistent with the intent of this chapter.

A list of recommended plants can be obtained from the Planning Department or the Montana State University Extension Service.

The landscaping plan should contain the following elements:

- (a) Scale: ¼"=1'0" to 1"=40'
- (b) Property lines, easements and public rights-of-way, including clear vision triangles.
- (c) Buildings or structures - both new and existing.
- (d) Drive approaches, parking spaces, light standards, circulation and pedestrian walkways.
- (e) Landscaping materials:
 - (1) Location and spacing of proposed plant materials.
 - (2) Location of existing trees or landscaping to be preserved or eliminated.
 - (3) Types and location of new vegetation identified by botanical and common names and listed on a plant schedule.
 - (4) Size of materials, in diameter and height at installation and maturity.
 - (5) Quantity of each planting materials to be used.
 - (6) Types and location of inorganic landscaping material.
- (f) Location of walls, fences and refuse storage areas.
- (g) Methods of protecting the landscaped areas.

(h) Proposed treatment of all ground surfaces (concrete or asphalt paving, pavers, turf or gravel).

Sec. 27-1109. - Landscaping material standards.

- (a) Plants shall conform to the measurements specified in the plant schedule submitted with the landscaping plan.
- (b) Landscaping materials shall comply with the following minimum size standards at the time of planting, with caliper measurements taken six (6) inches above grade.
 - (1) Minimum height for shade trees shall be eight (8) feet.
 - (2) Minimum size for shade trees shall be a one and one-half (1½) inch caliper.
 - (3) Minimum size for evergreen trees shall be five (5) feet in height.
 - (4) Minimum size for shrubs shall be one (1) gallon container for low and medium shrubs and five (5) gallon container for tall shrubs.
- (c) It is recommended that a professional horticulturist, nurseryman or design professional be consulted to determine the proper time to move and install all plant materials, so that stress to the plants will be minimized.

Sec. 27-1110. - Installation and maintenance.

A performance bond or letter of credit for one hundred fifty (150) percent of the landscaping materials and labor costs shall be posted with the planning department to ensure the placement of the required landscaping. The property shall be inspected by the planning director or his/her designee to make sure that the required landscaping has been planted before the certificate of occupancy is signed off. The planting of the required landscaping may be delayed until the next suitable planting season with written approval from the planning director or his/her designee.

The responsibility for the maintenance of the landscaping shall lie with the property owner, his/her successor and/or their agents. All landscaping elements shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with this section. In addition, all walls and fences shall also be maintained in good condition and, when necessary, be repaired or replaced.

Sec. 27-1111. - Administration and enforcement.

The administration and enforcement of this article shall reside with the zoning coordinator as stated in **BMCC** sections 27-1602 and 27-1603.

ARTICLE 27-1200. - OFF-STREET PARKING AND LOADING STANDARDS (~~COUNTY ONLY~~)

Sec. 27-1201. - Intent.

The intent of this article is to reduce traffic congestion and the need for parking on public streets and hazards caused thereby; to provide off-street parking and off-street loading berths adequate for each type of development in terms of both quantity and location. This chapter shall only apply to property located outside the limits of the City of Billings but within the unincorporated jurisdictional area.

Sec. 27-1202. - Definitions.

For the purposes of this article, certain words and phrases are defined and shall be construed as herein set forth in this section:

- (a) *Number of employees*: The largest number of employees who are on the premises during the peak working shift, as determined by zoning coordinator.
- (b) *Parking lot*: A structure or an area other than a public street or alley, together with ways of ingress, egress, isles, and maneuvering and backing areas, designed or used for the temporary parking of motor vehicles serving a use permitted in the district in which such parcel is situated, and available for public use whether free, for compensation, or an accommodation for customers or clients.
- (c) *Off-street parking space*: An area, other than a public street, alleyway or other public property (and exclusive of off-street loading spaces) permanently reserved or set aside for the parking of one (1) motor vehicle.

Sec. 27-1203. - Parking requirements—General.

There shall be provided at the time of erection of any building or structure or at the time of any change in occupancy of any building or structure minimum off-street parking accommodations meeting the provisions of this article.

Sec. 27-1204. - Expansion and enlargement.

Whenever any building is enlarged in height or in ground coverage, off-street parking shall be provided for the expansion or enlargement in accordance with the requirements of this chapter, provided, however, that no parking space be provided in the case of enlargement or expansion is less than ten (10) percent of the parking spaces required for the enlarged facility as specified in this chapter. Nothing in this provision shall be construed to require off-street parking spaces for the portion of such building existing on November 6, 1973.

Sec. 27-1205. - Nonconforming uses.

Nothing in this article shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings even though nonconforming, provided that all regulations herein governing the location, design, size and space standards and operation of such facilities are adhered to.

Sec. 27-1206. - Combined or mixed occupancies.

In the case of mixed uses, the total requirements for the various uses shall be computed separately. The total requirements are to be the sum of the area computed. Off-street parking facilities for one (1) use shall not be considered as a substitute for joint use.

Sec. 27-1207. - Use not specified.

In the case of a use not specifically mentioned in this chapter, the requirements for off-street parking facilities shall be determined by the zoning coordinator. Such determination shall be based upon the requirements for the most closely comparable use listed.

Sec. 27-1208. - Reduction in spaces.

Off-street parking spaces existing and actually being used for the parking of automobiles or other motor vehicles in connection with the use of an existing building shall not be reduced in number or size, during the entire life of such building or land use, below that which would be required for a new building or use of a similar type.

Sec. 27-1209. - Fractional spaces.

If the number of off-street parking spaces hereinafter required contains a fraction, such number shall be rounded up to the next highest whole number.

Sec. 27-1210. - Joint use.

The zoning coordinator may authorize the joint use or lease of off-street parking facilities for the following uses or activities under the conditions specified:

- (a) Up to fifty (50) percent of the required off-street parking for primarily "nighttime" uses such as theaters, bowling alleys, bars or restaurants and related uses may be supplied by the parking requirements for primarily "daytime" uses such as banks, offices, retail uses, personal service establishments, clothing, food, furniture, manufacturing or wholesale and related uses.
- (b) Subsection A of this section may be reversed so that parking for "nighttime" uses may be used for "daytime" uses.
- (c) Up to fifty (50) percent of the parking facilities required by this chapter for churches or auditoriums may be supplied by the parking facilities provided for primarily "daytime" uses.
- (d) Conditions required for joint use or lease. The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use, shall be located within five hundred (500) feet of such parking facilities, in addition to which:
 - (1) The application shall show that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which a joint use of off-street parking facilities is proposed.
 - (2) The applicant shall present to the zoning coordinator a legal agreement (lease) executed by the parties concerned for joint use or lease of off-street parking facilities. The lease must be for a minimum of ten (10) years and contain a notification requirement whereby the planning department will be informed in writing of any termination or complication experienced during the term of the lease. The legal document shall be recorded with the county clerk and recorder.

Sec. 27-1211. - Design standards —Location.

- (a) Off-street parking area(s) as required by this chapter shall be located as specified herein:
 - (1) Single- and two-family dwellings: On the same building site with the dwelling they are required to serve.
 - (2) Multi-family dwellings, townhouses, retirement homes, lodging, boarding and bed and breakfast houses: Within one hundred (100) feet of the use to be served.
 - (3) Hospitals, sanitariums, convalescent nursing homes, rest homes, homes for the aged and asylums: Within six hundred (600) feet for employees and three hundred (300) feet for visitors.
 - (4) Other uses not specified above: Within four hundred (400) feet of the use they are required to serve.
- (b) Where a distance is specified, such distance shall be measured in walking distance measured from the nearest point of the parking facility to the nearest point of the lot such facility is required to serve. The off-street parking shall not be located across a major arterial street except when both properties

are contiguous to an intersection with traffic control lights. Off-street parking should not be located across a minor arterial or collector street from the business or residence.

- (c) Off-street parking areas must be accessible by a public street or alley, and shall be owned or leased by the owner or lessee of the building or use being served by such parking. Such parking lot shall be maintained as a parking lot so long as the building and/or use served is in operation or until another suitable parking area is established for such building or use.
- (d) Customer access via an alley to any commercial use on a lot which is adjacent to an alley and which abuts a residential zone shall not be permitted over that alley. Employee parking may be allowed in the alley if the alley is paved and if the parking will not conflict with the adjacent residential uses.
- (e) Required parking spaces shall be located so as to preclude backing maneuvers onto any public right-of-way from any use, with the exception of single- and two-family dwellings, as defined in this Resolution/Ordinance. Required parking spaces shall not be located in any required front or side yard, except for detached single-family dwellings, townhouses and manufactured homes. See BMCC section 27-602 for Arterial Setbacks on required parking.
- (f) A drive approach permit must be obtained from the county public works department prior to constructing any access.

Sec. 27-1212. - Design standards—Off-street loading spaces.

- (a) Off-street loading berths shall be provided on the same lot as the use it serves and shall not be located within the required front setback.
- (b) No loading berths shall be located closer than fifty (50) feet to a residentially zoned property, except when the berth area is enclosed, or screened by a six (6) foot minimum high wall or solid fence and the loading berth shall also meet the required setbacks from the adjacent residentially zoned property.
- (c) Each loading berth shall be designed with access to a public street or alley and so designed as not to interfere with normal traffic movement. No loading berth shall be located in the alley if it is adjacent to a Residential zone.
- (d) Each berth shall be not less than twenty (20) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height.
- (e) Loading berths shall not be considered as off-street parking spaces.
- (f) All or part of the required loading berths may be within buildings.
- (g) Off-street loading—Retail and commercial. In any district, any building or part thereof having a gross floor area of ten thousand (10,000) square feet or more which is to be occupied by a use requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one (1) off-street loading space, plus one (1) additional loading space for each twenty thousand (20,000) feet or fraction thereof of gross floor area. Such loading space shall be located so as to preclude backing maneuvers on the public right-of-way.
- (h) Off-street loading—Warehouse and wholesale. Off-street loading space for warehouse, wholesale shipping and similar facilities will be determined by the zoning coordinator or county public works director. Such loading space shall be located so as to preclude backing maneuvers on the public right-of-way.

