

CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

“THE MAGIC CITY: A DIVERSE, WELCOMING COMMUNITY WHERE PEOPLE PROSPER AND BUSINESS SUCCEEDS.”

AGENDA

COUNCIL CHAMBERS

September 11, 2017

6:30 P.M.

CALL TO ORDER: Mayor Hanel

PLEDGE OF ALLEGIANCE: Mayor Hanel

INVOCATION: Councilmember Swanson

ROLL CALL: Councilmembers present on roll call were:

MINUTES: August 28, 2017 - Not ready for approval.

COURTESIES:

PROCLAMATIONS: American Indian Heritage Day - September 22, 2017

ADMINISTRATOR REPORTS - TINA VOLEK

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 2 and 3 ONLY.

Speaker sign-in required. (Comments offered here are limited to one (1) minute for one item, or three (3) minutes for multiple items. Please sign in at the cart located at the back of the council chambers or at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item. For Items not on this agenda, public comment will be taken at the end of the meeting.)

1. **CONSENT AGENDA** -- Separations:

A. **Bid Awards:**

1. **Snow Plowing on Local Streets.** (Opened 8/29/17) Recommend CMG Construction, not to exceed \$400,000 in FY18.
 2. **Airport Operations Building Roof Replacement.** (Opened 8/29/17) Recommend Commercial Roofing, \$269,000.
 3. **Cummins/Detroit Diesel Engine Overhauls for MET Transit.** (Opened 8/29/17) Recommend Council approve the bids submitted by Cummins Rocky Mountain and American Fleet, Inc.
 4. **MET Transit Building Roof Replacement, Phase 1.** (Opened 8/29/17) Recommend Commercial Roofing, \$133,787.
- B. **Acceptance of Donation** to the Billings Police Foundation from Denny Rehberg for the purchase of the police firearms range targeting system, \$7,500.
- C. **Resolution** declaring an emergency and authorizing the payment of repair costs of the pipeline at the Wastewater Treatment Plant.
- D. **Resolution** adopting data-driven, standardized contract limits reflecting current local market conditions and to continue selling properties acquired through the foreclosure programs.
- E. **Resolution** appointing Tourism Business Improvement District (TBID) Board of Trustees.
- F. **Second/Final Reading Ordinance for Zone Change 957:** a zone change from Community Commercial (CC), Residential Multi-Family-Restricted (RMF-R), Residential 5,000 (R-50), Residential 7,000 (R-70), Residential 9,600 (R-96) and Public (P) to Planned Development (PD) on an approximate 66 acre parcel of land described as: Lots 3 and 4, Western Sky Subdivision. Mont Vista, LLC, owner; KLJ Engineering, agent. Approval of the zone change and adoption of the findings of the 10 criteria.
- G. **Second/Final Reading Ordinance for Zone Change 960:** a zone change from un-zoned to Residential 7,000 (R-70) and Residential 5,000 (R-50) on Tract 2A of C/S 2465 (R-70) and Tract 1 of C/S 1871 (R-50), a 116.18 acre parcel of land, generally located north of Rimrock Road and west of Copper Ridge Subdivision. Gary Oakland, owner; Mac Folgelsong, agent. Approval of the zone change and adoption of the findings of the 10 criteria.

- H. **Second/Final Reading Ordinance** expanding Ward III (Annexation 17-03) for an approximate 18 acre parcel located at the southeast corner of the intersection of Santiago Boulevard and Blue Creek Road south of the Yellowstone River. Jamey Eisenbarth, owner.
- I. **Second/Final Reading Ordinance** approving the separation of the City and County Unified Zoning Regulations.
- J. **Second/Final Reading Ordinance** amending BMCC, Article 26-600, Industrial Waste Discharge.
- K. **ORDINANCES PROHIBITING MEDICAL MARIJUANA STOREFRONTS:**
 - 1. **Second/Final Reading Ordinance for Zone Change 959:** amending text in Section 27-304, Billings, Montana City Code (BMCC), prohibiting land uses contrary to local, state or federal law.
 - 2. **Second/Final Reading Ordinance** amending Section 7-1700, BMCC, relating to medical marijuana dispensaries and storefronts, updating the City Code to remove inconsistencies with state and federal laws.
- L. **Final Plat Approval** of Blue Creek Storage Subdivision.
- M. **Final Plat Approval** of Sunnyside Subdivision, 4th Filing.
- N. **Bills and Payroll:**
 - 1. August 14, 2017
 - 2. August 21, 2017

REGULAR AGENDA:

- 2. **TRANSFER AGREEMENT** with Downtown Billings Partnership (DBP) and Babcock Theater, LLC, and acquisition of green room and personal property, \$127,977.
- 3. **RESOLUTION** amending the boundaries of SILMDs 152 and 217. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
- 4. **PUBLIC HEARING AND RESOLUTIONS SPREADING ASSESSMENTS** on the following:

- A. Encroachments
- B. Park District 1
- C. Park Maintenance Districts
- D. Road Maintenance District 6
- E. Weed Abatement

Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

- 5. **PUBLIC HEARING AND RESOLUTION** adopting annual Special Improvement Light Maintenance District assessments for FY18. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
- 6. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward IV to include recently annexed property in Annexation 17-05: a 119 acre parcel located at the northwest corner of the intersection of Rimrock Road and 70th Street West. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
- 7. **POT BELLIED/MICRO/MINI PIGS:**
 - A. **PUBLIC HEARING AND FIRST READING ORDINANCE** allowing pot bellied/micro/mini pigs in the City limits. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
 - B. **RESOLUTION** amending Resolution No. 12-19226, establishing an annual pot bellied/micro/mini pig permit fee, assessed by Animal Control Division. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

PUBLIC COMMENT on Non-Agenda Items -- Speaker Sign-in required. (*Restricted to ONLY items not on this printed agenda. Comments here are limited to 3 minutes. Please sign in at the cart located at the back of the council chambers or at the podium.*)

COUNCIL INITIATIVES:

ADJOURN:

Additional information on any of these items is available in the City Clerk's Office. Reasonable accommodations will be made to enable individuals with disabilities to attend this meeting. Please notify Denise R. Bohlman, 657-8210.

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Snow Plowing on Local Streets

PRESENTED BY: David Mumford, Public Works Director

Department: Public Works

Presentation: No

PROBLEM/ISSUE STATEMENT

The City of Billings has received record amounts of snow in the past few winters. For FY18, the City Council approved snow plowing for residential streets by a private contractor. The Public Works Department put out an invitation to bid for residential snow plowing to the curb with no hauling of snow. The successful bidder will be responsible to plow all local streets in Billings when an anticipated snow accumulation of three to five (3-5) inches or greater occur. The City of Billings has 740 lane miles of local streets. The Public Works Department will notify the successful contractor 36 hours in advance of work based on National Weather Service forecast of projected snow accumulation of three to five (3-5) inches or greater. The Snow Plowing on Local Streets invitation for bid was advertised on August 18 & 25, 2017 in the Yellowstone County New and on the City's website. The bids are for equipment and operators as follows:

- Minimum of six (6) motor graders that are equivalent to the Caterpillar 12m3 AWD (all wheel driver) or Champion 720 A with operators
- Single dispatcher
- Minimum of 1 supervisor per shift

Staff opened the only bid on August 29, 2017 and CMG Construction submitted the lowest and only responsible bid. The contract will be for two (2) years with the option of two (2) one (1) year extensions, by mutual agreement.

ALTERNATIVES ANALYZED

City Council may:

- Award the contract to CMG Construction or;
- Reject the bid, which will delay the snow plowing in residential areas this winter

FINANCIAL IMPACT

The only bid is as follows:

Motor Grader w/Operator - \$130 per hour

Dispatcher - \$10 per hour

Supervisor - \$10 per hour

RECOMMENDATION

Staff recommends that the City Council award the contract for Snow Plowing on Local Streets to CMG Construction at the hourly rates shown above, not to exceed \$400,000 in FY18.

APPROVED BY CITY ADMINISTRATOR

Attachments

Snow Plowing



INVITATION FOR BID

Name of Good or Service Requested: **Snow Plowing on Local Streets**

Contents:

- A. Summary of Invitation for Bid
- B. Instructions to Bidders
- C. Contract Requirements and Specifications
- D. Pricing and Addendum
- E. Standard Terms and Conditions
- F. Conditions and Non-Collusion Form
- G. Intent to Respond Form



A. Summary of Invitation for Bid

This bid is for the purpose of entering into a contract for Snow Plowing on Local Streets for the City of Billings. The successful bidder agrees to provide the City of Billings with an acceptable quality of equipment/service, performance and workmanship as determined by the City of Billings.

It is the purpose of this bid to obtain the best quality of equipment/service at the most favorable price to the City of Billings. Consideration will be given for the level of service offered and ability to meet stated specifications as outlined in the contract documents.

The lowest bid need not be accepted if it is documented that a specific supplier in the past has been a poor performer or has provided poor goods.

B. Instructions to Bidders

Sealed bids entitled Snow Plowing on Local Streets for the City of Billings Public Works Department, Billings, Montana, must be sent and addressed to the City Clerk of Billings, Montana, at the office of the City Clerk, 210 N. 27th Street, Billings, Montana 59101, up until 2:00 PM (MST) on September 12, 2017.

More specific additional information regarding this contract may be obtained by contacting David Mumford, Public Works Director, by telephone at 406-657-8230, in person at 2224 Montana Ave or email mumfordd@ci.billings.mt.us.

No bids may be withdrawn after the scheduled time for the public opening of bids, which is 2:00 PM (MST) on August 29, 2017.

The right is reserved to reject any or all bids received, to waive irregularities, to postpone the award of the contract for a period of not to exceed sixty (60) days, and to accept that bid which is in the best interests of the City of Billings, Montana.

The City of Billings is an Equal Opportunity Employer. The Contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a), which prohibit discrimination against qualified protected veterans and/or qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

EXAMINATION OF DOCUMENTS

Before submitting a bid, the bidder shall:

- a. Carefully examine the Standards and Specifications as well as all other attached documents;
- b. Fully inform themselves of the existing conditions and limitations;
- c. Include with the bid sufficient information to cover all items required in the specifications.



BID COMPLIANCE

It shall be the responsibility of the bidder to see that all bids are sealed and submitted to the office of the City Clerk at City Hall, 210 North 27th Street, Billings, Montana 59101 (P.O. Box 1178, Billings, MT 59103), before 2:00 PM (MST) on September 12, 2017.

BID MODIFICATIONS

Bids shall be made on the forms provided herein; they shall not contain any recapitulation of the work to be done. Modifications, additions or changes to the terms and conditions of this Invitation for Bid may be cause for rejection of the bid. Bids submitted on other forms may be rejected. No oral, telephone, email, fax or telegraphic bids or modifications will be considered.

CERTIFICATION OF ALTERATION OR ERASURE

A bid shall be rejected should it contain any material alteration or erasure, unless, before the bid is submitted, each such alteration or erasure has been initialed in INK by the authorized agent signing the bid.

INTERPRETATION PRIORITY

Should a bidder find discrepancies in, or omissions from, the specifications, or be in doubt as to their meaning, bidder shall notify David Mumford, Public Works Director at 2224 Montana Ave, Billings, MT 59101, who will send written instructions or addenda to all bidders. The City will not be responsible for oral interpretation. All addenda issued prior to bid opening shall be incorporated into and become a portion and part of the contract/agreement upon award. Questions received less than ninety-six (96) hours before the bid opening cannot be answered.

SIGNATURE

All bids shall be typewritten or prepared in ink and must be signed in longhand by the bidder or bidder's agent or designee, with his/her usual signature. A bid submitted by a partnership must be signed with the partnership name to be followed by the signature and designation of the partner signing. Bids by corporations must be signed with the legal name of the corporation, followed by the name and signature of an authorized agent or officer of the corporation. Bids submitted by a proprietorship must be signed by the owner; the name of each person signing shall be typed or printed legibly below the signature.

WITHDRAWAL OF BIDS

Bidders may withdraw their bid either personally or by written request at any time prior to the time set for bid opening. No bid may be withdrawn or modified after the time set for opening, unless and until the award of the contract is delayed for a period exceeding sixty (60) days.

BID PRICE VALID

Bidders must honor their bid price for sixty (60) days from the date of sealed bid opening.



CERTIFICATION

The bidder certifies that the bid has been arrived at by the bidder independently and has been submitted without any collusion designed to limit independent bidding or competition. The bidder further certifies that the materials, products, services and/or goods offered herein meet all requirements of the stated specifications and are equal in quality, value and performance with highest quality, nationally advertised brand and/or trade names.

INSURANCE

The bidder certifies that they can provide a statement and meet the City of Billings minimum Commercial General Liability insurance, as well as automobile insurance, each in the minimum amounts of of \$750,000 per claim and \$1,500,000 per occurrence, and the City being named as an additional insured. The certificate will be provided to the City prior to contract execution.

The successful bidder will be required to purchase a City business license and complete the new vendor forms in order to be eligible for payment.

EVIDENCE OF QUALIFICATION

Upon request of the City of Billings, a bidder whose bid is under consideration for award may be required to manifest satisfactory evidence of his financial resources, experience, the organization and equipment as well as service provisions bidder has available or will make available. In determining the lowest responsible bidder, in addition to price, the following considerations may be addressed:

- a) The ability, capacity and skill of the bidder to perform the contract or provide the service required.
- b) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- c) Whether the bidder can perform the contract within time specified.
- d) The quality of performance of previous contracts, agreements and/or performance.
- e) Previous and/or existing compliance by the bidder with laws relating to the contract or services.
- f) Such other information which may be secured having a bearing on the decision to award the contract.

CONTRACTORS' PREVAILING WAGE RATES

The bidder also understands that, if applicable and unless superseded by federal law, Montana law requires that contractors and subcontractors give preference to the employment of Montana residents for any public works contract in excess of \$25,000 for construction or nonconstruction services in accordance with sections 18-2-401 through 18-2-432, MCA, and all administrative rules adopted pursuant thereto. Unless superseded by federal law, each contractor shall ensure that at least 50% of the contractor's workers performing labor on a construction project are bona fide Montana residents. The Commissioner of the Montana Department of Labor and Industry has established the resident requirements in accordance with sections 18-2-403 and 18-2-409, MCA. Any and all questions concerning prevailing wage and Montana resident issues should be directed to the Montana Department of Labor and Industry. More information may also be found



at: <http://erd.dli.mt.gov/labor-standards/state-prevailing-wage-rates>.

C. Contract Requirements and Specifications

The bidder must be able to provide the following snow plowing equipment and operators:

- Minimum of six (6) motor graders that are equivalent to the Caterpillar 12m3 AWD (all wheel driver) or Champion 720 A with operators
- Single dispatcher
- Minimum of 1 supervisor per shift

The successful bidder will be responsible to plow all local streets in Billings when an anticipated snow accumulation of five (5) inches or greater occur. The City of Billings has 740 lane miles of local streets. Streets will be plowed to the side, but not hauled. Billings Public Works Department will notify the successful contractor 36 hours in advance of work based on National Weather Service forecast of projected snow accumulation of three to five (3-5) inches or greater.

Bidder must bid on an hourly rate for equipment and operator. The contractor would be required to work 12 hour shift that will include day and night shifts. The contract will be for two (2) years with the option of two (2) one (1) year extensions, by mutual agreement.

The maximum budget for the first year of the contract will be \$400,000 and all invoices shall be billed at an hourly rate.

D. Pricing and Addendum

Please bid net prices at which you will agree to furnish required goods or services.

Hourly rate for equipment and operator to complete all plowing/hauling:

\$ _____ /hour

Contract shall be for a maximum, not-to-exceed, \$400,000 or a budget for additional, renewal years shall be negotiated at a not-to-exceed amount.

I/We acknowledge _____ addendum.
#

Company Name

Date

Contact Name (please print)

Title

Signature of Contact Position

By signing the above, I certify that I am authorized by the Company named above to respond to this request.



E. Standard Terms and Conditions

In case of default by the successful bidder or failure to deliver the goods or services within the time specified, the City Purchasing Agent, after written notice, may procure them from other sources and hold contractor responsible for excess costs occasioned thereby.

The specifications attached to the instructions to bidders establish a standard of quality desired by the City of Billings. Any bidder may submit quotations on any article which substantially complies with these specifications as to quality, workmanship and service. The City of Billings reserves the right to make its selections of materials or services purchased, based on its best judgment as to which articles substantially comply with the requirements of the specifications.

No alteration in any of the terms, conditions, delivery, quality, or specifications will be effective without prior written consent of the City of Billings.

No exception to delivery or service dates shall be allowed unless prior written approval is first obtained from the City of Billings.

The contractor warrants all articles supplied under this contract to conform to specifications, herein. The contractor will deliver a warranty stating that all articles supplied under the contract are fit and sufficient for the purpose manufactured, merchantable, and free from defects.

In the event the City is entitled to a prompt payment or cash discount, the period of computation shall commence on the date of delivery, or receipt of correctly completed invoices, whichever is later. If an adjustment of payment is necessary, the discount period shall commence on the date final approval for payment is authorized.

The contractor agrees not to discriminate against any client, employee or applicant for employment or for services, because of race, creed, color, national origin, sex or age with regard to, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or recruitment advertising; layoffs and termination; rates of pay or other forms of compensation; selection for training; rendition of services. It is further understood that any contractor who is in violation of this shall be barred forthwith from receiving awards of any purchase order for the City unless a satisfactory showing is made that discriminatory practices have terminated and that a reoccurrence of such acts are unlikely.

The City reserves the right to cancel and terminate this contract forthwith upon giving 30 days written notice to the contractor. (This provision does not apply to the purchase of materials and equipment. A purchase order for materials and equipment is a binding contract.)

Should either party employ an attorney or attorneys or utilize the services of in-house attorneys to enforce any of the provisions hereof or to protect its interest in any manner arising under this contract, the non-prevailing party in any action pursued in a court of competent jurisdiction agrees to pay to the prevailing party all reasonable costs, damages, expenses, and attorneys' fees, including fees for in-house attorneys, expended or incurred in connection therewith.

Where applicable, possible or required, bidder is required to submit descriptive literature, sample material, design sketches and detailed shop drawings. Failure to submit required items may result in rejection of the bid or termination of contract.

The successful bidder may not make any advertising or sale use of the fact that contract items are



being used by purchaser and other approved agencies, under penalty of contract termination.

This Agreement shall be construed and enforced in accordance with the laws of the State of Montana. Venue for any suit between the parties arising out of this Agreement shall be the State of Montana Thirteenth Judicial District Court, Yellowstone County.

The contractor may not assign or subcontract the agreement, or the right to receive reasonable performance of any act called for by the contract, shall be deemed waived by a waiver by City of a breach thereof as to any particular transaction or occurrence.

Regardless of FOB point, contractor agrees to bear all risks of loss, injury, or destruction of goods and materials ordered herein and such loss, injury, or destruction shall not release contractor from any obligation hereunder.

All materials submitted in response to this IFB become public records under Article II, Section 9 of the Montana Constitution and §§ 2-6-102 and 7-1-4144, MCA and may be distributed by written request pursuant to Montana's Constitutional Right to Know or Public Records Acts.

Information provided in response to this IFB will be held in confidence and will not be revealed or discussed with competitors prior to award of Contract by Council. However, one copy of each bid submitted shall be retained for the official files of the Department and will become public record after award of the Contract.

Records and materials that are constitutionally protected from disclosure are not subject to the provisions of this section.



F. Conditions and Non-Collusion Agreement

To receive consideration, this form must be signed in full by a responsible, authorized agent, officer, employee or representative of your firm.

CONDITIONS AND NON-COLLUSION AGREEMENT

We have read and agree to the conditions and stipulations contained herein and to the Standard Terms and Conditions contained on the attached.

We further agree to furnish the product/services specified at the prices stated herein. We additionally agree to deliver the products/services to the location and by the date set forth herein, if applicable.

In signing this bid, you also certify that you have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a bid; that this bid has been independently arrived at without collusion with any other bidder, competitor or potential competitor; that this bid has not been knowingly disclosed prior to the opening of bids to any other bidder or competitor; that the above statement is accurate under penalty of perjury.

Legal Name of Firm/Corporation

Authorized Signature

Address

Printed Name

City/State/Zip

Title

Date

Telephone Number

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Airport Operations Building Roof Replacement Project

PRESENTED BY: Kevin Ploehn, Director of Aviation and Transit

Department: Airport

Presentation: No

PROBLEM/ISSUE STATEMENT

Included in the Airport's Capital Improvement Program is the roof replacement project for the Airport Operations Building. The existing roofing system is a loose-laid, ballasted system and has a typical service life of 15 to 20 years. The Operations Building's roofing is 24 years old. As the existing roofing material ages it will lose its elasticity and begin to shrink, causing the roofing to pull away from the roof edges and the seams in the middle of the roof to start splitting open. This project will remove the old roofing material and insulation and replace it with new roofing and insulation. This project was advertised in the *Yellowstone County News* on August 11, 18, and 25, and posted on the City's Website. On August 29, the following bids were received:

CONTRACTOR	BID
Commercial Roofing	\$269,000.00
Empire Roofing	\$312,572.34
Bradford Roofing	\$490,110.00

ALTERNATIVES ANALYZED

City Council may:

- Approve the award of the Airport Operations Building Roof Replacement Project; or
- Decline the award of this project, reject all bids, and delay this project.

FINANCIAL IMPACT

The total cost of this project is \$269,000. Funding for this project is available in the Airport's Capital account.

RECOMMENDATION

Staff recommends that the City Council award the contract for the Airport Operations Building Roof Replacement Project to Commercial Roofing for the amount of \$269,000.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Award of Annual MET Transit Engine Overhaul Program

PRESENTED BY: Kevin Ploehn, Director of Aviation and Transit

Department: Transit

Presentation: No

PROBLEM/ISSUE STATEMENT

To accomplish engine overhauls in a timely manner, MET Transit solicited bids from engine repair vendors to perform mechanical and electronic engine overhauls on three different types of Transit bus engines; ISL and ISM Cummins Diesel Engines (Schedule 1), and Series 50 Detroit Diesel Engines (Schedule 2). This Agreement will also give the vendor the opportunity to supply remanufactured Cummins Diesel Engines and remanufactured Detroit Series 50 Diesel Engines (Schedule 3). This Agreement is for one year, due to the vendor's inability to forecast parts and labor cost increases for a period exceeding one year.

Staff advertised for sealed bids on August 18 and 25, 2017 in the *Yellowstone County News*. Bid specifications were delivered to six (6) vendors. On August 29, 2017 the following bids were received.

Vendor	Part 1, Schedule 1	Part 1, Schedule 2	Part II, Schedule 3
Cummins Rocky Mountain	\$35,248.69	no bid	\$25,770.84
I-State Truck	\$41,648.91	no bid	\$31,843.53
American Fleet, Inc	no bid	no bid	\$32,500.00

Cummins Rocky Mountain would be able to overhaul Cummins engines and supply remanufactured Cummins engines, but no Detroit engines. I-State Truck is able to overhaul Cummins engines and supply remanufactured Cummins engines, but no Detroit engines. American Fleet, Inc. will only supply remanufactured Detroit engines.

Staff has reviewed the bids and would like to award Cummins Rocky Mountain Part 1, Schedule 1, and Part II, Schedule 3 bids for the Cummins engines; and award American Fleet, Inc Part II, Schedule 3 for the remanufactured Detroit engines.

ALTERNATIVES ANALYZED

City Council may:

- Approve the bids submitted by Cummins Rocky Mountain and American Fleet, Inc., and authorize the Mayor to execute the Agreements; or
- Disapprove the bids submitted by Cummins Rocky Mountain and American Fleet, Inc., and advise staff on how to proceed.

FINANCIAL IMPACT

The engine overhauls have been included in the FY18 operating budget. At this time, staff is not aware of any bus engines in need of an overhaul; however, this bid award will allow MET Transit the ability to immediately schedule an overhaul when the need arises.

RECOMMENDATION

Staff recommends that the City Council approve the bids submitted by Cummins Rocky Mountain and American Fleet, Inc., and authorize the Mayor to execute the Agreements for MET Transit bus engine overhaul services.

APPROVED BY CITY ADMINISTRATOR

Attachments

Schedule 1
Schedule 2
Schedule 3

SCHEDULE 1

Bid for the overhaul of Cummins ISM / ISL Engine currently used in MET Transit's Gillig transit buses.

Remove and replace the engine module in the vendor's shop (not MET's), which would include removing the engine, transmission and radiator. Install the module back into the bus and make all hook-ups including but not limited to fluid lines, electrical lines, A/C lines, various hoses and belts.

Use genuine Cummins Parts per Exhibit 1.

Dyno engine

Reprogram the Electronic Control Module to latest codes available. After module is installed back into the bus, the vendor will check cruise control calculations, all parameters and reset trip data.

Install Gates C5D fuel and oil lines per exhibit #2 spec. from Gates. They will have reusable ends and working pressure to 1,500 psi. and a temperature range of -40F. to +300F.

Install Breeze Constant Torque clamps per exhibit #3 on all coolant hoses.

Vendor will pressure test engine and transmission coolers.

Provide and install new oil, fuel and coolant hoses as needed. MET will not provide replacement hoses, lines or belts.

Provide and install new fan belts.

Install Gillig Bus supplied motor and transmission mounts in all positions.

MET will supply either a new or reconditioned radiator to replace the radiator that was removed from the unit by the vendor or have the current radiator reconditioned. Vendor will install replacement radiator and fill with new coolant that meets Cummins/Detroit Diesel low silicate specs. This coolant will be compatible with coolant that MET stocks.

Paint engine module.

Ensure that the A/C system remains charged and A/C compressor is secure.

Bid will not include rebuilding of alternator, compressor or fan hub.

Replace the air compressor with a new air compressor (not a rebuilt)

Vendor will rebuild starter for engine and replace the water pump.

Using MET's Cyl. Block and Crankshaft is not damaged (damage crank or block, consider a recon engine.

Camshaft is quoted but may not be needed as overhaul.

Vendor will install new belt tensioner.

Vendor will replace the fly wheel damper

Vendor will test drive bus and check for leaks and rubs on various lines.

Vendor will install the following fluids in the power plants.

- Engine oil that meets or exceeds Cummins Diesel specs.
- Transmission fluid that meets or exceeds Allison Trans. Specs.
- Power steering fluid that meets OEM specs.
- Coolant will meet Cummins Diesel's specs. and will be compatible to Met's specs.

MET will require the vendor's time line for the completion of all work.

MET Transit will require a minimum of (6) six month part and labor warranty on new parts. (1) one year part and labor warranty on Detroit Diesel Reliabil parts. (60) Day defective workmanship warranty under normal use and service.

EXHIBIT #1

Overhaul ISM

QUANTITY	PART NUMBER	DESCRIPTION	CODE
1	0 4089478	Set, Upper Engine Gasket	CECO
1	0 4089998	Set, Lower Engine Gasket	CECO
6	0 3899450RX	Rod, Conn 96M11	DRC
6	0 3899450D	Rod, Conn, Rod 96M11	CLEAN
- 6	0 3899450D	Rod, Conn, Rod 95M11	DIRTY
12	0 3016760	Bearing, Con Rod (STD)	CECO
6	0 4089386	Kit, Engine Piston	CECO
6	0 4089385	Set, Piston Ring	CECO
6	0 4089388	Kit Liner	CECO
1	0 4952453RX	Head, Cylinder M11	DRC
	Ordered Item	4083406RX DRC	
1	0 3084650D	Head, Cyl 94M11	CLEAN
-1	0 3084650D	Head, Cyl 94M11	DIRTY
1	0 4089792RX	Turbo, HE431VTI (ISM04)	DRC
1	0 4089378D	Turbo, HE431V (ISM02)	CLEAN
- 1	0 4089378D	Turbo, HE431V (ISM02)	DIRTY
1	0 4952756RX	CPR, Air L/M/N (18.7 CFM)	DRC
	Ordered Item	3103403RX DRC	
1	0 3558163D	Comp, Air ISM	CLEAN
-1	0 3558163D	Comp, Air ISM	DIRTY
1	0 3800745RX	Pump, Water M11 (Short SH)	DRC
1	0 3801169D	Pump, Water L103 Hole Mt	CLEAN
-1	0 3801169D	Pump Water L103 Hole Mt	DIRTY
6	0 4902925PX	Inj, Celect ISM02	DRC
6	0 3084589D	Inj, 94M11 Celect	CLEAN
-6	0 3084589D	Inj, 94M11 Celect	DIRTY
1	0 4003950	Pump, Lubricating Oil	CECO
	Ordered Item	4003950RX DRC	
12	0 3161475	Lever, Cam Follower	CECO
6	0 3417645	Lever, Cam Follower	CECO
1	0 4905184	Cam Shaft	CECO
1	0 4978879	Cooler, Oil	CECO
1	0 4025120	Set, Main Bearings (STD)	CECO
1	0 4955421RX	Valve, ERG (ISM02)	DRC
	Ordered Item	3103765 CECO	
1	0 3102745D	Valve, EGR (ISM02)	CLEAN
-1	0 3102745D	Valve, EGR (ISM02)	DIRTY
1	0 4089380NX	Cooler, EXH, Gas RCN	CECO
1	0 3603863RX	STR,D/R 40MT 12V CW 11T	DRC
1	0 3603862D	STR,D/R 40MT	CLEAN
-1	0 3603862D	STR,D/R 40MT	DIRTY
1	0 3161942	Damper, Viscous Vibration	CECO

EXHIBIT #2

C5D Hose

For petroleum base or phosphate ester fluids. Recommended for diesel engine flexlines.

- Meets or exceeds SAE J1402 Type All, SAE J1019 and DOT FMVSS 106-74 Type All.
- 400 to 1,500 psi working pressure.
- One high tensile steel wire braid over polyester braid.
- CPE tube.
- Sizes 3/16" through 7/8" I.D.
- Green braided textile covers for easy identification.
- Temperature range -40°C to $+149^{\circ}\text{C}$ (-40°F to $+300^{\circ}\text{F}$).

Uses C5 style field attachable couplings.

EXHIBIT #3



Constant Tension Clamps

Breeze Constant-Torque®

The Breeze CONSTANT-TORQUE® is a breakthrough in clamping technology. A Belleville spring mechanism permits the CONSTANT-TORQUE® clamp to automatically increase or decrease its own diameter due to changes in operational or environmental temperatures.

This unique design eliminates "cold flow" leaks. Both the Aero-Seal and Heavy Duty construction CT clamps have an extended inner liner which protects all types of hoses from damage and helps to maintain consistent sealing pressure.



Constant-Torque - Aero-Seal Construction



Constant-Torque - Heavy Duty Construction

Aero-Seal Construction / All Stainless Steel Breeze CONSTANT-TORQUE® Size Table						
SAE Size	EFFECTIVE DIAMETER RANGE				Part Numbers	
	Min.		Max.			
	in.	mm	in.	mm		
AERO-SEAL construction for use on small diameter applications 9/16" (14.2 mm) bandwidth						
10	9/16	14	1-1/16	27	CT-9410	
12	11/16	17	1-1/4	32	CT-9412	
16	13/16	21	1-1/2	38	CT-9416	
20	13/16	21	1-3/4	44	CT-9420	
24	1-1/16	27	2	51	CT-9424	
28	1-5/16	33	2-1/4	57	CT-9428	
32	1-9/16	40	2-1/2	64	CT-9432	
36	1-13/16	46	2-3/4	70	CT-9436	
40	2-1/16	52	3	76	CT-9440	
44	2-5/16	59	3-1/4	83	CT-9444	
48	2-9/16	65	3-1/2	89	CT-9448	
52	2-13/16	71	3-3/4	96	CT-9452	

Heavy Duty Construction Breeze CONSTANT-TORQUE® Size Table						
SAE Size	EFFECTIVE DIAMETER RANGE				Carbon Screw	All SS Screw
	Min.		Max.			
	in.	mm	in.	mm		
Heavy-duty construction for use on large diameter applications: 5/8" (15.9 mm) bandwidth						
212	1-1/4	32	2-1/8	64	CT-200 L	CT-200 L SS
262	1-3/4	46	2-5/8	67	CT-262 L	CT-262 L SS
312	2-1/4	57	3-1/8	79	CT-300 L	CT-300 L SS
362	2-3/4	70	3-5/8	92	CT-350 L	CT-350 L SS
412	3-1/4	83	4-1/8	105	CT-400 L	CT-400 L SS
462	3-3/4	95	4-5/8	119	CT-450 L	CT-450 L SS
512	4-1/4	108	5-1/8	130	CT-500 L	CT-500 L SS
562	4-3/4	121	5-5/8	143	CT-550 L	CT-550 L SS
612	5-1/4	133	6-1/8	156	CT-600 L	CT-600 L SS
662	5-3/4	146	6-5/8	169	CT-650 L	CT-650 L SS
712	6-1/4	159	7-1/8	181	CT-700 L	CT-700 L SS
762	6-3/4	172	7-5/8	194	CT-750 L	CT-750 L SS
812	7-1/4	184	8-1/8	206	CT-800 L	CT-800 L SS
862	7-3/4	197	8-5/8	219	CT-850 L	CT-850 L SS
912	8-1/4	210	9-1/8	232	CT-900 L	CT-900 L SS



CT - Heavy Duty



Per SAE standard J1508 Type "SLHD"

SCHEDULE 2

Bid for the overhaul of Series 50 Detroit Diesel engine currently used in MET Transit's Gillig transit buses.

Remove and replace the engine module in the vendor's shop (not MET's), which would include removing the engine, transmission and radiator. Install the module back into the bus and make all hook-ups including but not limited to fluid lines, electrical lines, A/C lines, various hoses and belts.

Use genuine Detroit Diesel parts per exhibit #1.

Dyno engine and paint engine module

Reprogram the Electronic Control Module to upgrade to the latest available software provided by Detroit Diesel. After module is installed back into the bus, the vendor will check cruise control calculations, all parameters and reset trip data.

Install Gates C5D fuel and oil lines per exhibit #2 spec. from Gates. They will have reusable ends and working pressure to 1,500 psi. and a temperature range of -40F. to +300F.

Install Breeze Constant Torque clamps per exhibit #3 on all coolant hoses.

Vendor will pressure test engine and transmission coolers.

Provide and install new oil, fuel and coolant hoses as needed. MET will not provide replacement hoses, lines or belts.

Provide and install new fan belts.

Provide and install a new belt tensioner. MET will not provide this item.

Install new motor and transmission mounts in all positions.

MET will supply either a new or reconditioned radiator to replace the radiator that was removed from the unit by the vendor. Vendor will install replacement radiator and fill with new coolant that meets Detroit Diesel low silicate specs. This coolant will be compatible with coolant that MET stocks.

Replace the fly wheel damper

Ensure that the A/C system remains charged and A/C compressor is secure.

Bid will not include rebuilding of alternator, compressor or fan hub.

Replace the air compressor with a new air compressor (Air cooled, not a rebuilt)

Vendor will rebuild starter for engine and replace the water pump.

Vendor will test drive bus and check for leaks and rubs on various lines.

Vendor will install the following fluids in the power plants.

- Engine oil that meets or exceeds Detroit Diesel specs.
- Transmission fluid that meets or exceeds Allison Trans. Specs.
- Power steering fluid that meets OEM specs.
- Coolant will meet Detroit Diesels specs. and will be compatible to Met's specs.

MET will require the vendor's time line for the completion of all work.

MET Transit will require a minimum of (6) six month part and labor warranty on new parts. (1) one year part and labor warranty on Detroit Diesel Reliabl parts. (60) Day defective workmanship warranty under normal use and service.

EXHIBIT #1

PART NUMBER	DESCRIPTION	QUANTITY
23507545	DDF3000 CLNT	1
23532329	KIT O/H GSKT	1
R23529994	EGR HEAD ASM	1
8929670	SHELL SET	4
8929680	SHELL SET	4
8929085	WASHER	2
23518355	SEAL	1
R8929502	DAMPER	1
5107251	PLATE	1
8929795	BOLT	12
23513578	SEAL C/S	1
23515581	KIT SHL	4
R23532558	CYL KIT	4
R23524063	BAL SHFT AS	1
8929690	CAMSBRG SET	5
R23513559	BULL GEAR	1
R23523174	ARM/RLR ASM	4
R23520644	ARM/RLR ASM	4
R23524771	RKR ARM ASM	4
23520818	SCREW ASM	8
23520819	SCREW ASM	8
23520820	SCREW ASM	4
23511772	GSKT R/C	1
23516531	GASKET	1
R5236978	EUI S60	4
8929387	SENSOR	1
8929388	SENSOR	1
23514223	HARNESS	1
23526183	HARNESS	1
R23518610	PUMP ASM	1
23530706	ELEMENT	1
23530707	ELEMENT	1
E23528383	TURBO ASM	1
8921085	VALVE ASM	1
8921086	VALVE ASM	1
23530573	ELEMENT	2
23506325	HOSE	2
23517242	ISOLATOR	8
23511580	GSKT O/P	1
R23526039	W/PUMP	1
23532436	THERM 190	2
8929875	HOSE	2
R0459130	ALT 24V P/DR	1
23503020	BELT	1
R0461129	STARTER	1
R23522123	CMPR AIR	1
23532339	LOCTITE 509	1
11504822	BOLT	3
23524882	BOLT	1
23530768	BOLT	26
11506101	NUT	4
8929169	WASHER	4
23501941	CLAMP	4
23503066	CLAMP	4

EXHIBIT #2

C5D Hose

For petroleum base or phosphate ester fluids. Recommended for diesel engine flexlines.

- Meets or exceeds SAE J1402 Type All, SAE J1019 and DOT FMVSS 106-74 Type All.
- 400 to 1,500 psi working pressure.
- One high tensile steel wire braid over polyester braid.
- CPE tube.
- Sizes 3/16" through 7/8" I.D.
- Green braided textile covers for easy identification.
- Temperature range -40°C to $+149^{\circ}\text{C}$ (-40°F to $+300^{\circ}\text{F}$).

Uses C5 style field attachable couplings.

EXHIBIT #3



Constant Tension Clamps

Breeze Constant-Torque®

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This unique design eliminates "cold flow" leaks. Both the Aero-Seal and Heavy Duty construction CT clamps have an extended inner liner which protects all types of hoses from damage and helps to maintain consistent sealing pressure.



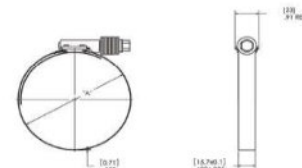
Constant-Torque - Aero-Seal Construction



Constant-Torque - Heavy Duty Construction

Aero-Seal Construction / All Stainless Steel					
Breeze CONSTANT-TORQUE® Size table					
SAE Size	EFFECTIVE DIAMETER RANGE				Part Numbers
	Min.		Max.		
	in.	mm	in.	mm	
AERO-SEAL construction for use on small diameter applications 9/16" (14.2 mm) bandwidth					
10	9/16	14	1-1/16	27	CT-9410
12	11/16	17	1-1/4	32	CT-9412
16	13/16	21	1-1/2	38	CT-9416
20	13/16	21	1-3/4	44	CT-9420
24	1-1/16	27	2	51	CT-9424
28	1-5/16	33	2-1/4	57	CT-9428
32	1-9/16	40	2-1/2	64	CT-9432
36	1-13/16	46	2-3/4	70	CT-9436
40	2-1/16	52	3	76	CT-9440
44	2-5/16	59	3-1/4	83	CT-9444
48	2-9/16	65	3-1/2	89	CT-9448
52	2-13/16	71	3-3/4	95	CT-9452

Heavy Duty Construction						
Breeze CONSTANT-TORQUE® Size table						
SAE Size	EFFECTIVE DIAMETER RANGE				Carbon Screw	All SS Screw
	Min.		Max.			
	in.	mm	in.	mm		
Heavy-duty construction for use on large diameter applications 5/8" (15.8 mm) bandwidth						
212	1-1/4	32	2-1/8	54	CT 200 L	CT 200 L SS
262	1-3/4	46	2-5/8	67	CT 250 L	CT 250 L SS
312	2-1/4	57	3-1/8	79	CT 300 L	CT 300 L SS
362	2-3/4	70	3-5/8	92	CT 350 L	CT 350 L SS
412	3-1/4	83	4-1/8	105	CT 400 L	CT 400 L SS
462	3-3/4	95	4-5/8	118	CT 450 L	CT 450 L SS
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812	7-1/4	184	8-1/8	206	CT 800 L	CT 800 L SS
862	7-3/4	197	8-5/8	219	CT 850 L	CT 850 L SS
912	8-1/4	210	9-1/8	232	CT 900 L	CT 900 L SS



CT - Heavy Duty

Per SAE standard J1508 Type "SLHD"

SCHEDULE 3

Bid for providing Remanufactured Cummins ISM / ISL Diesel Engine and Remanufactured Detroit Series 50 Diesel Engine currently used in MET Transit's Gillig transit buses. This bid is for parts only, MET Transit will perform all work necessary to remove and replace engines in our Gillig buses when manpower and time is available to do so at MET Transit's facility.

EXHIBIT #1

**Remanufactured ISM / ISL Diesel Engine and or
Remanufactured Detroit Series 50 Diesel engine**

<u>QUANTITY</u>	<u>PART NUMBER</u>	<u>DISCRIPTION</u>	<u>CODE</u>
1		Reman Engine	
1		-Reman Engine	CORE RETURN
		w/ Turbo	
		w/ Air Compressor	
		w/ EGR Cooler	
		w/ EGR Valve	
		w/ Power Steering Pump	
		w/ Fuel Pump	
		w/ Water Pump	
2		Front Engine Mounts	
2		Rear Engine Mounts	
1		Air Cooled Alternator	
1		Starter	

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: MET Transit Building Roof Replacement Project, Phase 1

PRESENTED BY: Kevin Ploehn, Director of Aviation and Transit

Department: Airport

Presentation: No

PROBLEM/ISSUE STATEMENT

Included in the MET Transit's Capital Improvement Program is the MET Transit Building Roof Replacement Project. The existing roofing system is a loose-laid, ballasted system that has a service life of 15 to 20 years. The roofing system on the main Transit office and garage section of the building are 25 years old. Because of the size of the roof over the garage bays, the roof replacement will be completed in phases to match available funding. This first phase will replace the roofing system over the office areas and the north half of the main bus garage. As the existing roofing material ages it will lose its elasticity and begin to shrink, causing the roofing to pull away from the roof edges and the seams in the middle of the roof to start splitting open. This project will remove the old roofing material and insulation and replace it with new roofing and insulation. This project was advertised in the *Yellowstone County News* on August 11, 18, and 25, and posted on the City's Website. On August 29, the following bids were received:

CONTRACTOR	BID
Commercial Roofing	\$133,787.00
Empire Roofing	\$155,295.88

ALTERNATIVES ANALYZED

City Council may:

- Approve the award of the MET Transit Building Roof Replacement Project, Phase 1 contract; or
- Decline to award the project contract, reject all bids, and delay the project.

FINANCIAL IMPACT

The total cost of this project is \$133,787. Funding for this project is included in the MET Transit Capital account. This project will be eligible for Federal Grant reimbursement under the Section 5339 Bus and Bus Facilities grant with the Federal share covering 80% or \$107,029.60, with a 20% local share of \$26,757.40.

RECOMMENDATION

Staff recommends that the City Council award the contract for the MET Transit Building Roof Replacement Project, Phase 1 to Commercial Roofing for the amount of \$133,787.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Donation from Billings Police Foundation/Denny Rehberg in the Amount of \$7,500

PRESENTED BY: Rich St. John, Police Chief

Department: Police

Presentation: No

PROBLEM/ISSUE STATEMENT

The Billings Police Department wishes to purchase a police firearms range targeting system costing \$7,500. Denny Rehberg has offered to donate \$5,000 through the Billings Police Foundation and the Foundation would like to donate the remaining \$2,500 needed for the purchase. The targeting system would be used to train officers in decision making and identifying threats vs. non-threats.

ALTERNATIVES ANALYZED

City Council may accept or not accept the \$7,500 donation from The Billings Police Foundation to be used to purchase the police firearms range targeting system.

FINANCIAL IMPACT

Accepting this \$7,500 donation will allow the Billings Police Department to purchase the police firearms range targeting system. Without the donation the department will not be able to purchase this training tool as there are no FY 2018 funds budgeted for this item.

RECOMMENDATION

Staff recommends that the City Council accept the \$7,500 donation from the Billings Police Foundation to purchase the police firearms range targeting system.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Emergency Repair of Wastewater Treatment Plant Pipeline

PRESENTED BY: David Mumford, Public Works Director

Department: Public Works

Presentation: No

PROBLEM/ISSUE STATEMENT

A 42-inch wastewater pipeline at the City Wastewater Treatment Plant (WWTP) began leaking severely within the last week such that it was removed from service to prevent flooding and potential damage to other plant utilities. Returning the pipeline to service is critical for effectively treating sewage. City staff is closing in on several options that would repair the leaking pipe.

Competitive bidding of this work requires an advertising and award process that would delay the repair several weeks which would impact operations at the WWTP. According to 7-5-4303 MCA, emergency purchases may be handled in a way that best meets the emergency if approved by three-fourths of the members of the City Council present at the meeting and duly recorded in the minutes of the meeting. According to Purchasing Procedure VII.7, Emergency Procedures, the requirement for sealed bids for purchases over \$20,000 may be waived and an emergency purchase may be made in the fastest possible manner if authorized by City Council resolution and recorded in the minutes.

ALTERNATIVES ANALYZED

City Council may:

- Approve the resolution, or;
- Disapprove the resolution. If the resolution is not approved and the leaking pipeline is not placed back in service, the water reclamation facility cannot effectively treat sewage.

FINANCIAL IMPACT

City staff is completing final evaluations of several options that would repair or replace the leaking pipe. Cost of the work is estimated at approximately \$125,000 and the source of the funds is the FY 2017 wastewater budget.

RECOMMENDATION

Staff recommends that Council approve a Resolution declaring an emergency repair of the pipeline at the WWTP and waive the requirement for competitive bids as contained in 7-5-4302 and 7-5-4303 MCA.

APPROVED BY CITY ADMINISTRATOR

Attachments

WWTP Emergency Resolution

RESOLUTION 17-

A RESOLUTION DECLARING AN EMERGENCY AND WAIVING THE REQUIREMENT FOR COMPETITIVE BIDS AS CONTAINED IN 7-5-4302 AND 7-5-4303 MCA

WHEREAS, a 42" diameter sanitary sewer main at the Wastewater Treatment Plant (WWTP) developed significant leaks, and

WHEREAS, the main had to be taken out of service and the repair of the pipe must be done immediately so that the WWTP can continue to treat sewage effectively, and

WHEREAS, 7-5-4302 MCA requires cities to advertise for competitive bids and to award the bid to the lowest responsive bidder, and

WHEREAS, competitive bidding requires an advertising and award process that would delay the repair several weeks which would impact operations at the WWTP, and

WHEREAS, 7-5-4303 MCA allows cities to waive the competitive bidding requirements if three-fourths of the members present at the meeting of the City Council declare an emergency.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, as follows:

1. EMERGENCY DECLARED. The failure of the sanitary sewer pipe is declared an emergency due to the unanticipated event, the damage incurred and the requirement to repair the sanitary sewer line to maintain effective sewage treatment.
2. COMPETITIVE BIDDING WAIVED. Due to the declared emergency, the City Council waives the competitive bidding requirement as permitted by 7-5-4303 MCA.

APPROVED by at least three-fourths of the members present at the meeting of the City Council of the City of Billings, Montana, on the 11th day of September, 2017.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Denise R. Bohlman, CITY CLERK

Regular City Council Meeting**Meeting Date:** 09/11/2017**TITLE:** Updating Resolution and Contract Limits - Foreclosure Acquisition / Rehabilitation and Neighborhood Stabilization Programs**PRESENTED BY:** Wyeth Friday**Department:** Planning & Community Services**Presentation:** No**PROBLEM/ISSUE STATEMENT**

The current median sales price limit as established by the U.S. Department of Housing and Urban Development (HUD) for acquisition in the Billings Metro Area has increased nearly 40 percent from 2011 to 2017. However, the purchase price contract limits for the City's Foreclosure programs has not increased since the inception of the program in 2010. Likewise, construction costs have increased over the past seven years and contract limits have remained static.

The original 2010 Resolution (10-18921) established City Administrator signature authority to sign contracts to: purchase homes up to \$150,000; rehabilitate homes up to \$25,000; and demolish blighted structures up to \$20,000. In September 2010, Resolution 10-18984 increased the City Administrator's authority for rehabilitation contracts to \$80,000.

To date, the Community Development Division has acquired, rehabilitated and sold seven vacant, foreclosed properties: three homes in 2010; one home in 2012; one home in 2013; and two homes in 2015. An eighth property was acquired earlier this year and is currently being rehabilitated. City staff will continue to prioritize highly dilapidated properties in / near the City's lower income neighborhoods requiring substantial rehabilitation.

City staff requests the City Council approve the attached Resolution to adopt standardized and data-driven funding limits reflecting current local market conditions to preserve the viability of the City's Foreclosure programs; and continue City Administrator authority to sell properties acquired through the program to qualifying low-income households.

Industry percentage increases are based on HUD median sales data and national construction cost history indexes. Estimate details were provided in a separate memo through the Friday packet and are also attached.

	<i>2010 Limits</i>	<i>Industry % Increases</i>	<i>Current Pricing Estimates</i>	<i>Current Area Median Sales Price</i>	<i>\$220,000</i>
Acquisition	\$150,000	38.49%	\$207,735	95% Acquisition Limit	\$209,000
Rehabilitation	\$80,000	15.70%	\$92,560	50% Rehabilitation Limit	\$110,000
Demolition	\$20,000	15.70%	\$23,140	15% Demolition Limit	\$33,000

ALTERNATIVES ANALYZED

City Council may:

- 1) Approve the Resolution to utilize data-driven, standardized contract limits reflecting current local market conditions and to continue selling properties acquired through the Foreclosure programs.

2) Disapprove the Resolution to utilize data-driven, standardized contract limits reflecting current local market conditions. This will result in severely limiting future acquisition of properties through the program and would discontinue the City's ability to sell properties acquired through the Foreclosure programs.

FINANCIAL IMPACT

Establishing standardized funding limits that automatically adjust to current local market conditions will help ensure the sustainability and viability of the City's foreclosure programs. A greater number of housing units would be eligible for acquisition and would expand quality affordable housing options throughout the City. This would also assist the City in meeting current and future CDBG expenditure deadlines.

RECOMMENDATION

Staff recommends that the City Council approve the Resolution adopting data-driven, standardized funding limits reflecting current local market conditions to preserve the viability of the Neighborhood Stabilization and Foreclosure Acquisition / Rehabilitation programs for as long as funding is available and allocated to the programs named herein.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution - 2017 Foreclosure Program
Friday Packet - Foreclosure Resolution Memo

BUDGETARY AUTHORITY RESOLUTION

RESOLUTION NO. 17-_____

A RESOLUTION AMENDING RESOLUTIONS 10-18921, 10-18984, 11-19122, AND 13-19325 GRANTING THE CITY ADMINISTRATOR THE AUTHORITY TO EXECUTE CONTRACTS TO AUTHORIZE AND FACILITATE THE IMPLEMENTATION OF THE NEIGHBORHOOD STABILIZATION AND FORECLOSURE ACQUISITION / REHABILITATION PROGRAMS.

WHEREAS the City of Billings applied to the Montana Department of Commerce for a maximum of \$2,687,350 in Neighborhood Stabilization Program funding on July 27, 2009 to acquire, rehabilitate and offer affordable housing opportunities to low, moderate, and middle income households;

WHEREAS the funding for the Neighborhood Stabilization Program was authorized through the Housing and Economic Recovery Act of 2008 to prevent the deterioration of neighborhoods due to foreclosures;

WHEREAS the City of Billings received a finalized contract #MT-NSP-024-01-001 from the Montana Department of Commerce's Neighborhood Stabilization Program on January 25, 2010, authorizing the City of Billings to proceed in implementing the Neighborhood Stabilization Program within the City of Billings limits;

WHEREAS, the City of Billings will appropriate Neighborhood Stabilization Program Income and other federal funding for approved projects to implement the program through Budget Allocations and Amendments on a project-by-project basis;

WHEREAS, the City of Billings allocates Community Development Block Grant funding to further the program under the Foreclosure Acquisition / Rehabilitation Program, which is managed in a similar manner to the Neighborhood Stabilization Program;

WHEREAS, HUD rules preempt Billings City Code 22-902, Sale, Disposal, or lease of City Property. Therefore, there will be public notice of each sale, but no notification needs to be mailed to adjacent property owners. A public hearing on each sale also does not need to occur; and

WHEREAS, the City of Billings desires to establish data-driven funding limits that automatically adjust to current local market conditions.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Funding Appropriation: The City of Billings hereby authorizes the appropriation of funding on a project-by-project basis to acquire, rehabilitate and sell vacant, foreclosed homes to low-income homeowners meeting the

U.S. Department of Housing and Urban Development's (HUD) 80% Area Median Income limits.

Section 2. Contract Authority and Execution: The City of Billings hereby authorizes the City Administrator the authority to execute maximum contracts throughout the implementation of the Neighborhood Stabilization and Foreclosure Acquisition / Rehabilitation Programs as follows:

- a) The acquisition price to purchase eligible, foreclosed and / or vacant housing units citywide shall not exceed 95 percent of the current local median sales price, as established by HUD.
- b) Contracts for rehabilitation and / or new construction to bring the units to current HUD and local housing standards shall not exceed 50 percent of the current local median sales price, as established by HUD.
- c) Contracts to safely demolish foreclosed and blighted structures not suitable for rehabilitation in order to prepare the parcel for future affordable housing development shall not exceed 15 percent of the current local median sales price, as established by HUD.

Section 3. Change Orders: The City of Billings hereby authorizes the City Administrator the authority to implement change orders, limited to 10 percent of the original contract price, to facilitate the implementation of the Neighborhood Stabilization and Foreclosure Acquisition / Rehabilitation Programs.

Section 4. Contract Authority and Execution: The City of Billings hereby authorizes the City Administrator the authority to execute Neighborhood Stabilization and Foreclosure Acquisition / Rehabilitation programs property sales contracts, closing documents, and any and all other required documents related to the sale of acquired properties.

Section 5. Duration: The Resolution shall become effective on September 11, 2017 and will continue as long as program funding is available and allocated to the programs named herein.

Passed and approved this 11th day of September, 2017.

THE CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

Denise R. Bohlman, City Clerk



City of Billings

Community Development Division - Memorandum

2825 3rd Avenue North, Billings, MT 59101 406.657.8281 Fax: 406.294.7595 www.ci.billings.mt.us/comdev

Date: August 23, 2017

To: Billings City Council
Tina Volek, City Administrator
Wyeth Friday, Planning & Community Services Department Director

From: Brenda Beckett, Community Development Manager

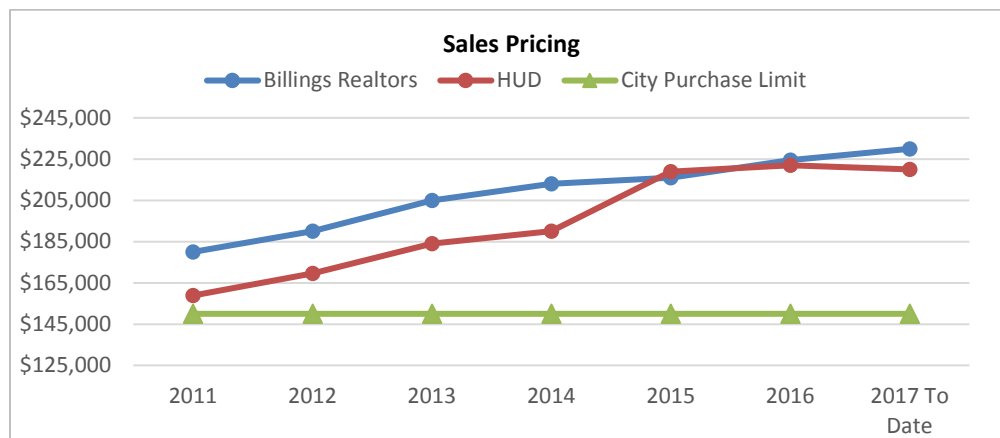
Re: City Council Agenda Item - Contract Limits for Foreclosure Programs

Overview: Staff will be asking the City Council to approve a Resolution to utilize standardized data to establish the purchase, rehabilitation, and demolition contract limits for the Foreclosure Acquisition / Rehabilitation and Neighborhood Stabilization programs. The use of standardized limits is a more effective and efficient way to manage the City's programs and reflects current and local housing conditions.

Staff is proposing to utilize a percentage of HUD's current area median sales price to set the acquisition, rehabilitation, and demolition limits for the City's Foreclosure programs. HUD's limits are adjusted on an annual basis.

	2010 Limits	Industry % Increases	Current Pricing Estimates	Current Area Median Sales Price	\$220,000
Acquisition	\$150,000	38.49%	\$207,735	95% Acquisition Limit	\$209,000
Rehabilitation	\$80,000	15.7%	\$92,560	50% Rehabilitation Limit	\$110,000
Demolition	\$20,000	15.7%	\$23,140	15% Demolition Limit	\$33,000

Acquisition: The first limits for the City's foreclosure programs were set in 2010. Data from the Billings Association of Realtors and the U.S. Department of Housing and Urban Development (HUD) illustrates significant increases in median sales pricing, while the City's purchase price limits have remained static at \$150,000. Setting the acquisition limit at 95 percent would also match the regulatory purchase price limit for the City's HOME First Time Home Buyer program.

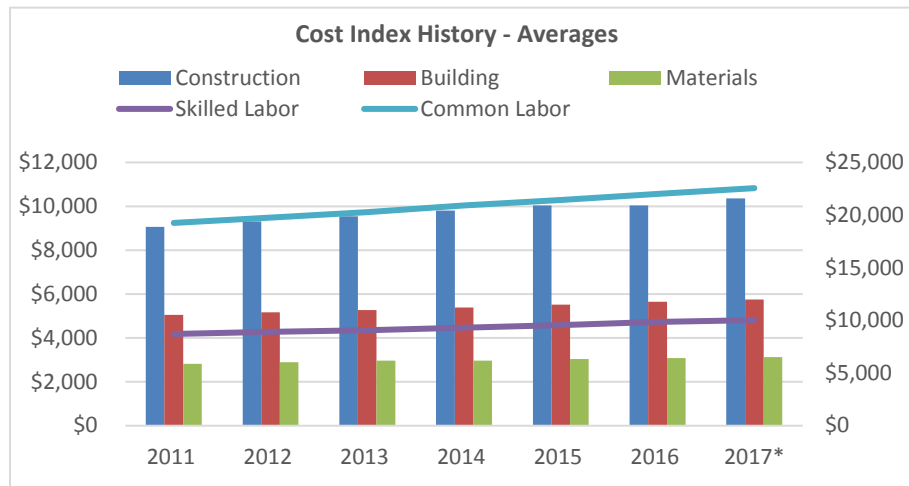


	Billings Realtors	HUD	City Purchase Limit
2011	\$180,000	\$158,860	\$150,000
2012	\$190,058	\$169,601	
2013	\$205,000	\$183,950	
2014	\$213,000	\$190,000	
2015	\$216,000	\$219,000	
2016	\$224,500	\$222,000	
2017 To Date	\$230,000	\$220,000	
% Increase	28%	38.49%	0%

Rehabilitation and Demolition: Construction, building, materials and labor costs have also increased from approximately 11 to 17 percent over the same time period. The 2010 limits for rehabilitation have remained at \$80,000 from 2010 to the present.

Cost History Index Annual Averagesⁱ					
<i>Engineering News-Record www.enr.com</i>					
<i>Year</i>	<i>Construction</i>	<i>Building</i>	<i>Materials</i>	<i>Skilled Labor</i>	<i>Common Labor</i>
2011	\$9,070	\$5,058	\$2,826	\$8,712	\$19,257
2012	\$9,308	\$5,174	\$2,896	\$8,901	\$19,770
2013	\$9,547	\$5,278	\$2,961	\$9,068	\$20,291
2014	\$9,806	\$5,387	\$2,966	\$9,302	\$20,918
2015	\$10,035	\$5,518	\$3,046	\$9,565	\$21,440
2016	\$10,038	\$5,645	\$3,078	\$9,854	\$22,017
2017*	\$10,362	\$5,751	\$3,134	\$10,027	\$22,559
% Increase	14.24%	13.70%	10.89%	15.09%	17.15%

**2017 Estimates*

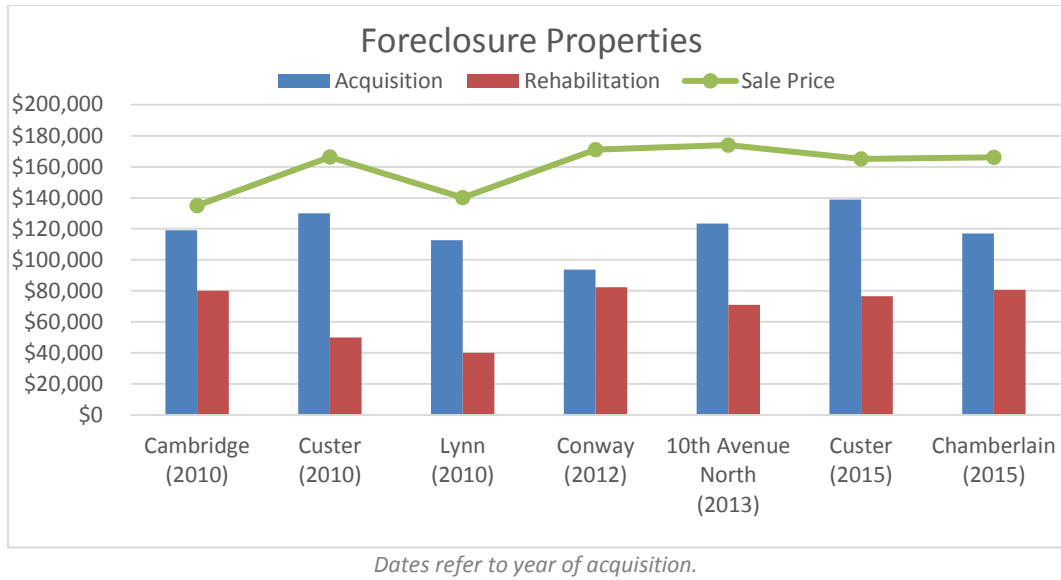


*Left Axis relates to Construction, Building, and Materials costs in bar chart format.
Right Axis relates to Skilled and Common Labor costs in line trend format.*

Staff notes the *Construction* and *Common Labor* costs are most relevant to housing rehabilitation estimates, as there is a current labor shortage impacting the City's home repair programs and contractor availability. Averaging the Construction and Common Labor increases totals 15.7 percent.

By the Numbers:

- Acquisition has ranged from approximately \$94,000 to \$139,000 with an average purchase price of **\$120,000**.
- Rehabilitation and appliance costs have ranged from \$40,000 to \$83,000 and average just under **\$70,000**.
- The increase in appraised home value after rehabilitation ranges from 13 to 84 percent with an average of **33 percent**.
- Sales prices have ranged from \$135,000 to \$174,000 and average at approximately **\$160,000**.
- The City has been repaid **\$578,000** in proceeds from the sale of the properties and this funding was reinvested in the purchase of subsequent properties.
- The City maintains liens on assisted properties totaling **\$414,000** which will be returned to the City for reinvestment in the program when the properties are refinanced or sold.
- Staff has reviewed a total of 17 foreclosed properties since 2015; 11 of the properties were valued over \$150,000.



ⁱ The Engineering News-Record uses various formulas from 20 cities to track cost indexes using a labor hours plus the cost of steel, cement, and lumber. For more information, please refer to their website at http://www.enr.com/economics/historical_indices.

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Appoint Tourism Business Improvement District (TBID) Board of Trustees

PRESENTED BY: Bruce McCandless, Assistant City Administrator

Department: City Hall Administration

Presentation: No

PROBLEM/ISSUE STATEMENT

The City Council renewed the Tourism Business Improvement District (TBID) in May 2017. The creation resolution had a delayed effective date of October 1, 2017 because the current district expires on September 30. The next step in renewing the district is to create the TBID governing board. The attached resolution conforms with State law by naming the individual trustees, determining their terms of office and designating the initial board chair. City staff solicited applications for the Board, the Mayor reviewed the applications and is recommending the Board of Trustees as identified in the attached resolution.

ALTERNATIVES ANALYZED

City Council may:

- Approve the resolution creating the TBID Board of Trustees and naming its members; or,
- Modify and approve the resolution; or,
- Not approve the resolution. The TBID cannot operate without a board of trustees.

FINANCIAL IMPACT

There is no financial impact from adopting the resolution and creating the TBID Board of Trustees. The City acts as a conduit for the TBID assessments by collecting the fees through the County Treasurer tax statements and disbursing the funds to the TBID. The FY 2018 TBID budget is \$1,735,000. The Council annually approves the TBID work plan and budget.

BACKGROUND

The City of Billings and the Billings Area Chamber of Commerce petitioned the 2007 Montana Legislature to expand the Business Improvement District (BID) statutes to allow districts focused on promoting tourism and travel in Montana. The Billings Council created the state's first Tourism Business Improvement District (TBID) in 2007. All BIDs have a 10 year time limit but may be renewed in the same way as the original district. Earlier this year, the TBID staff submitted the required property owner petition and the Council acted upon it by renewing the district in May. The current district sunsets on September 30, so the creation resolution had a delayed effective date of October 1, 2017. The TBID and City staff decided to delay soliciting applications and creating the new board until shortly before the new district begins operation. BID boards must have 5-7 trustees. The City and State Codes direct the Mayor to appoint the board members, with Council consent. The State law requires that the trustees have staggered initial terms and that the Mayor must appoint the initial board presiding officer.

RECOMMENDATION

Staff recommends that the City Council approve the Resolution creating the TBID Board of Trustees, containing the Mayor's appointments to the Board, establishing their terms of office and designating the initial Board Chairman.

APPROVED BY CITY ADMINISTRATOR

Attachments

Board of Trustees

Resolution No. 17-_____

A RESOLUTION CREATING A BOARD OF TRUSTEES FOR BILLINGS TOURISM BUSINESS IMPROVEMENT DISTRICT NO.0002, APPOINTING TRUSTEES AND SPECIFYING THE POWERS AND DUTIES OF THE BOARD.

WHEREAS, the Billings City Council created the Tourism Business Improvement District No. 0002 on May 8, 2017, by approving Resolution No. 17-10619, and

WHEREAS, according to Montana State Code 7-12-1121 MCA, a Board of Trustees must be created to govern the District, five (5) to seven (7) Trustees must be appointed, Trustees must be assigned to staggered terms of office and a presiding officer must be appointed.

BE IT RESOLVED by the Billings City Council, as follows:

Section 1. Tourism Business improvement District No. 0002 Board of Trustees: The Tourism Business Improvement District No. 0002 Board of Trustees is hereby created. There shall be seven (7) Trustees.

Section 2. Board Appointments: The Board of Trustees for the Tourism Business Improvement District No. 0002 shall be as follows and their terms shall be as shown.

<u>Trustee Name</u>	<u>Initial Term</u>
Stephen Wahrlich	1 Year
Shelli Mann	2 Years
Arthur Westwood	2 years
Ronald Spence	3 Years
Joseph Studiner	3 Years
George Maragos	4 Years
Brian Arneson	4 Years

All terms of office begin October 1, 2017. After Trustees complete their initial terms of office, the Mayor, with City Council consent, may reappoint members or may appoint new Board members. All Trustees appointed subsequent to the initial appointees shall serve four (4) year terms of office. A vacancy occurring during a term will be filled for the unexpired term. The unexpired term shall be filled in the same manner as other vacancies. The initial Board Chair shall be Ron Spence, who shall serve a one (1) year term in that office. Subsequent Chair persons shall serve one (1) year terms and shall be selected by the Board.

Section 3. Powers and Duties of Trustees: The appointed Trustees shall have the powers and duties set out in Sections 7-12-1121 through 7-12-1133, M.C.A. and any other applicable laws, ordinances or regulations. The Board of Trustees shall submit to the City Council for approval, a work plan and budget for the ensuing fiscal year, no later than the first (1st) day of May preceding the beginning of the fiscal year for which the work plan and budget apply. The City Council may modify the work plan and budget as it considers necessary and appropriate.

APPROVED by the City Council of the City of Billings, Montana this 11th day of September 2017.

THE CITY OF BILLINGS:

By: _____
Thomas W. Hanel, Mayor

ATTEST:

By: _____
Denise R. Bohlman, City Clerk

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Zone Change 957 - Western Sky Planned Development - 2nd reading

PRESENTED BY: Nicole Cromwell

Department: Planning & Community Services

Presentation: No

PROBLEM/ISSUE STATEMENT

This is a zone change request from Community Commercial (CC), Residential Multi-family-Restricted (RMF-R), Residential 5,000 (R-50), Residential 7,000 (R-70), Residential 9,600 (R-96) and Public (P) to Planned Development (PD) for a new mixed use neighborhood with underlying zoning of PD-CC, PD-NC, PD-RMF and PD-RMH with additional area for public and private open space amenities. A pre-application neighborhood meeting was held at the subject property on April 24, 2017. A preliminary review meeting was held with the surrounding owners, the applicant, Mont Vista, LLC and City staff on June 27, 2017. The Zoning Commission conducted a public hearing on August 1, 2017, and is forwarding a recommendation of approval and adoption of the findings of the 10 criteria on a 5-0 vote. The City Council approved the zone change on 1st reading on August 28, 2017. A second reading of the ordinance is required to approve the zone change.

Zone Change applications are reviewed using statutory criteria referenced in the Alternatives Analyzed section of this memo. Zone Changes require approval through an ordinance. Zone Changes allow the change from one type of zoning district to another types of zoning – e.g. residential single family to residential multi-family or residential to commercial. A Zone Change cannot have conditions of approval and if approved, permits the owner to use the land for any purpose allowed within the zoning district.

ALTERNATIVES ANALYZED

City Council may:

- Approve the zone change and adopt the findings of the 10 criteria as recommended by the Zoning Commission;
- Deny the zone change and adopt different findings of the 10 criteria;
- Allow the applicant to withdraw the zone change; or
- Delay action on the zone change request for up to 30 days.

Prior to making a decision on the proposed zone change, the City Council shall consider the following findings of the 10 review criteria:

1. Is the new zoning designed in accordance with the Growth Policy? The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy and the West Billings Neighborhood Plan (2001):

The West Billings Neighborhood Plan goals and objectives stated the need to locate retail and commercial areas based on arterial street intersections "... *Commercial nodes should be comprised of, as much as possible, a diverse range of commercial, business office, and entertainment facilities. It is intended that neighborhood centers should be roughly the size of the center currently located at the northwest corner of Grand Avenue and Rehberg Lane and*

community centers roughly the size of West Park Plaza on Grand Avenue.

Regional centers are intended to serve the entire Billings community and the region beyond.

Non-retail, office and multi-family uses will be supported along arterial streets. ..”

- The proposed zoning of PD-CC and PD-NC is conforming and compatible with goals of the West Billings Neighborhood Plan. The intersection of 48th St West and King Ave West was designated as a neighborhood center. Office use is planned for the PD-NC frontage along King Ave West with personal storage warehousing south of the office building(s). Another goal of the plan was to encourage better accessibility of everyday services to new neighborhoods. The proposed PD will allow the developer to inter-connect the residential and commercial areas so everyday services are walk-to conveniences for the residents.

Essential Investments, Strong Neighborhoods and Home Base (2016 Billings Growth Policy):

- 1) Neighborhoods that are safe and attractive and provide essential services are much desired.
- 2) Planning and construction of safe and affordable interconnected sidewalks and trails are important to the economy and livability of Billings.
- 3) Developed parks that provide recreation, special amenities (community gardens, dog parks, viewing areas), and active living opportunities are desirable for an attractive and healthy community.
- 4) Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels are desired.
- 5) Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, good will and social interaction.
- 6) A mix of housing types that meet the needs of a diverse population is important.
- 7) Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe.
- 8) Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings.

- The proposed zoning would help create a new neighborhood with a mixture of uses within an area that is safe and attractive. The developer intends to build an inter-connected system of trails and paths so the residents have access throughout the area without having to drive. The PD agreement intends to allow a variety of housing choices in the area including apartments, condominiums, townhomes, manufactured homes and site-built single family dwellings. The proposed landscaping, fencing and buffer yards will ensure the safety of the residential areas, mitigate some of the traffic noise from 48th St West and King Ave West (arterial streets), and buffer the commercial uses from the residential uses when necessary.

2. Is the new zoning designed to secure from fire and other dangers?

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

3. Whether the new zoning will promote public health, public safety and general welfare?

Public health and public safety will be promoted by the proposed zoning. The current zoning of the parcel was developed based on a subdivision that will not be constructed. The King Meadows Subdivision anticipated the construction of about 340 dwellings including single family, two-family and multi-family units. The new zoning will allow a greater variety of housing choices and will increase the density about 2 units per gross acre of land. In addition, the new zoning will allow a wider variety of neighborhood services in the proposed commercial zones.

4. Will the new zoning facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?

Transportation: The proposed zoning will have a measurable effect on the transportation system. The applicant and agent have prepared a traffic study to be reviewed by the City Traffic Engineer as part of the subdivision application. The traffic study will make recommendations on the location of street access, any contributions needed for off-site impacts to other street intersections and any capacity increase needed due to new traffic from the development.

Water and Sewer: The City will provide water and sewer to the property. There will be no additional impacts to the system from the proposed zoning.

Schools and Parks: Schools will be affected by the proposed zoning, although it is not known the number of children that may become residents of the new development.

Fire and Police: The subject property is served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

5. Will the new zoning provide adequate light and air?

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. Will the new zoning effect motorized and non-motorized transportation?

The new zoning will have an effect on vehicle and pedestrian traffic. The traffic study prepared by the applicant for the City Traffic Engineer's approval will determine the level of traffic impact and any mitigation required. Non-motorized travel – walking and biking – is an essential part of the circulation plan both within the proposed development and connecting to adjacent areas including Hogan's Slough and the Hoop Dreams development to the east. Traffic counts in the area on King Ave West and 48th St West are well below the expected volume on a principal arterial street. King Avenue West has an average daily traffic volume of 8,010 vehicles per day at this location, less than Poly Drive at 13th Street West. 48th Street West is less than most local streets with about 860 vehicles per day. As development increases in the area, these 2 arterial streets will need to build in additional controls, management facilities and safety features. MDT retains jurisdiction over the management of King Avenue West and the City will manage 48th St West where it has been annexed to the City.

7. Will the new zoning will promote compatible urban growth?

The new zoning does promote compatible urban growth in this area. The Hoop Dreams development to the east has a much higher density than the proposed density of this PD. The PD proposes to offer a variety of housing choices, with services available to the residents and the public. North of the subject property is the Lenhardt Square PD with a proposed urban village center along the King

Avenue frontage. Further east is the St. Vincent's Healthcare PD that will provide commercial and retail services at the intersection of King Ave West and Shiloh Road along with an 80+/- acre medical campus to the north and west. The proposed PD uses and development is compatible with this urban growth pattern.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?

The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. This area between Shiloh Road and 48th St West is an area undergoing rapid growth that is in need of more housing choices and neighborhood services. The proposed PD will provide these services and housing options and the development standards will help ensure its compatibility with adjacent property. The property is suitable for the proposed use

given its location in the area.

9. Will the new zoning conserve the value of buildings?

The property is currently undeveloped. Approval of the zone change will provide more certainty to surrounding land owners and may help to stabilize property values of adjacent buildings.

10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

The proposed zoning may encourage the most appropriate use of this land in Billings. This specific location and use is appropriate.

FINANCIAL IMPACT

Approval of the zone change will have a future financial impact to the City's property tax base. The property is currently vacant so City fees are assessed based on the vacant rate for storm water and arterial construction fees. Once the property is developed, the City fees will be adjusted based on the new zoning and the developed status of the property. The tax base will increase based on the value of the improvements to the property. Demands for City services will begin at the time the first building or development permit is issued.

RECOMMENDATION

The Zoning Commission recommends approval and adoption of the findings of the 10 criteria for Zone Change 957, on a 5 to 0 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

Ordinance and PD Agreement

ORDINANCE NO. 17-_____

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR Lots 3 and 4, Western Sky Subdivision, a 66 +/- acre parcel of land, generally located on the southeast corner of the intersection of King Avenue West and 48th Street West

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC,* provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

2. DESCRIPTION That Lots 3 and 4, Western Sky Subdivision, a 66 +/- acre parcel of land, generally located on the southeast corner of the intersection of King Avenue West and 48th Street West is presently zoned **Community Commercial (CC), Residential Multi-family-Restricted (RMF-R), Residential 5,000 (R-50), Residential 7,000 (R-70), Residential 9,600 (R-96) and Public (P)** and is shown on the official zoning maps within these zones.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Community Commercial (CC), Residential Multi-family-Restricted (RMF-R), Residential 5,000 (R-50), Residential 7,000 (R-70), Residential 9,600 (R-96) and Public (P) to Planned Development (PD)** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to the **attached Planned Development Agreement (Exhibit A)** as set out in the Billings, Montana City Code.

4. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading August 28, 2017.

PASSED, ADOPTED AND APPROVED on second reading September 11, 2017.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: Denise Bohlman, City Clerk
Zone Change #957 – Western Sky PD

Exhibit A

Return to: Kadrmas, Lee & Jackson, Inc.
P.O. Box 80303
Billings, MT 59108-0303

PLANNED DEVELOPMENT AGREEMENT
FOR

Western Sky

By and Between:

Mont Vista, LLC
PO Box 333
Reedpoint, Montana 59069

And

The City of Billings, Montana

**PLANNED DEVELOPMENT AGREEMENT
FOR WESTERN SKY SUBDIVISION**

In accordance with the Unified Zoning Code Section 27-1310, the parties to the Planned Development Agreement for Western Sky ("Agreement")

Lot 3 and 4 of Block 1 of Plat of Western Sky Subdivision, recorded in the office of the clerk and recorder, Yellowstone County, under Document No. 3374355.

The parties to the Agreement consent to this re-zoning, said parties being the CITY OF BILLINGS, a Montana municipality ("the City"), of 210 N 27th Street, Billings, Montana, 59101 and MONT VISTA, LLC, a Montana limited liability corporation, of PO Box 333, Reedpoint, Montana 59069, and Gareld F. Krieg and Barbara B Krieg, 3115 Sycamore Lane, Billings, MT 59102.

IN AGREEMENT WITH THE FOREGOING, the authorized representatives of the foregoing parties have executed this document on the date or dates appearing below. The parties agree that this document may be signed in counterparts using separate signature pages.

This **PLANNED DEVELOPMENT AGREEMENT FOR WESTERN SKY** is made this ____ day of _____, 20__, by Mont Vista, LLC, a Montana limited liability company (“Developer”) of PO Box 333, Billings, MT 59069, and Gareld F. Krieg and Barbara B Krieg, 3115 Sycamore Lane, Billings, MT 59102 and the City of Billings, a Montana municipality, (“City”) of 210 North 27th Street, Billings, MT 59101.

RECITALS

WHEREAS, MONT VISTA, LLC is the owner of a portion of the following described property situated in the NW ¼ of Section 15, Township 1 South, Range 25 East, P.M.M., Yellowstone County, Montana:

Lot 3 and 4 of Block 1 of Plat of Western Sky Subdivision, recorded in the office of the clerk and recorder, Yellowstone County, under Document No. 3374355

WHEREAS, a portion of the above described property is referred to herein as “Western Sky Planned Development”; and

WHEREAS, the Western Sky Planned Development may consist of a mixture of community commercial, neighborhood commercial and residential housing and Mont Vista, LLC desires to place certain Planned Development zoning and land use restrictions on the property; and

WHEREAS, Mont Vista, LLC enters into this Agreement with the City of Billings to ensure that the Western Sky Planned Development will be developed and maintained consistent with the standards described in this Agreement.

NOW, THEREFORE, the undersigned hereby establish and declare the following development plan shall apply to all of the real estate described hereinabove, shall bind the present and future property owners to such real property and shall run with the land.

AGREEMENT

ARTICLE I - PURPOSES

Section 1. Greater or Lesser Standards. Many of the requirements described in this Agreement are the same, similar to, or stricter than requirements in the Unified Zoning Regulations. However, to the extent that this Agreement creates greater or lesser standards for density, use, height, lot coverage, parking, signage, traffic circulation, landscaping or other land use conditions, the City has determined in accordance with Section 27-1303 of the Unified Zoning Regulations, these unique standards are appropriately balanced by the inclusion of mitigating features or special amenities not otherwise provided by law or regulation. Some of these amenities that shall be incorporated into the Western Sky Planned Development include:

- A. Open Space and Park Land above the minimum of eleven percent (11%) dedicated to the residential portion which is required by the Subdivision Regulations.
- B. Construction and landscaping of a functional and attractive pedestrian and bicycle facility that will promote the safe and convenient transportation of children and adults while

interfacing with the Private Park Areas located throughout the Western Sky Planned Development.