Sec. 27-1213. - Design standards—Size of parking spaces and aisles.

- (a) The minimum width of two-way aisles shall be twenty-six (26) feet. Off-street parking spaces parallel with a wall, fence, or curb shall be a minimum of twenty-two (22) feet in length. Angle parking with one ingress/egress shall be prohibited if there is only one isle of parking.
- (b) Off-street parking spaces shall have a minimum dimension of nine (9) feet in width. All other minimum dimensions will be based upon standards on file in the county public works director's office.

Sec. 27-1214. - Handicapped parking requirements.

Parking spaces shall be provided for the handicapped and shall be clearly signed or marked with a stenciled notation on the pavement designating such use. Such parking spaces shall be located closest to the handicapped accessible entrance with an accessible route provided to that entrance and approved handicapped parking signs shall be posted. The size and number of handicapped parking stalls shall comply with the current Americans with Disabilities Act (ADA) policies and rules.

Sec. 27-1215. - Construction specifications.

- (a) *Surfacing.*
 - (1) Every off-street parking, loading and driveway area shall be paved with asphaltic or portland cement concrete, except for single-family development on individual lots.
 - (2) Surfacing shall be designed by accepted engineering methods, subject to the approval of the county public works director.
- (b) *Drainage.* All off-street parking and loading areas shall be graded and drained so as to adequately dispose of all surface water generated by that impervious surface. Surface water shall not be drained across public sidewalks or alleys. Drainage plans for uses requiring more than ten (10) parking spaces shall be submitted to and approved by the county public works director prior to the issuance of a building permit.
- (c) *Walkways.* Walkways a minimum of five (5) feet in width shall be provided between any building and adjacent parking lot. Where sidewalk curbs serve as wheel stops, an additional two (2) feet of sidewalk width is required.
- (d) *Lighting.* Lighting used to illuminate a parking area shall be arranged in such a manner as to not be a hazard to passing motorists or constitute a nuisance of any kind. Where said parking area is within one hundred and fifty (150) feet of any property zoned Residential by this Resolution/~~Ordinance~~ and where the parking area is directly visible by the residents within one hundred and fifty (150) feet, illuminating devices shall be shaded in a manner as to direct light away from the residential property.
- (e) *Wheel stops.* Wheel stops shall be installed at least thirty (30) inches from all adjacent sidewalks, fences and walls. Such stops shall be either a concrete piece at least sixty (60) inches long and five (5) inches high and affixed securely to the parking surface, or a continuous concrete curb. This requirement may be modified, provided other design features will be equally effective in prohibiting a vehicle from obstructing a sidewalk or making contact with a walk, fence or landscaped area, and which will promote safe pedestrian access.
- (f) *Traffic control devices.* Parking spaces shall be designated by pavement markings. All traffic control devices such as pavement markings, signs, rails, curbs and other similar development proposals shall be installed and completed as shown on the approved plans.
- (g) *Maintenance.* Maintenance of all areas provided for off-street parking shall include repair and maintenance of drain and repair of traffic control devices, signs, lights, standards, surfacing materials, curbs and sidewalks.
- (h) *Accesses.* The accesses to parking lots shall be approved by the county public works department or the Montana Department of Transportation, depending upon jurisdiction.
- (i) *Improvement schedule.* All parking area improvements to include surfacing, drainage, walkways, lighting, landscaping, screening, traffic control, etc., shall be installed before occupancy of the building or use to be served by such parking. Where parking area improvements will not be completed before occupancy of the building, a performance bond or an irrevocable letter of credit will be accepted for the completion of the required improvements. The performance bond or letter of credit shall be equal to one and one half (1½) times the cost of the parking area improvements to be completed. A cost estimate for improvements not installed at the time of occupancy shall be presented to the building official for approval. Performance bonds or letters of credit will not be released until all required improvements shown on the approved plan are installed and accepted. Foreclosure proceedings shall be brought against the performance bond or irrevocable letter of credit if the required improvements have not been completed within twelve (12) months of the posting of the bond or letter of credit.

Sec. 27-1216. - Required parking and loading spaces for specific uses.

Required parking spaces shall be in conformance with the following table and where alternative standards are indicated, the greater requirement applies in conflicting computation. For uses not listed below, see **BMCC** section 27-1207.

Specific use	Required parking and loading spaces
Residential single-family or duplex dwelling	2 parking spaces per dwelling unit
Residential multi-family dwelling	1 parking space per one (1) bedroom dwelling unit
	1½ parking space per two (2) or more bedroom dwelling unit
Fraternity and sorority	1 parking space per two (2) sleeping rooms or 1 parking space per three (3) beds, whichever is greater
Retirement homes and housing projects for the elderly which have received a declaratory ruling from the Montana human rights commission allowing sale or lease of the units exclusively to persons sixty (60) years of age or older*	1—6 dwelling unit(s) require 0.5 parking space per dwelling unit
	7—18 dwelling units require 0.33 parking space per dwelling unit
	Over 18 dwelling units require 0.25 parking space per dwelling unit, with a minimum of 5 parking spaces
	* Conversion to apartments will require the building to meet the residential multi-family dwelling parking requirements
Boarding, lodging, bed and breakfast houses, and similar uses	1 parking space per dwelling or lodging unit
Motels / hotels	1 parking space per sleeping room plus ½ parking space per employee per shift
Hospitals and institutions	With less than 100 beds based upon state licensed bed count:
	1½ parking spaces for each one thousand (1,000) square feet of total area or 1.2 spaces per bed
	With over 100 beds based upon state licensed bed count: 1.2 parking spaces per bed
Convalescent nursing homes and retirement homes	1½ parking spaces per one thousand (1,000) square feet
Day care, nursery and preschools	1 parking space per employee and 1 parking space per six (6) children
Schools: elementary and junior high (public or private)	5 parking spaces plus 1 per classroom with minimum auditorium requirements

Schools: high school, college, vocational and trade (public or private)	1 parking space per employee and 1 parking space per five (5) students
Banks, business and professional offices	1 parking space per three hundred (300) square feet of floor area
Medical and dental offices or clinics	1 parking space per two hundred (200) square feet of floor area
Libraries and museums	1 parking space per five hundred (500) square feet of floor area
Theaters, auditoriums, stadiums, sports arenas, and other similar open assemblies	1 parking space per four (4) fixed seats or 1 parking space per one hundred (100) square feet of assembly space without fixed seats
Skating rinks, dance halls, and recreation establishments	1 parking space per two hundred (200) square feet of floor area
Bowling alleys	6 parking spaces per alley
Churches, auditoriums, bingo parlors, and other similar places of assembly	1 parking space per four (4) fixed seats or 1 parking space per one hundred (100) linear inches of pew or 1 parking space per sixty-five (65) square feet of floor area used for assembly purposes
Mortuaries and funeral homes	1 parking space per four (4) seats
Private clubs and lodges	1 parking space per two hundred (200) square feet of floor area
Restaurants and bars	1 parking space per one hundred (100) square feet of floor area
Restaurants, with drive-in service	1 parking space per eighty (80) square feet of floor area, with 10 parking spaces minimum
Retail stores - less than five thousand (5,000) square feet	1 parking space per two hundred (200) square feet of floor area
Retail stores - greater than five thousand (5,000) square feet	25 parking spaces plus 1 parking space per three hundred (300) square feet in excess of five thousand (5,000) square feet
Furniture, appliance, household, and equipment sales	1 parking space per six hundred (600) square feet
Open sales area, trailer sales and rental, manufactured home sales, and garages	1 parking space per one thousand five hundred (1,500) square feet of sales area
Service stations, automobile repair and services	1 parking space per eighty (80) square feet of gross floor area, with 10 spaces minimum (pump lanes not counted as parking spaces)
Convenience store/gas combination	1 parking space per eighty (80) square feet of gross floor area, with 10 spaces minimum (pump lanes not counted as parking spaces)
Specific use	Required parking and loading spaces

Motor vehicle and boat showrooms, machinery sales and service, plumbing, heating and ventilating, upholstery, building material supplies, sales and service	1 parking space per one thousand (1,000) square feet plus 1 parking space per employee
Manufacturing uses, research, testing or repair of materials or commodities and processing, assembling, all industries	1 parking space per two (2) employees on maximum shift, but not less than 1 parking space per eight hundred (800) square feet of gross floor area
Wholesale establishments	5 parking spaces for the first one thousand (1,000) square feet of area and 1 additional space for each one thousand (1,000) square feet or 0.6 spaces per employee
Warehousing or storage buildings, freight terminals	10 spaces for the first twenty thousand (20,000) square feet of area and 1 additional space for each additional ten thousand (10,000) square feet or 0.6 spaces per employee

ARTICLE 27-1300. - PLANNED DEVELOPMENTS

Sec. 27-1301. - Intent statement.

The intent of this zoning district is to provide flexible land use and design regulations through the creation of individualized planned developments (pd). It is further the intent to encourage unique development or re-development through a flexible, timely and efficient process. Developments which utilize innovative, progressive planning and site design techniques and methods to allow a mixture of land uses, densities, setbacks and building heights will be encouraged. In addition, this zone is intended to encourage the preservation and enhancement of the physical characteristics of the site.

It is further intended that each PD zone will be a separate zone, each having differing design criteria to provide for the uses and improvements based on its particular site specific situation.

Sec. 27-1302. - Objectives.