Section 2. Natural Environment. A natural and healthy environment will be emphasized with ample Park Land and Open Space. Sidewalks, bicycle and walking trails will interconnect with Park Land and Open Space to encourage physical activity.

Section 3. Mixed Residential Use Purpose. The Western Sky Planned Development will effectively define a variety of commercial and residential uses allowing for a planned mix of community and neighborhood commercial and housing types creating a diverse and aesthetically pleasing community.

Section 4. Flexibility for Future Development. The Western Sky Planned Development shall permit maximum flexibility of design and materials to meet commercial and residential demands as they change over time. The planned development zoning described in this Agreement is intended to provide an opportunity for future development that will create an attractive and functional neighborhood community with a variety of living and commercial opportunities.

ARTICLE II – DEFINITIONS

Section 1. The Billings Unified Regulations means, “The Billings Unified Regulation” in effect, June 5, 2017.

Section 2. Unified Zoning Regulation Definitions. All terms used herein shall have the same definition and meaning as specified in the City of Billings Unified Zoning Regulations and the City of Billings Municipal Code unless a contrary definition or meaning is provided herein. If a definition is not provided, the term shall be deemed to have a common and ordinary meaning.

Section 3. Western Sky Planned Development. “Western Sky Planned Development” or “Planned Development” or “development” consists of a portion of the land situated in the NW 1/4 of Section 15, Township 1 South, Range 25 East, P.M.M., Yellowstone County, Montana described as Lot 3 and 4 of Block 1 of Plat of Western Sky Subdivision, recorded in the office of the clerk and recorder, Yellowstone County, under Document No. 3374355 is planned to be in the Western Sky Subdivision plat including commercial and residential lots and space, streets, Open Space and Park Land within in the Western Sky Planned Development. Attached hereto and by reference incorporated herein is the attached **Planned Development Exhibit** illustrating the land and streets included in the Planned Development. The development will feature community, neighborhood commercial and mixed residential uses.

Section 4. Western Sky Homeowners Association. The term “Association” or “Western Sky Homeowners Association” shall mean the association of owners of property within the Western Sky Planned Development that may be organized by Mont Vista, LLC.

Section 5. Design Review Committee. “Design Review Committee” means the person, entity or committee appointed by Mont Vista, LLC to exercise the rights, duties and responsibilities assigned to it by Mont Vista, LLC under this Planned Development Agreement or under any Declaration of Covenants and Restrictions recorded by Mont Vista, LLC.

Section 6. Developer. “Developer” means Mont Vista, LLC or any person or entity to whom Mont Vista, LLC transfers or assigns its development rights hereunder.

Section 7. Neighborhood Commercial. “Neighborhood Commercial” means commercial centers and limited retail activities conducted in a unified development designed to serve the surrounding neighborhood with facilities consisting of convenience retail, personal service establishments and mini-storage units as permitted uses.

Section 8. Community Commercial. “Community Commercial” means to provide locations for planned and integrated retail, service and office facilities in close proximity to high and medium density residential neighborhoods.

Section 9. Residential Multi-Family. “Residential Multi-Family” means 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 be located with access to major arterial transportation routes plus financial, cultural and retail stores and be served by public water and sewer services.

Section 10. Dwelling Unit. “Dwelling Unit” means 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 residence building may contain one (1) or more dwelling units.

Section 11. Grade. “Grade” is 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.

Section 12. Height. “Height” or “Building Height” means the vertical distance from the highest point of a structure to the “grade”.

Section 13. Lot. “Lot” or “lot” means a portion of the Mont Vista Planned Development depicted as a separately identified parcel on a recorded subdivision plat that may be independently owned and conveyed. The term refers to the land, as opposed to any structures or other improvements on the Lot. Multiple Dwelling Units may be located on one Lot. The term does not include Park Land and Open Space or property dedicated to the public.

Section 14. Park Land and Open Space. “Park Land” and “Open Space” means any property or facility that Mont Vista, LLC has identified on the Mont Vista Subdivision plat as Open Space and/or Park Land, except “Public Park Land” as defined below. In addition, Park Land may include but is not limited to park areas, open spaces, common areas, water amenities, bike trails, sidewalks, walking paths, exercise or play areas, sitting areas, picnic areas, landscaped entryways, community sign areas. “Public Park Land” means suitable land dedicated to the City of Billings in a location, size and configuration with amenities acceptable to the Billings Parks and Recreation Department. The park land shall have a minimum of 50% of the park’s perimeter adjacent to public streets. Amenities in the park may include playgrounds, exercise areas, picnic shelters, trails, sidewalks, sport courts, open programmable space, trees, shrubs, grass, irrigation and appropriate park signage etc. Park land shall not include utility easements, Rights of Way, entryways, community or commercial signage areas, stormwater management facilities or ditch, drainage, canal or piping conveyance systems. “Public Park Land” shall be clearly identified on a

plat. Land not identified as “Public Park Land” on a plat, and not included as a development parcel, shall be considered “Private Park Land”.

Section 15. Owner. “Owner” or “owner” shall mean any person or entity owning a fee simple interest in a lot or a purchaser by a contract, whether one or more persons or entities, owning or purchasing a lot, but excluding Developer and/or those having a mortgage or an interest merely as security for the performance of an obligation.

Section 16. Single Family. “Single Family” or “single family residential” means a building constructed and designed for occupancy by one (1) family and containing one (1) dwelling unit.

Section 17. Story. “Story” means 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 underused under-floor space shall be considered a story.

Section 18. Town Home. “Town Home” or “town home residential” or “townhouse” means a building or structure that has two (2) or more one (1) family dwelling units erected as a single building, each being separated from the adjoining unit or units by an approved fire wall or walls and providing for fee simple ownership of land and dwelling unit. In contrast to a “condominium” a town home includes deeded ownership of the land underneath the dwelling unit in the town home, whereas a condominium may not.

Section 19. Twin Home. “Twin Home” or “twin home” or “twin home residential” means 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 hallway, covered lane, ceiling, wall, including without limitation, the wall of an attached garage or porch.

Section 20. Residential Manufactured Home Park or Court. “Residential Manufactured Home” means a space 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. The land or parcel is not composed of individually platted lots which contain only one manufactured home per lot.

Section 21. Unit Ownership Act. “Unit Ownership Act” means the Unit Ownership Act of the State of Montana, Section 70-23-101, et seq., Montana Code Annotated. At the discretion of Developer(s), the Unit Ownership Act may be used to develop Patio Homes, Town Homes, and Twin Homes in the Areas identified herein for such use. However, the terms and limitations in this Planned Development Agreement shall remain applicable.

Section 22. Trail Easement. “Trail Easement” means a minimum 20 foot wide corridor for the purpose of establishing a 10 foot wide concrete or asphalt trail in accordance with the most recent Billings Bikeway and Trails Master Plan. The location of Trail Easements shall be agreeable to the City and clearly identified on a plat. Conditions of the Trail Easement shall be agreeable to the City of Billings.

ARTICLE III – PERSONS BOUND BY THIS AGREEMENT

Section 1. Persons and Entities Bound. The City of Billings and all individuals, corporations or other entities who presently have or shall hereafter acquire any interest in and to any of the real property within the Western Sky Planned Development shall be held to agree to all of the terms of this Agreement, and all such individuals, corporations, and other entities, as well as their heirs, devisees, successors, assigns, tenants, trustees, mortgagees and other persons claiming under them shall be bound by this Agreement, the terms of which shall run with the land unless modified by subsequent zoning amendments approved by the City of Billings.

ARTICLE IV – LAND USES

Section 1. Underlying Land Use Classifications. Lots and underlying land use classifications are illustrated on the attached **Planned Development Exhibit**. The lots are divided into the following Areas with described underlying land use classification.

Underlying Land Use Classification(s)

AREA NO. 1 PD-CC	Community Commercial- no minimum lot size
AREA NO. 2 PD-NC	Neighborhood Commercial- no minimum lot size
AREA NO. 3 PD-RMF	Residential Multi-Family- no minimum lot size
AREA NO. 4 PD-RMH	Residential Manufactured Home - 3300 SF Minimum space area Single Family Home- 4800 SF Minimum lot area Twin Homes- 5300 SF Minimum lot area

Section 2. Permitted Area Uses.

Area No. 1 PD-CC lots may be used for community commercial purposes found in the Unified Zoning Regulations.

Area No. 2 PD-NC lots may be used neighborhood commercial purposes found in the Unified Zoning Regulations including mini-storage units as a permitted use.

Area No. 3 PD-RMF lots may be used for residential multi-family purposes.

Area No. 4 PD-RMH lots or spaces may be used for residential manufactured home, single family home, townhome and/or twin home purposes.

Land not described in lots and not identified as Public Park Land or Trail Easement shall be used for Private Park Land/Open Space which may include streets, boulevards, sidewalks, drainage ponds, Hogan's Slough, Irrigation ditches and structures, ingress and egress and utility easements and such other uses as may be reserved or required by Developer. Developer, at its discretion, may transfer Private Park Land/Open Space to a Western Sky Homeowners Association company.

Section 3. Special Review Uses. Special Review Procedures for the underlying land use classifications set forth in Article IV hereinabove are allowed and shall comply with the Unified Zoning Regulations as established by the City of Billings.

Section 4. Special Review Criteria to be Considered. In considering a special review or variance request, in addition to the review criteria in the Unified Zoning Regulations, the City shall consider the following criteria:

- A. Mont Vista, LLC must have given its written consent to the special review or variance request.
- B. The proposed use meets architectural guidelines as may be established by Mont Vista, LLC.

Section 5. Commercial Uses Prohibited. All lots or spaces located within Area 3 and Area 4 of the Western Sky Planned Development shall only be used for residential purposes which include lots or spaces used for storm drain ponds and parks with the exception of sales offices or club houses. No lot or space may be used at any time for any business, trade, manufacture or other commercial purpose; however, spaces may be rented or leased and in-home business using telephone, internet and other telecommunications is allowed but such in home business shall be regulated as may be required by City zoning regulations or municipal code.

Section 6. Accessory Dwelling Units. Guesthouses, Apartments over garage are not allowed.

Section 7. Overhead Lines. Overhead utility lines including electrical, telephone, cable lines are prohibited.

Section 8. Lot Size. The spaces or lot sizes are varied and will be set forth in the final plat or equivalent of each phase of the Western Sky Subdivision. In no case will the lot or space size be less than the minimums found in Article 4, Section 1.

Section 9. Minimum Setbacks and Landscaping Requirements

Minimum Community Commercial Setbacks and Landscaping Requirements.

Minimum Building Setback and Landscaping Requirements for lots in all PD-CC area is as follows:

- Building Setbacks - no changes from BMCC - except no personal storage warehouse, general warehouse or storage yard shall be constructed or established within 150 feet of the King Avenue West property line.
- Street frontage landscaping - no changes from BMCC
- Perimeter Landscaping - no changes from BMCC

Minimum Neighborhood Commercial Setbacks and Landscaping Requirements.

Minimum Building Setback and Landscaping Requirements for lots in PD-NC area is as follows:

- Building setbacks – no changes from BMCC - except no personal storage warehouse, general warehouse or storage yard shall be constructed or established within 150 feet of the King Avenue West property line.
- Street frontage landscaping – no change to BMCC
- Perimeter Landscaping:

- For buffer yards, along common boundary lines between RMF developments and NC developments, replace perimeter landscaping requirements in BMCC 27-1105, Section b.2 with the following:
 - Provide 30' wide buffer yard with trees spaced diagonal at 20' on center
- For buffer yards, along common boundary lines between RMH developments and NC developments, replace perimeter landscaping requirements in BMCC 27-1105, Section b.2 with the following:
 - No buffer yard is required where adjacent RMH area is to be developed as park land.

Minimum Residential Multi-Family Setbacks and Landscaping Requirements.

Minimum Building Setback Requirements for lots in PD-RMF area is as follows:

- Building setbacks other than garages and accessory buildings – no change from BMCC
- Setbacks for garages:
 - Replace setback requirements in BMCC 27-310, Table 1 with the following:
 - 15 Feet from internal private street
 - 3 Feet Rear Yard
 - 3' Side yards including side adjacent to 48th Street West
- Street frontage landscaping:
 - Replace street frontage landscaping requirements in BMCC 27-1105, Section b.1 with the following:
 - No buffer yard is required along 48th Street West.
 - In lieu of a buffer yard, 116' of right of way shall be provided measured from the centerline of 48th Street West. Right of way is to accommodate construction of a 10' foot wide shared use path, 40' wide drainage ditch, and landscape buffers.
- Perimeter Landscaping:
 - For buffer yards, along common boundary lines between PD-RMF developments and PD-NC developments, replace perimeter landscaping requirements in BMCC 27-1105, Section b.2 with the following:
 - No buffer yard is required. Where detached garages are not provided on the property line between the PD-RMF and the PD-NC, the developer will install a solid wall at a minimum height of 8 feet.

Minimum RMH Setbacks and Landscaping Requirements.

Minimum Building Setback Requirements for lots in all Areas is as follows:

The premise of setbacks for RHM is there are no implied lots, only spaces for rent or lease. Setbacks are applied to the external boundaries and not the implied internal lines. Separation between a manufactured home and another manufactured home is 15 feet.

- Building Setbacks –
 - Front yard- no changes from BMCC
 - Side Yard Setback- no changes from BMCC

- Rear Yard Setback- 8 Feet
- Street frontage landscaping - no changes from BMCC
- Perimeter Landscaping - On the eastern property line, the developer will install a minimum 6-foot high screening fence where building structures are located closer than 100 feet from the property line. On the western property line, the developer will install a minimum 6-foot high decorative wall between the 10-foot wide multi-use path and the manufactured home park.

Section 12. Permitted Projections. With Design Review Committee approval, the following projections may be permitted in the PD-RMH area:

- A. Front porches, steps, balconies, stoops, open porches, and covered walkways may encroach 5 feet into the 20 feet front yard setback; Side and Rear porches, steps, balconies, stoops, open porches, and covered walkways may not encroach more than 5 feet on the required 15' separation between manufactured homes and their respective attachments.
- B. Roof overhangs, eaves, gutters, cornices or other architectural features not to exceed two (2) feet.

Section 13. Maximum Density. The City calculates density by determining total dwelling units divided by total gross acres. The City has adopted an Annexation Policy to encourage a minimum density of 6 units per acre.

There are no changes to Area 1 and Area 2 to dwelling density requirements. Maximum average dwelling unit density to Area 3 and Area 4 for 487 dwelling units divided by 46.4 gross acres is an average density of 10.5.

The dwelling units are located in Areas shown on the attached **Planned Development Exhibit** as follows:

Area No. 3 Up to and including 312 Multi-family dwelling units

Area No. 4 Up to and including 175 Single family dwelling units

ARTICLE V – BUILDINGS, SIGNS, FENCES DESIGN STANDARDS

Section 1. General Building Design Standards. Unless expressly designated herein, the building design standards of the Unified Zoning Regulations, the Site Development Ordinance and the Building Code shall be followed for properties in this Planned Development.

Section 2. Design Considerations. Design Considerations shall include five (5) of the following considerations in any application to the Design Review Committee and to the City:

- A. Relationships to open space, pedestrian circulation, landscape features on and adjacent to the site;
- B. Views of the architecture from pedestrian and vehicular perspectives;
- C. Satisfaction of physical, psychological, social and functional needs of users;
- D. Orientation of buildings in relation to streets;
- E. Vehicular versus pedestrian flows.

- F. Character of surrounding developments;
- G. Solar orientation, climate and solar reflection
- H. Potential environmental hazards;
- I. Enhancement of the overall landscape;
- J. Scale of adjacent facilities and open space;
- K. Mountain views.

Section 3. Design Features. Design features shall include three (3) of the following as features of the finished construction:

- A. Landscaped entrance drives;
- B. Decorative walkways;
- C. Dynamic building and roof forms;
- D. Window patterns;
- E. Light and shadow patterns;
- F. Color accent.

Section 4. New Construction Required. Any building or residence erected upon lots in any of Areas 1, 2 and 3 shall be of new construction with concrete footings and foundation walls, mat slabs or other appropriately designed permanent foundation systems.

Section 5. Construction Equipment Time Limit. No construction equipment or materials of any nature shall be moved on to a lot more than sixty (60) days prior to the start of construction to be initiated thereon.

Section 6. Additional and Supplemental Design Guidelines. In addition to the design rules set forth herein, Mont Vista, LLC may record a Declaration of Covenants and Restrictions that provides additions, amendments and supplemental design and restriction guidelines.

Section 7. Signs Comply with Zoning Regulations. All signs shall comply with the Unified Zoning Regulations unless limited herein or as provided in any restrictive covenants recorded by Mont Vista, LLC. Lighted signs are allowed only in Areas 1, 2 and 3.

Section 8. Fences Comply with Zoning Regulations. Fences, walls, berms, hedges and other improvements shall comply with the clear vision standards of the Unified Zoning Regulations. Rear and side yard fences, walls, berms or hedges on a lot and not on a street or Open Space or Parkland shall not exceed eight (8) feet. An earth berm or hill on Private Park Land/Open Space may exceed eight (8) feet.

VI – LANDSCAPING

Section 1. Parkland Landscaping. Developer, at its expense, shall develop all Public Park Land and Trail Easements to City Standards. The Parks and Recreation Department shall be involved with and approve the design and construction of each portion of Public Park Land and Trail Easement development. This landscaping obligation occurs after fifty percent (50%) of the lots or spaces in a filing have been sold or leased. Private Park Land/ Open Space shall be developed at Developer's expense.

VII – PARK LAND

Park land will be created in excess of that required by the City of Billings Subdivision Regulations, through a combination of private parks, public parks, open space and right-of-way dedications for multi-user paths along the Hogan Slough and Shiloh Drain, and Trail Easements.

VIII – BICYCLE AND PEDESTRIAN FACILITIES

Section 1. Bicycle and Pedestrian Paths and Trail Easements. The development shall provide for Trail Easements through lots, and Private Park Land/Open Space. Trails shall also connect to and be part of the Public Park Land. The Trail Easement “system” shall allow pedestrian and bicycle access through the subdivision and reasonably connect to adjacent property and trail corridors on them when identified.

Trail Easements shall be built to City standards which include a minimum of ten (10) feet wide and constructed of concrete or asphalt. Location of Trail Easements shall be as determined by Developer in consultation with and agreeable to the City.

Maintenance of Public Park Land and Trail Easements. To provide proper maintenance of Public Park Land and Trail Easements, a Park Maintenance District (PMD) shall be created by the Developer as part of the first filing including the entire Western Sky development and expanded in each subsequent filings.

IX – SITE DEVELOPMENT STANDARDS

Section 1. Street Types and Standards. In the absence of a contrary agreement, all streets shall be developed to the City of Billings Subdivision Regulations for width, curb, gutter, sidewalk, cross-section, and surface treatment with the exception of Area 4. All streets developed within Area 4 shall be private and conform to the City of Billings Subdivision Regulations for width only. Curb, gutter, sidewalk, cross-section and surface treatment shall be per the PD engineering design.

Section 2. Zone Boundaries. The transitional areas between different commercial and residential use classifications should be designed to complement the adjacent land uses. Use of buffering landscaping is encouraged to achieve a harmonious change between properties and promote the sense of a single, unified neighborhood.

Section 3. Outside Storage. No storage area shall be permitted in the front portion of any lot with the exception of Area 2. Storage areas, shall be screened from the ground-level view of adjacent properties and streets with the exception of Area 2. Screening elements shall be of landscape materials or materials similar to those used to construct the primary structures. Storage areas shall comply with applicable building setbacks as set forth in the PD and must be approved by the Design Review Committee.

Section 4. Parking Area Development Standards. All parking, access drives and loading areas shall be paved and properly graded to ensure adequate drainage. Minimum parking requirements shall meet the City of Billings Subdivision Regulations.

Section 5. Loading and Unloading Areas. Owners may load and unload on their Lot(s) for purposes of their respective uses in accordance City of Billings Subdivision Regulations.

X – INSTALLATION OF IMPROVEMENTS

Section 1. Site Lighting Standards.

- A. All outdoor pole lighting shall be as set forth in the engineering design standards and fully shielded (no light emitted by a fixture is projected above the horizontal plane of the fixture) and mounted at heights no greater than twenty (20) feet above grade.
- B. All outdoor lighting, except street lights, shall be located and aimed or shielded to minimize stray light going across property boundaries.
- C. Security lighting-
 - Commercial Corner- structures may be illuminated to address security concerns and measures. Exterior lighting adjacent to residential uses shall be directed away from the residential use and public streets.
 - Mini-Storage- structures may be illuminated to address security concerns and measures. Exterior lighting adjacent to residential uses shall be directed away from the residential use and public streets.
 - RMF- buildings may be illuminated to address security concerns and measures. Exterior lighting adjacent to residential uses shall be directed away from other residential uses and public streets.

XI – OTHER REQUIRED DOCUMENTS

Section 1. Other Documents.

- A. Special Improvements Agreement. The City and Developer shall enter into a Special Improvements Agreement that includes provisions for creation of a Western Sky Park Maintenance District for land dedicated to the City for Park Land.
- B. Covenants and Restrictions. Developer may, but is not required to do so, record a declaration of covenants and restrictions that shall supplement this Planned Development Agreement.
- C. Other Documents. Any other documents as may be necessary to implement this agreement shall be executed by the parties hereto.

XII – OTHER REGULATIONS

Section 1. Maintenance. Maintenance by lot and spaces Owners between lot and space lines and the street shall include removal and replacement of dead and dying trees, grass and shrubs, removal of trash and weeds, repair and maintenance of drains, mail boxes whether on or off the Owner's lot or spaces, and repair of light standards, fences, walls, surfacing materials and in general maintain a neat and tidy appearance both on the lot and between the lot and the street.

XIII – ENFORCEMENT

Section 1. Right to Enforce by City. The terms of this Agreement may be enforced by the City as provided in the Unified Zoning Regulations.

Section 2. Right to Enforce by Owners. The terms of this Agreement shall run with the land and be binding upon and inure to the benefit of the parties hereto and the owners of property within the Western Sky Planned Development and any person or entity claiming under them. The terms of this Agreement may be enforced by the parties hereto, the Design Review Committee, as well as future property Owners. The parties agree the Design Review Committee shall have standing to enforce this Agreement relative to the City or any property owner regardless of whether the Design Review Committee owns a Lot. In addition to all rights under this Agreement, the parties enforcing this Agreement reserve all rights and remedies available at law or in equity, by statute or otherwise including the right to recover damages, reasonable attorney fees and costs. All such rights and remedies shall be cumulative.

Section 3. Right of Abatement and Suit. If Developer, the Design Review Committee or the City of Billings objects (“the objecting party”) to any Owner’s or other party’s breach of this Agreement (“the defaulting party”), the objecting party shall have, in addition to any other rights and remedies arising at law or in equity, the right to abate the effects of the defaulting party’s breach. To exercise the right of abatement the objecting party shall provide the defaulting party with written notice of its objection, specifying the particulars of the objection. If within thirty (30) days of receipt of such notice, the defaulting party fails or refuses to commence to remedy its breach under this Agreement, or if after commencing action the defaulting party fails to cure its default within a sixty (60) day period, the objecting party may perform whatever reasonable maintenance, repair, operation or other curative action as needed to remedy the default. The defaulting party shall pay upon demand to the objecting party the costs of such maintenance, repair, operation or other curative action, together with interest allowed by law from the date of disbursement of such costs until paid in full. The objecting party shall not be responsible for the continued maintenance or repair of any structure or Lot or the performance of the defaulting party’s obligation under this Agreement. The objecting party may also prosecute a proceeding at law or in equity to enjoin a violation of the terms of this Agreement, to cause said violation to be remedied or to recover damages for said violation.

Section 4. Limitation on Enforcement. This Agreement is for the benefit of Developer, City, Owners and the Design Review Committee appointed by Developer and their heirs, devisees, assigns, trustees and may only be enforced by such parties. No other person or entity shall be entitled to claim a breach of this Agreement or to enforce the restrictions contained herein, judicially or otherwise.

XIV– AMENDMENTS AND VARIANCES

Section 1. Amendments or Changes. This Agreement may not be amended, modified or terminated in whole or in part, except with the written consent of Developer and the City. Any modifications requested by Developer, Successors and Assigns, shall be processed using the same procedures as for a new application in accordance with the Unified Zoning Regulations; however, minor modifications may be approved by the zoning coordinator if he/she finds that the change would not:

A. Change the overall character of the development;

- B. Change additional allowed uses;
- C. Change the approved minimum setbacks, maximum lots coverage or maximum allowed structure height.
- D. No increase in the number of residential units greater than two (2) percent; and
- E. No reduction in open space greater than two (2) percent.

Section 2. Variance Procedures. Variance procedures shall comply with the Unified Zoning Regulations. However, in no case shall a variance be granted for a use not consistent with this agreement until the requirements of Article 4, Section 4 been complied with.

Section 3. Zone Change Procedures. Zone change procedures shall comply with the Unified Zoning Regulations as established by the City of Billings.

XV- GENERAL PROVISIONS

Section 1. Assignment of Agent. Developer may, in its sole discretion appoint an individual or entity to act as its agent to fulfill the duties and obligations of Developer hereunder. Although not required to be effective, notice of such appointment may be made in writing containing a legal description of the Western Sky Planned Development land, recorded with the real estate records of Yellowstone County, Montana and mailed to the City at the address specified herein for notices.

Section 2. Assignment by Developer. Developer may, in its sole discretion, assign its rights and delegate its duties under this Agreement in whole or in part to any other person or entity. Notice of such assignment shall be made in writing and recorded in the real estate records of Yellowstone County, Montana, and shall contain the legal description for the Western Sky Planned Development, or any portion thereof, affected by the assignment. Notice of assignment and delegation shall also be provided to the City at the address specified herein. Once any notice of delegation has been recorded in the real estate records of Yellowstone County, Montana, Developer shall have no further responsibility or liability for the future performance or non-performance of this Agreement, and the City and all property Owners shall look exclusively to the appointed person or entity.

Section 3. Coordination with Other Regulations. The City Planned Development (PD) Zoning Regulations are considered to be part of this Agreement and by reference are incorporated herein.

If this Agreement or Covenants do not prescribe rules for a particular aspect of the development or use, either by express terms or by implication, then the terms of any other applicable City zoning regulations or development ordinances, including the Unified Zoning Regulations, shall govern. If other zoning regulations or ordinances applicable to the property are subsequently amended, the amended regulations or ordinances shall likewise continue to be applicable to the property to the extent that they are not inconsistent with this Agreement or Covenants. If there is any conflict between this Agreement or Covenants recorded by Developer and Planned Development Zoning Regulations, Unified Zoning Regulations, Subdivision Regulations, or other zoning regulations or ordinances, the terms and conditions of Covenants shall govern.

Section 4. Notices. All notices or demands required to be given hereunder shall be in writing and shall be served upon the other party either personally or by registered or certified mail. Service by registered or certified mail shall be conclusively deemed made three (3) days after

deposit thereon in the United States Mail, postage prepaid, addressed to the party to whom service is to be given, as hereinafter provided, and the issuance of the registry or certification receipts therefore. All notices or demands to Developer or the City shall be given at the following addresses or such other addresses as Developer or the City may from time to time designate by written notice given to the other party as hereinabove required.

If to Developer: Mont Vista, LLC
PO Box 333
Billings, MT 59069

With copies to: Kadrmas, Lee & Jackson
P.O. Box 80303
Billings, MT 59108-0303

If to the City: City of Billings
Attn: City Clerk
P.O. Box 1178
Billings, MT 59103

With copies to: Planning Division
2825 3rd Avenue North, 4th Floor
Billings, MT 59101

And copies to: City Attorney's Office
P.O. Box 1178
Billings, MT 59108-1178

Section 5. Waiver. Unless expressly so provided in this Agreement, failure of one party to notify the other party of a default in the manner provided in this Agreement shall not be deemed a waiver of any rights that the non-defaulting party may otherwise have at law or in equity as a result of the default.

Section 6. Force Majeure. Any prevention, delay or stoppage due to strikes, lock outs, labor disputes, Acts of God, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, terrorist acts, governmental regulations and controls, enemy or hostile governmental action, civil commotion, fire or other casualty and other causes beyond the reasonable control of the party obligated to perform, shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage. All parties shall use reasonable efforts to overcome whatever may be impeding their performance of any obligation hereunder.

Section 7. Severability. Should any provision of this Agreement be or become invalid, void, illegal or unenforceable, by a court of competent jurisdiction, shall be considered separate and severable from this Agreement and the remaining provisions shall remain in force and be binding upon the parties hereto. Venue for matters concerning this PD shall be adjudicated in the 13th Judicial District Court in Yellowstone County, Montana.

Section 8. No Partnership. This Agreement is not intended to create, nor shall it in any way be interpreted to create a joint venture, partnership, or any other similar relationship between the parties.

Section 9. Entire Agreement. This Agreement contains the entire agreement between the parties and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party.

Section 10. Recordation. This Agreement and any amendments or modifications shall be recorded in the office of the clerk and recorder of Yellowstone County, Montana.

NOTICE

THIS AGREEMENT SHALL SERVE AS NOTICE TO ALL THIRD PARTIES, INCLUDING THOSE PURCHASING OR ACQUIRING AN INTEREST IN ANY OF THE PROPERTY OF THE WESTERN SKY PLANNED DEVELOPMENT LOCATED IN THE WESTERN SKY SUBDIVISION OF THE EXPRESS RESTRICTIONS PLACED UPON THE PROPERTY AND SHALL FURTHER SERVE AS NOTICE THAT, SHOULD THE TERMS OF THIS AGREEMENT BE VIOLATED, THE PARTIES TO THIS AGREEMENT MAY ENFORCE ANY AND ALL LEGAL RIGHTS AND REMEDIES SPECIFIED HEREIN AND PROVIDED BY LAW AND EQUITY.

Section 11. Duties Run with the Land. The duties created by this Agreement shall run with the land and shall be binding upon Mont Vista, LLC, the City of Billings, property Owners, and their heirs, successors and assigns.

Section 12. Contact Person. Developer hereby designates a contact person who may be contacted concerning any questions, comments, or concerns. Initially, at the time of recording, the contact person is Tracy Haag, 299 Stephens Hill Rd, PO Box 333, Reedpoint, MT 59069 (Telephone (406) 855-4168). Upon designation of the Design Review Committee, a member of the committee or an entity appointed by Developer shall be the contact person or entity to replace Tracy Haag.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year indicated by the notarial certifications indicated below.

MONT VISTA, LLC

By: _____

Tracy Haag, Member Agent

STATE OF MONTANA)
 : ss.
County of Yellowstone)

This instrument was executed and acknowledged before me on the _____ day of _____, 20__, by Tracy Haag, known to me to be the member agent of Mont Vista, LLC.

(Notary Seal)

Notary Signature
Printed name _____
Notary Public for the State of Montana
Residing at _____, Montana
My commission expires: _____

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

STATE OF MONTANA)
 : ss.
County of Yellowstone)

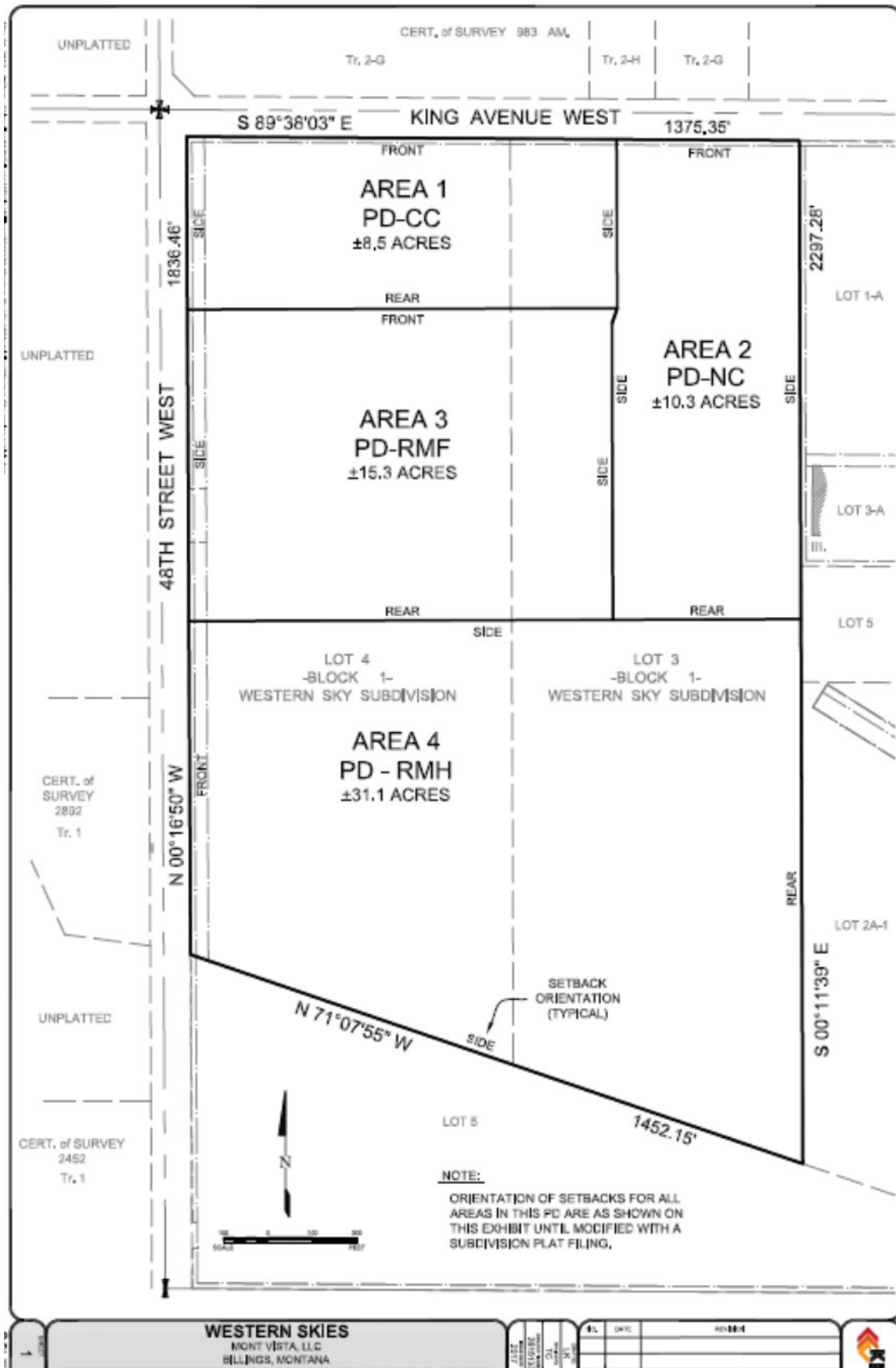
On this _____ day of _____, 20__, before me, a Notary Public for the State of Montana, personally appeared Thomas W. Hanel, known to me to be the Mayor of the City of Billings.

(Notary Seal)

Notary Signature

Printed Name
Notary Public for the State of Montana.
Residing at Billings, Montana.
My Commission expires: _____

Planned Development Exhibit



Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Zone Change 960 - 70th St West & Rimrock Road - 2nd reading

PRESENTED BY: Nicole Cromwell

Department: Planning & Community Services

Presentation: No

PROBLEM/ISSUE STATEMENT

This is a zone change request from un-zoned to Residential 7,000 (R-70) and Residential 5,000 (R-50) on Tract 2A of C/S 2465 (R-70) and Tract 1 of C/S 1871 (R-50) a 116.18 acre parcel of land generally located north of Rimrock Road and west of Copper Ridge Subdivision. The Zoning Commission conducted a hearing on August 1, 2017, and forwarded a recommendation of approval and adoption of the findings of the 10 criteria on a 5 to 0 vote. The City Council conducted a public hearing on August 28, 2017, and approved the zone change on 1st reading. The zone change ordinance requires a second reading.

Zone Change applications are reviewed using statutory criteria referenced in the Alternatives Analyzed section of this memo. Zone changes require approval through an ordinance. Zone Changes allow the change from one type of zoning district to another types of zoning – e.g. residential single family to residential multi-family or residential to commercial. A Zone Change cannot have conditions of approval and if approved, permits the owner to use the land for any purpose allowed within the zoning district.

ALTERNATIVES ANALYZED

City Council may:

- Approve the zone change and adopt the findings of the 10 criteria as recommended by the Zoning Commission;
- Deny the zone change and adopt different findings of the 10 criteria;
- Allow the applicant to withdraw the zone change; or
- Delay action on the zone change request for up to 30 days.

APPLICANT DATA

OWNER: Gary Oakland and Marvin Hessler

AGENT: Sanderson Stewart, Mac Folgelsong, P.E.

The Planning staff reviewed the requested zoning and recommended approval based on the proposed findings of the 10 criteria. The Zoning Commission concurred with the recommendation and the findings. The proposed zoning meets many of the 2016 Billings Growth Policy guidelines and is supported by the City's Annexation Policy. It is likely full development of the new neighborhood will be completed over an 8 to 15 year period similar to the adjacent Copper Ridge neighborhood.

Prior to making a decision on the requested zone change, the City Council shall consider the following findings and criteria:

1. Is the new zoning designed in accordance with the Growth Policy?

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy:

- Home Base: A mix of housing types that meet the needs of a diverse population is important.

The proposed zoning would allow this developer to offer single family and two family dwellings in either a unit ownership development or in a traditional subdivision.

- Strong Neighborhoods: Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, good will and social interaction.

The proposed zoning will allow a progression of development in this area and will connect to neighborhood services, public gathering spaces and open space.

- Strong Neighborhoods: Implementation of the Infill Policy is important to encourage development of underutilized properties.

The property is currently outside the city limits but is within the limits of annexation. The proposed zoning of the property is a more efficient use of property for the extension of city services, and supports a variety of housing choices.

- Strong Neighborhoods: Public safety and emergency service response are critical to the well-being of Billings' residents and businesses.

The proposed zoning and annexation is directly adjacent to the existing city limits where city public safety services are already provided. This incremental expansion will allow these services to be extended with limited impact to its current capacity.

- Home Base: Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe.

The proposed zoning and development will allow the opportunity to provide attainable housing choices in a high-demand area of West Billings.

- Prosperity: Predictable, reasonable City taxes and assessments are important to Billings' taxpayers.

The proposed zoning and development will provide an incremental expansion of the city, at a more efficient density. This will encourage and stabilize the cost of services in this area and will allow the city to set predictable and reasonable rates for taxes and assessments city-wide.

2. Is the new zoning designed to secure from fire and other dangers?

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

3. Whether the new zoning will promote public health, public safety and general welfare?

Public health and public safety will be promoted by the proposed zoning. The existing parcel is outside the city limits and used for irrigated and non-irrigated farmland. New infrastructure for roads, utilities and sidewalks will need to be installed prior to building the proposed dwellings. The proposed zoning would allow the developer to market these housing units to a broad range of buyers.

4. Will the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?

Transportation: The proposed zoning and subsequent development will require a traffic study prior to development. The study will identify the required improvements to the surrounding transportation systems.

Water and Sewer: The City will provide water and sewer to the property. The developer will be responsible for the installation of these improvements. There will be no additional impacts to the system from the proposed zoning.

Schools and Parks: Schools and parks may be significantly affected by the proposed zone change. Additional dwelling units will add students to schools depending on the market for these new homes. Recent new school facilities should be able to absorb these new students. Boulder Elementary may be at or over capacity based on the Urban Planning Study completed for the property. There are no public parks within the general area of the subject property with the exception of the linear neighborhood parks and trail system in the Copper Ridge Subdivision. The developer anticipates dedication of a park with area large enough for a programmed space such as playing fields and a playground.

Fire and Police: The subject property will be served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

5. Will the new zoning provide adequate light and air?

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. Will the new zoning effect motorized and non-motorized transportation?

The new zoning will have an impact on vehicle and pedestrian traffic. The City Engineering Division will determine the required street, utility and sidewalk improvements required for the development of these lots based on a traffic study prepared when a development plan has been finalized. At the minimum development density of 464 dwelling units for the entire parcel, this could add up to over 4,600+ new vehicle trips to the surrounding streets. Safe pedestrian access to and from the development will need to be developed. It is likely most pedestrian access out of the development will occur to the east within the Copper Ridge neighborhood trail system. The recently updated Billings Bikeway and Trail Master Plan shows a shared use path and future bike lane for Rimrock Road as well as a platted shared use path northwest along the south boundary of Falcon Ridge Subdivision. The shared use path and the future bike lane on Rimrock Road would be part of the street improvements at the time of development or in a future SID.

7. Will the new zoning will promote compatible urban growth?

The new zoning does promote compatibility with urban growth. The proposed zoning will allow a greater variety of housing choices in this growing area of West Billings.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?

The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. The proposed zoning is similar to the zoning in the adjacent city subdivisions and the homes will likely be similar in style.

9. Will the new zoning conserve the value of buildings?

The property is currently un-developed and used for agricultural purposes. The value of existing buildings should not be affected by the proposed zoning and development.

10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

The proposed zoning will allow a more efficient density of development so extension of city services will be effective. The collector street frontage will allow ready vehicle access to and from the new development without impacting adjacent land uses.

FINANCIAL IMPACT

Approval of the zone change will allow the applicant to proceed with subdivision development. After annexation, the City's tax base will expand to include this new territory. Until lots are developed, City fees for storm water, arterial construction and street maintenance will be based on the vacant rate of assessment. After development, taxes and fees will be based on the developed valuation.

RECOMMENDATION

The Zoning Commission recommends that the City Council approve Zone Change 960 and adopt the findings of the 10 criteria.

APPROVED BY CITY ADMINISTRATOR

Attachments

Ordinance

ORDINANCE NO. 17-_____

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR Tract 2A of C/S 2465 and Tract 1 of C/S 1871 a 116.18 acre parcel of land generally located north of Rimrock Road and west of Copper Ridge Subdivision

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC*, provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the ten (10) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the ten (10) criteria required by state law.

2. DESCRIPTION That Tract 2A of C/S 2465 and Tract 1 of C/S 1871 a 116.18 acre parcel of land generally located north of Rimrock Road and west of Copper Ridge Subdivision is presently NOT zoned and is shown on the official zoning maps outside of any zoning district boundary.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **NOT zoned to Residential 7,000 (R-70) for Tract 2A of C/S 246 and to Residential 5,000 (R-50) for Tract 1 of C/S 1871** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential 7,000 (R-70) and Residential 5,000 (R-50)** as set out in the Billings, Montana City Code.

4. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading August 28, 2017

PASSED, ADOPTED AND APPROVED on second reading September 11, 2017.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: Denise Bohlman, City Clerk
Zone Change 960 – 70th St West and Rimrock Road

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Ward Ordinance Second Reading - Annexation #17-03

PRESENTED BY: Wyeth Friday

Department: Planning & Community Services

Presentation: No

PROBLEM/ISSUE STATEMENT

City election ward boundaries must be adjusted to conform to city limit amendments resulting from annexation of property into the City. The City Council approved the annexation of property owned by Jamey Eisenbarth (Annexation #17-03) on August 14, 2017. The subject property is about 18 acres in size and described as Tract 2, Certificate of Survey 3426. The property is located at the southeast corner of the intersection of Santiago Boulevard and Blue Creek Road south of the Yellowstone River. This requires a change in the boundaries of Ward III. Two readings are required for this action. The first reading of the ordinance was held by the City Council on August 28, 2017 along with a public hearing. The second reading is scheduled for this meeting.

ALTERNATIVES ANALYZED

City Council may approve or not approve the ordinance to amend the boundaries of Ward III on second reading.

- Approving the ordinance will modify the boundaries of Ward III to include the property owned by Jamey Eisenbarth.
- Not approving the ordinance will not modify the boundaries of Ward III and create a problem where property inside the City Limits is not within one of the City Ward Boundaries.

FINANCIAL IMPACT

There is no budget/financial impact from this action.

RECOMMENDATION

Staff recommends that the City Council approve this ordinance on second reading, adding recently annexed property to Ward III.

APPROVED BY CITY ADMINISTRATOR

Attachments

Ward Ordinance

ORDINANCE NO. 17-_____

AN ORDINANCE OF THE CITY OF BILLINGS, AMENDING BILLINGS MUNICIPAL CODE, CHAPTER 11, ELECTIONS, IN PARTICULAR, SECTION 11-102(c), WARD BOUNDARIES; AND CHANGING THE WARD BOUNDARIES ESTABLISHED THEREIN BY ADDING CERTAIN NEWLY ANNEXED REAL PROPERTY TO WARD III PROVIDING FOR CERTIFICATION AND REPEALING OF ALL ORDINANCES AND RESOLUTIONS INCONSISTENT THEREWITH.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to Ward III the following described real property:

A tract of land situated in the SE1/4 of Section 20, T.1S., R.26E., P.M.M., Yellowstone County, Montana, more particularly described as:
Tract 2, Certificate of Survey No. 3426, Recorded March 11, 2010, under Document Number 3543127, of record and on file in the office the Yellowstone County, Clerk and Recorder's; Including all adjacent Right-Of-Way of Blue Creek Road.

Containing 18.052 gross acres and 10.871 net acres more or less.
(# 17-03) See Exhibit "A" Attached

2. CERTIFICATION. Pursuant to M.C.A. Section 13-3-103, the above change and alteration is hereby certified to the election administrator by the City Council, and the City Administrator or his designee is hereby directed to certify the changes and alterations and to deliver a map showing the boundaries of the ward, the streets, avenues and alleys by name and the ward by number, to the election administrator not more than ten (10) days after the effective date of this ordinance.
3. REPEALER. All other ordinances, sections of the Billings Municipal Code and ordinances inconsistent herewith are hereby repealed.

PASSED by the City Council on the first reading this 28th day of August, 2017.

PASSED by the City Council on the second reading this 11th day of September, 2017.

THE CITY OF BILLINGS:

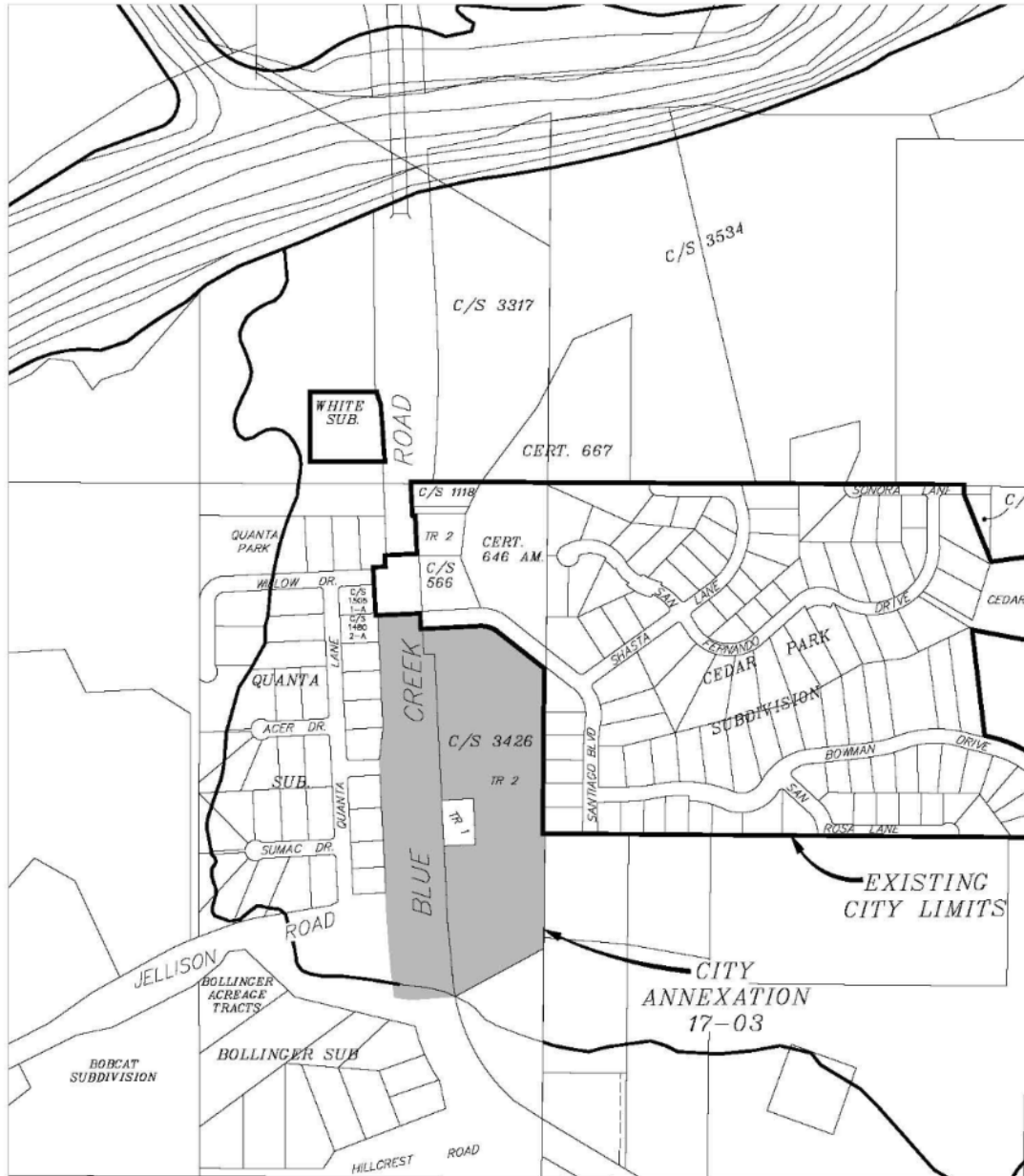
Thomas W. Hanel, MAYOR

ATTEST:

BY:_____
Denise Bohlman, CITY CLERK

(AN 17-03)

EXHIBIT "A"



Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Separation of Unified Zoning Regulations - 2nd reading

PRESENTED BY: Nicole Cromwell

Department: Planning & Community Services

Presentation: No

PROBLEM/ISSUE STATEMENT

The Yellowstone County Board of Planning initiated this separation of the City and County Unified Zoning Regulations on June 13, 2017. This separation of the Unified Zoning Regulations will facilitate the future update, revisions and alignment of the regulations to goals and policies set by the City Council and the Board of County Commissioners. There are no additions, deletions, or modifications to the existing Unified Zoning Regulations except to the extent to remove combined references and modify sections that apply either only in the City or only in the County. The City and County Zoning Commissions held a special joint public hearing on July 17, 2016. The City Zoning Commission is forwarding a recommendation to approve the separation of the zoning regulations on a 3-0 vote. The City Council approved the ordinance on first reading August 14, 2017. A second reading is required to approve the changes.

ALTERNATIVES ANALYZED

City Council may:

- Approve the text amendment as recommended by the Zoning Commission;
- Deny the text amendment; or
- Withdraw the text amendment; or
- Delay action on the text amendment for up to 30 days.

FINANCIAL IMPACT

There are no substantive changes to the zoning regulations adopted for implementation within the City Limits. There will be a financial cost to have the City's municipal codification service provider - Municode - update the the City's adopted code. The cost for this update will be paid in coordination with the City Clerk's Office and the Planning Division budget. Staff has contacted Municode for an estimate, but had not received detailed information on the cost at the time this memo was drafted.

RECOMMENDATION

With a 3-0 vote, the Zoning Commission recommends that the City Council approve the zoning code separation.

APPROVED BY CITY ADMINISTRATOR

Attachments

ORDINANCE NO. 17- _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY DELETING CHAPTER 27-100 THROUGH 1700 IN ITS ENTIRETY AND REVISING ALL SECTIONS EXCEPT 27-1800 TO DELETE LANGUAGE AND ADD LANGUAGE TO CLARIFY THE REGULATION AND ADOPT THE REVISION AS AN AMENDMENT TO THE ZONING REGULATIONS AND SET A TIME PERIOD FOR THE REGULATION TO BE EFFECTIVE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Section 27-1502, BMCC, provide for amendment to the City Zoning Regulations from time to time. The City/County Planning Board initiated the amendment to the City Zoning Regulations and the City Zoning Commission and staff have reviewed the proposed zoning regulations hereinafter described. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the proposed amendments to the City Zoning Regulations.*

Section 2. DESCRIPTION. The zoning regulations shall apply to all land within the City of Billings.

Section 3. AMENDMENT.

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 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-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, ~~or 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.

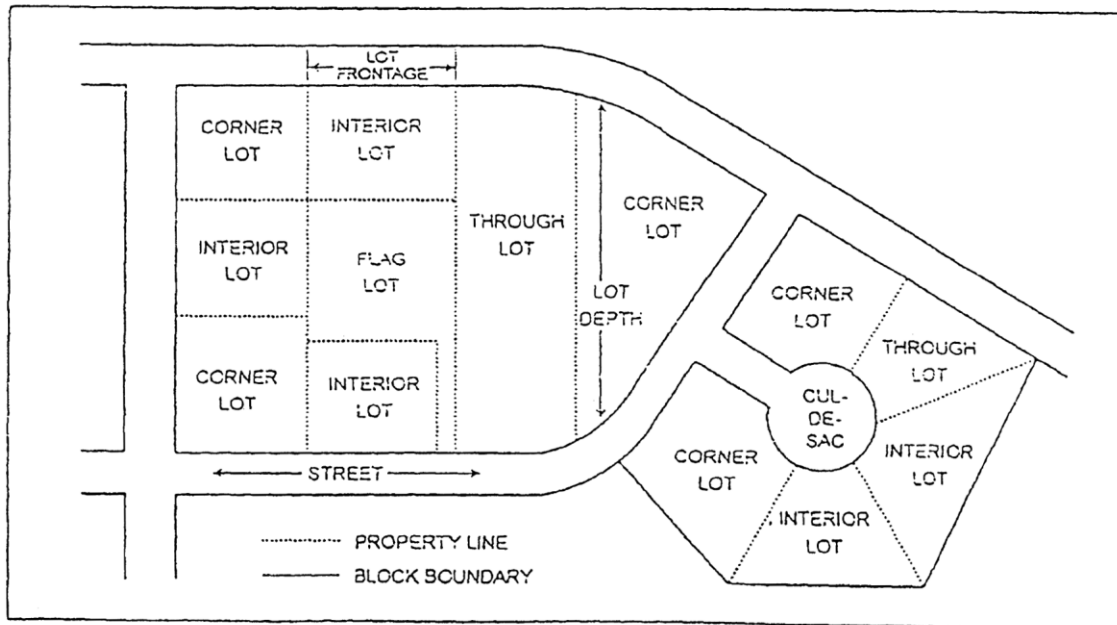
Lot frontage: That portion of the lot nearest the public street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to public streets shall be considered frontage, and yards shall be provided as indicated in BMCC sections 27-308 and 27-309, District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

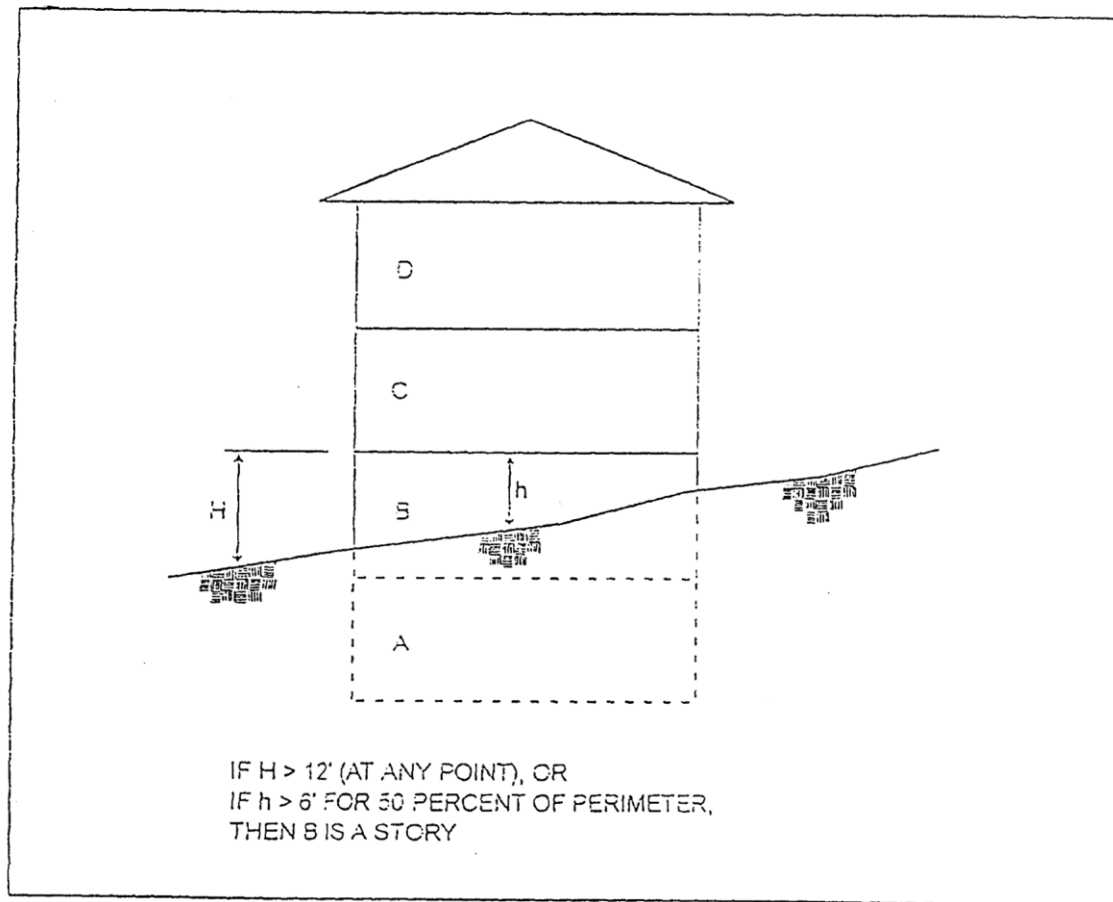
Sexually oriented business: An "adult" arcade, "adult" bookstore, "adult" cabaret, "adult" video store, "adult" motel or "adult" motion picture theater, as those terms are defined in *BMCC section 27-611*.

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.

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~~ 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)~~ e 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)~~ f 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-													

1/2 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 BMCC subsection 27-310(b).
- (c) In the Residential-6,000 zone, three-plexes up through ten-plexes up require special review approval, see BMCC 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 CLASSIFICATION DISTRICTS								
ZONING REQUIREMENTS	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 (c)	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 (c)	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~~2~~(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 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	10	8	6	N/A
All others	20	10	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:

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

— 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) 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 (e)	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

~~(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:~~

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

~~— 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.~~

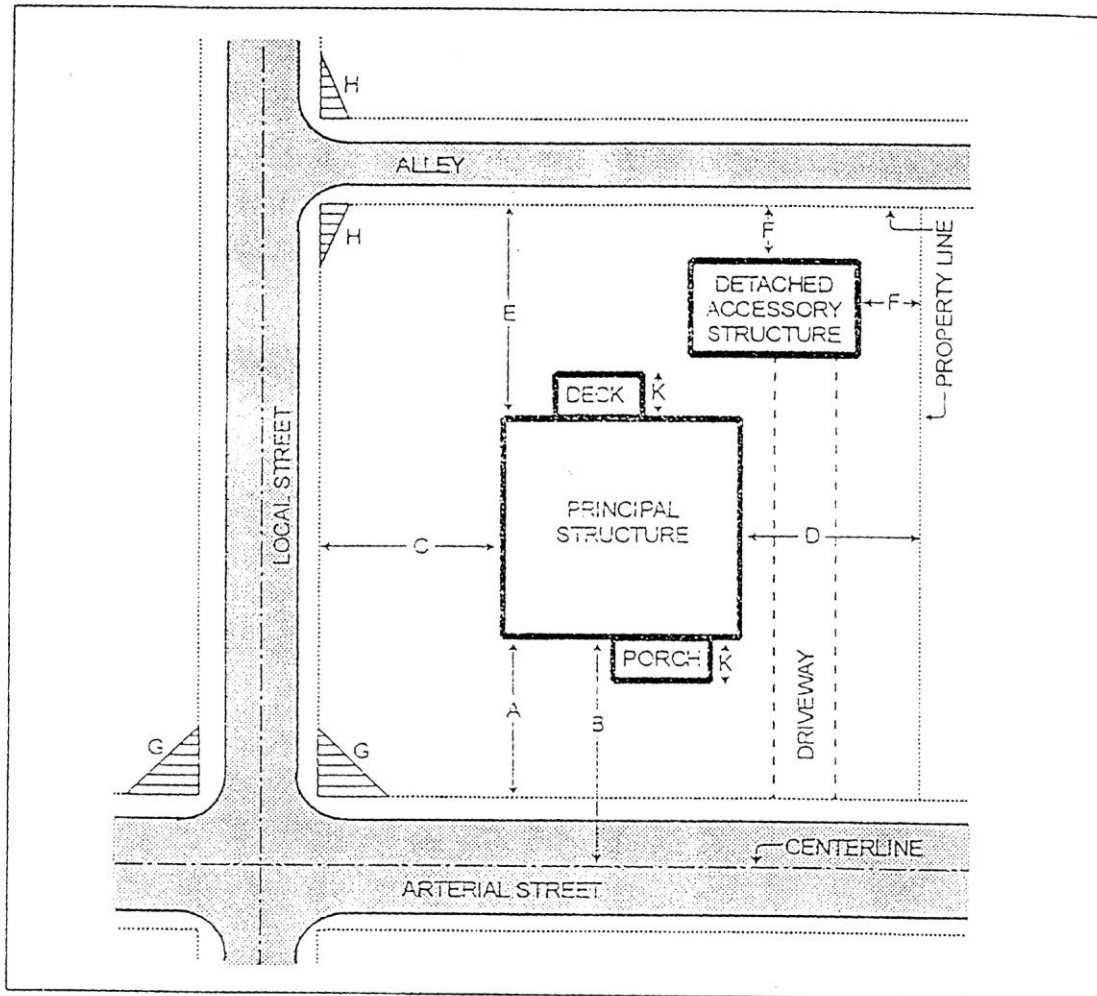
~~(4) The maximum total square footage in detached accessory structures on any lot shall not exceed three thousand (3,000) square feet or that amount which, when added to the square footage of the principal structure(s), will achieve the maximum lot coverage allowable in that district, whichever is less. 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*
- (j, k) *Permitted projections*

FIGURE 2: YARD REQUIREMENTS: COMMERCIAL AND INDUSTRIAL

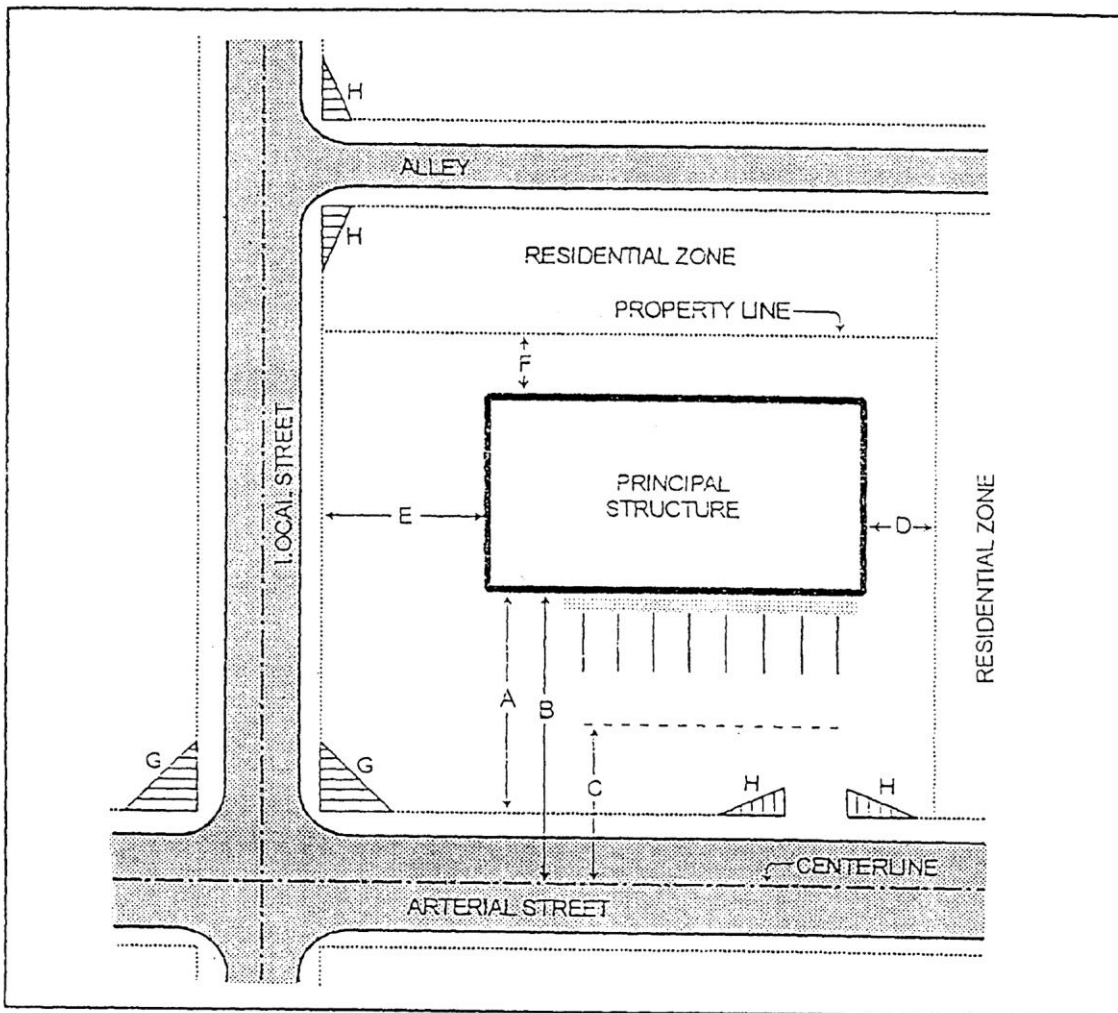


Figure 2

- (a) *Front setback*
- (b) *Arterial setback: structures*
- (c) *Arterial setback: Required Parking and Driving Isle*
- (d) *Side setback – See Sec. 27-612(e) for required setbacks contiguous or near residential zones*
~~**Side Minimum setbacks are fifteen (15) feet when contiguous to residential zones~~
- (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*

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

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.
~~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 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 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 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

DIVISION 1. - GENERALLY

Sec. 27-501. - Intent.

The intent of this ordinance is to promote the educational, cultural, economic, and general welfare of the community by:

- (1) Providing a mechanism to identify and preserve the distinctive historic architectural characteristics of the City of Billings that represent elements of the city's cultural, social, economic, political, military and architectural history;
- (2) Fostering civic pride in the beauty and noble accomplishments of the past as represented in the City of Billings prehistoric and historic sites and historic districts;
- (3) Conserving and improving the value of property designated as historic sites or within historic districts;
- (4) Protecting and enhancing the attractiveness of the city to home buyers, tourists, visitors, and shoppers, and thereby supporting and promoting business, commerce and industry, and providing economic benefit to the city;
- (5) Fostering and encouraging preservation, restoration, and rehabilitation of structures, areas, and neighborhoods and thereby preventing future urban blight.

Sec. 27-502. - Definitions.

For the purposes of this article, the following definitions apply:

Alteration: Any act or process that changes the exterior architectural appearance of a structure, including, but not limited to, the erection, construction, reconstruction or removal of any structure. Alterations and changes may include, but are not limited to, covering original materials and features, replacing a window, re-pointing brickwork, sandblasting, and the removal of paint by chemical or other means.

Appeal: An applicant may appeal a recommendation of the Yellowstone Historic Preservation Board (YHPB) to the Billings City Council.

Applicant: The owner of record of a historic site and/or local register property; the lessee thereof with the approval of the owner of record in notarized form; or a person holding a "bona fide" contract to purchase an historic site and/or local register property.

Area: A specific geographic division of the City of Billings.

Certificate of appropriateness: A signed and dated document that shall be submitted to the Yellowstone Historic Preservation Board for recommendation of the appropriateness of any new construction, demolition, exterior alteration or change of location of an historic site or structure located within a historic district or designated on the local register. This certification is required prior to the issuance of a building permit, demolition permit or sign permit.

City administrator: The city administrator of the City of Billings or his/her designee.

Construction: The act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

Council: The city council of the City of Billings.

Demolition: Any act or process that destroys in part or in whole a historic site or a structure within a historic district.

Exterior architectural appearance: The architectural character and general composition of the exterior of a structure, including but not limited to the kind, color, and texture of the building material and the type, design and character of all windows, doors, light fixtures, signs, and appurtenant elements.

Historic district: An area designated as a "historic district" by ordinance of the city council which may contain within definable geographic boundaries one or more historic sites and which may have within its boundaries other properties or structures that, while are not of such historic and/or architectural significance to be designated as historic sites, nevertheless contribute to the overall visual characteristics of the historic site or historic sites located within the historic district.

Historic site: A property or structure designated as a historic site by ordinance of the city council pursuant to procedures prescribed herein, that is worthy of rehabilitation, restoration, and preservation because of its historic and/or architectural significance to the City of Billings.

Local register: Means a list of properties designated by the city based on local register criteria and procedures, and properties listed to the National Register of Historic Places that have petitioned to be listed to the local register.

National register: National Register of Historic Places. A list, maintained by the US Department of Interior, of sites, properties, objects and districts having local, state or national historical, architectural or cultural significance.

Preservation board: The Yellowstone Historic Preservation Board.

Removal: Any relocation of a structure on its site or to another site.

Repair: Any change not otherwise construed as an alteration, as herein defined, that constitutes replacing broken, worn or damaged materials with like, not necessarily identical, materials and is insignificant to the size and condition of the structure or property. Repainting and re-roofing shall be included under this definition of repair.

Structure: Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing, building, fences, gazebos, advertising signs, billboards, backstops for tennis courts, radio and television antennae, including supporting towers, and swimming pools.

Sec. 27-503. - Historic preservation board.

- (a) *Members:* The Yellowstone Historic Preservation Board shall consist of nine (9) members with a demonstrated interest, competence, and knowledge in historic preservation. The following five (5) members shall be selected jointly by all signatories to the interlocal agreement establishing the Yellowstone Historic Preservation Board. Each signatory has one (1) vote. In this selection process the simple majority vote will prevail. The board shall include at least three (3) members with professional expertise in the disciplines of history, planning, archaeology, architecture, architectural history, or other historic preservation-related disciplines such as cultural geography or cultural anthropology. The board shall also include two (2) additional members from the following:

One member of the Yellowstone County board of planning;

One member of the Laurel board of planning;

One property owner either residing or owning a business in a historic district or who owns property listed on the National Register of Historic Places;

One member of a city/county preservation society.

The four (4) remaining board members shall be considered "at-large" and shall consist of:

One City of Billings resident appointed by the Billings city council;

One county resident appointed by the Yellowstone County commissioners;

One City of Laurel resident appointed by the Laurel city council;

One Crow Tribal member who lives within the Yellowstone County portion of the Crow Reservation or elsewhere within Yellowstone County appointed by the Crow Tribal council.

- (b) *Appointments and terms:* Terms of office for the historic preservation board members shall be for two-year terms and shall be staggered. Upon enactment of this resolution, three (3) members shall be appointed to one-year terms. The following year, all terms shall be for two (2) years.

- (c) *Absences and removal:*

- (1) Each member shall inform the preservation officer at least one (1) day before the meeting of the inability to attend a board or committee meeting. Such an absence shall be considered an excused absence.
- (2) If any member accrues three (3) or more consecutive unexcused absences from regular meetings, notice of which has been given at his/her usual place of work or residences, or by announcement at a meeting attended by him/her, the president may call such absences to the attention of the board which may then recommend to the appointing authority that such member be asked to resign and then another person be appointed to serve out the unexpired term.
- (d) *Vacancies:* Vacancies occurring on the board shall be filled within sixty (60) days in the same manner as for the original appointment. This appointment shall be for the remainder of the unexpired term.
- (e) *Meetings:* The historic preservation board shall conduct a minimum of one (1) regularly scheduled meeting each month, except that the chairperson may cancel any meeting or schedule special meetings when such meetings are necessary to carry out the provisions of this article.

Special meetings of the board may be called by the chairperson or by two (2) members, upon request to the preservation officer. The preservation officer shall notify members at least two (2) days in advance of the special meeting.

Meetings shall be open to the public in accordance with the State of Montana Open Meeting Law, and all written or taped minutes, reports and case decisions shall be available to the public.

The historic preservation board shall establish bylaws conforming to the guidelines set forth in the "Certified Local Government Program in Montana."

- (f) *Powers and duties:* Yellowstone historic preservation board shall:
 - (1) Maintain a system for the survey and inventory of historic and prehistoric properties. The information shall be available to the public.
 - (2) Review and participate in all proposed National Register nominations within the City of Laurel, the City of Billings, the Crow Reservation and/or Yellowstone County.
 - (3) Encourage public participation while assisting with the enforcement of appropriate state and local legislation concerning historic preservation.
 - (4) Submit an annual report to the State Historic Preservation Office describing projects, activities, recommendations and decisions made, projects reviewed, recommendations to the National Register of Historic Places, revised resumes of historic preservation board members and member attendance records, and indexed copies of typewritten or tape recorded minutes of all historic preservation board meetings. Copies of the following will be attached to the annual report: inventory forms, survey reports, maps, photographs, and other survey materials or planning documents generated during the preceding year.
 - (5) Have at least one (1) member attend at least one (1) training session each year and review any orientation materials provided by the State Historic Preservation Office.
 - (6) Review and comment on land use proposals and planning programs related to historic resources, such as municipal improvements, housing and other public programs.
 - (7) Consult with city, county, tribal, state and federal agencies on all applications, environmental assessment, environmental impact statements, and other similar documents pertaining to historic districts, historic sites, and landmarks or neighboring properties within the City of Billings and/or Yellowstone County. Comments and recommendations by the historic preservation board will be sent to the Billings city council and the Yellowstone county commissioners.
 - (8) Review the local zoning regulations for their applicability to the characteristics of the proposed historic districts, and make appropriate recommendations to the zoning commissions and the boards of adjustment concerning any changes or modifications to the zoning regulations, zoning boundaries, zone change applications, special review applications, or variance applications.

- (9) Make recommendations to the boards of adjustments regarding variance change applications within any historic district.
- (10) Assist with the preparation and adoption of a comprehensive historic preservation plan and assist with the annual updates of said plan.
- (11) Provide information, advice and guidance, upon request by property owners, as to the restoration, rehabilitation, landscaping or maintenance of potentially historic buildings or structures. The historic preservation board may recommend voluntary design guidelines which will be made available to the public for assistance in preservation projects.
- (12) Participate in, promote and conduct public information, education and interpretive programs pertaining to historic potential tax incentives and federal and/or state grants that might be available.
- (13) Provide, in its discretion, quarterly reports to all governing bodies to discuss its activity for the past quarter. Minutes of board meetings and any other information deemed necessary may be appended to the quarterly reports. A copy of the annual report to the State Historic Preservation Office shall be provided to each of the governing bodies.
- (14) Undertake any actions necessary to assure compliance of the preservation board with certified local government requirements.
- (15) Review and forward a recommendation to the city administrator or his/her designee on a certificate of appropriateness as requested by applicants. The application may be recommended for approval as presented, approval with modifications, denied or delayed as set out in this article.

Sec. 27-504. - Historic preservation officer.

(a) *Duties:*

- (1) The historic preservation officer shall serve as staff to the historic preservation board.
- (2) The historic preservation officer must have demonstrated interest, competence or knowledge in historic preservation.
- (3) The historic preservation officer will assist with coordinating the local historic preservation programs, help in the development of local surveys, projects and historic preservation planning documents, advise and provide assistance to the historic preservation board, government agencies and the public, and ensure, to the extent practicable, that the duties and responsibilities delegated by this resolution are carried out.
- (4) The historic preservation officer shall be appointed by mutual agreement of the Laurel city council, the Billings city council, the Crow Tribal council and the Yellowstone county commissioners.

Sec. 27-505. - Local review and designation.

Historic designation on the local registry is the process by which a building, structure, site, or district is recognized as having historic, architectural or archaeological significance. It is the primary means for identifying and protecting Billing's historic resources. To qualify as a historic site or historic district, the individual properties, structures, sites, or buildings, or groups of properties, structures, sites or buildings must have significant character, interest, or value as part of the historical, cultural, aesthetic, and architectural heritage of the city, county, state or nation. To qualify as a historic site or district, the property or properties must fulfill one (1) or more of the criteria set forth in subsection (1) below and meet the criteria set forth in subsections (2)a. and (2)d. below.

- (1) A building, structure, site, or district will be deemed to have historical or cultural significance if it meets one (1) or more of the following criteria:
 - a. Is associated in a significant way with the life or activities of a major person important in city, county, state, or national history (for example, the homestead of a local founding family);
 - b. Is the site of a historic event with significant effect upon the city, county, state, or nation;

- c. Is associated in a significant way with a major historic event, whether cultural, economic, social, military, or political;
 - d. Exemplifies the historical, political, cultural, economic, or social trends of the community in history; or
 - e. Is associated in a significant way with a past or a continuing institution which has contributed substantially to the life of the city and/or county.
- (2) A building, structure, site, or district is deemed to have architectural or aesthetic significance if it fulfills one (1) or more of the following criteria; except that to qualify as a historic interior, the interior must meet the criteria contained within subsections (2)b. and (2)d.:
 - a. Portrays the environment in an era of history characterized by one (1) or more distinctive architectural styles;
 - b. Embodies those distinguishing characteristics of an architectural style, period, or method of construction;
 - c. Is a historic or outstanding work of a prominent architect, designer, landscape architect, or builder; or
 - d. Contains elements of design, detail, material, or craftsmanship of outstanding quality or which represented, in its time, a significant innovation or adaption to the environment.
- (3) A building, structure, site, or district will be deemed to have historic significance if, in addition to the previously mentioned criteria in subsections (1) and (2), the building, structure, site, or zone meets historic development standards as defined by and listed in the regulations of and criteria for the National Register of Historic Places as prepared by the United States Department of the Interior under the Historic Preservation Act of 1966, as amended. Said regulations, as amended from time to time, are made part of this chapter as if fully set forth herein.
- (4) Classification of structures and buildings. All historic buildings, structures, archaeological sites, districts, and neighborhoods classified and designated on the local register, will be approved by the city council and be made an overlay to the city and county, zoning maps and land use plans. Such buildings, structures, districts, neighborhoods, and the like will be divided into two (2) classes:
 - a. *Contributing.* Those buildings, structures, archaeological sites, or districts classified as historic shall possess identified historical and architectural merit of a degree warranting their preservation. All buildings, structures, archaeological sites, and the like, listed in the city historic survey, as adopted and approved by the city council and county commission, will be considered worthy of preservation and may be designated as a historic site or a historic district.
 - b. *Noncontributing.* Those buildings and structures within a historic district not listed in the city historic preservation survey, and those buildings and structures determined by the preservation board to be of no contributing value.
- (5) All commercial districts listed in the National Register of Historic Places within the city automatically become part of the local register. Commercial buildings individually listed in the National Register of Historic Places within the city may petition to become part of the local register by request of the owner of record of said National Register property. This petition must be submitted to the city council.
- (6) Individually listed residential buildings and/or residential districts listed in the National Register of Historic Places within the city may petition to become part of the local register. Individuals may apply on their own behalf. Residential historic districts may petition to become part of the local register with a minimum of two-thirds (2/3) approval by the owner(s) of the properties within the district.

Sec. 27-506. - National Register of Historic Places; nomination review.