The planned development (PD) zoning district is intended to include and promote consideration of the following:

- (a) To permit the development or enlargement of planned industrial, commercial, residential or mixed use development zones, while protecting the character and quality of adjacent uses.
- (b) To permit clusters of multiple family developments in appropriate locations within single family residential or commercial zones.
- (c) To permit flexibility in design and use of an individually owned property or a group of separately owned properties to allow for economy, convenience and amenity in development.
- (d) Preserve, enhance and retain the existing natural environmental qualities in the landscape such as topographic variation, views, water areas and native vegetation.
- (e) Ensure adequate provision of public services such as water, sewer, public safety, public parks, open space, storm water control and vehicular and pedestrian circulation.
- (f) Encourage patterns of development which decrease automobile travel and encourage trip consolidation and promotes the use of public transit, bicycles and walking as effective modes of transportation, thereby reducing traffic congestion and degradation of the existing air quality.

Sec. 27-1303. - PD zone guidelines.

A PD zone is intended to replace the previous zoning classification of the subject property. Areas rezoned in accordance with this chapter shall be designated with a "PD-_" preceding a numerical designation (example: PD-1) and each new PD district shall be added as an amendment to the zoning regulations.

The PD zoning district is unique among the zoning districts in that it allows zoning and/or site development standards to be "customized" to fit its particular site and/or development situation. With due consideration of public safety, the Governing Body can approve a PD that permits greater or lesser standards in such areas as density, use, bulk, height, parking, signage, traffic circulation, landscaping, lot sizes or other elements. This may also include permitting the development of amenities such as tennis centers, swimming centers, and other recreational activities such as an equestrian center ~~within the city limits~~, provided that such an amenity is an integral part of the overall development scheme of the PD. However, these considerations for allowing greater or lesser standards should be balanced within the PD. For example, permitting greater density in a PD could be approved, in exchange for a greater amount of open space than a similar project, not located in a planned development zone, would be required to provide.

Sec. 27-1304. - PD application process.

A PD zone shall be established by following the procedure described below, which includes review by ~~city and/or county staff, the city or county zoning commission and the appropriate governing body~~, including the participation of interested citizens.

The applicant is encouraged to submit a proposed PD project for conceptual review with ~~city and/or county staff~~. This review is intended to get input from staff and to indicate any potential problem areas before a formal application is submitted.

If the project is required to go through the subdivision review process, it is recommended that this platting process occur concurrently with the PD zone change process.

Sec. 27-1305. - PD zone change submittal requirements.

The applicant or his/her authorized agent shall submit the following information to the planning department to begin the PD zone change process (see also ~~BMCC sections 27-1502 or 27-1508, city and county zoning commissions and city and county boards of adjustment~~):

- (1) Legal description of the subject parcel(s), along with a map showing the dimensions, acreage and location of the parcel(s);
- (2) A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, from the exterior boundaries of the tract(s);
- (3) Two (2) sets of gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list;
- (4) The names and addresses of the owner(s) of the subject property and their agent(s), if any, along with the recorded property owner's signature;
- (5) A development plan which shall consist of the following:
 - a. A written text description of the pd, which will be added as an amendment to the zoning regulations. The subjects addressed in the text amendment may refer back to the zoning regulations or site development regulations for the pd's standards or describe the pd's unique standards. This amendment should address some or all of the following subjects:
 1. Purpose
 2. Underlying land use classification(s)
 3. Permitted uses
 4. Special review uses

5. Prohibited uses
6. Minimum or maximum lot sizes
7. Minimum setbacks
8. Maximum lot coverage
9. Maximum height
10. Permitted projections
11. Density
12. Building design standards
13. Signs
14. Fencing
15. Landscaping in perimeter bufferyards and/or parking areas
16. Open space
17. Bicycle and/or pedestrian facilities
18. Application of site development standards
19. Vehicular access
20. Outside storage
21. Parking area development standards
22. Loading and unloading areas
23. Installation of improvements
24. Lighting
25. Other required documents
26. Other regulations

This list is not intended to be a complete list of all potential subjects which can be addressed in the PD amendment.

- b. A site plan or master plan which shows the specific location of proposed land uses, i.e. lot(s) and block(s), along with building envelopes (for multiple family, commercial or industrial uses only), designated parks and/or open space, site circulation, etc. Plans for small scale projects should resemble site plans, by showing specific locations of building(s), parking, landscaping, etc. Larger scale projects, however, do not need to show exact building footprints, but may be used to illustrate possible locations within the approved building envelope.
- (6) A tabulation of the total land use area and percentage thereof designated for various proposed uses. The PD should include a balance between areas which are developed and those designated as open space or park. For commercial/industrial developments, landscaped areas may also be counted towards open space;
 - (7) General circulation patterns indicating both public and private vehicular, pedestrian and bicycle ways. A traffic accessibility study will be required for any project that exceeds five hundred (500) vehicle trips per day;
 - (8) Relationships of present and future land uses to the following: the surrounding area; the 1990 Yellowstone County Comprehensive Plan; the Billings Urban Area Transportation Plan; BikeNet; ~~the Public Utilities Department Facilities Plan~~; any specific master plan or neighborhood plan adopted for the area and any other pertinent City or county plans;

- (9) A statement of provisions for ultimate ownership and maintenance of all parts of the development;
- (10) A preliminary report indicating provisions for storm drainage, solid waste disposal, grading and public or private utilities;
- (11) Proposed development phasing, if any, and an approximate time schedule for development;
- (12) Payment of all applicable fees; and
- (13) Any other information the applicant believes will support his/her request or other information as requested by the zoning coordinator or planning department.

The planning department shall review the application for completeness. If the application is determined incomplete by the planning department, the zoning coordinator or his/her designee shall notify the applicant of all deficiencies. Once the application is determined complete, the application will proceed to be processed as described in the following sections.

Sec. 27-1306. - Planning department review and responsibility.

The zoning coordinator or his/her designee, upon receiving a complete application for a PD zone change and development plan shall do the following:

- (1) Distribute copies of the PD zone change and development plan to appropriate departments of the city and/or county to fully evaluate the impact of the planned development upon public facilities and services;
- (2) Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its relationship to the comprehensive plan;
- (3) Notify, by mail, the applicant and/or his/her authorized agent at least five (5) days prior to the date of the preliminary review of the date, time and place of such review;
- (4) Notify, by mail, all property owners within three hundred (300) or more feet, as determined by the zoning coordinator, from the exterior boundaries of the property subject to the pd zone change, at least fifteen (15) days in advance of the time, date, place of the preliminary review, along with the existing and proposed use(s) and the development plan; and
- (5) Place notice of the preliminary review on the property subject to the PD zone change at least fifteen (15) days in advance of the date of public hearing.

Sec. 27-1307. - Preliminary review by the development review committee.

The preliminary review is intended to provide an opportunity for the development review committee to review the PD zone change and development plan with the applicant and surrounding property owners. The surrounding property owners are encouraged to give their comments during the period prior to the preliminary review meeting so that the developer can be made aware of any major differences or concerns on the part of the surrounding property owners.

The zoning coordinator or his/her designee shall conduct the preliminary review and lead the DRC in examining the PD zone change and development plan. The DRC shall also make a recommendation on the PD zone change and development plan. The DRC, applicant and/or surrounding property owners shall be allowed to discuss any concerns in the proposal. Any changes/deficiencies found at the preliminary review should be incorporated into the proposal and resubmitted to the zoning coordinator. This resubmittal shall be returned to the DRC for review, along with a recommendation which will be forwarded to the zoning commission.

The applicant shall be allowed to withdraw the application at any time prior to the publication of the legal advertisement for the public hearing before the zoning commission, without penalty regarding the four (4) month or one (1) year waiting periods. After publication of the legal advertisement, any withdrawal shall be governed by the requirements found in ~~BMCC sections 27-1502 or~~ 27-1508.

Sec. 27-1308. - Zoning commission action.

The zoning commission, ~~with jurisdiction over the project,~~ shall review and hold a public hearing on the PD zone change and make a recommendation to its governing body on the zone change, as specified in ~~BMCC section 27-1502 (city zoning commission), subsection (d) or~~ BMCC section 27-1508 (county zoning commission), subsection (d). In addition, the zoning commission shall also make a recommendation to its governing body on the development plan.

Sec. 27-1309. - Governing body action.

The governing body with jurisdiction over the project shall review, hold a public hearing and take action on the PD zone change as specified in ~~BMCC sections 27-1502 (city zoning commission), subsections (e) and (f) or~~ BMCC section 27-1508 (county zoning commission), subsection (e). In addition, the governing body shall also take action on the development plan.

Sec. 27-1310. - Modification of the approved development plan.

Any modification of the approved development plan requested by the developer shall be processed using the same procedures for a new application, as set forth in above ~~BMCC~~ sections 27-1304 through 27-1309. However, minor modifications may be approved by the zoning coordinator if he/she makes the following findings:

- (1) No change in the overall character of the development;
- (2) No increase in the number of residential units greater than two (2) percent;
- (3) No additional allowed uses;
- (4) No reduction in open space greater than two (2) percent; and
- (5) No change in the approved minimum setbacks, maximum lot coverage or maximum allowed height.

ARTICLE 27-1400. - SHILOH CORRIDOR OVERLAY DISTRICT – This section shall be deleted in its entirety.

Sec. 27-1427. - South Shiloh corridor overlay district. – This section shall be deleted in its entirety.

Secs. 27-1454—27-1459. - Reserved.

Sec. 27-1460. - East Billings Parking Overlay District. – This section shall be deleted in its entirety.