- (a) The preservation board shall review proposed nominations to the National Register of Historic Places submitted by the State Historic Preservation Officer or other sponsor qualified pursuant to United States Department of the Interior regulations. The preservation board will develop or receive the documentation necessary to nominate properties to the National Register of Historic Places. The preservation board shall evaluate, in a timely manner, nomination proposals received for completeness. Should a nomination proposal not be technically complete, the preservation board shall notify the proposal's sponsor, identifying the technical deficiencies in writing, within thirty (30) days of receipt of the nomination proposal. If the nomination proposal is technically complete, the preservation board shall place the item on its agenda for the earliest possible regular meeting after notification procedures are complete.
- (b) The preservation board shall notify the following of its intention to consider a nomination proposal. In all cases, such notification shall occur at least thirty (30) days but not more than seventy-five (75) days prior to the preservation meeting at which the nomination proposal will be considered.
 - (1) Owner(s) of record of the property. The list of owners shall be obtained from official tax records and provided with the nomination application. Where there is more than one (1) owner on the list, each separate owner shall be notified.
 - (2) The mayor of the City of Billings. Said local officials shall have thirty (30) days from receipt of notice within which to submit the preservation board a written recommendation supporting or opposing the nomination.
 - (3) The State Historic Preservation Officer.
- (c) When the preservation board considers a nomination proposal that will impact properties which are normally evaluated by a professional in a specific discipline, and that discipline is not represented on the preservation board, the preservation board shall seek professional expertise in this area before rendering a decision, but failure to obtain such advice shall not invalidate its determination on the proposal.
- (d) Nomination proposals shall be considered by the preservation board at a public meeting, and all votes on nomination proposals shall be recorded and made a part of the permanent record of the preservation board meeting. All nomination proposals shall be forwarded, with a record of official action taken by the preservation board and the recommendation of the appropriate local official(s), to the State Historic Preservation Officer within thirty (30) days of the preservation board meeting at which they were considered.
- (e) Any person or organization supporting or opposing the nomination of a property to the national register shall be afforded the opportunity to make their views known in writing or in person at meetings of the board. All such correspondence regarding a nomination proposal shall become part of the permanent record and shall be forwarded to the state historic preservation officer. In the case of disapproved nomination proposals, letters of support or comment shall be made a part of the permanent record concerning that proposal, and a list of such letters shall accompany the official copy of the disapproved nomination proposal when it is forwarded to the state historic preservation officer.
- (f) Nomination proposals to be considered by the preservation board shall be on file at the Yellowstone county board of planning offices for at least thirty (30) days but not more than seventy-five (75) days prior to the meeting at which they will be considered. A copy shall be made available by mail when requested by the public and shall be made available at a location of reasonable local access, such as a local library, courthouse, or other public place.
- (g) Any person may appeal the decision of the preservation board regarding a proposed nomination by filing a written appeal with the state historic preservation officer within thirty (30) days of the preservation board decision.
- (h) In reviewing national register of historic places nomination proposals, the preservation board shall follow the regulations found in 36 C.F.R. Part 60, and as amended from time to time, promulgated by the National Park Service, Department of the Interior under the Historic Preservation Act of 1966, as amended.

Sec. 27-507. - Designation of historic districts.

- (a) The following area within the city is designated as the Billings Townsite Historic District:

Beginning at the northwest corner of the right-of-way intersection of North 26th Street and 1st Avenue North, located in the original Town of Billings, said point being the point of beginning; thence, southeasterly along the westerly right-of-way line of North 26th Street to the southerly right-of-way line of Montana Avenue, thence northeasterly along said southerly right-of-way line of Montana Avenue 280± feet, thence southeasterly along a bearing perpendicular to the bearing of the southerly right-of-way line of Montana Avenue to the centerline of the Burlington Northern Railroad right-of-way thence northeasterly along said railroad right-of-way line to a point which is the extension of the easterly right-of-way line of North 22nd Street, thence northwesterly along said extension of the easterly right-of-way line of North 22nd Street and along the easterly right-of-way line of North 22nd Street to the northeast corner of the right-of-way intersection of North 22nd Street and 1st Avenue North, thence southwesterly along the northerly right-of-way line of 1st Avenue North to the point of beginning. Included within this area, but not limited to it, are Blocks 111, 112, 113 and 114 of the original Town of Billings.

Beginning at the northwest corner of the right-of-way intersection of North 26th Street and Montana Avenue, located in the Original Town of Billings, said point of beginning; thence southwesterly to the easterly right-of-way line of North 27th Street and Montana Avenue; thence southeasterly along the eastern right-of-way of North 27th Street to the center line of the Burlington Northern right-of-way, thence northeasterly to the eastern boundary of the existing Billings Townsite Historic District, then following the eastern border of the existing district to the point of beginning.

- (b) The following area within the city is designated as the Billings Old Town Historic District:

Beginning at the east side of North 30th Street mid-block alley entrance, located in the Original Town of Billings, said point of beginning; thence easterly along alley to the northeast corner of the building at 2815 Montana Avenue; thence south to the centerline of Montana Avenue; thence turns easterly and continues along the centerline until reaching the intersection of 27th Street and Montana Avenue; thence south to the southern edge of the Burlington Northern right-of-way; thence easterly along said right-of-way to the east side of the building at 2601 Minnesota Avenue; thence south to the centerline of Minnesota Avenue; thence westerly to the intersection of Minnesota Avenue and South 26th Street; thence south to the mid-block alley entrance; thence westerly to the centerline of South 27th Street; thence south to the intersection of South 27th Street and 1st Avenue South; thence westerly along the centerline of 1st Avenue South to the west boundary of the building at 24 South 30th Street; thence north to the northwest boundary of the building at 24 South 30th Street; thence easterly to the centerline of South 30th Street; thence north of the intersection of South 30th Street and Minnesota Avenue centerline; thence easterly along said centerline to the intersection of Minnesota Avenue and South 29th Street; thence north along South 29th Street centerline to the intersection of North 29th Street and Montana Avenue; thence westerly to the intersection of Montana Avenue and North 30th Street; thence north along North 30th street centerline to the point of beginning.

- (c) Existing or additional historic districts may be expanded or created by amendment of this section as provided for under section 27-1502 of this article. Provision shall be made for public participation in the expansion of existing historic districts or the development of any new historic district.

Secs. 27-508—27-510. - Reserved.

DIVISION 2. - CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION AND BUILDING PERMITS

Sec. 27-511. - Approval of building, exterior remodeling and demolition permits.

No permit for building, alteration or demolition (excluding permits for interior work) of any building or structure currently listed or part of a district listed on the city local registry shall be granted by the city administrator or his/her designee until the historic preservation board has advised the city administrator or his/her designee concerning the application for a certificate of appropriateness pursuant to the procedures

and criteria set forth in this article. The board may advise the city administrator to approve the application as presented, approve with modifications, deny or delay based upon advice given by the board and the criteria set forth in sections 27-514 and 27-515 of this article. The owner or the owner's agent is responsible for applying for a certificate of appropriateness prior to, or concurrently with, any application for building, demolition, or alteration.

Sec. 27-512. - Procedures for historic preservation board review and advice on a certificate of appropriateness.

Procedures shall conform to the following:

- (1) The city administrator shall, immediately upon receipt thereof, submit to the historic preservation board for consideration each complete application for permit for building, (excluding permits for interior work) exterior remodeling or demolition of any structure situated wholly or partially within the historic district. Within ten (10) days after receipt of the application, the board may request that the applicant furnish additional information or drawings concerning the proposed project.
- (2) Within thirty (30) days after receipt by the board of any such application, or thirty (30) days after receipt by the board of any additional information or drawings requested from the applicant, the board shall advise the city administrator whether it recommends approval as presented, approval with modification, denial or delay of the permit. If the board does not advise the city administrator within such 30-day period it will be deemed conclusive evidence that the board has advised that the application be approved without modification. The foregoing 30-day period may be extended by the board for an additional 30-day period upon consent of the applicant.
- (3) Within ten (10) days after the latter of receipt by the historic preservation board of the application or receipt by the board of additional information or drawings requested from the applicant, the board shall set a date for a public hearing on the application.
- (4) Notice of the application and hearing shall be given by:
 - a. Publication of the same in a newspaper of general circulation in the city at least seven (7) days prior to the date set for the hearing;
 - b. Posting the same on the property affected by the application at least fifteen (15) days prior to the date set for the hearing; and
 - c. Mailing the same to the applicant at the address stated on the application at least fifteen (15) days prior to the date set for the hearing.
- (5) The historic preservation board may continue the hearing to a subsequent time. Any person may appear at the hearing and present such evidence or testimony at the board deems relevant to its decision. Following the hearing, the board shall advise the city administrator to approve as presented, approve with modifications, deny or delay the application.
- (6) The historic preservation board's advice with regard to each application and the reasons therefore, shall be in writing, shall be preserved and shall be available for public inspection in the office of the historic preservation officer.
- (7) The city administrator or his/her designee will notify, by certified mail, return receipt requested to the applicant and/or his/her agent of the final decision.

Sec. 27-513. - Review by council.

If, pursuant to this article, the city administrator disapproves an application or approves an application with modifications, the applicant may appeal the decision of the city administrator to the council. The appeal must be perfected by the following procedure:

- (1) The applicant shall file with the city administrator's office within five (5) working days of the date of the administrator's final decision, a request in writing for review by the city council, and the city administrator shall place the matter on the next council agenda following the administrator's decision.

- (2) If the administrator's final decision is contrary to the advice of the board with regard to any application, the decision of the city administrator shall be automatically reviewed by the council and the city administrator shall advise the city clerk, and the matter shall be placed on the next council agenda following the administrator's decision. The council may thereupon convene a public hearing or continue the matter to a public hearing at a more convenient date certain, not more than ten (10) days thereafter.
- (3) The council's decision with regard to any matter appealed to it pursuant to this article shall be based upon the criteria set forth in this article.

Sec. 27-514. - Design review protection, historic preservation guidelines, and certificate of appropriateness.

In considering an application for a certificate of appropriateness for a building or demolition permit, the preservation board shall be guided by the secretary of interior standard's for the treatment of historic properties with guidelines for preserving, rehabilitation, restoring and reconstructing historic buildings and the following general standards:

- (1) Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building, structure or site and its environment.
- (2) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible.
- (3) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.
- (4) Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
- (5) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be treated with sensitivity.
- (6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features substantiated by historic, physical or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- (7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
- (8) Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.
- (9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood, or environment.

Sec. 27-515. - Demolitions.

The preservation board, upon a request for demolition by a property owner, shall consider the following guidelines in evaluating applications for demolition of designated historic sites, or buildings, structures, or appurtenances within designated historic districts:

- (1) Whether the structure is of such interest or quality that it would reasonably fulfill criteria for designation for listing on the national register;

- (2) Whether the structure is of such design, craftsmanship, or material that it could be reproduced only with great difficulty or economically nonviable expense;
- (3) Whether the structure is one of the last remaining examples of its kind in the designated historic district within the city;
- (4) Whether retaining the structure would promote the general welfare of the city by providing an opportunity to study local history, architecture, and design, or by developing an understanding of the importance and value of a particular culture and heritage;
- (5) Whether there are definite plans for immediate reuse of the property if the proposed demolition is carried out, and what effect those plans will have on the character of the surrounding area.

Sec. 27-516. - Criteria for demolition permits.

- (a) No application for a permit to demolish a structure which is subject to this article shall be approved unless:
 - (1) It is found that the structure to be demolished is not historically or architecturally significant; and
 - (2) Preservation of the structure is not feasible; or
 - (3) The Yellowstone Historic Preservation Board with recommendations from the city building official has determined that the structure poses an immediate threat to public safety.
- (b) No disapproval of a permit to demolish shall be in effect for more than six (6) months after the board's recommendation. During such six-month period, the historic preservation board may take or encourage the taking of whatever steps seem likely to lead to the structure's preservation. The board may work with the property owner to seek alternative economic uses for the property, may consult with private civic groups, interested private citizens and other public boards or agencies.

Sec. 27-517. - Informal opinions.

The historic preservation board may, in its discretion, render informal opinions to any person contemplating application for a permit for building, exterior remodeling or demolition of any structure situated wholly or partially within the historic district. The board will not be bound by its informal opinions.

Sec. 27-518. - Public improvements.

Any public improvements installed within the historic district shall be compatible with the criteria for approval of permits for building or exterior remodeling set forth in this article to the extent that such installation does not conflict with the requirements of the Manual on Uniform Traffic-Control Devices.

Sec. 27-519. - Penalty.

Violations of this article are designated as municipal infractions and punishable by civil penalties as specified in section 18-1304.

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, and 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 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.

~~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 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, n~~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, n~~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 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

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~~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);

- c. 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. 27-612. - 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).
 - b. 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) *Reserved.*
- (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 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 (1/2) 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~~ cashier's 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.
 - (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.
 - (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 curbline 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 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 curblane 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	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 curblane or the extension of the curb on the cross street 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 curblane or the extension of the curb on the cross street 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	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	Entering 25 mph Street—Triangle measured along centerline of the driveway or alley 14 feet from back of curb by 175 feet along the curbline or the extension of the curbline on the cross street Entering 35 mph Street—Triangle measured along centerline of the driveway or alley 14 feet from back of curb by 250 feet along the curbline or the extension of the curbline on the cross street 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	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.

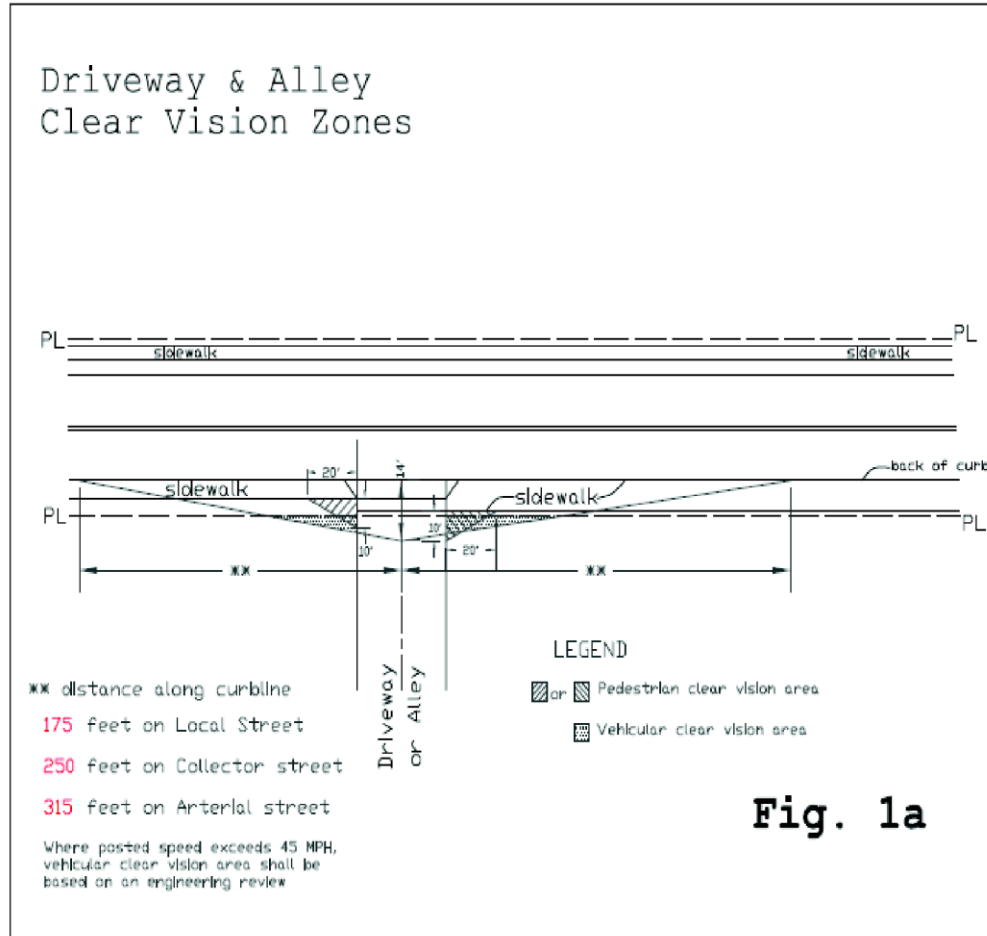


FIGURE 1b. VISIBILITY AT ALLEY AND DRIVE APPROACHES

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.

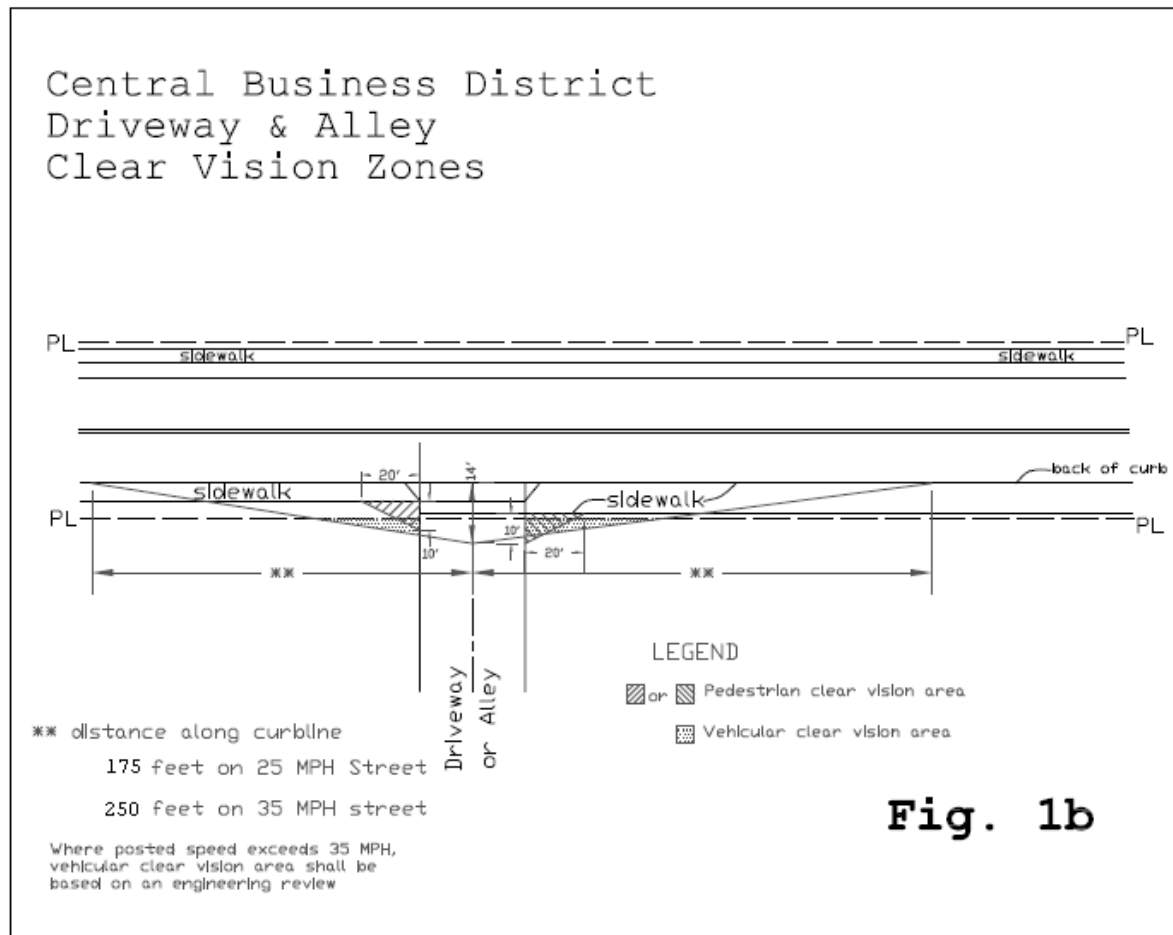


FIGURE 2a. VISIBILITY AT INTERSECTIONS: MINOR STREET STOP CONTROL

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

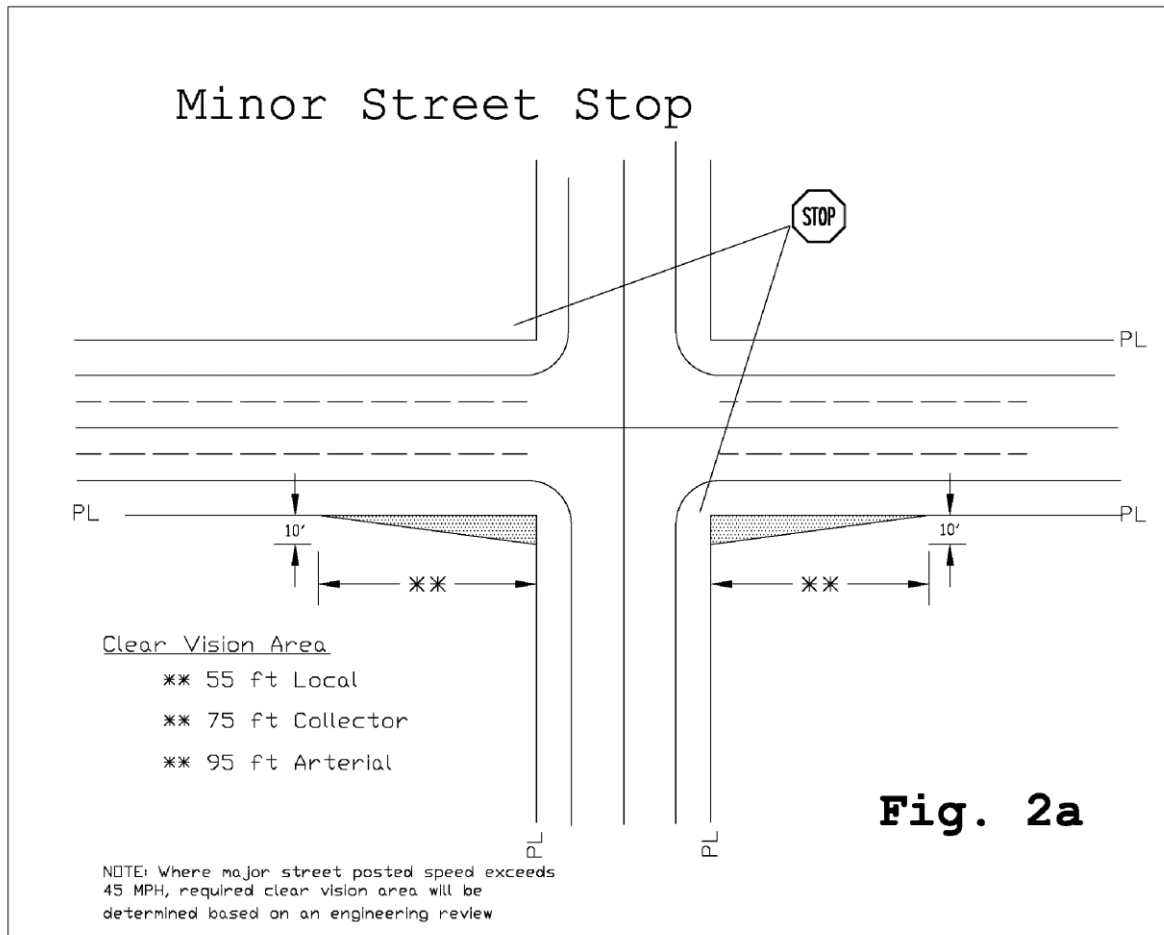


FIGURE 2b. VISIBILITY AT INTERSECTIONS: ALL-WAY STOP CONTROL

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

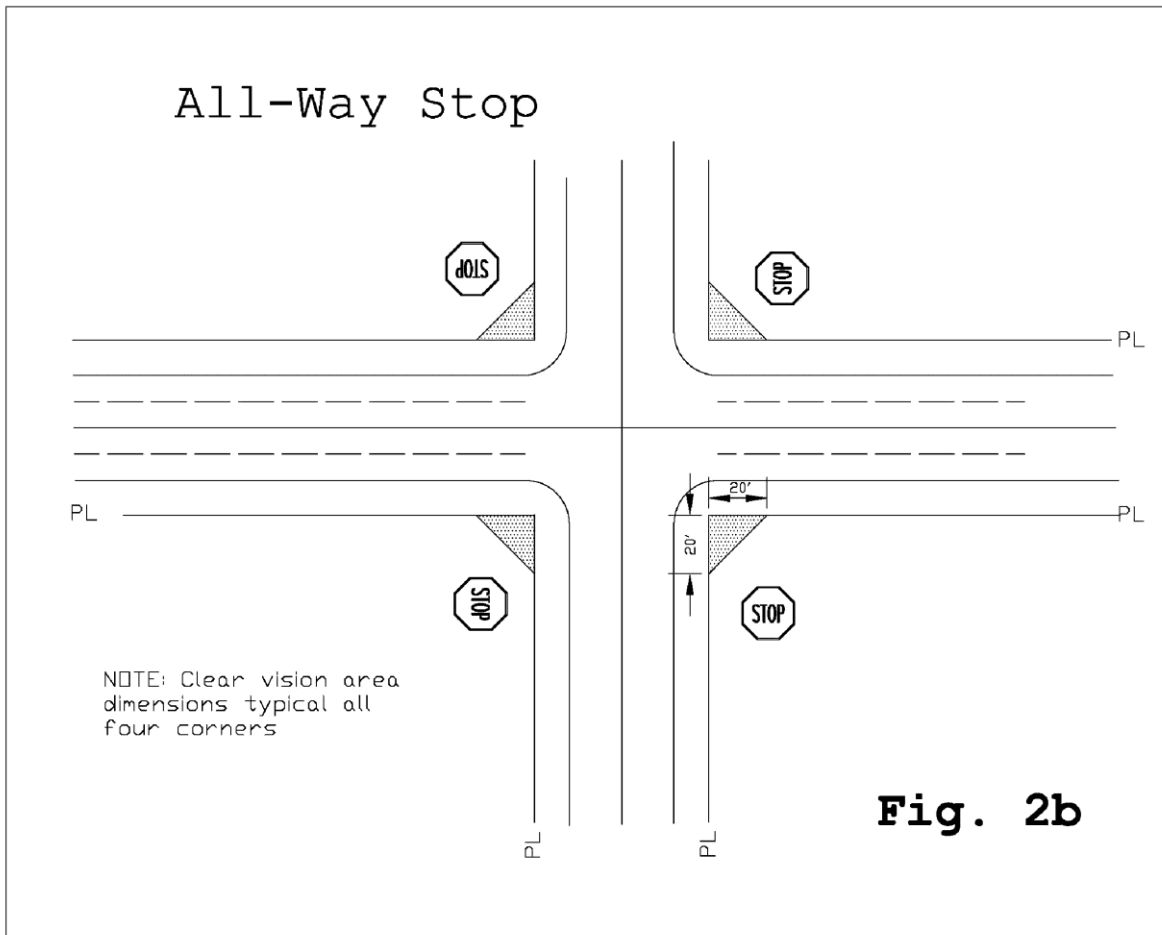
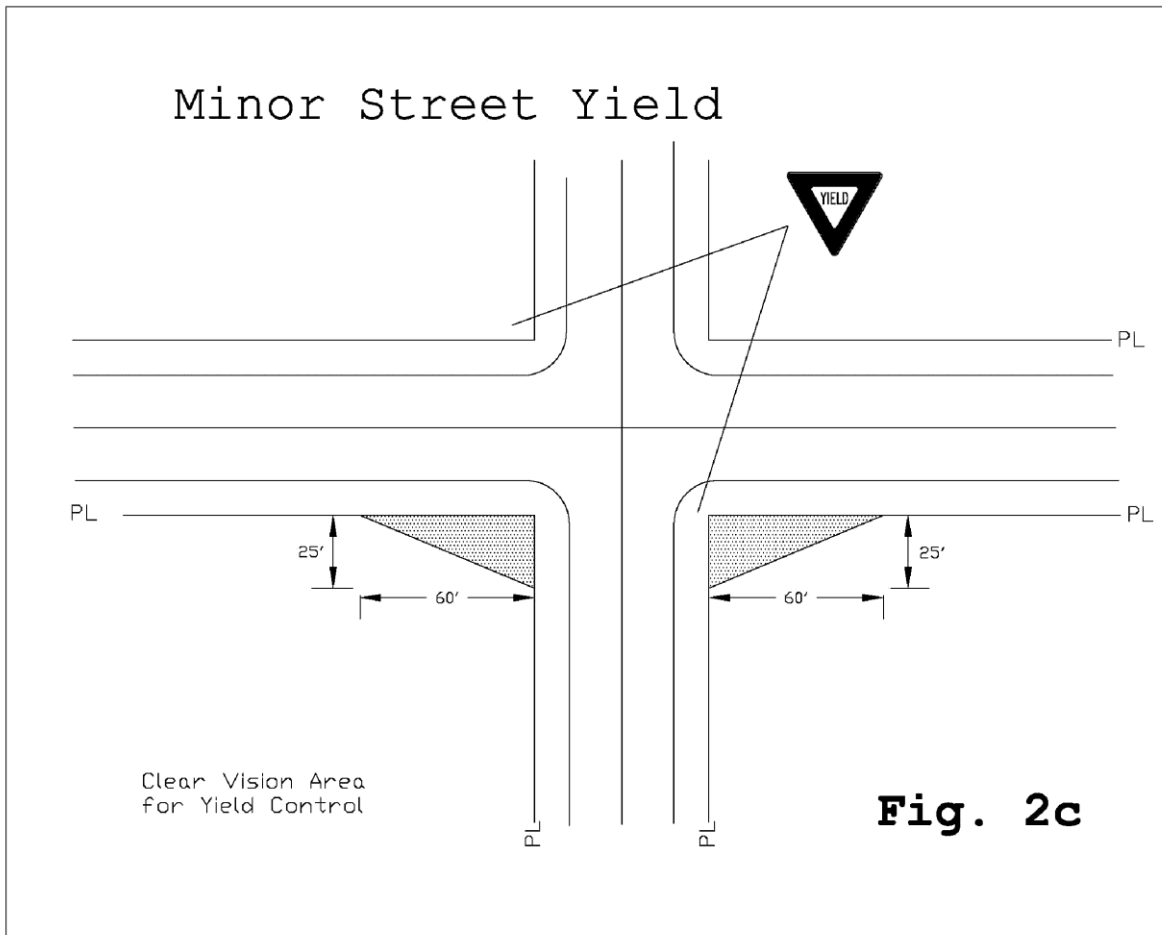


FIGURE 2c. VISIBILITY AT INTERSECTIONS: YIELD CONTROL

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

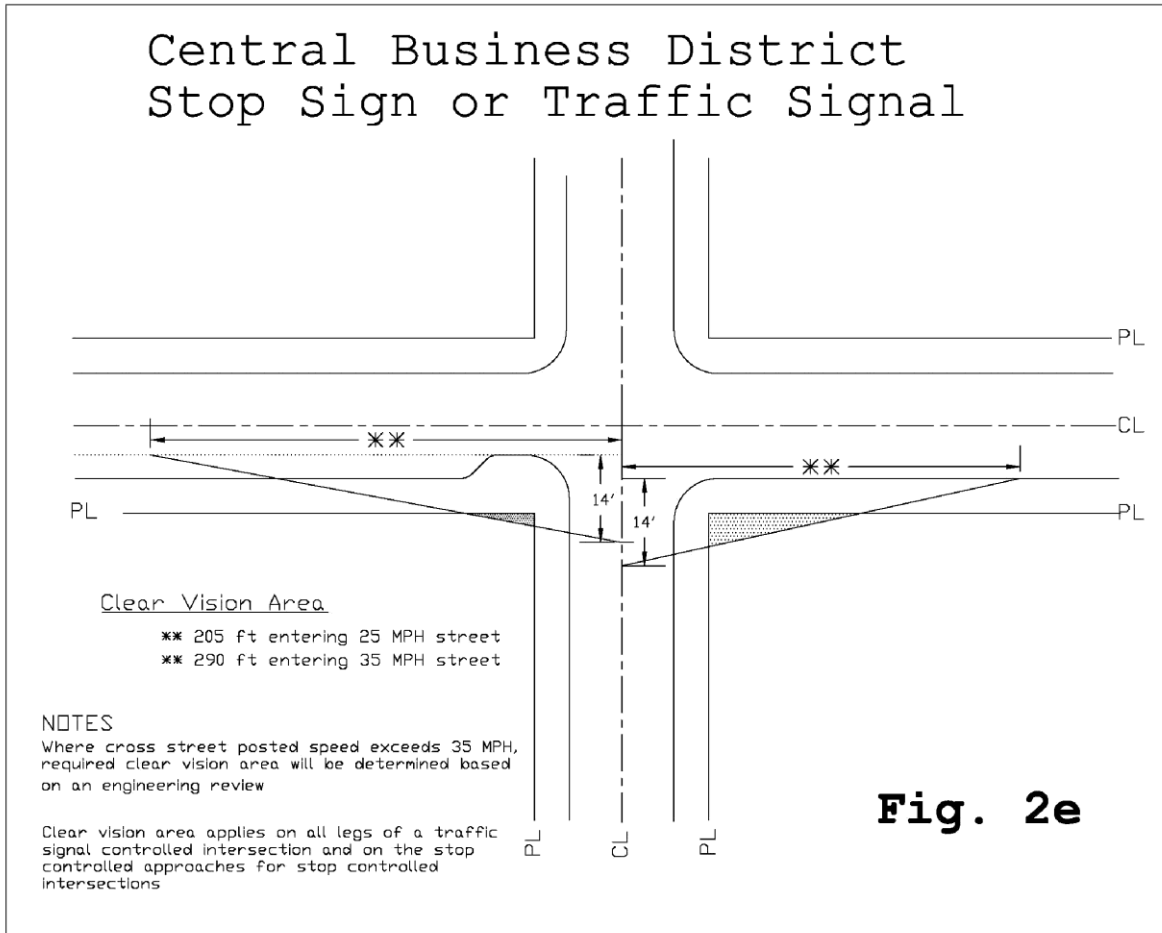


At any intersection where traffic is controlled by traffic signals the illustrated clear vision area shall be maintained.



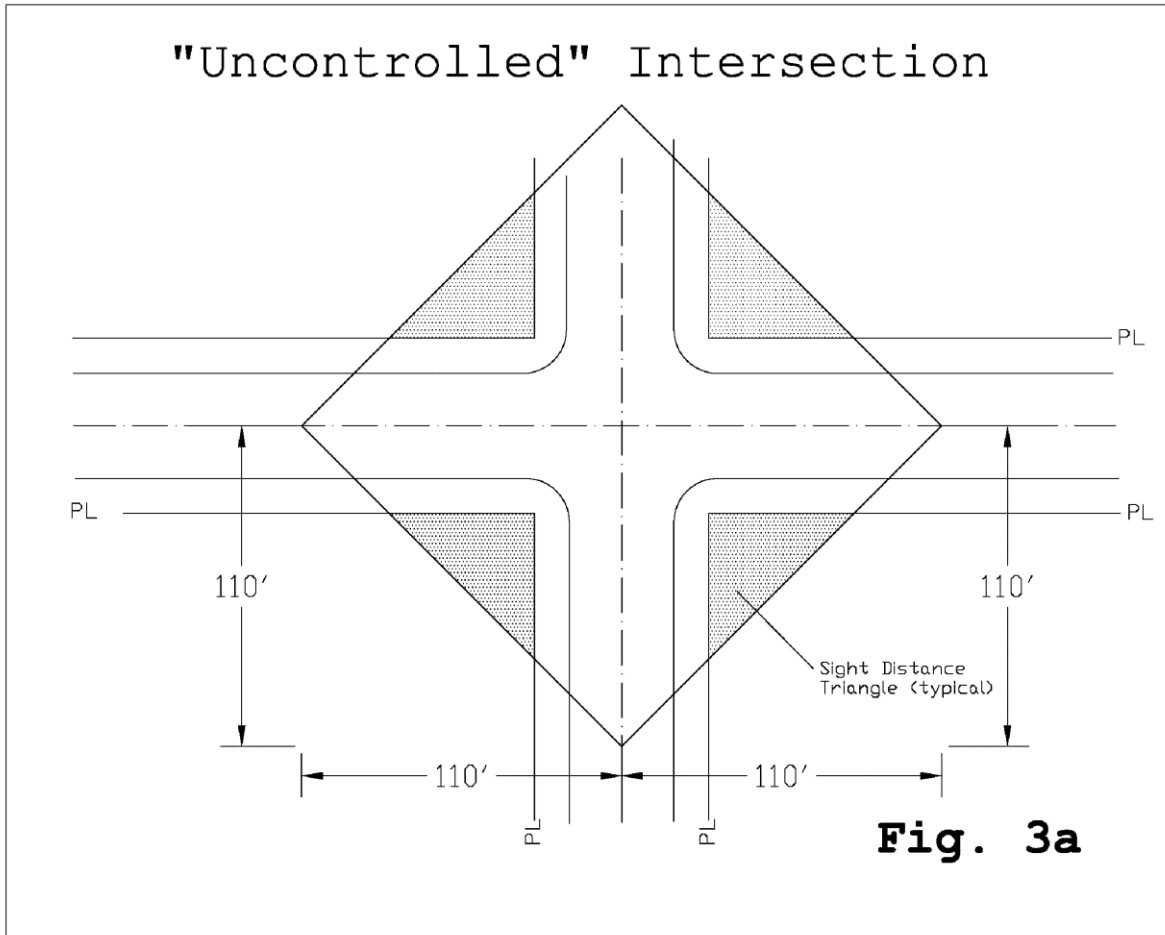
FIGURE 2e. VISIBILITY AT STOP SIGN AND TRAFFIC SIGNAL CONTROLLED INTERSECTIONS IN THE CENTRAL BUSINESS DISTRICT

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.



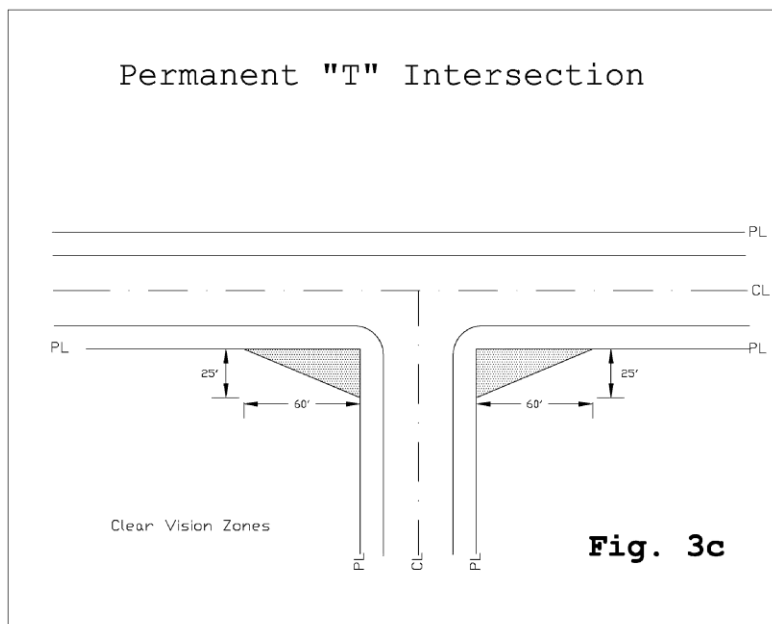
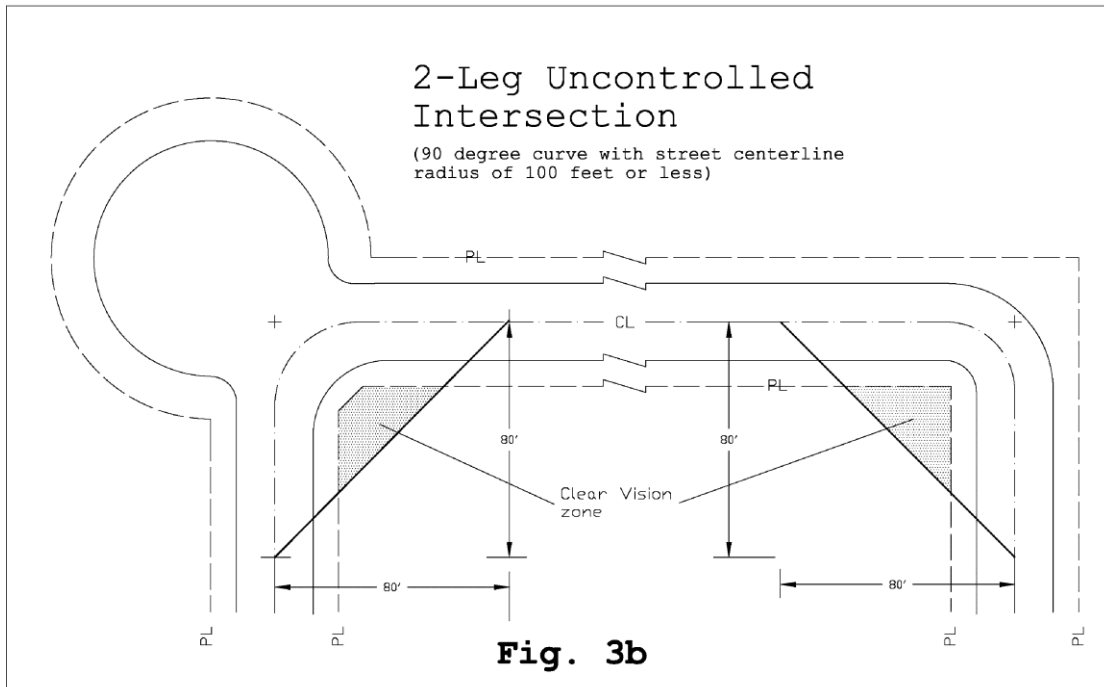


FIGURE 4. WATERCOURSE SETBACKS

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).