ARTICLE 27-1500. - ~~CITY AND COUNTY ZONING COMMISSIONS AND CITY AND COUNTY BOARDS OF ADJUSTMENT~~

~~Sec. 27-1501. – City zoning commission created.~~

~~There is hereby created a City of Billings zoning commission to consist of five (5) members residing on property, any part of which lies within the limits of the City of Billings. The members are to be appointed by the mayor, subject to confirmation by the city council, for a term of four (4) years and the terms of the members shall be staggered so that a minimum number of terms shall expire in any one (1) year.~~

~~The members of said city zoning commission are required to attend all city zoning commission meetings advertised publicly, except in the case of an excused absence. The presence of three (3) members shall constitute a quorum.~~

~~The duties and powers of the city zoning commission shall be to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and to hold public meetings and make recommendations to the city council on all requests to amend, supplement, change, modify or repeal the regulations, restrictions and boundaries in the zoning districts. The city council shall not hold its public hearing or take any action until it has received a final report from such commission.~~

~~Sec. 27-1502. – Amendments to chapter.~~

- ~~(a) *General.* This chapter, including the official zoning map, may be amended only by the city council but no amendment shall be finally approved by the city council unless it has been submitted to the city zoning commission for review and recommendation. Proposals to amend this chapter, including the official zoning map, may be initiated by the city council or by the board of planning. Proposals to amend this chapter, except for the official zoning map, may also be initiated by the city zoning commission. Before enacting an amendment to this chapter, the city council shall give public notice and hold a public hearing thereon. Before enacting on its own motion an amendment to the official zoning map, the city council shall provide written notification by mail of such amendment to each property owner whose name appears on the last tax record of the property subject to the amendment. The notification shall include what the proposed amendment is, the time, date and place of the public hearing on the proposed amendment. Such notification shall be made no less than fifteen (15) days nor more than thirty (30) days in advance of the date of public hearing.~~
- ~~(b) *Applications for map amendments.* Unless initiated by the city council or board of planning, all applications for official map amendments must be submitted by the owner of such property, the contract purchaser, or the authorized agent of the owner. An application for an amendment affecting the same property shall not be submitted more often than once every twelve (12) months. Each application to amend the official map shall be filed with the zoning coordinator, and each application shall be submitted under the following conditions:~~
- ~~(1) The applicant or his/her authorized agent shall submit the following pre-application information to the planning department to begin the zone change process:
 - ~~a. Legal description of the subject parcel(s), along with a map showing the dimensions, acreage and location of the parcel(s);~~
 - ~~b. The names and addresses of the owner(s) and contract purchasers, if any, of the subject property and their agent(s), if any, along with the recorded property owner's signature;~~
 - ~~c. A zone change plan which shall consist of the following:
 - ~~1. A written description of the proposed zone change including the area in square footage or acres to be included in the zone change.~~
 - ~~2. If there are multiple zone changes proposed, the location and area of each specific new zoning district.~~~~~~
 - ~~(2) The planning department shall provide a list of surrounding property owners within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s) to the applicant or his/her agent based on the submitted information.~~
 - ~~(3) The applicant or his/her agent shall conduct a pre-application neighborhood meeting to explain the proposed new zoning and receive comment from the surrounding property owners. The applicant or his/her agent shall notify in writing the persons on the surrounding property owner list as provided in subsection (2) and the planning department of the date, time and location of the pre-application neighborhood meeting. The pre-application neighborhood meeting shall be conducted within two (2) radius miles of the subject parcel. The written notification shall be mailed at least seven (7) calendar days prior to the scheduled meeting. The written notification shall include all the materials noted in subsection 27-1502(b)(1). The pre-application neighborhood meeting shall be conducted at least seven (7) calendar days prior to the submittal of the proposed zone change to the planning department. The applicant shall obtain a roster of the names of the persons that attend the pre-application neighborhood meeting and make a record of the minutes of the meeting.~~
 - ~~(4) Once the pre-application neighborhood meeting has been conducted the applicant or his/her agent may submit a zone change application and it shall include but not be limited to the following information:
 - ~~a. A legal description of the tract(s) proposed to be rezoned;~~
 - ~~b. A map showing the dimensions, acreage and location of the tract(s) being changed;~~~~

- ~~e. The names and addresses of the owner(s) of the land and their agents, if any, along with the recorded property owner's signature;~~
 - ~~d. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s);~~
 - ~~e. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list; and~~
 - ~~f. Payment of all applicable fees.~~
 - ~~g. A signed statement affirming the pre-application neighborhood meeting was conducted in conformance with the requirements of subsection 27-1502(b)(3), and the zone change application is based on material presented at the meeting. The signed statement shall include a copy of the meeting notice, any written materials provided to the surrounding property owners, a brief synopsis of the meeting results, a roster of the persons attending the meeting and audio or written minutes of the meeting.~~
- ~~(5) An application for amendment to the official map shall be submitted at least twenty (20) days prior to the date of the public hearing before the city zoning commission.~~
- ~~(6) An application for a zone change may be withdrawn or amended as follows:~~
- ~~a. No application may be amended after the legal advertising, as required by below subsection (e) herein has been published.~~
 - ~~b. An application may be withdrawn at any time prior to the publication of the legal advertisement for the public hearing before the city zoning commission without respect to the twelve (12) month waiting period. After legal notice for the city zoning commission has been published, the request for withdrawal shall be submitted to the planning department office at least twenty-four (24) hours prior to the public hearing. The city zoning commission may allow withdrawal of the application, after advertisement of the zoning commission public hearing has been published, by a majority vote of the members present, without prejudice with respect to the twelve (12) month waiting period after the application has first been submitted. After the city zoning commission hearing, a request for withdrawal shall be submitted to the city clerk and shall be submitted by the property owner or authorized agent, as listed on the application. The city council shall have exclusive authority to act on any request for withdrawal after notice of the city council public hearing has been published.~~
 - ~~c. An applicant may withdraw an application for any particular property only once within the twelve (12) month period commencing with the submittal of the original application.~~
 - ~~d. After withdrawal of an application, no new application for the same property shall be made until four (4) months after the date of withdrawal of the original application.~~
- ~~(c) *Planning department study and responsibility.* The zoning coordinator, upon receiving an application for rezoning of an area or a particular piece of property shall do the following:~~
- ~~(1) Consult with other departments of the city and/or county to fully evaluate the impact of any zoning change upon public facilities and services including but not limited to schools, drainage, traffic and related facilities;~~
 - ~~(2) Study each application with reference to its appropriateness and effect on existing and proposed land use, and references to the growth policy;~~
 - ~~(3) In the case of a protest petition filed in the matter of any application for rezoning, determine the validity of such petition;~~
 - ~~(4) Publish notice of the application in a newspaper of general circulation at least fifteen (15) days in advance of the date of the city zoning commission public hearing. The notice shall contain: the classification sought, the location of the property, and the date, time and place of the city zoning commission public hearing;~~

- ~~(5) Notify, by mail, the applicant and/or his/her authorized agent at least five (5) days prior to the date of the city zoning commission public hearing of the date, time and place of such hearing;~~
 - ~~(6) Notify, by mail, all property owners within three hundred (300) feet of the exterior boundaries of the property subject to the rezoning at least fifteen (15) days in advance of the time, date, place of the city zoning commission public hearing and the existing and proposed classification. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet if he/she determines that the proposed rezoning of the property would likely have a substantial impact on the surrounding land uses;~~
 - ~~(7) Place notice of the city zoning commission public hearing on the property subject to rezoning at least fifteen (15) days in advance of the date of public hearing; and~~
 - ~~(8) Report his/her findings and conclusions in writing to the city zoning commission, which report shall be a matter of public record.~~
- ~~(d) *City zoning commission action.* The city zoning commission shall review and take action upon each application in accordance with the provisions of this chapter, and after a public hearing at which the application has been legally advertised. Each application shall be presented to the city zoning commission by the zoning coordinator, together with his/her findings and conclusions on the matter. The city zoning commission may, by a majority vote of the members present, delay action for a period not to exceed thirty (30) days, without prejudice to the applicant. A report of the commission's recommendation and the zoning coordinator's findings and conclusions shall be submitted to the city council. The city zoning commission shall make a recommendation to the city council to:~~
- ~~(1) Deny the application; or~~
 - ~~(2) Grant the application.~~

~~The city zoning commission shall submit its recommendations in writing along with a statement indicating its reasons for the recommendation to grant, deny, or allow withdrawal of the amendment within fifteen (15) days following the public hearing. In no case shall the city zoning commission make a recommendation that an amendment be granted for an amendment that was not legally advertised.~~

~~In making its recommendation to the city council for an amendment to the official map or text of this chapter, the city zoning commission shall consider, among other things, the following:~~

- ~~(1) Whether the new zoning is designed in accordance with the growth policy;~~
 - ~~(2) Whether the new zoning is designed to secure from fire and other dangers;~~
 - ~~(3) Whether the new zoning will promote public health, public safety and general welfare;~~
 - ~~(4) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;~~
 - ~~(5) Whether the new zoning will provide adequate light and air;~~
 - ~~(6) Whether the new zoning will effect motorized and nonmotorized transportation;~~
 - ~~(7) Whether the new zoning will promote compatible urban growth;~~
 - ~~(8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;~~
 - ~~(9) Whether the new zoning will conserve the value of buildings; and~~
 - ~~(10) Whether the new zoning will encourage the most appropriate use of land throughout the city.~~
- ~~(e) *City council public hearing.* Before taking action on an application for an amendment to the official map, and after presentation of the city zoning commission report, the city council shall hold a public hearing on the application.~~

~~As provided in MCA 76-2-305(2), in the event of a protest petition against such zone change signed by the owners of twenty-five (25) percent or more of: (1) the area of the lots included in any proposed change; or~~

~~(2) those lots or units, as defined in MCA 70-23-102, one hundred fifty (150) feet from a lot included in a proposed change, such proposed amendment shall not become effective except by the favorable vote of two-thirds (2/3) of the present and voting members of the city council. For purposes of this protest provision, each unit owner is entitled to have the percentage of the unit owner's undivided interest in the common elements of the condominium, as expressed in the declaration, included in the calculation of the protest. If the property, as defined in MCA 70-23-102, spans more than one (1) lot, the percentage of the unit owner's undivided interest in the common elements must be multiplied by the total number of lots upon which the property is located. The percentage of the unit owner's undivided interest must be certified as correct by the unit owner seeking to protest a change or by the presiding officer of the association of unit owners. The protest petition must be received in the planning department office by 5:00 p.m. on the Friday preceding the first reading of the amendment by the city council.~~

~~The recommendation of the city zoning commission and notice of the city council's upcoming public hearing on the first reading of the resolution/ordinance shall be published in an official paper or a newspaper of general circulation in the city. Fifteen (15) days after publication of such notice, a public hearing shall be held at the next regular meeting of the city council. An additional public hearing shall be held at second reading of the resolution/ordinance as required by section 2-223 of the Billings, Montana City Code.~~

~~(f) *City council action.* Before taking any action on an application for an amendment to the official map, or amendment to the text of this resolution/ordinance, the city council shall first consider the findings and recommendations of the city zoning commission. In no case shall the city council approve an amendment for a classification other than the one advertised. The city council shall:~~

- ~~(1) Approve the application;~~
- ~~(2) Deny the application;~~
- ~~(3) Allow withdrawal of the application; or~~
- ~~(4) Delay the application for a period not to exceed thirty (30) days.~~

~~When such proposed amendment has been denied by the city council neither it nor one involving the same tract shall be submitted for adoption within one (1) year after such denial.~~

~~Sec. 27-1503. - Special review by city zoning commission.~~

~~(a) *General.* Although each zoning district is primarily intended for a predominant type of use, there are a number of uses which may or may not be appropriate in a particular district depending upon all the circumstances of the individual case. For example, the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets, and potential environmental effects, all may indicate that the circumstances of the development should be individually reviewed. It is the intent of this chapter to provide a system of review of such uses so that the community is assured that the uses are compatible with their locations and with surrounding land uses, and will further the purpose of this chapter and the objectives of the comprehensive plan.~~

~~(b) *Application for special review; procedure.* An application for a special review may be filed by the property owner, contract purchaser, or his/her authorized agent. Such application shall be filed with the zoning coordinator and shall be submitted under the following conditions:~~

- ~~(1) The application shall include, but not be limited to the following information:
 - ~~a. A legal and general description of the tract(s) upon which the special review use is sought;~~
 - ~~b. A map showing the dimensions, acreage and location of the tract(s);~~
 - ~~c. The names and addresses of the owner(s) of the tract and his/her agent, if any, along with the recorded property owner's signature;~~
 - ~~d. A site plan showing major details of the proposed development including but not limited to: the location of proposed and existing buildings and structures; off-street parking and loading;~~~~

~~service and refuse areas; means of ingress and egress; landscaping, screening, signs, and open space areas;~~

- ~~e. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s);~~
- ~~f. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list;~~
- ~~g. The application must be accompanied by the payment of all applicable fees; and~~
- ~~h. Any other information the applicant believes will support his/her request or other information as requested by the zoning coordinator or planning department.~~

~~(2) The application must be submitted at least twenty (20) days prior to the date of the public hearing before the city zoning commission.~~

~~(3) An application may be withdrawn or amended at any time prior to the publication of the legal advertisement for the public hearing before the city zoning commission. After legal notice for the city zoning commission has been published, the request for withdrawal shall be submitted to the planning department office at least twenty-four (24) hours prior to the public hearing. The city zoning commission may allow withdrawal of the application, after advertisement of the zoning commission public hearing has been published, by a majority vote of the members present, without prejudice with respect to the twelve (12) month waiting period after the application has first been submitted. After the city zoning commission hearing, a request for withdrawal shall be submitted to the city clerk and shall be submitted by the property owner or authorized agent, as listed on the application. The city council shall have exclusive authority to act on any request for withdrawal after notice of the city council public hearing has been published.~~

~~(c) *Planning department action.* The zoning coordinator, upon receiving an application for a special review use shall do the following:~~

- ~~(1) Consult with other departments of the city and/or county to fully evaluate the impact of the use contemplated under the special review application upon public facilities and services;~~
- ~~(2) Study each application with references to its appropriateness and effect on existing and proposed land uses, and its relationship to the comprehensive plan;~~
- ~~(3) Advertise notice of the application in a newspaper of general circulation fifteen (15) days in advance of the date of the public hearing. The notice shall contain: the use proposed, the location of the property, and the date, time and place of the public hearing;~~
- ~~(4) Notify, by mail, the applicant and/or his/her authorized agent five (5) days prior to the date of the public hearing of the date, time and place of such hearing;~~
- ~~(5) Notify, by mail, all the property owners within three hundred (300) feet of the exterior boundaries of the tract subject to the special review, fifteen (15) days in advance of the time, date, place and proposed use. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet if he/she determines that the proposed use would be such as to have a substantial environmental impact on the surrounding land uses;~~
- ~~(6) Place notice of the public hearing on the property subject to the special review fifteen (15) days in advance of the public hearing; and~~
- ~~(7) Report his/her conclusions and findings, in writing, to the city zoning commission which report shall become a matter of public record.~~

~~(d) *City zoning commission action.* The city zoning commission shall consider each application in accordance with the provisions of this chapter, and at a public hearing at which time the application has been legally advertised. Each application shall be presented to the city zoning commission, by the zoning coordinator or his/her designee, together with his/her conclusions and findings on the matter. The city zoning commission may, by a majority vote of the members present, delay action for a period~~

~~not to exceed thirty (30) days, without prejudice to the applicant. A written report of the commission's decision and recommendation and the zoning coordinator's report shall be submitted to the city council.~~

~~The city zoning commission shall make a recommendation to the city council to:~~

- ~~(1) Deny the application;~~
- ~~(2) Approve the application; or~~
- ~~(3) Conditionally approve the application.~~

~~Recommendations from the city zoning commission shall be based on findings of fact and shall be transmitted to the applicant or his/her agent, and the city council within fifteen (15) days of the date of the public hearing before the commission.~~

~~Before approving a special review use, the city zoning commission shall find that the contemplated use:~~

- ~~(1) Complies with all requirements of this chapter;~~
- ~~(2) Is consistent with the objectives and purposes of this chapter and the comprehensive plan; and~~
- ~~(3) Is compatible with surrounding land use or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.~~

~~Further, the city zoning commission shall consider and may impose modifications or conditions concerning, but not limited to the following:~~

- ~~(1) Street and road capacity;~~
 - ~~(2) Ingress and egress to adjoining streets;~~
 - ~~(3) Off street parking;~~
 - ~~(4) Fencing, screening and landscaping;~~
 - ~~(5) Building bulk and location;~~
 - ~~(6) Usable open space;~~
 - ~~(7) Signs and lighting; and/or~~
 - ~~(8) Noise, vibration, air pollution and similar environmental influences.~~
- ~~(e) *City council action.* The recommendation of the city zoning commission shall be published in a newspaper of general circulation and at least fifteen (15) days after the first publication of such notice, a public hearing shall be held by the city council. Before taking any action on an application for a special review use, the city council shall first consider the findings and recommendations of the city zoning commission. In no case shall the city council approve a special review use other than the one advertised. The city council shall:~~
- ~~(1) Approve the application;~~
 - ~~(2) Conditionally approve the application;~~
 - ~~(3) Deny the application;~~
 - ~~(4) Allow withdrawal of the application; or~~
 - ~~(5) Delay the application for a period not to exceed thirty (30) days.~~

~~Sec. 27-1504. - Classification of newly annexed area.~~

- ~~(a) Annexations of land into the City of Billings may be effected under several statutory procedures. When a parcel of land is annexed to the city under any procedure except annexation by petition, the appropriate zone shall be determined as follows:~~

- ~~(1) Immediately subsequent to the adoption of resolution/ordinance of intent to annex, the zoning coordinator and planning staff will determine the most appropriate zone. They will work closely with the owner of the land. The land owner shall have adequate opportunity to have full input, but the final classification shall be made by the zoning coordinator and the planning staff.~~
- ~~(2) Upon determination of the classification the zoning coordinator shall follow the procedure set forth in above BMGC section 27-1502(C) except that the report, findings and conclusions shall be submitted to the city council prior to or concurrently with the services report that is required by the annexation statutes.~~
- ~~(3) A public hearing on the zoning classification shall be held concurrently with the public hearing on the annexation before the city council, provided that the hearing shall not be sooner than fifteen (15) days after notice of the proposed zone has been given.~~
- ~~(4) If the zoning classification is not approved by the city council, the land shall retain the zone classification it had in the county; provided, that if the county classification is not identical to the city classification the city classification established will be the closest equivalent zone.~~
- ~~(b) When the proposed annexation is by petition pursuant to MCA Title 7, Chapter 2, Part 46 (section 7-2-4601, et seq.), the petitioners shall, concurrently with the petition for annexation, make an application for change of zoning that the petitioner may desire. All fees shall be paid by petitioner upon filing the application for zoning. Upon filing the application, the zoning coordinator shall follow the procedure set forth in above Section 2. If no application is filed or the application is denied the land shall retain the same zone classification it had in the county provided, that if the county classification is not identical, the city classification established will be the closest equivalent zone. The provisions of this subsection shall not be construed to preclude the city from fixing the zone classification as provided in subparagraph (a). hereinabove.~~

~~Sec. 27-1505. City board of adjustment.~~

- ~~(a) Created. There is hereby created for the City of Billings, a board of adjustment as provided by statute, consisting of seven (7) members appointed by the mayor, with the consent of the city council. The terms of each member shall run concurrent to that of the mayor's. Vacancies shall be filled for the unexpired terms of any members whose terms are interrupted for any reason.~~
- ~~(b) Proceedings. The city board of adjustment shall schedule regular meetings, along with special meetings which may also be called by the chairperson. The chairperson may cancel the regularly scheduled meeting if no matters are pending for the board's consideration. The chairperson, or in his/her absence, the acting chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.~~

~~The board shall keep minutes of its proceedings, showing the vote of each member, or if absent or failure to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and shall be filed in the office of the Yellowstone County board of planning. Whenever the city board of adjustment grants an application for a variance, the minutes shall specifically state the hardship upon which the variance is granted. The official minutes of the board's proceedings shall be signed by the chairperson or acting chairperson. The decision of the board shall become effective immediately, unless otherwise directed by the board. The zoning coordinator in coordination with each board shall designate a secretary of the board and shall be custodian of all records of the meetings, findings, conclusions and orders of the board.~~

- ~~(c) Hearings, appeals, notices. Appeals to the city board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decisions of the administrative office made under the terms of this chapter. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the city board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed was taken.~~

The city board of adjustment shall fix a reasonable time for the hearing of appeal, not to exceed thirty (30) days, give public notice thereof, as well as due notice to the parties in interest, and render a decision within a reasonable time, not to exceed ten (10) days thereafter. At the hearing, any party may appear in person or by agent or attorney.