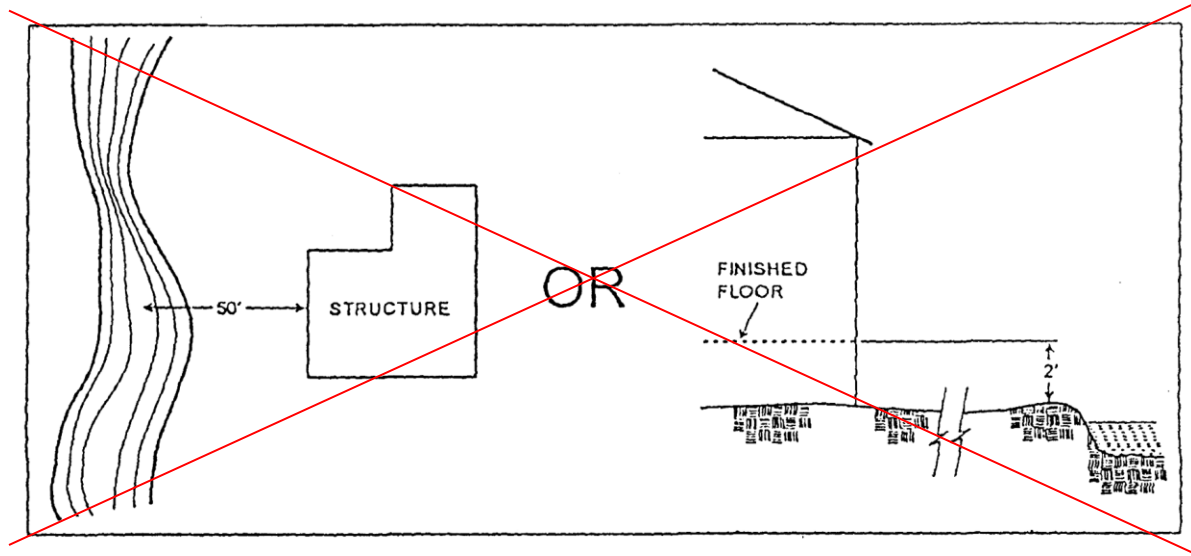
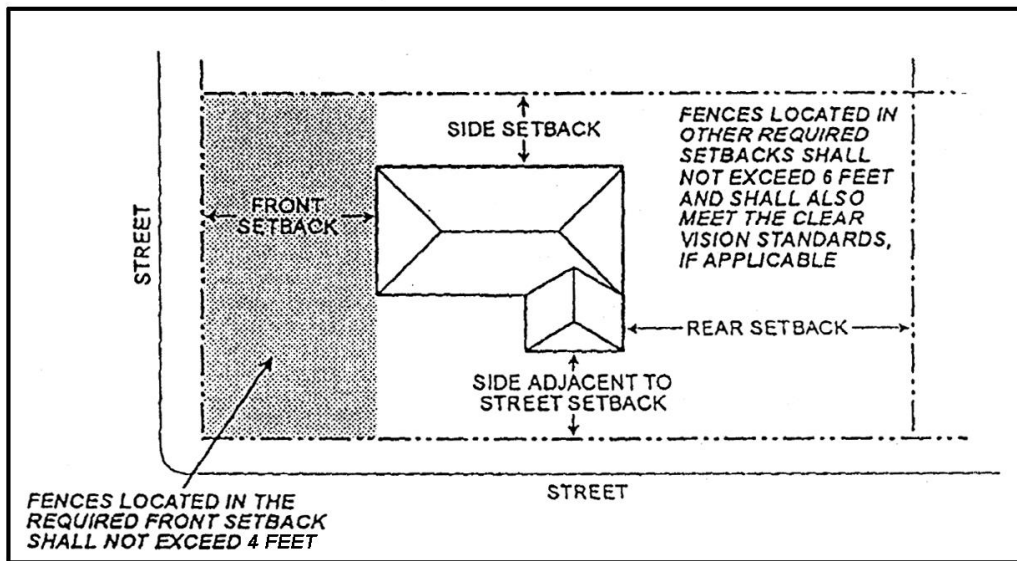


FIGURE 5. RESERVED

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 (AO) 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(c) 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(c) 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 commission~~. 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 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 ($\frac{1}{2}$) 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.

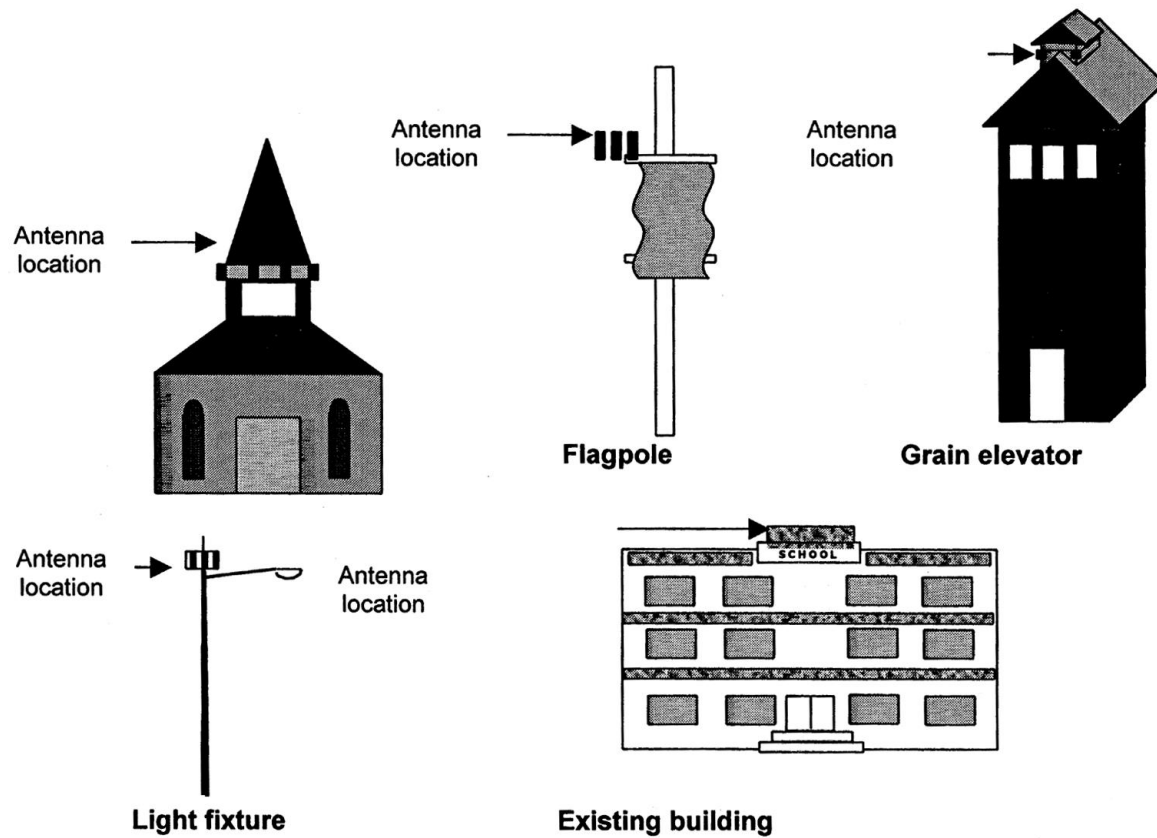
- (k) *Special review submittal requirements.* The applicant of new wireless communication facilities shall provide the following documentation for review by the city-county planning department:
- (1) A map to scale showing the service area of the proposed wireless communication facility and an explanation 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.
 - l. 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.
- (I) *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 County~~

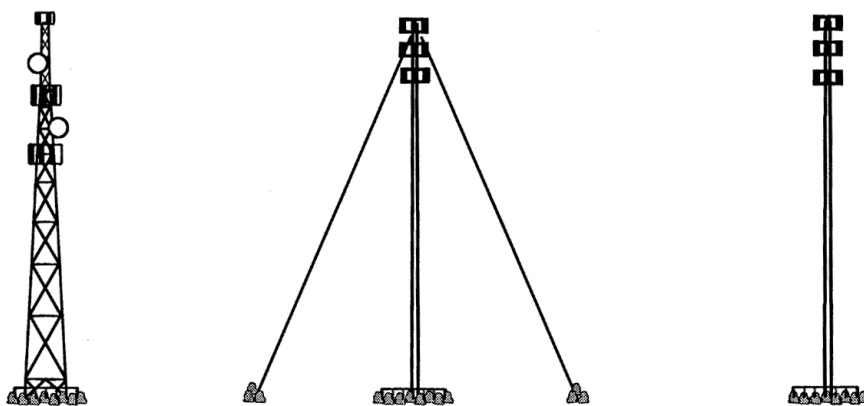
~~Commission~~ may issue special review approval under these sections provided they have determined that the requirements of these regulations have been satisfied and, further, that the benefits of and need for the proposed wireless communication facilities are greater than possible depreciating effects and damage to neighboring properties.

- (2) In granting special review approval, the city council ~~or Yellowstone County Commission~~ 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:



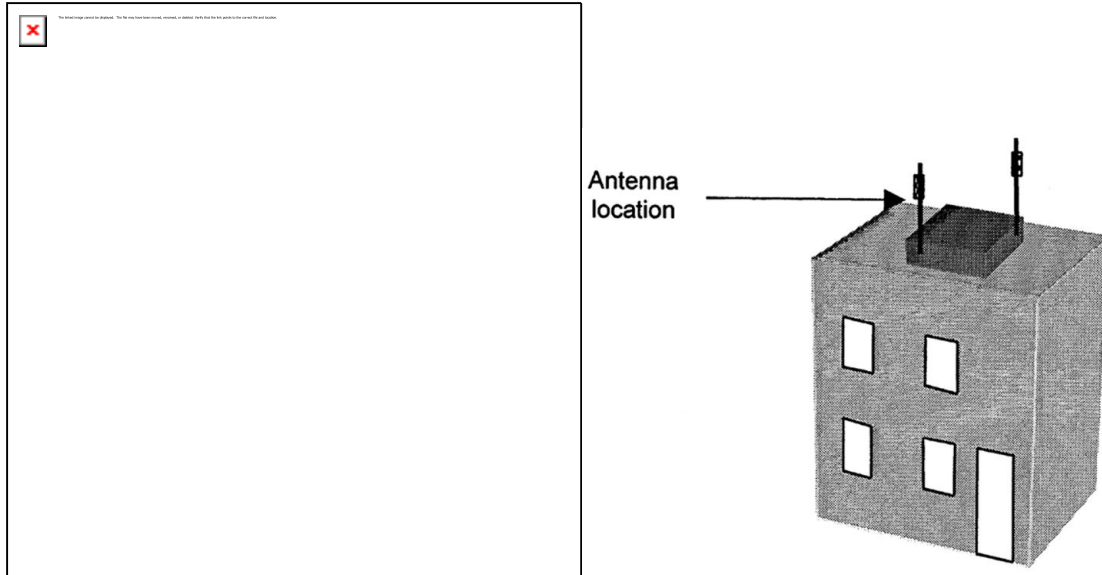
Alternative antenna support structures

(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) 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 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 ($\frac{1}{2}$) 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 County Commission~~ 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 County Commission~~ 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 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. City Building Permit. ~~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

DIVISION 1. - GENERALLY

Sec. 27-701. - Short title.

This article of the city zoning ordinance shall be known as the "Sign Code" hereafter called code.

Sec. 27-702. - Statement of purpose.

- (a) This article creates the legal framework for signage regulations that is intended to facilitate an easy and agreeable communication between people. It recognizes the need to protect the safety and welfare of the public, the need for well-maintained, and attractive and aesthetically pleasing appearance in a community, and the need for adequate business identification and advertising and communication.
- (b) This article authorizes the use of signs visible from public right-of-way provided the signs are:
 - (1) Compatible with their surroundings, pursuant to the objectives to proper design and zoning amenities;
 - (2) Allowing and promoting optimum conditions for meeting the sign user's needs while at the same time promoting the amenable environment and aesthetically pleasing appearance desired by the general public;
 - (3) Designed, constructed, installed and maintained in such a manner that they do not endanger public safety or traffic safety;
 - (4) Legible, readable and visible in the circumstances in which they are used;
 - (5) Respectful of the reasonable rights of other advertisers whose messages are displayed.

Sec. 27-703. - Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Ambient light monitor: A device that is attached to an electronic message display that measures on a continuous basis the brightness of light surrounding the sign. The monitor is connected to the system that controls the brightness of the electronic message display. The brightness is then automatically adjusted based on the measured ambient light.

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

Architectural blade sign: A wall sign or projecting sign with no legs or braces, on a structure or building larger than three (3) stories and designed to look as a part of the building structure, rather than something suspended from or standing on the building.

Awning, canopy or marquee: A roof-like shelter detached or extending from part or all of a [structure].

Balloon sign: Means any sign that is a balloon, inflatable figure, or inflatable structure. For purposes of this article, balloon signs do not include passenger hot air balloons used for air travel.

Building frontage: The linear length of a building facing the public access or right-of-way.

Canopy or marquee sign: Any sign attached to, constructed in or on a canopy or marquee or across a series of canopies or marquees located on the same building face.

Copy: The wording or message on a sign surface either in permanent or removable letter or panel form.

Electronic message display: A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

Flashing: The repetitive display of a single image (full or partial) interrupted by any other color, image or lack thereof at an interval of less than five (5) seconds. Motion borders fitting this definition are specifically included. See subsection 27-708(1).

Free-standing signs: Any sign supported by uprights or braces permanently placed upon the ground, and not attached to any building.

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

Ground level means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the sign and property line or, when the property line is more than five (5) feet from the sign, between the sign and a line five (5) feet from the sign.

Height of sign: The vertical distance measured from the finish ground level grade to the highest point of the sign. Exaggerated or artificial berming to increase height of sign shall not be permitted.

Identification sign: A sign which is limited to the name, address and number of a building, institution or person and to the activity/service carried on in the building or institution, or the occupancy of the person.

Interstate corridor: means the area of the city which is within six hundred sixty (660) feet of the nearest edge of the right-of-way of a designated interstate highway and which area is not in a residential zone or used for residential purposes.

Maintain: To permit a sign, structure or any part of each to continue or to repair or refurbish a sign, structure or any part of either.

Medical campus: means a definable area owned, developed, occupied, and used by the owner for medical and medical related services, even though the area consists of two (2) or more city blocks, provided however, the blocks are contiguous.

Nameplates:

(1) *Commercial nameplate:* A nonelectric sign identifying only the name and occupation or profession of the occupant of premises on which the sign is located.

(2) *Residential nameplate:* A nonelectric sign identifying only the name and address of the occupant.

Neighborhood watch sign: Neighborhood watch is a national program based upon the idea that community members can prevent or help deter crimes in their neighborhoods. The neighborhood watch program is administered by local law enforcement. A neighborhood watch sign is a sign obtained through the local law enforcement agency that is posted on property within a residential or public zoning district.

Nonconforming sign (legal): Any advertising structure or sign which was lawfully erected and maintained prior to such time as it came within the purview of this article and any amendments thereto, and which fails to conform to all applicable regulations and restrictions of this article, or a nonconforming sign for which a special permit has been authorized.

Off-premise/billboard electronic displays: An off-premise/billboard electronic display is a sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means and which directs attention to a business, activity, products, commodity, service, entertainment or communication which is not conducted, sold, or offered at the premises on which the sign is located, or which does not pertain to the premises upon which the sign is located. An electronic off-premise/billboard display shall not include any other visual effects including but not limited to animation, motion pictures, video, holograms, moving parts or the illusion of movement and shall not include any audible sound.

Off-premise/billboard sign: A sign which directs attention to a business, activity, products, commodity, service, entertainment or communication which is not conducted, sold, or offered at the premises on which this sign is located, or which does not pertain to the premises upon which the sign is located.

On-premise sign: means any sign identifying or advertising a business, activity, goods, products or services located on the premise where the sign is installed and maintained.

Owner: A person recorded as such on official records and including duly authorized agent.

Parcel: A single tract or parcel of land, no matter how legally described whether by metes and bounds, certificate of survey, and/or by lot or lots and block designation as in a recorded plat, which at the time of applying for a building permit is designated by its owner or developer as the tract to be used, developed or built upon as a unit of land under single ownership or control and assigned to the particular use for which the building permit is being secured and having frontage on or access to a public street over an easement approved by the city engineer.

Penthouse: A structure on top of a building roof such as houses, an elevator shaft, or similar form.

Premises: An area of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

Primary public entrance: means an entrance to a business which is open to the public during its normal and customary hours of operations and the entrance is used as the primary ingress and egress to the business by the public.

Projecting signs: means a sign other than wall sign which is suspended from or supported by a building or wall and which projects more than twelve (12) inches.

Public right-of-way width: The perpendicular distance across a public street measured from property line to property line. When property lines on opposite sides of the public street are not parallel, the public right-of-way width shall be determined by the city engineer.

Roof sign: Means a sign erected, constructed and maintained upon, or connected to any roof of any building with the principal support on the roof structure. This definition excludes architectural blade signs.

Shopping center or mall: A shopping center is a mix of retailing land and service uses offering both essential and nonessential goods and services, with at least five (5) stores or one hundred thousand (100,000) square feet, and that attracts consumers from a region-wide market area.

Sign: Any identification, description, illustration or device illuminated or nonilluminated which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, placard or temporary sign designed to advertise, identify or convey information, with the exception of window displays and national flags. For the purpose of removal, signs shall also include all sign structures.

Sign administrator: The city administrator or his or her designated representative.

Sign area means the entire area within any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure or character. The area of the sign having no such perimeter or border shall be computed by enclosing the entire area with parallelograms, triangles or circles of the smallest size sufficient to cover the entire area of the sign and computing the area of these parallelograms, triangles or circles. The area computed shall be the maximum portion or portions which may be viewed from any one direction.

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

Temporary/portable sign: A sign advertising on an interim basis special business sales, new business openings, special events, goods, products, services, or facilities located on premise. A temporary sign is differentiated from a permanent sign in that a permanent sign is attached to a building or structure or affixed in the ground. A temporary/portable sign is mobile and free-standing. Any electrical temporary sign shall comply with all city electrical codes.

Under canopy sign: A sign suspended below the ceiling or roof of a canopy.

Unlawful sign: A sign which contravenes this article or which the administrator may declare as unlawful if it becomes dangerous to public safety by reason of dilapidation or abandonment or a nonconforming sign for which a permit required under a previous sign code was not obtained.

Use: The purpose for which a building, lot, sign or other structure is arranged, intended, designed, occupied or maintained.

Video: Means the display of a succession of single images at a rate of twenty (20) frames per second or higher.

Wall sign means any sign painted on, mounted on, attached to or erected against the wall of a building and approximately paralleled to the face of a principal building wall and projecting not more than twelve (12) inches from the plane of the wall. Street graphic on the outside of a window is considered a wall sign.

Sec. 27-704. - Permits, fees, inspection and indemnification.

- (a) *Permits required*. Except as otherwise provided in this article, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign in the city or cause the same to be done, without first obtaining a sign permit for each sign from the sign administrator as required by this article. These directives shall not be construed to require any permit for a change of copy on any sign, nor for the repainting, cleaning and other normal maintenance or repair of a sign or sign structure for which a permit has previously been issued, so long as the sign or sign structure is not modified in any way. No new permit is required for signs which have permits and which conform with the requirements of this article on November 24, 1980 unless and until the sign is altered or relocated.

Every sign permit issued by the sign administrator shall become null and void if installation is not commenced within one hundred twenty (120) days from the date of such permit. If work authorized by such permit is suspended or abandoned for one hundred twenty (120) days any time after the work is commenced, a new permit shall be first obtained to do so, and the fee will be one-half the amount required for a new permit for such work, provided that no changes have been made in the original plans. Such permit may not be unreasonably withheld, providing that proper application and payment of permit fees is complied with and a proper application is fully and correctly completed.

- (b) *Sign contractor's license*. No person shall perform any work or service for any person or for any government entity for compensation, in or in connection with the erection, construction, enlargement, alteration, repair, moving, improvement, maintenance, conversion or manufacture of any sign in the city, or any work or service in connection with causing any such work to be done unless such person shall first have obtained a sign contractor's license and bond from the city and paid the license fees provided for by the city, or shall be represented by a duly licensed agent or subcontractor.

- (c) *Permission to install.* No person shall erect, construct or maintain any sign upon any property or building without the consent of the owner or person entitled to possession of the property or building if any, or their authorized representatives.
- (d) *Application for permit.* Application for a permit shall be made to the sign administrator upon a form provided by the sign administrator and shall be accompanied by such information as may be required to assure compliance with all appropriate laws and regulations of the city including:
 - (1) Name and address of owner of the sign;
 - (2) Name and address of owner or the person in possession of the premises where the sign is located or to be located;
 - (3) Clear and legible drawings or photo with description definitely showing location of the sign which is the subject of the permit and all other existing signs whose construction requires permits, when such signs are on the same premises;
 - (4) Drawings showing the dimensions, construction supports including footings, sizes, materials of the sign and method of attachment and character of structural members to which attachments are to be made. A certification of the total electrical energy consumption of all sign components (lights, motors, etc.) stated in watts. The design, quality, materials and loading shall conform to the requirements of the currently adopted Uniform Building Code, as amended, and the National Electrical Code. If required by the sign administrator, engineering data shall be supplied on plans submitted certified by a licensed professional engineer;
 - (5) Statement certifying that applicant has reviewed the site development ordinance, section 6-1205, and believes that applicant is in compliance with this article.
- (e) *Issuance; denial.* The sign administrator shall issue a permit for the erection, alteration or relocation of a sign within the city when an application therefor has been properly made and the sign complied with all appropriate laws and regulations of the city. The sign administrator may, in writing, suspend or revoke a permit under provisions of this section whenever the permit is issued on the basis of a misstatement of fact or fraud. When a sign permit is denied by the sign administrator, he or she shall give written notice of the denial to the applicant, together with a brief written statement of the reasons for the denial.
- (f) *Effect of issuance.* No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.
- (g) *Permit fees.* Application for permits shall be filed with the sign administrator, together with a permit fee as specified by the sign administrator, for each sign in accordance with the schedule established by the city administrator.
- (h) *Sign permit appeals:*
 - (1) *Appeal from denial of permit.* Appeal may be taken to the board of adjustment from the sign administrator's denial of a sign permit.
 - (2) *Appeal from failure of sign administrator to grant permit within thirty (30) days.* The sign administrator's failure to either formally grant or deny a sign application within thirty (30) days of the date an application meeting the requirements of this article is filed shall be grounds for appeal to the board of adjustment under the terms of this chapter.
- (i) *Notice of change of sign owner or user.* Whenever there is a change in the sign user, owner, or owner of the property on which the sign is located, the new sign user, owner or new property owner shall forthwith notify the sign administrator of the change. No new sign permit is required, unless the sign is altered or relocated (or existed as a nonconforming use prior to November 24, 1980).
- (j) *Inspection.* The person erecting, altering or relocating a sign shall notify the sign administrator upon completion of the work for which permits are required.

- (1) *Inspections.* All signs shall be subject to a final inspection by the sign administrator or shall require a certificate of compliance from a licensed sign installer.
- (2) *Maintenance.* Every sign in the city, including but not limited to those signs for which permits or for which no permits or permit fees are required, shall be maintained in good structural condition at all times. All signs, including those exempted, shall be kept neatly painted, including all metal parts and supports by which these conditions are deteriorating. The sign administrator shall inspect and have the authority to order the painting, repair, alteration or removal of signs which become dilapidated or are abandoned, or which constitute physical hazard to the public safety.
- (3) *Signs declared unlawful.* The sign administrator may declare any sign unlawful if it endangers public safety by reasons of inadequate maintenance, dilapidation or abandonment. Any such declaration shall state the reasons of the sign administrator for stating that the sign constitutes a safety hazard to the general public.

Any sign owned, kept, displayed or maintained by any person with the city, the ownership keeping a display which is unlawful pursuant to the provisions of this article, is hereby declared to be in violation of this article. The sign administrator may declare any such sign to be unlawful, and such declaration shall state in writing the reason or reasons why such sign and the keeping, owning, maintenance, construction and display or operation thereof, is unlawful under the terms of this article.

Sec. 27-705. - Signs permitted in zoning districts of city.

- (a) *Residential zones.* Within any residential zone, signs or residential nameplates are permitted as follows:
 - (1) For each single-family home or duplex house, one (1) residential nameplate not exceeding a combined sign area of two (2) square feet for each occupancy. The nameplate shall not be subject to the permit requirements of this article. Commercial nameplates shall not be permitted in residential zones;
 - (2) For multiple-family uses, rooming and boarding houses, one (1) identification sign for each developed parcel, not exceeding twelve (12) square feet in sign area;
 - (3) Identification signs, bulletin boards, and other similar structures for governmental agencies which may be regulated by the city are subject to approval thereof by the sign administrator;
 - (4) All signs, except for neighborhood identification signs provided in subsections (6) and (7) below, shall be placed flat against a building or designed as part of an architectural feature thereof;
 - (5) No sign shall block any means of egress or any window;
 - (6) For a neighborhood or tract, two (2) identification signs per tract entrance. A sign, masonry wall, landscaping and other similar materials or features may be combined to form a display for neighborhood or tract identification, provided that the legend of such sign or display shall consist only of the neighborhood, tract, or developer's name and logo. No sign or structure shall exceed thirty-two (32) square feet in size nor be over eight (8) feet in height as established from the street grade and must be located a minimum of five (5) feet behind all property lines.
 - (7) For each developed parcel within a residential zone, one (1) neighborhood watch sign may be posted for each street frontage. The total area of all neighborhood watch signs on a developed parcel will not exceed sixteen (16) square feet in sign area.
- (b) *Residential professional and public zones.* Within these zones, signs are permitted as follows:
 - (1) One (1) identification sign or commercial nameplate for each developed parcel not to exceed a total of thirty-two (32) square feet in sign area for all displays;
 - (2) Signs shall be placed flat against a building or designed as part of an architectural feature thereof. Signs may also be detached if they do not exceed a height of eight (8) feet. Detached signs must be located a minimum of five (5) feet behind all property lines;

- (3) No height limit is specified for signs placed flat against the wall of a building or for other attached signs provided all other provisions of this article are complied with;
 - (4) Each occupancy within the developed parcel may have an individual nameplate not exceeding four (4) square feet;
 - (5) When a developed parcel fronts on more than one (1) public right-of-way or street, excluding alleys and serviceways, the above provisions of subsection (b) shall apply to each frontage.
 - (6) For each developed parcel within a residential professional or public zone, one (1) neighborhood watch sign may be posted for each street frontage. The total area of all neighborhood watch signs on a developed parcel will not exceed sixteen (16) square feet in sign area.
- (c) *Community commercial, neighborhood commercial, highway commercial, controlled industrial, heavy industrial, Central Business District.*

(1) *Freestanding signs.*

	Number of Signs Permitted	Sign Area Permitted	Maximum Square Footage Per Sign	Maximum Height	Minimum Setbacks from all Property Lines
Freestanding Signs	One (1) per street frontage**	3 square feet per lineal foot of street frontage	175 square feet per side	30 feet	5 feet*
Freestanding Signs Central Business District Only	One (1) per street frontage**	3 square feet per lineal foot of street frontage	175 square feet per side	30 feet	0 feet for sign face

* If the bottom of the sign face is twelve (12) feet or higher above the established grade, then the sign support structure may be located up to one (1) foot behind the property line.

** Where a developed property abuts more than 300 lineal feet of street frontage, one (1) additional free-standing may be erected for each additional 300 feet of street frontage. Where a developed parcel has frontage on more than one (1) public right-of-way or street, excluding alleys, driveways, and service ways the provisions of this subsection shall apply to each street frontage, as follows:

Street Frontage	Number of Signs Permitted
0—599 feet	1 free-standing sign
600—900 feet	2 free-standing signs
901—1200 feet	3 free-standing signs
Over 1200 feet	3 free-standing signs, plus 1 additional sign for each 300 lineal street frontage feet over 1200 frontage feet

- a. *Distance between signs.* For properties where more than one (1) freestanding sign is permitted, the distance between freestanding signs shall be a minimum of one hundred fifty (150) feet;
- b. *Sign height.* No free-standing sign shall exceed the height of thirty (30) feet except free-standing signs in the highway commercial zone and within the interstate right-of-way which shall not exceed the height of fifty (50) feet.
 1. If a free-standing sign projects over a private vehicular driveway or parking lot aisle, the minimum clearance of seventeen (17) feet shall be maintained between the bottom of the sign edge and the established grade of the site;
 2. Rotating freestanding signs shall have a minimum clearance of nine (9) feet between the bottom of the sign edge and established grade of the site. Rotating, free-standing signs shall maintain no more than six (6) revolutions per minute.
- c. *Sign location.* For any off-premises signs located within six hundred sixty (660) feet of an interstate or state controlled highway, street, or road right-of-way, a copy of the Montana Department of Transportation (MDT) permit shall be required and submitted with the city permit application in accordance with Section 18.6.211, Administrative Rules of Montana (ARM).

(2) *Wall, canopy, or projecting signs.*

- a. Wall, canopy, projecting signs, roof signs or any combination thereof, indicating the name and nature of the occupancy for each occupancy located on a property is permitted, provided that they do not exceed the maximum square footage permitted.

	Sign Area Permitted	Minimum Height	Minimum Setbacks from all Property Lines
Wall Sign	3 square feet per lineal foot of building frontage	N/A	0 feet
Canopy or Projecting Signs	3 square feet per lineal foot of building frontage	9 feet from approved grade	0 feet
Canopy or Projecting Signs Central Business District Only	3 square feet per lineal foot of building frontage	9 feet from approved grade	Maximum projection of 2/3 of the sidewalk*
Under Awning or Canopy Signs for Buildings with Awnings or Canopies over the Right-of-Way Central Business District Only	3 square feet per lineal foot of building frontage	8 feet from approved grade	Maximum Projection of 2/3 of the sidewalk*
Roof Sign One permitted in lieu of a wall sign	3 square feet per lineal foot of building frontage*	N/A	N/A

*An encroachment permit shall be obtained from the city engineering department for any projecting or canopy sign that encroaches into the public right-of-way

** Primary entrance signs shall indicate only the name of the occupancy. The allowable sign area shall be reduced for each wall sign installed over any primary public entrance.

- b. Roof signs shall not extend above the highest plane of the roof.
 - 1. The supports, anchors, or braces for the roof sign shall be enclosed so that they are not visible from the street or other public or private property.
 - 2. Signs shall be similar to a wall sign or projecting sign, and designed to look like part of the building or roof structure, rather than something suspended from or standing on the building.

(3) *Electronic message display signs.*

- a. Limitations on electronic message displays.
 - 1. An electronic message display (EMD) may only be used in conjunction with an immediately adjacent wall sign or as part of a free standing sign and shall not be displayed on its own. The EMD shall not be larger than forty (40) percent of the total square footage of the permanent graphic portion of the sign when compared as separate components. For purposes of determining the allowable total sign area, the permanent graphic portion of the sign and the EMD shall be included in the same perimeter inclusive of any physical separation between the two (2) components.
 - 2. Only one (1) electronic message display (EMD) freestanding sign per developed parcel or one (1) EMD wall sign per street frontage may be allowed. Sign(s) must be included in the total number of signs allowed not in addition to the number of signs allowed.
 - 3. An electronic message display (EMD) wall sign may only be used in conjunction with an immediately adjacent permanent graphic sign and not alone. EMD signs that are not enclosed within the primary wall sign will be required to have a frame to visually diminish the black box effect of the EMD. The frame shall be no less than eight (8) inches in width and no greater than eighty (80) percent of the EMD cabinet depth or exceed fifty (50) percent of the EMD area. The required frame area for EMD wall signs shall not count towards the maximum allowable sign area. The maximum height of an EMD wall sign shall be forty (40) feet from the building wall grade. EMD wall signs shall not be placed less than two (2) feet from the top of the wall it is installed on.
 - 4. An electronic message display (EMD) may be allowed provided it does not flash, scintillate, blink, show motion borders or traveling lights or display video (unless specifically permitted in special sign districts).

b. Size of free standing electronic message displays.

Street Type	Maximum Portion of Allowable Sign Area*	Maximum Total EMD Sign Size*
Principal Arterial	40%	100 square feet
Minor Arterial	40%	40 square feet
Collector	40%	40 square feet
Commercial Local Access	40%	40 square feet

* - Maximum Portion of Allowable Sign Area or Maximum Total EMD sign size whichever is less

c. Size of electronic message display wall signs.

Street Type	Maximum Total EMD Sign Area*
Principal Arterial	80 square feet
Minor Arterial	50 square feet
Collector	50 square feet
Commercial Local Access	50 square feet

* - Maximum Portion of Allowable Sign Area or Maximum Total EMD sign size whichever is less

- d. Electronic message displays (EMDs) must be equipped with an automatic image dimming capability (ambient light monitors). This feature must be enabled at all times, allowing the display to automatically adjust brightness based on ambient light conditions. The sign must be operated at a brightness level no greater than the manufacturer's recommended levels.
- e. The following conditions apply to all EMD sign permits. Failure to comply shall result in the sign ceasing operation until compliance occurs.
 1. That the sign shall at all times be operated in accordance with city codes and that the owner or operator shall provide proof of such conformance within 24-hours of a request by the city;
 2. That a city inspector may access the property upon twenty-four (24) hours notice to the owner, operator or permittee so that the city may verify that the EMD has the automatic image dimming capability engaged. In the event of a citizen complaint regarding the EMD brightness, the owner, operator or permittee may be required by the city inspector to manually reduce the brightness to a lower setting;
 3. That whether the sign is programmed from the site or from a remote location, the computer interface that programs the sign and the sign's operation manual shall be

available to city staff upon twenty-four (24) hours notice to the owner, operator or permittee.

- f. Sign permit applications to install an EMD must include a certification from the owner or operator that the sign shall at all times be operated in compliance with the conditions set out in city code. The owner, operator or permittee shall immediately provide proof of such conformance upon request of the city.

(d) *Historic District zone.*

- (1) *Statement of special purpose.* This special code acknowledges the unique visual concerns associated with the Billings Townsite Historic District as defined in section 6-1103, and recognizes the benefits of restoring the district's visual appearance of prosperity, cohesiveness, and historic integrity, while continuing to promote business advertising variety, individuality, and growth.
- (2) *Signs permitted in historic district.* Within the Billings Townsite Historic District, signs are permitted as follows:
 - a. Signs and sign lettering within the Billings Townsite Historic District shall be designed and installed to compliment the architectural style.
 - b. No sign will be permitted to obscure or cover any significant architectural detail or decorative element of the existing building.
 - c. Only signs that advertise an activity, business, product or service conducted or available on the premises on which the sign is located, shall be allowed within the Billings Townsite Historic District.
 - d. No new roof signs shall be permitted.
 - e. Excluding window signs, one additional sign type per business is allowed, except for business with entrances on more than one street, in which case one sign type per street entrance is allowed.
 - f. No off-premise signs are permitted.
 - g. The size of signs in the historic district is limited to fifty (50) percent of that allowed in this article.
 - h. Once the copy of an existing sign is changed it must come into compliance with the special provisions of the historic sign district and the existing sign code.

Sec. 27-706. - Special circumstance signs.

- (a) *Service station or convenience (gasoline) store signs.* Regardless of which zoning district a service station or convenience (gasoline) store is located within, such uses shall be permitted the following signs:
 - (1) One (1) free-standing sign indicating only the name and nature of the occupancy for each developed parcel not to exceed three (3) square feet of sign area for each lineal foot of street frontage abutting the developed portion of the parcel, provided that:
 - a. Signs will be permitted as follows:

Frontage Feet	Signs
0—600	1 free-standing sign
601—900	2 free-standing signs

901—1200	3 free-standing signs
Over 1200	3 free-standing signs plus, 1 additional sign for each 300 lineal street frontage feet over 1200 frontage feet

- b. Where a developed parcel is permitted to have more than one (1) free-standing sign under this article, the distance between the free-standing signs on each parcel shall be not less than one hundred fifty (150) frontage feet;
 - c. The sign must be located five (5) feet behind all property lines except:
 - (i) If the bottom of the structure is twelve (12) feet or higher above the establish grade, then the sign structure may be located up to one (1) foot behind the property line; or
 - (ii) If the sign is in the Central Business District, then the sign structure can be located up to the property line.
 - d. No free-standing sign shall exceed the height of thirty (30) feet except free standing signs in the highway commercial zone which shall not exceed the height of fifty (50) feet. No signs shall exceed one hundred seventy-five (175) square feet in sign area. One (1) measured side of the display shall compose the square footage;
 - e. No rotating free-standing sign shall rotate at a rate faster than six (6) revolutions per minute or have a minimum clearance lower than nine (9) feet between the bottom of the sign and the ground;
 - f. When a developed parcel fronts on more than one (1) public right-of-way or street, excluding alleys and serviceways, the above provisions of subsection a. shall apply to each frontage.
- (2) One (1) wall or one (1) canopy sign and four (4) architectural blade signs indicating only the name and nature of the occupancy for each occupancy within the developed parcel as follows:
- a. No sign shall exceed a total area of three (3) square feet of sign area for each lineal foot of building frontage of each occupancy except buildings over two (2) stories shall be allowed an additional one (1) square foot of copy for each lineal foot of building frontage of each occupancy;
 - b. If such occupancy is on a corner, one (1) wall sign or one (1) canopy sign will be permitted for each frontage face;
 - c. A permitted wall sign(s) can be transferred from one wall to another wall provided the number of signs remain within the permitted number of signs and within allowable sign area;
 - d. No wall or canopy signs shall project into the public right-of-way, except:
 - (i) In the Central Business District, wall signs may project eighteen (18) inches over the right-of-way, subject to a minimum height limit of nine (9) feet from the sidewalk; and
 - (ii) In the Central Business District, canopy signs may project up to two (2) feet to a vertical line from the curb face over the right-of-way.
 - e. If the building includes a canopy, each tenant will be permitted one (1) under canopy sign. Any signs attached to the underside of a canopy shall be perpendicular to the wall face of building and shall not have a copy area greater than four (4) square feet or have a clearance lower than of eight (8) feet from the sidewalk.
- (3) A maximum of four (4) wall signs may be located on or incorporated within the pump island canopy structure, whether attached or detached from the main structure/building. Such signs shall not

project above the top of the canopy structure, shall not exceed a maximum area of twenty (20) square feet for each sign face, and each sign shall be limited in length to a maximum of fifty (50) percent of the long dimension of the canopy on which the sign is located. This section shall not prohibit the placement of trademark symbols on individual gasoline pumps.

- (4) One (1) poster/price sign structure shall be permitted and shall not exceed four (4) feet in width and six (6) feet in height from the ground level. Such poster type signs shall be located at an approved site. Such signs may be used for price or special message advertising.
- (5) Temporary signs shall be permitted pursuant to section 27-706(e).
- (6) Electronic message display signs may be permitted pursuant to subsection 27-705(c)(3).

(b) *Off-premise/billboard signs.*

- (1) Purpose and intent: The purpose of this section is to regulate the impact of billboards on the community; to improve the appearance of I-90, Main Street, Highway 3, 27th Street and entryways; to enhance the urban design of the greater downtown area and the west end; to insure compatibility between billboards and adjacent land uses; and to limit the impact that billboards have on sign clutter in the community. The city recognizes that billboards are a necessary and appropriate advertising medium, and that there are acceptable and viable locations for billboards within the community.

It is the intent of this subsection to address the following specific concerns regarding the impact of billboards upon the community:

- a. The citizens of Billings, and others visiting or traveling through the city are very concerned about the urban design and visual integrity of the city.
 - b. Billboards may be often incongruous with the city's natural setting and features due to their large-scale figures, numbers, letters, and colors.
 - c. A billboard may dominate the view from vehicles and interfere with the occupants' enjoyment of the city's natural setting and features.
 - d. A high concentration of billboards may create traffic safety problems and distract attention away from public safety signs.
 - e. Billboards of excessive size or height should be downsized within a reasonable period of time.
 - f. Billboards are incompatible with residential uses.
 - g. The I-90, Highway 3, Main Street, 27th Street, other entryways, and Shiloh Road are major entryways to the city which are of particular importance in terms of urban design and public perception to citizens, visitors, and tourists.
 - h. The downtown area defined in the Downtown Framework Plan is an area in which urban design significantly influences the health and vitality of the total community.
- (2) No off-premise/billboard sign shall be constructed or erected in any district after the date of the enactment of this subsection 27-706(b) [Ord. No. 99-5107, enacted Nov. 22, 1999]. For each non-conforming off-premise/billboard sign face removed a conforming off-premise/billboard sign face may be erected. Therefore, if a proposed conforming off-premise/billboard sign face will replace an existing non-conforming off-premise/billboard sign face within the city limits, then such proposed off-premise/billboard sign face shall comply with all of the applicable regulations contained herein.

When all non-conforming off-premise/billboard signs within the city have been removed pursuant to this section, then additional off-premise/billboard signs may be constructed in accordance with the regulations contained herein.

- (3) Location standards: All billboards shall be located in accordance with the following standards:

- a. Zoning districts:
 1. Billboards shall be permitted as an allowed use in Highway Commercial (HC), Controlled Industrial (CI), and Heavy Industrial (HI) zoning districts.
 2. Billboards shall be permitted as an allowed use in Community Commercial (CC) zoning district provided that the structure is two hundred (200) feet or more from a residential zoning district.
 3. A special review shall be required for all billboards to be located in a CC zone if the structure is less than two hundred (200) feet but greater than one hundred-fifty (150) feet from a residential zoning district.
 4. Billboards shall be permitted in Central Business District (CBD) upon approval of a special review.
 5. No new billboards shall be permitted on, directed to, or within two hundred (200) feet of the following corridors:
 - i. 27th Street from I-90 to Airport Road (excluding 27th Street North from Montana Avenue to 6th Avenue North).
 - ii. Highway 3 (Airport Road) from Alkali Creek Road west to the city limits.
 - iii. Shiloh Road from I-90 to Rimrock Road.
 - iv. Yellowstone River.
 - v. Any historic district registered on the National Register of Historic Places.
 - b. Locations standards:
 1. Billboards shall be set back 20 feet from the front property line.
 2. No billboard shall be placed on the roof of any building or structure.
 - c. Spacing standards:
 1. Billboards shall be required to have the following spacing requirements:
 - i. Billboards located in CC shall have a minimum spacing of a 1,000-foot radius from any other off-premise structure.
 - ii. Billboards located in HC shall have a minimum spacing of a 600-foot radius from any other off-premise structure.
 - iii. Billboards located in CI and HI shall have a minimum spacing of six hundred (600) linear feet from any other off-premise structure.
 2. No billboard shall be placed within one hundred fifty (150) feet of any residential zone.
- (4) Area, height, face, and pole standards: All billboards shall conform to the following standards:
- a. Sign area: New billboards faces and supporting framework shall not exceed the following sign areas:
 1. New billboards shall be a maximum of two hundred fifty (250) square feet.
 2. New billboards located within the Interstate Corridor shall not exceed four hundred eighty (480) square feet.
 - b. Height:
 1. The maximum overall height shall be thirty-five (35) feet above the road grade to which the billboard reads.
 2. The minimum distance between grade and the bottom of the billboard shall be fifteen (15) feet.

- c. Faces:
 - 1. There shall be no more than a total of two (2) faces per supporting structure.
 - 2. All structures must be single face, back-to-back, or "v" type of construction.
- d. Pole construction: All structures must be of single pole construction.
- (5) Lighting: Lighting will not cause hazardous or unsafe driving conditions for motorists and will not glare, reflect, or spill onto adjacent business or residential areas.
- (6) Maintenance and discontinuance:
 - a. Maintenance:
 - 1. All sign supports, braces, guys and anchors, shall be kept in good repair. Faces of all signs shall be kept neatly painted or posted at all times. The city shall notify the sign owner or its agent, in writing, of any sign that is not in proper state of repair. If corrective action is not taken within (30) days of written notice, the city official may order the removal of the sign.
 - 2. Off-premise/billboards signs that are damaged or destroyed by more than fifty (50) percent of the value of the sign structure shall not be reconstructed and shall be removed.
 - 3. All areas around the sign structure shall be kept litter and weed free.
 - b. Discontinuance: The city may order the removal of any billboard, without compensation, upon which the advertising or other message has been discontinued for more than sixty (60) days continuous days. The owner shall either advertise upon or remove said billboard within thirty (30) days of written notification by the city.
- (7) Special review requirements for off-premise/billboard signs in CC and CBD. The following criteria will be used in reviewing the proposed structure:
 - a. That the location and placement of the sign will not endanger motorists or pedestrians and does not interfere with the clear vision triangle at street, railroad, or street driveway intersections.
 - b. That the signs in the CBD will not cover or blanket any prominent view of a structure or facade of historical or architectural significance.
 - c. That the sign will not obstruct views of users of adjacent buildings to side yards. This requirement does not include views of distant vistas.
 - d. That the sign cannot be seen from churches, schools, the Yellowstone River or any city, county, or state park or if it can be seen it must be located at two hundred fifty (250) feet from the boundaries of such places.
 - e. That the height of signs located in undeveloped areas (no buildings within 300-foot radius) shall not exceed twenty-six (26) feet above grade. The minimum clearance of a sign shall never be less than fifteen (15) feet.
 - f. That the sign's lighting will not cause hazardous or unsafe driving conditions for motorists and will not glare, reflect, or spill onto adjacent business or residential areas.
- (8) Off-premise/billboard electronic displays may be allowed on any off-premise/billboard sign face provided it conforms to all of the standards and requirements of the city sign code including the limitation on replacement of nonconforming off-premise billboard signs in subsection 27-706(b)(2) and the maintenance and repair of nonconforming off-premise/billboard signs in subsection 27-706(b)(6). An off-premise/billboard electronic display may be used as the only sign area on an off-premise/billboard sign face. An off-premise/billboard electronic display shall not change from one still image to another still image more than once every six (6) seconds. An off-premise/billboard electronic display shall not include any other visual effects including but not

limited to animation, motion pictures, video, holograms, moving parts or the illusion of movement and shall not include any audible sound.

(c) *Shopping center or mall signs.*

- (1) One (1) free-standing sign indicating only the name and nature of the occupancy for each developed parcel not to exceed three (3) square feet of sign area for each lineal foot of street frontage abutting the developed portion of the parcel, provided that:

a. Signs will be permitted as follows:

Frontage Feet	Signs
0— 600	1 free-standing sign
601— 900	2 free-standing signs
901—1200	3 free-standing signs
Over 1200	3 free-standing signs plus, 1 additional sign for each 300 lineal street frontage feet over 1200 frontage feet

- b. Where a developed parcel is permitted to have more than one (1) free-standing sign under this article, the distance between the free-standing signs on each parcel shall be not less than one hundred fifty (150) frontage feet;
- c. The sign must be located five (5) feet behind all property lines except:
- (i) If the bottom of the structure is twelve (12) feet or higher above the establish grade, then the sign structure may be located up to one (1) foot behind the property line; or
 - (ii) If the sign is in the Central Business District, then the sign structure can be located up to the property line.
- d. No free-standing sign shall exceed the height of thirty (30) feet except freestanding signs in the highway commercial zone which shall not exceed the height of fifty (50) feet. No signs shall exceed four hundred (400) square feet in sign area. One (1) measured side of the display shall compose the square footage;
- e. If a free-standing sign projects over a private vehicular driveway or parking lot aisle, the minimum clearance between the bottom of the sign and the ground shall be seventeen (17) feet;
- f. No rotating free-standing sign shall rotate at a rate faster than six (6) revolutions per minute or have a minimum clearance lower than nine (9) feet between the bottom of the sign and the ground;
- g. When a developed parcel fronts on more than one (1) public right-of-way or street, excluding alleys and serviceways, the above provisions of subsection (c) shall apply to each frontage.
- (2) One (1) wall or one (1) canopy sign and four (4) architectural blade signs indicating only the name and nature of the occupancy for each occupancy within the developed parcel as follows:

- a. No sign shall exceed a total area of three (3) square feet of copy for each lineal foot of building frontage of each occupancy except buildings over two (2) stories shall be allowed an additional one (1) square foot of copy for each lineal foot of building frontage of each occupancy;
 - b. If such occupancy is on a corner, one (1) wall sign or one (1) canopy sign will be permitted for each frontage face;
 - c. A permitted wall sign(s) can be transferred from one wall to another wall provided the number of signs remain within the permitted number of signs and within allowable sign area;
 - d. No wall or canopy signs shall project into the public right-of-way, except:
 - (i) In the Central Business District, wall signs may project eighteen (18) inches over the right-of-way, subject to a minimum height limit of nine (9) feet from the sidewalk; and
 - (ii) In the Central Business District, canopy signs may project up to two (2) feet to a vertical line from the curb face over the right-of-way.
 - e. If the building includes a canopy, each tenant will be permitted one (1) under canopy sign. Any signs attached to the underside of a canopy shall be perpendicular to the wall face of building and shall not have a copy area greater than four (4) square feet or have a clearance lower than eight (8) feet from the sidewalk.
- (3) Interior mall signs shall be regulated by the mall association or owner.
- (4) Electronic message display signs may be permitted pursuant to subsection 27-705(c)(3). A shopping center that has frontage on more than one (1) public right-of-way may have one (1) electronic message display (EMD) free standing sign on each public right-of-way frontage.
- (d) *Medical corridor and South 27th Street corridor signs.*
- (1) Statement of special purpose.
- a. Medical corridor. The Billings Medical Corridor Permit Zoning District as set forth in article 27-900 (the "medical corridor") is a unique, distinct and separately identifiable area of the city. Over time, a majority of the medical corridor has developed a campus environment that is separate and distinct from the surrounding area. The large scale buildings, the complexities of the medical campuses, the needs and abilities of those seeking medical and emergency services, and the diversification of services offered within the medical corridor create a need for flexibility in establishing clear way-finding and informational signage. Accordingly, this special medical corridor sign code is adopted to facilitate, enhance, encourage and promote the following purposes:
 - 1. To facilitate and foster complementary uses servicing the healthcare community, including hospitals, clinics, medical office buildings, laboratories, and related or supporting uses;
 - 2. To promote a unique, attractive and distinctive healthcare campus environment with limited retail uses;
 - 3. To encourage creativity and continuity in design, quality, and the character of new signage;
 - 4. To anticipate and recognize the needs of patients and visitors in the medical corridor;
 - 5. To safeguard and enhance property values, and to protect public and private investment in the medical corridor;
 - 6. To promote those qualities in the visual environment which bring economic value to the community;

7. To encourage the design of signs that are in harmony with the principal activities and structures that they serve and that are compatible with the overall healthcare campus environment;
8. To alleviate the burdens of complex compliance and enforcement responsibilities; and
9. To promote the public safety, welfare, convenience and enjoyment of travel and the free flow of traffic within the medical corridor.

The medical corridor is primarily occupied by regional healthcare providers that draw patients and visitors from a multi-state region. The medical corridor sign code recognizes that patients and visitors to the medical corridor need to be able to easily and conveniently locate, identify, and find their way to hospitals, medical groups, clinics, medical departments, laboratories, physicians, and other healthcare points of interest.

The primary purpose of the medical corridor is healthcare, with very limited retail uses. Accordingly, the medical corridor sign code recognizes that the primary purpose of signs in the medical corridor is not for retail purposes, yet retains historical restrictions for retail establishments within the medical corridor.

The caliber of the development of the medical campuses within the medical corridor over time has demonstrated a commitment to maintaining architecturally sound and aesthetically pleasing signage, as well as uniform appearance of signage within parcels under common ownership. Healthcare and healthcare providers are constantly evolving and changing. One of the express purposes of the medical corridor sign code is to provide healthcare providers with flexibility with respect to both way-finding and informational signage.

- b. South 27th Street corridor. This section acknowledges the architectural visual concerns associated with the South 27th Street corridor zoning district as set forth in article 27-800. This section further recognizes the needs and benefits of limited sign standards that will adequately serve the uses in this zoning district and those who utilize their services, and at the same time, recognizes the need to protect the remaining residential areas within, adjacent and surrounding these zoning districts from the intrusion of unsightly, excessive and confusing sign usage.
- (2) Healthcare purposes sign definition. As used within this section, the term healthcare purposes sign shall mean any sign located in the medical corridor (excluding prohibited signs) that:
- a. Identifies a hospital, clinic, medical building, healthcare facility, emergency room, trauma center, healthcare provider or ancillary healthcare service (as defined herein below), and/or associated parking areas located in the medical corridor; or
 - b. Provides direction to a hospital, clinic, medical building, healthcare facility, emergency room, trauma center, healthcare provider or ancillary healthcare service, and/or associated parking areas located in the medical corridor.

For the purposes of this definition, the phrase "ancillary healthcare service" shall not include restaurants, hotels, motels, churches, and gas stations.

- (3) Except as provided in subsection (4), within the medical corridor and the South 27th Street corridor, signs are permitted per developed parcel as follows:
- a. Two (2) monument type signs, provided the two (2) monument signs are located on separate public street frontages and located at least one hundred (100) lineal frontage feet apart, measured along property line, as follows:
 1. One (1) main identification free-standing sign not exceeding forty (40) square feet in sign area nor be over twelve (12) feet in height;
 2. One (1) secondary identification free-standing sign not exceeding thirty-two (32) square feet in sign area nor be over eight (8) feet in height.

- b. One (1) identification wall sign placed flat against a building or designed as part of an architectural feature for each public street frontage for each developed parcel not to exceed fifty (50) square feet in sign area.
 - c. Free-standing directory signs shall not exceed eight (8) square feet in sign area nor be over five (5) feet in height. Wall directory signs shall not exceed eight (8) square feet in sign area.
- (4) Healthcare purposes signs permitted.
 - a. Except for those signs specifically prohibited by subsection (5), all healthcare purposes signs shall be permitted in all portions of the medical corridor except for the area west of North 30th Street.
 - b. Emergency room and trauma center signs. All emergency room and trauma center signs shall be permitted in the medical corridor as healthcare purposes signs.
- (5) Prohibited signs and lighting. The following signs and lighting shall be prohibited in the medical corridor:
 - a. Strobe lights;
 - b. Searchlights;
 - c. Balloon signs;
 - d. Portable signs;
 - e. Flashing neon signs;
 - f. Third party signs;
 - g. Billboards;
 - h. Flashing incandescent lamps;
 - i. Vehicles used as signs (provided that this provision shall not be construed as prohibiting the identification of a healthcare services entity or provider);
 - j. Signs projecting into rights-of-way;
 - k. Window signs;
 - l. Signs exceeding twenty (20) feet in height;
 - m. Signs exceeding one hundred seventy-five (175) square feet of area;
 - n. Signs which by coloring, shape, wording or location resemble or conflict with traffic control signs or devices;
 - o. Signs that create a safety hazard for pedestrian or vehicular traffic;
 - p. Signs attached to or placed on a motor vehicle or trailer parked on public or private property, provided that this provision shall not be construed as prohibiting the identification of a firm or its product on a vehicle operating during the normal course of business;
 - q. Any electronic reader board sign or animated sign that is otherwise prohibited by the city sign code.
 - r. Wall signs which, individually or collectively, cover more than twenty-five (25) percent of the surface area of any wall. The surface area of a wall shall be determined by measuring the building height and multiplying it by the length of the wall, without deduction for doors and windows.
- (6) Electronic message display signs may be permitted pursuant to subsection 27-705(c)(3).
- (e) *Church, school and other institutional use signs.* Regardless of which zoning district a church, school or other institutional use, including fraternal organizations, are located within, such uses shall be permitted the following signs:

- (1) One (1) free-standing monument announcement sign or bulletin board not to exceed five (5) feet in height, or eight (8) feet in length, inclusive of supporting structure; and
- (2) Two (2) wall signs placed flat against a building or designed as a part of an architectural feature not to exceed thirty-two (32) square feet per sign. Additional signs may be authorized by special review of the city council.
- (3) Electronic message displays may be allowed provided they do not flash, scintillate, blink, show motion borders or traveling lights or display video. One (1) electronic message display (EMD) as part of a free-standing monument sign or a wall sign may be permitted provided the EMD does not exceed fifty (50) percent of the sign area for a free-standing sign or ten (10) square feet for a wall sign. An EMD may only be used in conjunction with an immediately adjacent wall sign or as part of a free standing sign and shall not be displayed on its own. An EMD wall sign must be placed near the primary public entrance. The maximum height of an EMD wall sign shall be twelve (12) feet from the building wall grade. EMD wall signs shall not be placed less than two (2) feet from the top of the wall it is installed on.

(f) *Temporary signs.*

- (1) *Permits required.* It shall be unlawful for any owner or person entitled to possession of any property or business, or their authorized representatives, to erect, construct, move, or display a temporary sign or cause the same to be done, without first obtaining a temporary sign permit from the sign administrator. A temporary sign permit may be issued:
 - a. To new businesses or to existing businesses which are relocating and shall be limited in use to one time for no longer than sixty (60) days; or
 - b. To existing businesses for the purpose of advertising and shall be limited to a maximum of thirty (30) consecutive days per calendar year. Such thirty-day period may be split into no more than two (2) separate periods of fifteen (15) consecutive days each.

All temporary signs, other than over-street banners, shall be located on private property. Any temporary signs located on public rights-of-way shall be subject to removal by the sign administrator without notice.

- (2) *Application for permits.* Application for a temporary sign permit shall be made to the sign administrator by the owner or person entitled to possession of the property or business on which the temporary sign is to be located and shall be upon the form prescribed by the city administrator. All information required by the sign administrator to assure compliance with all laws and regulations of the city shall accompany the application, including:
 - a. Name and address of the owner of the temporary sign;
 - b. Name and address of the owner or person in possession of the business or premises on which the temporary sign is to be located and the length of time that the business has existed at such location;
 - c. Clear and legible drawings or photo with description definitely showing the proposed location of the temporary sign which is the subject of the permit and of all other existing signs on the premises.
- (3) *Permit fees.* The application for the temporary sign permit shall be filed with the sign administrator, together with a permit fee in the amount set forth in the fee schedule established by the city administrator.
- (4) *Issuance—Denial.* The sign administrator shall issue a temporary sign permit for the erection or display of a temporary sign within the city when he has determined that the applicant has met all requirements of this section and all other applicable laws of the city. The sign administrator shall establish area/height allowance and shall specify where the temporary sign is to be located, taking into consideration clear vision and setback requirements. The sign administrator shall give the applicant a validation sticker indicating the expiration date of the permit. The applicant must immediately affix the sticker to the side of the temporary sign in a clearly visible location. No

temporary sign may be displayed unless the validation sticker is in place and the sign is located in the position specified by the sign administrator. In no event shall a permit or sticker be valid for more than sixty (60) consecutive days.

- (5) *Temporary sign logs.* All persons, firms, partnerships, corporations or businesses leasing or renting temporary signs shall maintain a temporary sign log and shall record therein in clear and legible ink: The location where and date that each of their temporary signs is installed; the names of the person and business to whom a temporary sign permit was issued for each sign; and the date that each temporary sign is removed. The original copy of each month's log shall be personally delivered to the sign administrator on the last working day of each month or shall be sent to the sign administrator through the United States mail, postmarked no later than the first day of the following month. Said log shall be open to the inspection of the sign administrator at all reasonable times.
- (6) *Permits not required.*
 - a. The following temporary signs are allowed without permits:
 1. Signs which identify the location of rummage and garage sales;
 2. Signs which advertise the activities of a nonprofit organization;
 3. Political posters (see section 27-707(b)(16));
 4. Signs which advertise property for sale, lease or rent (see section 27-707(b)(19));
 - b. Such temporary signs allowed shall:
 1. Be removed after thirty (30) days of use (see exceptions for political or campaign signs 27-707(b)(16));
 2. Not exceed one (1) sign per property frontage.
 - c. No temporary sign shall cause unsafe ingress or egress or otherwise create traffic visibility problems.
- (7) *Size and placement limitations.* Temporary signs shall only be allowed to a maximum height of eight (8) feet with allowable square footage not exceeding thirty-two (32) square feet on each side of the display. Measuring one (1) side of the display shall determine the square footage for purposes of computation. In addition, temporary signs shall be located at least one hundred fifty (150) feet apart and a minimum of five (5) feet behind all property lines.
- (8) *Penalty.* A violation of this section is designated as a municipal infraction, and punishable by civil penalties as specified in section 18-1304.

Sec. 27-707. - Exceptions and exemptions.

The following operations shall not be considered as creating a sign insofar as requiring the issuance of sign permit or permissibility in a district, but the signs must be in conformance with this article, ordinances and regulations of the city, and all other building, structural and electrical laws:

- (a) *Permit exceptions:*
 - (1) Changing of the advertising copy or message on an existing approved painted or printed sign, marquee, changeable copy sign or a similar approved sign whether electrical, illuminated, electronic changing message center or nonilluminated painted message which are all specifically designed for the use of replaceable copy;
 - (2) Painting, repainting, cleaning or other normal maintenance and repair of a sign not involving structural changes. Replacement of or a change of a plastic face will be included as an exempt operation;
 - (3) Changes in the content of show window displays and permitted temporary signs;
 - (4) Changing sign—Automatic with no identification of ownership.

(b) *Exempt signs:*

(1) *Banner and balloon signs.* Banner and balloon signs are allowed as follows:

- a. *Banner signs (public right-of-way):* Banner signs may be suspended across public right-of-way subject to the following conditions:
 1. 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.
 2. The banner sign application must be submitted to and approved by the city sign administrator prior to placement of the banner sign.
 3. 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 (15) percent of the area of the banner.
 4. The maximum allowable size of a banner sign is three (3) feet by twenty (20) feet.
 5. The maximum time during which any banner sign may be displayed is thirty (30) days.
 6. The city may require the applicant to indemnify the city and to provide insurance covering any liability that may occur as a result of placement of the sign.
 7. 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.
- b. *Banner signs (private property):* Banner signs may be securely attached to a structure, the wall of a building or canopy as follows:
 1. Two (2) banner signs for two (2) periods in a calendar year not exceeding thirty (30) consecutive days per period at any business location;
 2. Banner signs shall not exceed thirty-two (32) square feet in sign area; and
 3. Banner signs shall not direct attention to a business commodity, service or entertainment not related to the premise at which the sign is located.
- c. *Balloon signs* are allowed in all zones except residential and residential professional as follows:
 1. One (1) balloon sign for a total period not to exceed three (3) days in any one-month period at any business location;
 2. No balloon sign and structure shall exceed the height of thirty (30) feet;
 3. No balloon sign and structure shall be greater in volume than four thousand five hundred (4,500) cubic feet; and
 4. Balloon signs are permitted on rooftops provided balloon signs and balloon structures are securely anchored to the rooftop.

(2) *Bench signs.* Bench signs on benches, controlled or authorized by the Billings MET. Indemnification clause or proof of liability insurance may be required by the city;

(3) *Construction signs.* One (1) building construction sign per construction project not exceeding thirty-two (32) square feet in sign area in residential districts or sixty-four (64) square feet in sign area in all other districts, provided that such signs shall be erected no more than five (5) days prior to the beginning of construction for which a valid building permit has been issued, shall be confined to the site of construction, and shall be removed five (5) days after issuance of an occupancy certificate or completion of construction and prior to occupancy;

(4) *Directional or instructional signs.* Signs which provide direction or instruction and are located entirely on the property to which they pertain and do not exceed four (4) square feet in sign

area, signs identifying rest rooms, public telephones, walkways, or signs providing direction such as a [as] parking lot entrance and exit signs and those of similar nature. Signs shall not cause visual obstructions to traffic;

- (5) *Flags, or pennants.* The flags, emblems or insignia of any nation, political subdivision, corporate flag, corporation, or any other entity or business;
- (6) *Garage sale signs.* Garage sale signs not exceeding four (4) square feet in sign area;
- (7) *Governmental regulatory signs.* Governmental regulatory signs for control of traffic and other regulatory purposes, street signs, danger signs, railroad crossing signs, and signs of public service companies indicating danger and aids to service or safety which are erected by or on the order of a public officer in the performance of his or her public duty;
- (8) *Historical landmark signs.* Signs identifying structures or landmarks which have been designated as a historical landmark locally or nationally and not located in the historical district. Each landmark or structure is permitted one monument sign, attached or detached, not greater than four (4) square feet in sign area for the attached sign, eight (8) feet in sign area for the detached sign, and not exceeding eight (8) feet in height;
- (9) *Holiday decorations or seasonal signs.* Signs of a primarily decorative nature, clearly incidental and customary and commonly associated with any national, local or religious holiday; provided that such signs shall be displayed for a period of not more than sixty (60) consecutive days nor more than sixty (60) days in any one (1) year. Such signs may be of any type, number, area, height, illumination or animation; and shall be set back ten (10) feet from all boundary lines of the lot, provided that a clear area be maintained to a height of seventy-two (72) inches, within fifty-five (55) feet of the intersection of two (2) streets, a railroad and a street and a street and driveway, as measured from the property line;
- (10) *House numbers, residential name plates and commercial addresses.* House numbers, residential name plates and commercial addresses not exceeding two (2) square feet in area for each residential building;
- (11) *Incidental signs.* Up to two (2) incidental signs may be attached to a free standing sign structure or to a building wall, but may not be attached perpendicular to the wall. Such signs are restricted to trading stamps, credit cards excepted, official notices of services required by law, or trade affiliations. The area of each sign may not exceed five (5) square feet; the total area of all such signs may not exceed ten (10) square feet and will be subtracted from the allowable sign area;
- (12) *Interior signs.* Signs located within the interior of any building or stadium, or within an enclosed lobby or court of any building, and signs for and located within the inner or outer lobby, court or entrance of any theater, that are not visible from the public right-of-way. This does not, however, exempt such signs from the structural, electrical or material specifications as set out in this article;
- (13) *Memorial signs, plaques, symbols or insignia signs.* Memorial signs, plaques, religious symbols, tablets, identification emblems of religious orders or historical agencies, provided that no such memorial sign, symbol, plaque, tablet or identification emblem shall exceed four (4) square feet in sign area, and provided further that all such memorial signs, symbols, plaques, tablets, and identification emblems shall be placed flat against a building. Names of buildings and date of erection when cut into any masonry surface or inlaid so as to be part of the building are also allowed;
- (14) *Notice bulletin boards.* Notice bulletin boards not over twenty-four (24) square feet in area for medical, public, charitable or religious institutions where the same are the primary use located on the premises;
- (15) *No-trespassing or no-dumping signs.* No-trespassing or no-dumping signs not to exceed one and one-half (1½) square feet in area per sign and not exceeding four (4) in number per lot,

except that special permission may be obtained from the sign administrator for additional signs under proven special circumstances;

- (16) *Political or campaign signs.* Political or campaign signs on behalf of candidates for public office or measures on election ballots provided that said signs are subject to the following regulations:
- a. Such signs may be erected not earlier than forty-five (45) days prior to the primary or special election and shall be removed within fifteen (15) days following the general or special election. If there is no primary election scheduled, then such signs may not be erected earlier than forty-five (45) days prior to the general election. After the primary election, signs pertaining to any candidate or ballot issue not on the general or special election ballot shall be removed within fifteen (15) days after the primary election, unless the candidate is conducting a write-in campaign. This provision does not prohibit a successful primary candidate from erecting additional signs after the primary election or an unopposed candidate at the primary from erecting signs prior to or immediately after the primary election.
 - b. In any zone, each parcel of land is permitted to display political signs provided that, in total, such signs do not exceed thirty-two (32) square feet in aggregate area and, if detached, do not exceed six (6) feet in height. Signs over thirty (30) inches in height shall comply with the clear vision standards as required by section 27-615 "Visibility at Intersections". Such sign shall not be erected in such a manner as to constitute a roof sign. Notwithstanding the provisions of this subsection, a sign may be placed upon any legally existing sign structure, but not so as to cover an already existing current sign.
 - c. No political sign shall be located within or over the public right-of-way or on a utility pole.
 - d. No political sign shall be placed, installed, or erected without the permission of the private property owner.
- (17) *Public service signs (notices).* Official notices or other public service information posted by public officers or employees in the performance of their duties;
- (18) *Public signs.* Signs required or specifically authorized for a public purpose by any law, statute or ordinance; which may be of any type, number area, height above grade, location, illumination, or animation required by the law, statute or ordinance under which the signs are erected;
- (19) *Real estate signs.* One (1) real estate sign on any lot or parcel, provided such sign is located entirely within the property to which the sign applies, is not directly illuminated, does not exceed six (6) square feet in sign area in residential zones and twelve (12) square feet in commercial zones, and is removed within seven (7) days after the sale, rental or lease has been accomplished. "Open house" signs must be placed on private property and shall not be placed on or project over a public right-of-way;
- (20) *Subdivision development signs.* Two (2) subdivision development signs per subdivision development project not exceeding thirty-two (32) square feet in sign area in residential districts or sixty-four (64) square feet in sign area in all other districts. This off-site sign may contain advertising in connection with the name of the subdivision, development firm, building contractor, real estate sales firm, and may refer to materials, appliances, supplies and building trades used in construction of the dwelling units, or services provided by the developer. The sign shall be removed six (6) months after the last lot is constructed upon;
- (21) *Symbols or insignia signs.* Religious symbols, commemorative plaques of recognized historical agencies, or identification emblems of religious orders or historical agencies, provided that no such symbol, plaque, or identification emblem shall exceed four (4) square feet in area, and provided further that all such symbols, plaques and identification emblems shall be placed flat against a building;

- (22) *Warning signs.* Signs warning the public of the existence of danger, but containing no advertising material, of a size as may be necessary, to be removed upon subsidence of danger;
- (23) *Window signs.* A sign installed inside a window for purposes of viewing outside the premises.
- (24) *Neighborhood watch signs.* Neighborhood watch signs may be posted on property within residential, residential professional and public zoning districts provided that the total area of all neighborhood watch signs on a developed parcel do not exceed sixteen (16) square feet in sign area. Neighborhood watch signs shall be posted on private property and may be placed flat against the wall of a building or detached if they do not exceed eight (8) feet in height and are placed one (1) foot behind all property lines. A detached neighborhood watch sign must not exceed thirty-six (36) inches in height if it is placed within a clear vision area at the intersection of streets, streets and alleys or streets and driveways. Please see sections 27-615 and 27-618 of the unified zoning regulations for the definition and illustration of clear vision areas at intersections.

Sec. 27-708. - Prohibited signs and sign structures.

The following types of signs and sign structures are expressly prohibited in all districts, except as otherwise provided by this article.

- (1) *Animated and intensely lighted signs:* No signs shall be permitted which are animated by means of flashing, scintillating, blinking, traveling lights or displaying video or any other means not providing constant illumination (unless specifically permitted in special sign districts). Electronic message displays may be allowed provided they do not flash, scintillate, blink, show motion borders or traveling lights or display video.
- (2) *Abandoned signs:* Such business signs that advertise an activity, business, product or service no longer conducted or available on the premises on which the sign is located.
- (3) *Parking of advertising vehicles prohibited:* No person shall park any vehicle or trailer on a public right-of-way or public property or on private property so that it is visible from the public right-of-way and which has attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same or nearby property or any other premises. This section is not intended to prohibit any form of vehicular signage such as a sign attached to a bus or lettered on a motor vehicle, or company vehicle signs.
- (4) *Swinging signs:* Signs installed on an arm or spar, that is not, in addition, permanently fastened to an adjacent wall or upright pole. See section 27-709(i).
- (5) *Unclassified signs:* The following signs are also prohibited, which:
 - a. Bear or contain statements, words or pictures of an obscene, pornographic, immoral character, or which contain advertising matter which is untruthful;
 - b. Are painted on or attached to any fence or any wall which is not structurally a part of a building, except to identify a residence or residence structure by means of posting the name of the occupant or structure, and the street address;
 - c. Operate or employ visible moving parts or any portion of which moves, or give the illusion of motion except as permitted in this article;
 - d. Emit audible sound, odor or visible matter; or
 - e. Signs which, by reason of their size, location, movement, content, coloring or manner of illumination, may be confused with or construed as a traffic control sign, signal or device, or the light of an emergency or road equipment vehicle, or which hide from view any traffic or street sign or signal or device.
- (6) *Unightly visible frames, or angle iron:* Visible angle iron frames or structures to support projecting signs.

Sec. 27-709. - Construction specifications.

- (a) *Compliance with building code.* All signs shall comply with the appropriate detailed provisions of the city building code relating to design, structural members and connections. Signs shall also comply with the provisions of the applicable electrical code and the additional construction standards hereinafter set forth in this section.
- (b) *Construction of signs, auxiliary specifications:*
 - (1) *Identification and marking.* Each sign hereafter erected or remodeled shall bear, in a permanent position thereon, a clearly legible identification plate stating the name and address of the owner of the sign, and the person responsible for its construction, erection and the date of erection.
 - (2) *Obstruction to exits.* No sign shall be erected, constructed or maintained so as to obstruct any fire escape, required exit, window or door opening used as a means of egress.
 - (3) *Obstruction to ventilation.* No sign shall be attached in any form, shape or manner which will interfere with any opening required for ventilation, except that such signs may be erected in front of and may cover transom windows when not in violation of the provision of the building or fire prevention codes.
 - (4) *Clearance from high voltage power lines.* Signs shall be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the National Electrical Code specifications, depending on voltages concerned. However, in no case shall a sign be installed closer than twenty-four (24) inches horizontally or vertically from any conductor or public utility guy wire.
 - (5) *Drainage.* The roofs of all marquees exceeding forty (40) square feet shall be properly guttered and connected with downspouts to storm sewers so that water will not drip or flow into public sidewalks or streets.
- (c) *Free-standing signs; materials.* All free-standing sign structures or poles shall be self-supporting structures erected on and permanently attached to concrete foundations. Such structures or poles shall be fabricated only from painted steel or such other materials as may be approved by the building code of the city.
- (d) *Electric signs.* The full number of illuminating elements thereof shall be kept in satisfactory working condition or immediately repaired or replaced. All signs shall meet all electrical requirements for that portion directly illuminated. All electric signs shall have a disconnecting switch located in accordance with the provisions of the safety code, including a disconnecting switch on the outside of the sign.
- (e) *Glass.* When glass is used for sign letters or transparent panels, it shall be at least double strength thickness for sign areas up to and including three hundred (300) square inches. When glass is used for sign letters or transparent panels for sign areas in excess of three hundred (300) square inches, at least one-quarter inch wire glass shall be used and the maximum span between supports shall be four (4) feet.
- (f) *Strength of parapet wall.* A parapet wall must be designed for and have sufficient strength to support any sign which is attached thereto.
- (g) *Supports and braces.* Metal supports or braces shall be adequate for wind loadings (see subsection (h)). Wire or cable supports shall have a safety factor of four (4). All metal, wire cable supports and braces and all bolts used to attach sign to bracket or brackets and signs to the supporting building or structure shall be of galvanized or of an equivalent material. There shall be no visible angle irons, or unsightly supports. All such sign supports shall be an integral part of the sign design. There shall be a pole cover on all free-standing signs unless the pole is an integral part of the sign.
- (h) *Wind loads.* All signs, except those attached flat against the wall of a building shall be constructed to withstand wind loads as prescribed in the most current edition of the Uniform Building Code.

- (i) *Sign anchoring.* No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action. Signs shall be anchored to prevent any lateral movement that would cause wear on supporting members or connections.

Sec. 27-710. - Removal and disposition of signs.

- (a) *Maintenance and repair.* Every sign including but not limited to those signs for which permits or for which no permits or permit fees are required, shall be maintained in a safe, presentable and good structural material condition at all times, including the replacement of defective parts, painting, repainting, cleaning and other acts required for the maintenance of the sign. The sign administrator shall require compliance with all standards of this article. If the sign is not made to comply with adequate safety standards, the sign administrator shall require its removal in accordance with this section.
- (b) *Abandoned signs.* Except as otherwise provided in this article, any sign which is located on property which becomes vacant and unoccupied for a period of three (3) months or more, or any sign which pertains to a time, event, or purpose which no longer applies, shall be deemed to have been abandoned. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of six (6) months or more. An abandoned sign is prohibited and shall be removed by the owner of the sign or owner of the premises.
- (c) *Dangerous or defective signs.* No person shall maintain or permit to be maintained on any premises owned or controlled by such person any sign which is in a dangerous or defective condition. Any such sign shall be removed or repaired by the owner of the sign or the owner of the premises.
- (d) *Unlawful signs.* No person shall erect on any premises owned or controlled by such person any sign which does not comply with the provisions of this article.
- (e) *Street improvement projects.* Any sign projecting over a public right-of-way on November 24, 1980 which was subject to removal or relocation at the owner's expense, pursuant to a permit or other ordinance of the city, shall be removed by the owner or altered at the owner's expense to comply with the regulations of this article if, as the result of, or after completion of a street improvement project, the sign does not or would not comply with the provisions of this article.
- (f) *Removal of signs by the sign administrator.* The sign administrator shall cause to be removed any sign that endangers the public safety such as an abandoned, dangerous, or materially, electrically or structurally defective sign or a sign for which no permit has been issued. The sign administrator shall prepare a notice which shall describe the sign and specify the violation involved and which shall state that if the sign is not removed or the violation is not corrected within ten (10) days, the sign shall be removed in accordance with the provisions of this section.

All notices mailed by the sign administrator shall be sent by certified mail. Any time periods provided in this section shall be deemed to commence on the date of the receipt of the certified mail.

For all other signs, the notice shall be mailed to the owner of the property on which the sign is located as shown on the last equalized assessment roll. If known, or with reasonable care should be known, the notice shall be mailed to or delivered to the owner of the sign and the occupant of the property.

Any person having an interest in the sign or the property may appeal the determination of the sign administrator ordering removal or compliance by filing a written notice of appeal with the board of adjustment.

The sign administrator may without notice cause immediate removal of a dangerous or defective sign or a temporary sign or a temporary sign not exhibiting a current validation sticker.

Temporary signs are specifically excluded from the foregoing notice requirements. Violators of ordinances pertaining to temporary signs may immediately be cited without advance notice.

For the purpose of removal, signs shall also include all sign structures.

Sec. 27-711. - Legal nonconforming signs.

- (a) *Notification of nonconformity.* After November 24, 1980, the sign administrator shall, as soon as practicable, survey the city for signs which do not conform to the requirements of this article. Upon determination that a sign is nonconforming, the sign administrator shall use reasonable efforts to notify, in writing, the user or owner of the property on which the sign is located of the following: (i) the sign's nonconformity; and (ii) whether the sign is eligible for characterization either as legal nonconforming or unlawful. Failing determination of the sign owner, user or owner of the property on which the sign is located, the notice may be affixed in a conspicuous place to the sign or to the business premises with which the sign is associated.
- (b) *Signs eligible for characterization as "nonconforming."* Any sign located within the city limits on November 24, 1980, or located in an area annexed to the city thereafter, which does not conform with the provisions of this article, is eligible for characterization as a "nonconforming" sign and is permitted, provided it also meets the following requirements:
 - (1) The sign was covered by a sign permit or variance on November 24, 1980 if one (1) was required under applicable law; or
 - (2) If no sign permit was required under applicable law for the sign in question, the sign was in all respects in compliance with applicable law on November 24, 1980.
- (c) *Loss of legal nonconforming status.* A legal nonconforming sign shall immediately lose its legal nonconforming designation if:
 - (1) The sign is altered in any way in structure or copy except for changeable copy signs and normal maintenance;
 - (2) The sign is relocated;
 - (3) The sign is replaced; or comes under the classification of a temporary sign as defined by this article;
 - (4) On the happening of any one of (1), (2), or (3), the sign shall be immediately brought into compliance with this article with a new permit secured therefor, or shall be removed.
- (d) *Maintenance and repair.* Nothing in this section shall relieve the owner or user of a legal nonconforming sign or owner of the property on which the legal nonconforming sign is located from the provision of this article regarding safety, maintenance and repair of signs, contained in this article, provided, however, that any repainting, cleaning and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure or copy in any way which makes it more nonconforming or the sign may lose its legal nonconforming status.

Sec. 27-712. - Special signs and sign districts.