~~(d) Appeals; stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the city board of adjustment, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order which may be granted by the city board of adjustment or by a court of record upon application to same and notice to the officer from whom the appeal is taken and on due cause shown.~~

~~(e) Powers and duties. The city board of adjustment shall have the following powers:~~

~~(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or interpretation of this chapter or of any resolution/ordinance adopted pursuant thereto; and~~

~~(2) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.~~

~~(f) Decisions, appeals, rehearing. In exercising the above mentioned powers, the city board of adjustment may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken.~~

~~The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under such resolution/ordinance, or to effect any variation in the application of this chapter.~~

~~Any person aggrieved by any decision of the city board of adjustment, or any affected taxpayer, or any officer, department, board, or bureau of the city may appeal the decision by presenting a petition to a court of record. The petition must set forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) calendar days after the filing of the decision of the board.~~

~~If the city board of adjustment fails to act on a matter that is before it or scheduled to be before it for any reason other than on motion duly continuing the matter, the applicant may deem the matter be denied and may immediately proceed by appeal as provided in this subsection (f).~~

~~If an application for an administrative review or variance is denied by the city board of adjustment, another application shall not be filed within a period one (1) year from the date of denial.~~

~~Sec. 27-1506. – City variances.~~

~~(a) Authority. The city board of adjustment shall have the authority to grant a variance from the terms of this chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.~~

~~(b) Applications. An application for a variance shall be filed with the zoning coordinator under the following conditions:~~

~~(1) The application shall include, but not be limited to the following:~~

~~a. A legal and general description of the tract(s) upon which a variance is sought;~~

- ~~b. The names and addresses of the owner(s) of the land subject to the variance, and his/her agent, if any, along with the recorded property owner's signature;~~
 - ~~c. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet of the exterior boundaries of the tract(s); and~~
 - ~~d. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list.~~
- ~~(2) The applicant shall present a map showing the location of the property for which the application is submitted, and its relation to adjoining property;~~
 - ~~(3) The applicant shall present a dimensioned site plan of the property for which the application is submitted which shall include, but not necessarily be limited to, the following:

 - ~~a. The location and dimension of all vehicular points of ingress and egress, drives, off-street parking spaces, channelizations and traffic circulations;~~
 - ~~b. The location and size of all existing and proposed buildings, structures and improvements; and~~
 - ~~c. The existing buildings, structures and improvements shall be labeled as such and indicated by a solid line. The proposed buildings, structures and improvements shall be labeled as such and indicated by a dashed or dotted line.~~~~
 - ~~(4) The application shall state reasons why the variance is being sought and shall specify the facts of hardship upon which the request for a variance is based;~~
 - ~~(5) The application must be submitted at least twenty (20) days prior to the date of the public hearing;~~
 - ~~(6) The application must be accompanied by payment of all applicable fees; and~~
 - ~~(7) An application for a variance may not be withdrawn or amended by the applicant after the legal advertising as required by this chapter shall have first appeared. However, the city board of adjustment may, by majority vote of members present, allow the application to be withdrawn without prejudice with respect to the twelve (12) month limitation of this chapter.~~
- ~~(c) *Planning department action.* The zoning coordinator, upon receiving an application for a variance shall do the following:~~
- ~~(1) Consult with other departments of the city and/or county to fully evaluate the impact of the variance contemplated under the application upon public facilities and services;~~
 - ~~(2) Study each application with reference to its appropriateness and effect on existing and proposed land uses; and its relationship to the comprehensive plan;~~
 - ~~(3) Place notice of the time, date and place of the public hearing in a newspaper of general circulation fifteen (15) days in advance of the date set for the public hearing;~~
 - ~~(4) Notify, by mail, the owner of the property and/or his/her agent, of the time, date and place of the public hearing five (5) days in advance of that date;~~
 - ~~(5) Notify the property owners, by mail, within three hundred (300) feet of the exterior boundaries of the subject property of the time, date, place and proposed variance. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet if he/she determines that the proposed variance would likely have a substantial impact on the surrounding land uses;~~
 - ~~(6) Place a notice of the time, date and place of the public hearing on the property fifteen (15) days prior to the hearing date; and~~
 - ~~(7) Report his/her findings, in writing, to the city board of adjustment which report shall be a matter or public record.~~
- ~~(d) *City board of adjustment action.* The city board of adjustment, before it grants a variance shall determine:~~

- ~~(1) That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;~~
- ~~(2) That a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;~~
- ~~(3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other land in the same district;~~
- ~~(4) That the granting of the variance will be in harmony with the general purpose and intent of this chapter and with the comprehensive plan;~~
- ~~(5) In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this chapter;~~
- ~~(6) The board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and~~
- ~~(7) Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.~~

Sec. 27-1507. - County zoning commission created.

There is hereby created a Yellowstone County zoning commission to consist of five (5) members residing on property, any part of which lies within the Unincorporated Jurisdictional Area of this chapter but outside the limits of the City of Billings. The members are to be appointed by the board of county commissioners for a term of two (2) years and the terms of the members shall be staggered so that a minimum number of terms shall expire in any one (1) year. At the first regular meeting of the county zoning commission, the commission shall select a chairman and adopt written procedures for the conduct of its responsibilities as established in this section.

The members of said county zoning commission are required to attend all county zoning commission meetings advertised publicly, except in the case of an excused absence. The presence of three (3) members shall constitute a quorum.

The duties and powers of the county zoning commission shall be to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and to hold public meetings and make recommendations to the board of county commissioners on all requests to amend, supplement, change, modify or repeal the regulations, restrictions and boundaries in the zoning districts. The board of county commissioners shall not take any action until it has received a final report from such commission.

Sec. 27-1508. - Amendments to chapter.

- (a) *General.* The regulations, restrictions and boundaries set forth in this chapter may, from time to time, be amended, supplemented, changed or repealed by the board of county commissioners provided, however, that no action on any application for amendment, change or repeal may be taken until the application has first been processed and advertised in accordance with the provisions of this chapter.
- (b) *Application for map amendments.* Unless initiated by the board of planning or board of county commissioners, all applications for an amendment to the official map, or to the text of this chapter must be submitted in person by the property owner, the contract purchaser or the authorized agent of the property owner. Proposals to amend this chapter, except for the official zoning map, may also be initiated by the county zoning commission. An application for an amendment affecting the same property shall not be submitted more than once every twelve (12) months.

Each application to amend the official map or text shall be filed with the zoning coordinator, and each application shall be submitted under the following conditions:

- (1) It shall include, but not be limited to, the following information:
 - a. A legal description of the tract(s) proposed to be rezoned;
 - b. A map showing the dimensions, acreage, and location of the tract(s) and adjacent land uses;
 - c. The present and proposed classification for the tract(s);
 - d. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s);
 - e. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list;
 - f. The names and addresses of the owner(s) of the land and their agents, if any, along with the recorded property owner's signature; and
 - g. Payment of all applicable fees.
- (2) Any application for an amendment to the official map must be submitted together with all applicable fees, to the zoning coordinator twenty (20) days prior to the date of the public hearing before the Yellowstone County zoning commission.
- (3) An application may be withdrawn at any time prior to the publication of the legal advertisement for the public hearing before the county zoning commission without respect to the twelve (12) month waiting period. After legal notice for the county zoning commission public hearing has been published, the request for withdrawal shall be submitted to the planning department office at least twenty-four (24) hours prior to the public hearing. The county zoning commission may allow withdrawal of the application, after advertisement of the zoning commission public hearing has been published, by a majority vote of the members present, without prejudice with respect to the twelve (12) month waiting period after the application has first been submitted. However, no application shall be allowed to be withdrawn more than once within the twelve (12) month period after the application shall have first been submitted.
- (4) An applicant requesting a zone change may request a thirty (30) day delay on the hearing of his/her application before the county zoning commission. The request for the delay and reasons must be submitted in writing to the planning office or chairman of the county zoning commission twenty-four (24) hours in advance of the public hearing. Approval of a delay shall require a majority vote of the members present, without requiring county commission approval of the delay. Only one such delay shall be allowed on any application.
- (c) *Planning department action.* The zoning coordinator, upon receiving an application for rezoning an area or a particular piece of property, shall do the following:
 - (1) Consult with other departments of the city and/or county to fully evaluate the impact of any zoning change upon public facilities and services including, but not limited to schools, drainage, traffic and related facilities;
 - (2) Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its correspondence with the growth policy;
 - (3) Publish notice of the application in a newspaper of general circulation at least fifteen (15) days in advance of the date of the county zoning commission public hearing. The notice shall contain: the classification sought, the location of the property, the date, time and place of the county zoning commission public hearing and that the proposed zone change information is on file for public inspection at the office of county clerk and recorder;
 - (4) Notify, by mail, the applicant and/or his/her authorized agent at least five (5) days prior to the date of the county zoning commission public hearing of the date, time and place of such hearing;
 - (5) Notify, by mail, all property owners within three hundred (300) feet of the exterior boundaries of the property subject to the rezoning of the date, time and place of the county zoning commission public hearing and the existing and proposed classification at least fifteen (15) days in advance

of that date. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet if he/she determines that the proposed rezoning of the property would likely have a substantial impact on the surrounding land uses;

- (6) Place notice of the county zoning commission public hearing and board of county commissioners public hearing on the property subject to rezoning and in four (4) other public places at least forty-five (45) days in advance of the date of the board of county commissioners public hearing; and
 - (7) Report his/her findings and conclusions in writing to the county zoning commission, which report shall be a matter of public record.
- (d) *County zoning commission action.* The county zoning commission shall review and take action upon each application in accordance with the provisions of this chapter, and after a public hearing for which the application has been legally advertised. Each application shall be presented to the county zoning commission by the zoning coordinator or his/her designee, together with his/her findings and conclusions on the matter. The county zoning commission may, by a majority vote of the members present, delay action for a period not to exceed thirty (30) days, without prejudice to the applicant. A report of the commission's recommendation and the zoning coordinator's findings and conclusions shall be submitted to the board of county commissioners.

The county zoning commission shall make a recommendation to the board of county commissioners to:

- (1) Approve the application; or
- (2) Deny the application.

The county zoning commission shall submit its recommendations in writing along with a statement indicating its reasons for the recommendation to grant, deny, or allow withdrawal of the amendment within fifteen (15) days following the public hearing. In no case shall the county zoning commission make a recommendation that an amendment be granted for an amendment that was not legally advertised.

In making its recommendation to the board of county commissioners for an amendment to the official map or text of this chapter, the county zoning commission shall consider, among other things, the following:

- (1) Whether the new zoning is designed in accordance with the growth policy;
 - (2) Whether the new zoning is designed to secure from fire and other dangers;
 - (3) Whether the new zoning will promote public health, public safety and general welfare;
 - (4) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
 - (5) Whether the new zoning will provide adequate light and air;
 - (6) Whether the new zoning will effect motorized and nonmotorized transportation;
 - (7) Whether the new zoning will be compatible with urban growth in the vicinity of cities or towns;
 - (8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;
 - (9) Whether the new zoning will conserve the value of buildings;
 - (10) Whether the new zoning will encourage the most appropriate use of land throughout Yellowstone County; and
 - (11) Whether the new zoning will, as nearly as possible, be compatible with the zoning of nearby cities and towns.
- (e) *Board of county commissioners action.* Notice of the board of county commissioners public hearing shall be published once a week for two (2) weeks in a newspaper of general circulation. The notice shall contain the time, date and place of the board of county commissioners public hearing, the boundaries of the proposed district, the general character of the proposed zoning district or regulations

and that the proposed zoning regulations or district boundary change are on file for public inspection at the office of the county clerk and recorder. Before taking any action on an application for an amendment to the official map, or amendment to the text of this chapter the board of county commissioners shall first consider the findings and recommendations of the county zoning commission. In no case shall the board approve an amendment for a classification other than the one advertised. The board shall:

- (1) Approve the application;
- (2) Deny the application;
- (3) Allow withdrawal of the application; or
- (4) Delay action on the application for a period not to exceed thirty (30) days.

Sec. 27-1509. - Special review by county zoning commission.

- (a) *General.* Although each zoning district is primarily intended for a predominant type of use, there are a number of uses which may or may not be appropriate in a particular district depending upon all the circumstances of the individual case. For example, the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets and potential environmental effects, all may indicate that the circumstances of the development should be individually reviewed. It is the intent of this chapter to provide a system of review of such uses so that the community is assured that the uses are compatible with their locations and with surrounding land uses, and will further the purpose of this chapter and the objectives of the comprehensive plan.
- (b) *Application procedure.* An application for a special review may be submitted by the property owner, contract purchaser or his/her authorized agent. Such application shall be filed with the zoning coordinator and shall be submitted under the following conditions:
 - (1) The application shall include, but not be limited to, the following information:
 - a. A legal and general description of the tract(s) upon which the special review use is sought;
 - b. A map showing the dimensions, acreage and location of the tract(s);
 - c. The names and addresses of the owner(s) of the tract(s) and his/her authorized agent, if any, along with the recorded property owner's signature;
 - d. A certified list of the names and addresses of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s);
 - e. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list;
 - f. A site plan showing major details of the proposed development including but not limited to: the location of proposed and existing buildings and structures; off-street parking and loading; service and refuse areas; means of ingress and egress; landscaping, screening, signs and open space areas;
 - g. The application must be accompanied by the payment of all applicable fees; and
 - h. Any other information the applicant believes will support his/her request or other information as requested by the zoning coordinator or planning department.
 - (2) An application may be withdrawn or amended at any time prior to the publication of the legal advertisement for the public hearing before the county zoning commission. After legal notice for the county zoning commission public hearing has been published, the request for withdrawal shall be submitted to the planning department office at least twenty-four (24) hours prior to the public hearing. The county zoning commission may allow withdrawal of the application, after advertisement of the zoning commission public hearing has been published, by a majority vote of the members present, without prejudice with respect to the twelve (12) month waiting period after

the application has first been submitted. However, no application shall be allowed to be withdrawn more than once within the twelve (12) month period after the application shall have first been submitted.

- (3) An applicant may request a delay for a period not to exceed thirty (30) days on the hearing of his/her application before the county zoning commission. The request for the delay and reasons must be submitted in writing to the planning office or chairperson of the county zoning commission twenty-four (24) hours in advance of the public hearing. Approval of a delay shall require a majority vote of the members present, without requiring county commission approval of the delay. Only one (1) such delay shall be allowed on any application.
 - (4) ~~†~~The application must be submitted, together with all applicable fees, to the zoning coordinator twenty (20) days prior to the date of the public hearing.
- (c) *Planning department action.* The zoning coordinator, upon receiving an application for a special review use, shall do the following:
- (1) Consult with other departments of the city and/or county to fully evaluate the impact of the use contemplated under the special review application upon public facilities and services;
 - (2) Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its correspondence with the comprehensive plan;
 - (3) Advertise notice of the application in a newspaper of general circulation fifteen (15) days in advance of the date of the county zoning commission public hearing. The notice shall contain the time, date and place of the county zoning commission public hearing;
 - (4) Notify, by mail, the applicant and/or his/her authorized agent, of the time, date and place of the public hearing five (5) days in advance of that date;
 - (5) Notify the property owners, by mail, within three hundred (300) feet of the exterior boundaries of the tract(s) subject to the special review of the time, date, place and proposed use at least fifteen (15) days prior to the public hearing date. The zoning coordinator may notify property owners within a distance greater than three hundred (300) feet if he/she determines that the proposed use would be such as to have a substantial environmental impact on the surrounding land uses;
 - (6) Place notice of the public hearing on the property subject to the special review fifteen (15) days in advance of the public hearing; and
 - (7) Report his/her conclusions and findings, in writing, to the county zoning commission, which report shall become a matter of public record.
- (d) *County zoning commission action.* The county zoning commission shall consider each application in accordance with the provisions of this chapter, and at a public hearing at which time the application has been legally advertised. Each application shall be presented to the county zoning commission, by the zoning coordinator or his/her designee, together with his/her conclusions and findings on the matter. The county zoning commission may, by a majority vote of the members present, delay action for a period not to exceed thirty (30) days, without prejudice to the applicant. A written report of the commission's decision and recommendation and the zoning coordinator's report shall be submitted to the board of county commissioners.

The county zoning commission shall make a recommendation to the board of county commissioners to:

- (1) Approve the application;
- (2) Conditionally approve the application; or
- (3) Deny the application.

Recommendations from the county zoning commission shall be based on findings of fact and shall be transmitted to the applicant, or his/her agent and the board of county commissioners within fifteen (15) days of the date of the public hearing before the commission.

Before approving a special review use, the county zoning commission shall find that the contemplated use:

- (1) Complies with all requirements of this chapter;
- (2) Is consistent with the objectives and purposes of this chapter and the comprehensive plan; and
- (3) Is compatible with surrounding land use or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further, the county zoning commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

- (1) Street and road capacity;
 - (2) Ingress and egress to adjoining streets;
 - (3) Off-street parking;
 - (4) Fencing, screening and landscaping;
 - (5) Building bulk and location;
 - (6) Usable open space;
 - (7) Signs and lighting; and/or
 - (8) Noise, vibration, air pollution and similar environmental influences.
- (e) *Board of county commissioners action.* Notice of the board of county commissioners public hearing shall be placed in a newspaper of general circulation. The notice shall contain the time, date and place of the board of county commissioners public hearing. Before taking any action on an application for a special review use, the board of county commissioners shall first consider the findings and recommendations of the county zoning commission. In no case shall the board approve a special review use other than the one advertised. The board shall:
- (1) Approve the application;
 - (2) Conditionally approve the application;
 - (3) Deny the application;
 - (4) Allow withdrawal of the application; or
 - (5) Delay the application for a period not to exceed thirty (30) days.

Sec. 27-1510. - County board of adjustment.

- (a) *Created.* There is hereby created a Yellowstone County board of adjustment consisting of five (5) members residing on property, any part of which lies within the unincorporated jurisdictional area of this chapter, ~~but outside the limits of the City of Billings.~~ The members are to be appointed by the board of county commissioners for a term of two (2) years and the terms of the members shall be staggered so that a minimum number of terms shall expire in any one (1) year.
- (b) *Proceedings.* Meetings of the county board of adjustment shall be scheduled at a regular time each month and special meetings may also be called by the chairperson. The chairperson may cancel the regular monthly meeting if no matters are pending for the board's consideration. The chairperson, or in his/her absence, the acting chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. In exercising its powers and duties under this chapter, not less than three (3) members of the board shall constitute a quorum.

The board of adjustment shall keep minutes of its proceedings, showing the vote of each member, or if absent or failure to vote, indicating such fact. The board shall keep records of its examinations and other official actions, all of which shall be public record and shall be filed in the office of the Yellowstone County board of planning, with copies forwarded to the board of county commissioners and zoning coordinator within thirty (30) days. The official minutes of the board's proceedings shall be signed by the chairperson

or acting chairperson. The decision of the board shall become effective immediately, unless otherwise directed by the board. The board shall adopt bylaws for the conduct of its affairs and responsibilities under this chapter.

- (c) *Hearing, appeals, notices.* Appeals to the county board of adjustment may be taken by any person aggrieved or by any office, department or bureau of the county affected by any decisions of the administrative officer. Such appeal shall be taken within a reasonable time, not to exceed thirty (30) days, by filing a notice of appeal specifying the grounds thereof with the officer from whom the appeal is taken and with the county board of adjustment. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed was taken.

The county board of adjustment shall fix a reasonable time for the hearing of appeal, not to exceed thirty (30) days, give public notice thereof, as well as due notice to the parties in interest, and render a decision within a reasonable time not to exceed ten (10) days thereafter. At the hearing any party may appear in person, by agent or attorney.

- (d) *Appeals, stay of proceedings.* An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the county board of adjustment, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate, a stay would in his/her opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order which may be granted by the county board of adjustment or by a court of record upon application to same and notice to the officer from whom the appeal is taken and on due cause shown.

- (e) *Powers and duties.* The county board of adjustment shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or interpretation of this chapter or of any resolution/~~ordinance~~ adopted pursuant thereto;
- (2) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.

- (f) *Decision and appeals.* In exercising the above mentioned powers, the county board of adjustment may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken. The concurring vote of three (3) members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under such resolution/~~ordinance~~, or to effect any variation in the application of this chapter.

Any person aggrieved by any decision of the county board of adjustment, or any affected taxpayer, or any officer, department, board or bureau of the county may appeal the board's decision, subject to the following procedure:

- (1) Present to a court of record a petition setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the decision of the board;
- (2) That all action permitted by a grant of variance pursuant to the authority granted herein shall be stayed pending a petition to a court of record. The stay shall continue until the court has made a final determination;
- (3) If the county board of adjustment fails to act on a matter that is before it or scheduled to be before it for any reason other than on motion duly continuing the matter, the applicant may deem the matter denied and may immediately proceed by appeal as provided in this ~~BMCC~~ section 27-1510(F).

If an application for an administrative review or variance is denied by the county board of adjustment, another application shall not be filed within a period of one (1) year from the date of denial.

Sec. 27-1511. - County variances.

- (a) *Authority.* The county board of adjustment shall have the authority to grant a variance from the terms of the chapter in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.
- (b) *Application procedure.* An application for a variance shall be filed with zoning coordinator under the following conditions:
 - (1) The application shall include, but not be limited to, the following:
 - a. A legal and general description of the tract(s) upon which the variance is sought;
 - b. The names and addresses of the owner(s) of the land subject to the variance, and his/her agent, if any, along with the recorded property owner's signature;
 - c. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s); and
 - d. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list.
 - (2) The applicant shall present a map showing the location of the property for which the application is submitted, and its relationship to adjoining property;
 - (3) The applicant shall present a dimensioned site plan of the property for which the application is submitted which shall include, but not be limited to, the following:
 - a. The location and dimension of all vehicular points of ingress and egress, drives, off-street parking spaces, channelizations and traffic circulation;
 - b. The location and size of all existing and proposed buildings, structures and improvements; and
 - c. The existing buildings, structures and improvements shall be labeled as such and indicated by a solid line. The proposed buildings, structures and improvements shall be labeled as such and indicated by a dashed or dotted line.
 - (4) The application shall state reasons why the variance is being sought and shall specify the facts of hardship upon which the request for a variance is based;
 - (5) The application must be submitted at least twenty (20) days prior to the date of public hearing;
 - (6) The application must be accompanied by the payment of all applicable fees; and
 - (7) An application for a variance may not be withdrawn or amended by the applicant after the legal advertising as required by this Section shall have first appeared. However, the county board of adjustment may, by a two-thirds vote of all members, allow the application to be withdrawn without prejudice with respect to the twelve (12) month limitation of this chapter.
- (c) *Planning department action.* The zoning coordinator, upon receiving an application for a variance, shall do the following:
 - (1) Consult with other departments of the ~~city and/or~~ county to fully evaluate the impact of the variance contemplated under the application upon public facilities and services;
 - (2) Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its correspondence with the comprehensive plan;

- (3) Place notice of the time, date and place for the public hearing in a newspaper of general circulation fifteen (15) days in advance of the date set for the public hearing;
 - (4) Notify, by mail, the owner(s) of the property and/or his/her agent, of the time, date and place of the public hearing five (5) days in advance of that date;
 - (5) Notify the property owners, by mail, within three hundred (300) feet of the exterior boundaries of the property subject to the variance of the time, date, and place of the public hearing and the proposed variance request at least fifteen (15) days prior to the public hearing. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet, if he/she determines that the proposed variance would likely have a substantial impact on the surrounding land uses;
 - (6) Place a notice of the time, date and place of the public hearing on the property fifteen (15) days prior to the hearing date; and
 - (7) Report his/her findings, in writing, to the county board of adjustment, which report shall be a matter of public record.
- (d) *County board of adjustment action.* The county board of adjustment, before it grants a variance shall determine:
- (1) That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;
 - (2) That a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;
 - (3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other land in the same district;
 - (4) That the granting of the variance will be in harmony with the general purpose and intent of this chapter and with the comprehensive plan;
 - (5) In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with this Resolution/~~Ordinance~~. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Resolution/~~Ordinance~~;
 - (6) The board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and
 - (7) Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this Resolution/~~Ordinance~~ in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the same district.

ARTICLE 27-1600. - ADMINISTRATION AND ENFORCEMENT

Sec. 27-1601. - Intent.

It is the intent of this chapter to provide for the efficient, reasonable, and impartial enforcement of this chapter by authorizing an enforcement officer, the basic procedures for complying with the chapter and the penalties for violations.

Sec. 27-1602. - Administration.

- (a) The zoning coordinator is hereby given the authority to administer the provisions of this chapter for the ~~City of Billings and the~~ unincorporated jurisdictional area of Yellowstone County.
- (b) The zoning coordinator shall supervise and effectuate the processing of applications for amendments to the official zoning map, special review applications, requests for variances, and other applications

under the terms of this chapter. Further it shall be his/her responsibility to present any applications or requests to the appropriate board or commission.

- (c) It shall further be the responsibility of the zoning coordinator to aid the various boards, commissions and departments in transmitting appeal records to the board of county commissioners ~~and the city council~~ and to otherwise promote procedural regularity in the administration of this chapter. The position of zoning coordinator shall be within the organizational structure of the Yellowstone County board of planning.
- (d) The zoning coordinator shall not have authority to act in any final reviewing capacity and any questions as to interpretation or enforcement shall be determined by the appropriate board, commission or department, unless such authority is specifically allowed in a chapter.

Sec. 27-1603. - Zoning enforcement officer.

It shall be the duty of the zoning coordinator or his/her designee to be the enforcement officer for the zoning regulations. He/she is hereby given the authority to enforce the provisions of this chapter for ~~the City of Billings and~~ the unincorporated jurisdictional area of Yellowstone County.

Sec. 27-1604. - Penalties for violation.

- (a) A violation of this act or any chapter adopted pursuant thereto, ~~other than offenses specifically declared to be municipal infractions,~~ is hereby declared to be a misdemeanor and shall be punishable by a fine not exceeding five hundred dollars (\$500.00) or imprisonment in the county jail not exceeding six (6) months, or both, and in addition shall pay all costs and expenses involved. Each day such violation continues shall be considered to be a separate offense.
- (b) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this act, or of any resolution/~~ordinance~~ made under authority conferred hereby, the proper authorities of the ~~city or county~~ may institute any appropriate action or proceedings, in addition to other remedies, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct, or abate such violation to prevent the occupancy of such building, structure, or land to prevent any illegal act, conduct, business, or use in or about such premises. ~~Outside the Billings city limits and f~~For the purposes of enforcing this section, the county shall attempt to obtain voluntary compliance at least thirty (30) days before filing a complaint for a violation of this part that is subject to the penalties under subsection (a) above.

ARTICLE 27-1700. - SEPARABILITY CAUSE, REPEAL OF CONFLICTING RESOLUTIONS/~~ORDINANCES~~ AND EFFECTIVE DATE

Sec. 27-1701. - Provisions of this chapter developed to be minimum standards.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare.

Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

Sec. 27-1702. - Separability clause.

If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

Sec. 27-1703. - Repeal of conflicting resolutions/~~ordinances~~ and effective date.

Resolutions/~~ordinances~~ or parts of resolutions/~~ordinances~~ in conflict with this Resolution/~~Ordinance~~ are hereby repealed to the extent necessary to give this chapter full force and effect. This Zoning

Resolution/Ordinance for the City of Billings and the unincorporated 4½ Mile Jurisdictional Area of Yellowstone County shall become effective on February 1, 1998.

Sec. 27-1704. - Schedule of fees, charges and expenses.

The ~~city council and~~ board of county commissioners shall establish a schedule of fees, charges and expenses and a collection procedure for appeals and other matters pertaining to this chapter. Said schedule may be amended from time to time by resolution of the ~~city council or~~ board of county commissioners. ~~Within this schedule of fees, the city council shall be solely responsible for setting the fee for the Medical Corridor Permit Zoning preliminary and final reviews, as established in BMCC subsection 27-909(b).~~

No zone change, special review or variance shall be issued unless or until such costs, charged, fees or expenses have been paid in full nor shall any action be taken on proceedings before the ~~city or~~ county board of adjustment or zoning commission unless or until charges and fees have been paid in full to the planning and community services department.

ARTICLE 27-1800. - EAST BILLINGS URBAN REVITALIZATION DISTRICT CODE – This section is deleted in its entirety.

WHEREAS, the Board of County Commissioner received and considered the recommendations of the City/County Planning staff and the Yellowstone County Zoning Commission on the proposed amendment and additions.

NOW, THEREFORE, BE IT RESOLVED that it is the intent of the Board of County Commissioners that the above-described amendment to the Unified Zoning Regulations for the City of Billings and Yellowstone County Jurisdictional Area be adopted.

PASSED AND ADOPTED by the Board of County Commissioners of Yellowstone County, Montana, this 19th day of September, 2017.

BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA

John Ostlund, Chairman

Denis Pitman, Member

Robyn Driscoll, Member

(SEAL)
ATTEST:

Jeff Martin
Clerk and Recorder