- (a) *Signs for special events.* Temporary signs, not in excess of four (4) square feet in area, may be erected as participation in public parades, public events or public celebrations for a period not to exceed ten (10) days, provided, however, the erection of such signs shall be approved by the sign administrator.
- (b) *Nonexempt signs for direction or instruction.* Signs in excess of eight (8) square feet in area which provide traffic direction or instruction to the public shall be allowed in any zone, provided such signs are located entirely on the property to which they pertain. In addition, the sign administrator may authorize the placing of directional signs at appropriate street intersections or other locations for the convenience of the motoring public; such signs shall pertain to places of general interest such as schools, hospitals, public buildings, airports, fairgrounds and other similar public service facilities.
- (c) *Special sign districts.* Merchants occupying sixty (60) percent or more of the street frontage in feet of properties on both sides of the street in any defined area may petition the city for the formation of a special sign district. This might be done for such reasons as to create an area with a particular ethnic atmosphere, to simulate an historic period, theatre or entertainment area, or other similar purpose. A group of property owners or persons in the right of possession will be chosen by the merchants to represent them. The group shall not exceed ten (10) members and shall comprise the governing body

of the sign district. This body will draw to the criteria for signs in the district and submit such criteria to counsel for approval. The council will instruct the city clerk to notify all owners or persons in the right of possession within the boundaries of such district ten (10) days prior to the hearing, after which the council may approve the special sign district or may veto it. The veto can only be effected by a three quarters vote of the council. If the criteria for the special sign district are approved and become effective, the city shall publish them as regulations of a sign district in the same manner as a code of the city.

Sec. 27-713. - Reserved.

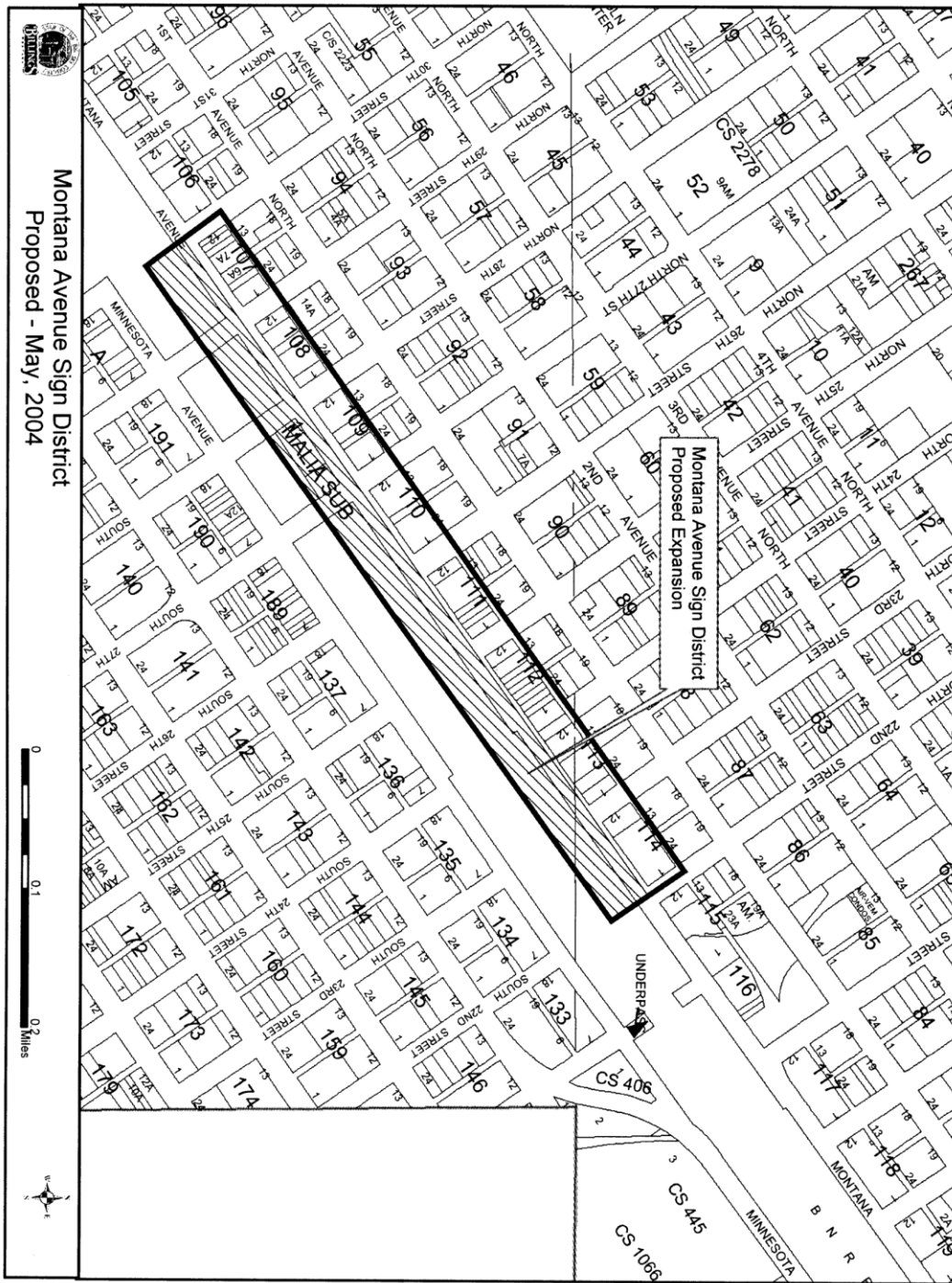
Secs. 27-714—27-729. - Reserved.

Sec. 27-730. - Montana Avenue sign district created.

Pursuant to section 27-712(c) of the Unified Zoning Regulations, the Montana Avenue sign district is hereby created.

Sec. 27-731. - District boundaries.

The Montana Avenue sign district extends from the centerline of North 22nd Street to the centerline of North 30th Street along Montana Avenue. The district extends from Montana Avenue north to the alley along any side street and from Montana Avenue south to the railroad tracks along any side street. (See attached map).



Montana Avenue Sign District

Sec. 27-732. - Purpose.

Due to the unique character of the historic district located on Montana Avenue, these regulations are designed to encourage the preservation, revitalization, and enhancement of the district through the use of appropriate signage. These regulations also encourage compatibility of the signage with the historic character of the district.

This district 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; flags of any nation, government, or fraternal organization; barber poles; religious symbols; or any display or construction not defined herein as a sign.

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

Sec. 27-733. - Definitions.

Words and phrases used in this division have the meanings set forth in this section.

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

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 ~~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 area of any wall or canopy sign which consists of letters mounted or painted on a wall or canopy, the area of the smallest rectangular figure which can encompass all of the letters.

Awning or canopy sign: Any sign that is a part of or attached to any awning, or canopy over a door, entrance, window, or outdoor service area, which does not extend horizontally beyond the limits of the canopy.

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.

Billboard/third party advertiser: A sign that 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 that is cut into a masonry surface or made of bronze or other permanent material.

Building frontage: The linear length of a building facing the public access or right-of-way.

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

Ghost signs: Faded painted advertisements painted prior to 1935.

Lighting: Flashing action (animation). Neon and incandescent lamps may flash in the following ways.

- (1) *Alternating.* One (1) section comes on as another goes off.
- (2) *Scintillating.* Random sections go on and off with part of the lighting on at all times.
- (3) *Chasing.* one (1) section comes on at a time and is followed by one section going off at a time. Part of the sign is on at all times.
- (4) *Sweeping (filling).* The lighting sections individually go on until all of the sections are on, then the entire group goes off and then the process is repeated.
- (5) *On-off action.* Not allowed. Lighting that goes all on and then all off.

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

Parcel: A single tract or parcel of land, no matter how legally described whether by metes and bounds, certificate of survey, and/or by lot or lots and block designation as in a recorded plat, that at the time of applying for a building permit is designated by its owner or developer as the tract to be used, developed or built upon as a unit of land under single ownership or control and assigned to the particular use for which the building permit is being secured and having frontage on or access to a public street over an easement approved by the city engineer.

Primary public entrance: An entrance to a business which is open to the public during its normal and customary hours of operations and the entrance is used as the primary ingress and egress to the business by the public.

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.

Public right-of-way width: The perpendicular distance across a public street measured from property line to property line. When property lines on opposite sides of the public street are not parallel, the city engineer shall determine the public right-of-way width.

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

Sign height: The vertical distance measured from the highest point of the sign to the crown of the adjacent street.

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

Sec. 27-734. - Montana Avenue sign review committee.

- (a) *Organization and duties.* The Montana Avenue sign review committee (committee) will consist of seven (7) committee members. Four (4) of the members shall be property owners or merchants of the Montana Avenue sign district, one (1) architect or design professional with a background in historic preservation, one (1) sign professional, and the city sign administrator. All members shall be voting members except for the city sign administrator. The committee is responsible for the review and approval of all sign permit applications within the Montana Avenue sign district.

The terms for each member, except the sign administrator, will serve two-year terms. Three (3) members of the initial committee will serve three-year terms, in order to stagger the terms of the committee members.

Any person interested in serving on the committee shall make application to the Montana Avenue Property Owners. The property owners will then forward the applications and their recommendation to the mayor of the City of Billings. The mayor will then make the necessary appointments to the committee to fill any vacancies.

- (b) *Proceedings.* The committee shall schedule two (2) regular meetings, along with special meetings that may also be called by the chairperson. The chairperson may cancel the regularly scheduled meetings if no matters are pending for the committee's consideration. All meetings shall be open to the public.

The committee, at the first meeting, shall establish by-laws that will establish procedures for selecting a chairperson, terms of the officers, meeting days, and other necessary functions of the committee.

The committee 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 official actions, all of which shall be a public record and shall be filed in the office of the Yellowstone County board of planning. The official minutes of the committee shall become effective immediately, unless otherwise directed by the committee. The city

sign administrator in coordination with the committee shall designate a secretary of the committee and shall be the custodian of all records of the meetings, finding, conclusions and order of the committee.

(c) *Powers and duties.* The committee shall have the following powers:

The committee will review the sign application for compliance with the guidelines set forth and for compatibility with the structure and the district. The permit application will be evaluated on a point system. All signs shall be required to conform to specific standards as outlined in this division.

(d) *Decisions and appeals.* The concurring vote of four (4) members of the committee shall be necessary to decide in favor of an application in order for the applicant to receive a sign permit. Any person aggrieved by any decision of the committee may appeal the decision by presentation to the City of Billings city board of adjustment as outlined in section 27-1505 of the Unified Zoning Regulations.

Sec. - 27-735. - General sign criteria.

In the Montana Avenue sign district all signs must receive approval by the sign committee. A set of both absolute and relative criteria has been established which gives the assurance that the signs erected are compatible with the nature and character of this district and to encourage creativity that is not permitted under traditional sign regulations.

An applicant must meet all the absolute criteria to qualify for a permit. In addition the applicant must also attain a minimum of at least seventy (70) percent of the maximum points possible, in order to obtain a sign permit, in the relative category.

Sec. 27-736. - Specific criteria.

(a) The absolute criteria must be satisfied before approval can be granted. This includes sign type, number, size, and location. Each of the applicable absolute criteria must be answered yes before approval can be granted.

(b) Relative criteria are assessed using a "point" system. Each sign must achieve a specified minimum percentage of these criteria. A score above the minimum percentage may be used to receive extra points. The absolute criteria are designed to reduce the negative impacts, while the relative criteria focus on the actual design of a sign including, but not limited to: compatibility with the building's architecture, the design compatibility with the era of the district, building, color, location on the building, materials used, lighting, size, and dimensions, and creativeness of design. The design of a sign is evaluated against the relative criteria and scored on a point chart.

(c) A sign shall be evaluated as follows:

(1) *Absolute criteria.* Each of the absolute criteria is answered yes, no, or not applicable. A "no" answer to any applicable absolute criteria will automatically exclude the application, as proposed, from further consideration at that time. Modifications will need to be made to correct any problems before further consideration will be given to the sign proposal.

(2) *Relative criteria.* The signage plan is evaluated against each applicable relative criterion and assigned a "score." A sign may receive a score of 0 to 10, with 10 being the highest. The numerical score is assigned based on the following (Only 0, 5, and 10 are defined as points of reference):

10 = For an excellent job of implementing the criteria or for doing the best job possible, given the constraints and opportunities of the site.

5 = For an adequate job of implementing the criterion.

0 = For no effort or failure to implement the criterion.

Sec. 27-737. - Permitting procedure.

All sign applications shall be submitted to the City of Billings sign administrator. Deadline dates for the application will be the first and third Monday of each month. At the time the application is submitted, the

sign administrator will review the application for completeness. If the application is not complete, it will be returned to the applicant. The complete application then will be forwarded to the Montana Avenue sign review committee.

- (1) It will be the responsibility of the city sign administrator to process permit requests under this system in the following manner:
 - a. An applicant will submit his/her application for a sign permit. An application will contain, but not be limited to the following information:
 1. A completed sign permit application form;
 2. A dimensioned site plan showing the sign location (if applicable);
 3. Building elevation drawings showing the location of all existing signs and the location of the sign being applied for;
 4. A scaled drawing of the sign including: sign design, types of material, colors, style of lettering, etc.
 - b. The sign administrator will, at that time, review the application for completeness. If the application is incomplete, it will be returned to the applicant.
 - c. Upon receipt of a complete application, the sign administrator will notify the applicant of the meeting date, time, and location with the Montana Avenue sign review committee.
 - d. The review will result in approval, disapproval, or approval with modifications. Once approval has been granted the sign administrator will issue the permit upon receipt of payment.
 - e. A sign permit application will be valid for one hundred twenty (120) days. The application may be extended for one (1) additional sixty-calendar-day period. The request for extension must be in writing and received five (5) business days prior to the expiration of the sign permit.
 - f. A permit that has expired, or granted an extension and then expired, will be required to go through the review process again, however, the fee will be one-half (½) of the full permit fee.

Sec. 27-738. - Sign types permitted. The following sign types are permitted.

Sign Type	Sign Area	Sign Height	Number of Signs
<i>Building Signs</i> • Awning sign • Canopy sign • Marquee sign • Projecting sign • Roof sign • Under awning/canopy sign • Wall sign • Window sign	• 1½ square feet of signage per lineal foot of building measured along the street frontage for corner lot buildings, up to a maximum of 200 square feet. • 3 square feet of signage per lineal foot of building measured along the street frontage for interior lot buildings, up to a maximum of 75 square feet.	N/A	• One sign per street frontage and one sign per public entrance. Signage on an awning or canopy will count as one (1) sign. • Window signs are not included in the total number of signs allowed. However, the area of window signs installed shall be counted as part of the total allowable sign area. • Signage placed upon an awning or canopy will count as one (1) sign for that awning or canopy regardless of the number of sides of the awning or canopy that have signage. • Signage placed on the only valance of multiple awnings that is related to a specific business may count as one (1) sign upon approval of the Montana Avenue Sign Committee.
<i>Ghost Signs</i>	N/A provided the sign was created prior to 1935	N/A;	N/A

<i>Pylon/Ground Sign</i>	A maximum of 50 square feet	Maximum 20 feet	One (1) per street frontage. If a parcel has two (2) signs, and a 150-foot separation, measured along the property line, between signs is required.

Sec. 27-739. - Pylon/ground signs—Absolute criteria.

(a) Point chart for pylon signs—Absolute criteria:

ABSOLUTE CRITERION	Is the Criterion Applicable?		Is the Criterion Complied With	
	Yes	No	Yes	No
Sign size (area)				
Sign height				
Number of signs				
Distance between signs				
Clearance between sign and ground				
Clear vision				

A proposal must receive a "yes" answer to all applicable criteria in order to qualify for approval.

(b) Sign size (area): What is the area of the sign in square feet?

Pylon/ground signs may not exceed 50 square feet in area.

	Sign Area	Criterion Complied With	
		Yes	No
Montana Avenue Sign Committee			
Applicant			

(c) Sign Height: Does the sign comply with the height limit set forth by this article?

Pylon Sign: The maximum height of a pylon sign shall not exceed twenty (20) feet.

	Sign Height	Criterion Complied With	
		Yes	No
Montana Avenue Sign Committee			

Applicant			

(d) Number of signs: Does the number of pylon signs comply with the requirements of this section?

Pylon/ground signs: Each developed parcel shall be permitted one (1) pylon sign per street frontage.

	Number of Signs	Criterion Complied With Yes No	
Montana Avenue Sign Committee			
Applicant			

(e) Distance between Signs: What is the distance between the two- (2) pylon signs shown on the site plan?

Pylon Signs: Where a developed parcel is permitted to have more than one (1) pylon sign under this article, the distance between the pylon signs on each parcel shall be no less than one hundred fifty (150) frontage feet measured along the property lines.

	Distance Between Signs	Criterion Complied With Yes No	
Montana Avenue Sign Committee			
Applicant			

(f) Pylon sign setback/sign clearance from the ground: Does the pylon sign meet the required setback from the property line and/or clearance from the ground?

Pylon Signs: A five-foot minimum setback from the property line to the leading edge of the sign shall be required. The leading edge of a sign may be placed on the property line provided there is a distance of twelve (12) feet from grade to the bottom of the sign. A sign shall not project over the public right-of-way.

	Sign Setback/Clearance	Criterion Complied With Yes No	
Montana Avenue Sign Committee			
Applicant			

(g) Clear Vision: Does this pylon sign meet the clear vision requirements of Section 27-618 of the Unified Zoning Regulations?

	Clear Vision	Criterion Complied With Yes No	

Montana Avenue Sign Committee			
Applicant			

Sec. 27-740. - Point chart for building signs-Absolute criteria.

ABSOLUTE CRITERION	Is the Criterion Applicable?	Is the Criterion Complied With
	Yes No	Yes No
Sign type		
Sign size (area)		
Number of signs		
Distance between signs		
Clearance between sign and ground		
Clear vision		

(a) Sign type: Does the sign comply with the permitted building signs?

The following are the types of signs that may be attached to a building:

Wall signs

Awning signs

Canopy signs

Under-canopy signs

Roof signs

Projecting signs

Window signs (signs placed on the exterior or interior of the window)

Marquee signs (may be used only on theaters)

	Sign Type	Criterion Complied With	
		Yes	No
Montana Avenue Sign Committee			

Applicant			

(b) Sign size (area): What is the total area in square feet of all building signs?

Building signs: The total square footage of all signs placed on the building shall not exceed one and one-half (1½) square feet in sign area for each lineal foot of building frontage for buildings on corner lots, not to exceed a total of two hundred (200) square feet. (i.e. A building that is twenty-five (25) feet wide may have a total of thirty-seven and one-half (37.5) square feet of signage.)

For buildings on interior lots the total square footage of all signs placed on the building shall not exceed three (3) square feet in sign area for each lineal foot of building frontage, not to exceed a maximum of seventy-five (75) square feet.

A window sign may not cover more than 25% of the area of a window in which the sign is placed.

The area of an awning sign placed on the slope portion of the awning, the sign may not exceed twenty-five (25) percent of the sloped area of the awning. Awning must be made of fabrics that represent the historic material. Awnings made of glossy vinyl coated material are not allowed.

	Sign Area	Criterion Complied With Yes No	
Montana Avenue Sign Committee			
Applicant			

(c) Number of signs: Does the number of signs comply with the requirements of this section?

Building signs: There may be one (1) sign per street frontage and one (1) sign per public entrance. (Note: Window signs do not count towards the total number of building signs allowed; however, the area of all window signs shall be included in the total square footage of building signs permitted for a development.)

Signage placed upon an awning or canopy will count as one (1) sign for that awning or canopy regardless of the number of sides of the awning or canopy have signage.

Signage placed on the only valance of multiple awnings that is related to a specific business may count as one sign upon the approval of the Montana Avenue sign committee.

	Number of signs	Criterion Complied With Yes No	
Montana Avenue Sign Committee			
Applicant			

- (d) Distance from the vertical edge of building: How far from the vertical edge of the building is the projecting sign?

Projecting signs shall be at least five (5) feet, measured horizontally, from the vertical edge of the building. This does not apply to building on corner lots.

	Distance From Vertical Edge of Building	Criterion Complied With Yes No	
Montana Avenue Sign Committee			
Applicant			

- (e) Projection from wall: How far from the wall does the sign project from the face of the building?

Wall signs may not extend more than twelve (12) inches from the face of the building.

Projecting signs, awnings, and canopies shall not extend more than two-thirds ($\frac{2}{3}$) the distance of the width of the sidewalk.

	Projection From Wall	Criterion Complied With Yes No	
Montana Avenue Sign Committee			
Applicant			

- (f) Sign Clearance: Does the sign comply with the required clearance for awning and canopy signs from the ground?

Awning and canopies must be at least eight (8) feet above the ground.

The vertical height limit for signage placed upon a canopy is twenty-four (24) inches.

Signage placed on a valance of an awning may not exceed twelve (12) inches in height.

	Sign Clearance	Criterion Complied With Yes No	
Montana Avenue Sign Committee			
Applicant			

- (g) Sign location/placement: Is the sign placed in a permitted location on the building, awning, and/or canopy?

Permitted signs may be transferred from one wall to another wall provided the number of signs remains within the allowed number of signs permitted and within the allowable sign area.

Signage may be placed on the valance of an awning. Signage on the end of an awning may only be located on the valance. Signage may also be placed on the sloped portion of an awning.

Projecting signs must be setback from the edge of the building at least five (5) feet.

Signs shall not cover any architectural features of the building.

	Sign Location/Placement	Criterion Complied With Yes No	
Montana Avenue Sign Committee			
Applicant			

(h) Roof signs: Was a roof sign previously on the building? Is documentation provided?

Roof signs shall be permitted only if the sign is historically correct to the specific building. Documentation must be provided.

	Roof Signs	Criterion Complied With Yes No	
Montana Avenue Sign Committee			
Applicant			

(i) Ghost signs: Is the ghost sign, which was created prior to 1935, being stabilized or being restored?

Ghost signs that were created prior to prior to 1935 shall be permitted. These signs will not count toward the allowable square footage or allowable number of signs. Ghost signs are encouraged provided they meet the following conditions:

- (1) Ghost signs shall be permitted to fade, to be stabilized, or restored to the original condition.
- (2) Any ghost sign that is changed, or any post-1935 ghost sign that is restored or changed shall comply with the Montana Avenue sign district regulations.

	Number of Signs	Criterion Complied With Yes No	
Montana Avenue Sign Committee			
Applicant			

Sec. 27-741. - Point chart for all signs—Relative criterion.

A score of seventy (70) percent of all applicable relative criteria is required.

(To be completed by the Montana Avenue sign district review committee)

Each applicable criterion is to be evaluated on a scale of one (1) to ten (10). Each project is required to obtain a score of at least seventy (70) percent of the total maximum points. For example, a sign does not use neon or lighting, the maximum number of points for the remaining criteria is seventy (70). The application would be required to obtain at least forty-nine (49) points for approval.

RELATIVE CRITERION	Is the Criterion Applicable		Awarded Score 0—10	Points Earned
	Yes	No		
Sign scale				
Compatibility with building architecture				
Color				
Sign materials				
Sign design/creativity				
Historical significance				
Use of Neon				
Lighting				
Placement of sign				
<i>TOTAL</i>				

(a) Sign Scale: The scale of the sign (size, bulk, and height) should be appropriate for the building upon which they are placed and the area in which they are located. The size and shape of a sign should be proportionate with the scale of the structure.

Sign Scale	
Montana Avenue Sign Committee	Recommended Score
Applicant	Requested Score

Points

Scale of Sign

10 Achieves the highest possible compatibility in sign size, bulk, and height with respect to building characteristics and architectural features. Maximum effort was made to be harmonious with adjacent, existing signs and structures.

5 Makes an effort to be compatible or harmonious in sign size, bulk, and height with the building characteristics and architectural features, as well adjacent signs and structures.

0 No effort is made for the compatibility of sign size, bulk, or height.

- (b) Compatibility with the building architecture: The sign is designed to compliment and to be compatible with the architecture of the building. The sign should not obscure architectural features. The sign design should be integrated with the design of the building.

Compatibility With the Building Architecture	
Montana Avenue Sign Committee	Recommended Score
Applicant	Requested Score

Points

Compatibility With Building Architecture

10 Achieves the highest possible compatibility and harmony in sign design with respect to the architectural features. The design of the sign is integrated with the design of the building.

5 Makes an effort to be compatible or harmonious with respect to the architectural features of the building.

0 No effort is made in the design with respect to the architectural features.

- (c) Sign color: The color palette of the sign should be sensitive to and reflect the historic character of both the building and the district. Bright, more modern colors are discouraged as these colors are typically not historic in nature and are not compatible with the district.

Sign Color	
Montana Avenue Sign Committee	Recommended Score
Applicant	Requested Score

Points

Sign Color

10 Achieves the highest possible use of color with respect to the building characteristics and architectural features. Maximum effort was made to be harmonious with adjacent, existing signs and structures.

5 Makes an effort to be compatible or harmonious in the use of color with respect to the building characteristics and architectural features, as well adjacent signs and structures.

0 No effort is made for the compatibility of sign size, bulk, or height.

- (d) Sign materials: The material used in the manufacturing of the sign should either be materials traditional to the time period of the structure, such as wood, stone, metal, neon, or a modern material that effectively simulates the original materials.

Sign Materials	
Montana Avenue Sign Committee	Recommended Score
Applicant	Requested Score

Points

Sign Materials

10 Achieves use of materials that is most appropriate in terms of compatibility with the historic character of sign and the building. Maximum effort was made to use historic materials or modern materials that effectively simulate historic materials.

5 Makes an effort to use historic materials or modern materials that effectively simulate historic materials.

0 No effort is made to use historic materials or modern materials that effectively simulate historic materials.

- (e) Sign design/creativity: Creativity and innovation in design is encouraged. The design, however, should be compatible with the character of the Montana Avenue sign district. The use of symbols and logos is encouraged when used in place of words to identify the use, such as an ice cream cone for an ice cream shop or the logo of a business in lieu of the name on an awning. The sign design should reflect the historic character of the district.

Sign Design/Creativity	
Montana Avenue Sign Committee	Recommended Score

Applicant	Requested Score

Points Sign Design/Creativity

10 Achieves a design that is either historic in nature or compatible with the character of the business, district and the building. Maximum effort was made to create an innovative and compatible design.

5 Makes an effort to create an innovative and compatible design.

0 No effort to be innovative or creative in sign design.

- (f) Historical significance: The design and context of the sign is historically significant to the structure. This would include the use of signs, verified by documentation, that either are existing historic signs (i.e. The Rex) or signs that recreate the original building signs with minor modifications, such as a change in the business name or text.

Historical Significance	
Montana Avenue Sign Committee	Recommended Score
Applicant	Requested Score

Points Historic Significance

10 Achieves a design with historical significance through the use of an existing historic sign or a reproduction of a historic sign.

5 Makes an effort to use historic signage or elements of a historic sign in the creation of a new sign.

0 No effort is made for the use of historically significant signage.

- (g) Use of neon: The use of neon is encouraged when done in a manner that is historic in nature, compatible, or complementary to the character of the district and adjacent signage. The use of neon should be incorporated into the design of the sign.

Use of Neon	
Montana Avenue Sign Committee	Recommended Score

Applicant	Requested Score

Points

Neon

10 Achieves a use of neon that is historic in nature, compatible, or complementary to the character of the district and adjacent signage. Maximum effort was made to use neon in a manner appropriate to the character of the district, building, and adjacent signage.

5 Makes an effort to use neon in a historical, compatible, or complementary manner.

0 No effort is made to use neon in a matter that is historic, compatible, or complementary to the character of the district or the structure.

(h) Use of lighting: The use of lighting should be sensitive to the character of the district. Direct lighting through the use of fixtures such as goose neck lamps is encouraged. Back lighted solid letters or stained glass is encouraged. The use of back lighted, molded plastic faces is discouraged. Installation must comply with the applicable electrical codes. All raceways, exposed conduits and supports will be painted to match or compliment the building.

(1) Neon tubing used in graphics and outlining of signs 60-milliamp maximum.

(2) Incandescent lamps. Exposed up to 20-watt, used in graphics and outlining of signs, awnings and structures. Exterior lighting used to light signs or other objects that shall not exceed one hundred fifty (150) watts and should be concealed in a reflector or fixture that relates to the historical area theme or the building architecture.

(3) Fluorescent. Up to eight hundred (800) MA may be used behind glass or to interior illumination acrylic letter faces on opaque backgrounds.

(4) Downlighting. Shielded reflector or recessed incandescent, mercury vapor or metal halide up to one hundred fifty (150) watts.

(5) Building lighting. The fixtures used will be disguised in an enclosure that will represent some architectural detail from the building. The fixtures shall not project more than 3' from the building surface.

(6) Flashing action (animation). Neon and incandescent lamps may flash in the following ways.

a. Alternating. One section comes on as another goes off.

b. Scintillating. Random sections go on and off with part of the lighting on at all times.

c. Chasing. One section comes on at a time and is followed by one section going off at a time. Part of the sign is on at all times.

d. Sweeping (filling). The lighting sections individually go on until all of the sections are on, then the entire group goes off and then the process is repeated.

e. On-off action—not allowed. Lighting that goes all on and then all off.

Use of Lighting	
Montana Avenue Sign Committee	Recommended Score

Applicant	Requested Score

Points Lighting

10 Achieves a use of lighting that enhances the signage and the building's architecture. Maximum effort was made to use lighting in a manner that emphasizes the continuity of the structure's surface and creates a more intimate ambiance on the street.

5 Makes an effort to use lighting in a manner that compliments and enhances not only the sign but also the structure and the district.

0 No effort is made to use lighting as tool to enhance the sign or the structure.

- (i) Use of sign placement: Appropriate sign placement enhances the structure and district. Signs should not be placed over significant architectural building features. Sign placement can be used to decrease sign clutter, create visibility for the business and direct pedestrian and automobile traffic effectively.

Use of Sign Placement	
Montana Avenue Sign Committee	Recommended Score
Applicant	Requested Score

Points Sign Placement

10 Achieves placement of signage that enhances the building's features and compliments adjacent signage. Maximum effort was made to place the new sign in a manner that displays the message effectively; and

5 Makes an effort to use historic materials or modern materials that effectively simulate historic materials.

0 No effort is made to use historic materials or modern materials that effectively simulate historic materials.

Sec. 27-742. - Nonconforming sign.

Any sign located within this district prior to the formation of the Montana Avenue sign district that does not conform with the provisions of this district is eligible for characterization as a "nonconforming" sign and is permitted, provided it also meets the following requirements:

- (1) The sign was covered by a sign permit or variance prior to formation of this district, if one was required under applicable law; or
- (2) If no sign permit was required under applicable law for the sign in question, the sign was in all respects in compliance with the applicable laws in force at the time of the sign's installation.

Any sign, which is altered in any way, except for normal maintenance, shall be required to comply with these regulations.

Sec. 27-743. - Signs prohibited. The following signs are prohibited.

- (1) New billboards, off-premise/third party signs.
- (2) Portable signs.
- (3) Electronic message centers.
- (4) Changeable copy signs, except for the use on a theater marquee.
- (5) Rotating signs.
- (6) Intermittent or flashing lights.
- (7) Above peak roof signs unless a roof sign had previously been on the building.
- (8) Streamers and pennants.

Sec. 27-744. - Temporary signs.

(a) *Banner signs (public right-of-way).*

- (1) Banners may be placed upon light standards to announce district wide events or exhibits at the Western Heritage Center.
- (2) Banners may not exceed twenty (20) square feet in area.
- (3) Fifteen (15) percent of the sign area may advertise the event sponsor.
- (4) Banners may not be stretched across the public rights-of-way.

(b) *Banners (private property).*

- (1) Each business shall be permitted to display one (1) banner not to exceed thirty-two (32) square feet in area for one (1) five-day period per calendar year.
- (2) The banner may only advertise a product or service sold on the premises.

(c) *Sandwich board (A-frame) signs.*

- (1) One sandwich board sign shall be permitted per public entrance.
- (2) All requirements of Section 22-407.1 and 22-407.2 of the Billings Municipal City Code (BMCC) must be met.
- (3) Sandwich boards must be securely anchored to the ground.
- (4) Sandwich boards may only be displayed during regular business hours.

Sec. 27-745. - Penalties.

Violations of this article are designated as municipal infractions, and punishable by civil penalties as specified in section 18-1304.

ARTICLE 27-800. - SOUTH 27TH STREET CORRIDOR ZONING DISTRICT

Sec. 27-801. - Intent.

The South 27th Street Corridor provides a major entrance from Interstate 90 into the Central Business District, major medical facilities, college campuses and Logan International Airport. This corridor is, very often, the first impression a visitor has when visiting the City of Billings.

The intent of the South 27th Street Corridor Zoning District is to promote attractive, high quality development within this corridor (see below Map 1) that will provide an appealing image of the City of Billings to the traveling public and community.

OBJECTIVES

- (a) To promote creativity in design, quality and character of new development;
- (b) To promote a unique, attractive water-conserving landscaped corridor;
- (c) To promote compatible land use transitions with high sensitivity towards existing and future residential uses;
- (d) To promote and assist in the orderly development of vacant land within the South 27th Street Corridor; and
- (e) To promote development patterns which are in harmony with the goals and objectives of the South Side Neighborhood Plan and the 1990 Yellowstone County Comprehensive Plan.

Ordinances of City of Billings, Montana. Page .

[illegible]

Sec. 27-802. - Administration.

Uses which are allowed by right or through special review approval in the South 27th Street Corridor zoning district are listed in BMCC section 27-306.

Upon submission of the building plans to the City of Billings building division, the planning department will review the submitted plans for conformance with the supplemental requirements as outlined in the following sections of this chapter.

Sec. 27-803. - Definitions.

Terms not specifically defined in this section shall use the same meaning as defined in BMCC section 27-201.

Avenues: Rights-of-way which run through or are located adjacent to the South 27th Street Corridor zoning district, most of which run perpendicular to South 27th Street, such as 2nd Avenue South through 12th Avenue South. This term shall also include State, Lillian and Belknap Avenues.

Sec. 27-804. - Site development.

Improvements (i.e. building standards, utilities, public facilities, drainage, parking, street access, etc.) not specifically addressed in this section, shall comply with all applicable ordinances of the Billings, Montana City Code (BMCC).

Sec. 27-805. - Landscaping.

- (a) *Landscaping along street frontage.* A minimum fifteen (15) foot wide landscaping strip is required along all streets and avenues between the exterior property line(s) and any parking lot development.

There shall be five (5) canopy trees required per one hundred (100) feet of street frontage. The placement of these required trees within the required street/avenue bufferyard and the actual landscaping design shall be at the discretion of the developer, as approved by the Planning Department.

- (b) *Minimum landscaping requirements.* All areas not developed with either approved parking lot material or structures shall be landscaped. Appropriate landscaping material shall include turf, shrubs, trees, flower beds, vines or other live plant cover and shall make up at least ninety (90) percent of the required landscaping. No more than ten (10) percent of the landscaped area shall contain fountains, rock, bark chips, stepping stones or similar inorganic material.

A minimum of twenty (20) percent of the total lot area shall be landscaped with appropriate landscaping material.

All commercial uses abutting residential uses, including those located across an alley, shall install (in addition to the required twenty (20) percent landscaping) a fifteen (15) foot landscaped bufferyard between the commercial development property line and the residential property line. The landscaped strip shall contain a minimum of ten (10) canopy or evergreen trees per one hundred (100) lineal feet. The bufferyard shall also include a sight obscuring fence or wall that is architecturally compatible in color and design, with the commercial building. The fence or wall shall be a minimum of six (6) feet in height. Chain link or other wire fencing material is prohibited.

- (c) *Tree conservation.* All existing mature/healthy trees, located within the landscaping setback requirements, shall not be destroyed and will be incorporated into the landscaping requirements, wherever possible.
- (d) *Supplemental landscaping standards.* All landscaped areas shall be irrigated and maintained. The responsibility for the maintenance of the landscaping shall lie with the property owner(s), his/her successor(s) and/or their agent(s). All landscaping elements shall be permanently maintained in good growing condition and kept free of weeds, debris and litter, 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.

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.

All landscaped areas must comply with the clear vision standards for intersections and driveways as established in BMCC section 27-615. This section regulates the allowed height and placement of fences, walls, signs, landscaping materials, in addition to other objects located within the clear vision triangle(s).

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.

It is recommended that the developer work with the city parks department, a local greenhouse operator, landscape architect or other qualified professional to determine the species of trees that are suitable for each situation. The use of native, drought-tolerant plant material is strongly encouraged. The planting of the trees should be done in such a manner as to provide maximum solar efficiency throughout the site.

A list of recommended plants can be obtained from the planning department.

Sec. 27-806. - Site lighting.

All exterior lighting shall be installed in such a manner that the light source will be sufficiently obscured to prevent excessive glare on public streets, walkways or onto adjacent property.

The exterior lighting shall be designed, located and mounted at heights no greater than:

- (1) Twelve (12) feet above grade for noncutoff lights; or
- (2) Thirty (30) feet above grade for cutoff or semi-cutoff lights.

Exterior lighting adjacent to residential uses shall be directed away from the residential use and public streets.

All exterior lighting shall be designed and located so that the maximum illumination measured in footcandles at the property line shall not exceed three-tenths (0.3) footcandle for non-directional lights and one and five-tenths (1.5) footcandles for directional lights.

Sec. 27-807. - Street access.

Property with access onto South 27th Street or South 28th Street will be allowed one (1) drive approach per three hundred (300) feet of frontage or one (1) drive approach per development not to exceed three (3) drive approaches per block. The use of reciprocal approaches is encouraged.

Property with access onto South 26th Street and Avenues, will be allowed one (1) drive approach per one hundred forty (140) feet of frontage or one (1) drive approach per development not to exceed four (4) drive approaches per block.

Access is encouraged onto the Avenues whenever possible in order to limit curb cuts on South 27th Street and South 28th Street. In addition, access shall be determined by standards found in the Billings, Montana City Code or in County regulations, whichever is applicable.

Access onto South 27th Street shall be approved by the Montana Department of Transportation.

Sec. 27-808. - Outside storage.

In order to maintain the visual integrity of the South 27th Street Corridor, any use requiring outside storage of material, equipment or business related supplies must obtain approval through the Special Review process as detailed in BMCC section 27-1503 ~~or 27-1509~~.

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. The City of Billings public works department shall approve the solid waste storage

facility for minimum opening, accessibility, and other criteria deemed necessary for the removal of solid waste from the site.

Sec. 27-809. - Building design.

All buildings shall be completed on all sides with an acceptable finishing material. The following materials shall be considered 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 material.

Roofs shall be finished with 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 or other architectural facades are encouraged whenever possible.

Sec. 27-810. - Setback requirements.

All setbacks shall be measured from the appropriate property line.

Parking lots shall be setback a minimum of fifteen (15) feet from any street(s) and/or avenue(s) property line(s).

Minimum setbacks for all structures are as follows:

Front	20 feet
Side adjacent to street	15 feet
Side	10 feet
Side adjacent to residential use	15 feet
Rear with alley	0 feet
Rear without alley	20 feet

Arterial setbacks as required in BMCC section 27-602 shall be applicable for all structures and required parking, if greater than above setbacks.

Sec. 27-811. - Building height.

The maximum height for all buildings shall not exceed forty-five (45) feet.

Sec. 27-812. - Reserved.

ARTICLE 27-900. - MEDICAL CORRIDOR PERMIT ZONING DISTRICT

Sec. 27-901. - Title.

This article shall be known, cited and referred to as the "Medical Corridor Permit Zoning District Regulations".

Sec. 27-902. - Purpose.

The purpose of this article is to promote the most compatible, rational pattern of land uses in the medical corridor while establishing a core area in Billings which has a concentration of facilities offering medically-related services. To that end, a permit system has been developed to best accomplish this goal for a centralized area which is also designed for compatibility with neighboring, existing land uses.

Sec. 27-903. - Criteria generally.

In the medical corridor no specific land use is automatically allowed on a particular site as is the case under traditional zoning districts. Instead, a set of both absolute and relative criteria has been established which gives greater assurance that a centralized medical area can exist and be compatible with adjacent land uses, as well as, foster a healthy growth pattern in the medical corridor. Site and development plans are required to evaluate an applicant's success or failure to address these criteria. If the criteria are met, the land use may proceed. A developer must meet all the absolute criteria to qualify for a permit. In addition, in the relative criteria category, the developer must also attain a minimum of at least seventy (70) percent of the maximum points possible in order to proceed if the proposed development is medically-related and seventy-five (75) percent if it is not medically-related to qualify for a permit. (See BMCC section 27-912, "Land use relative criterion" for definitions of land use). The requirements and procedures of this newly adopted district are contained in this part.

Sec. 27-904. - Official zoning map.

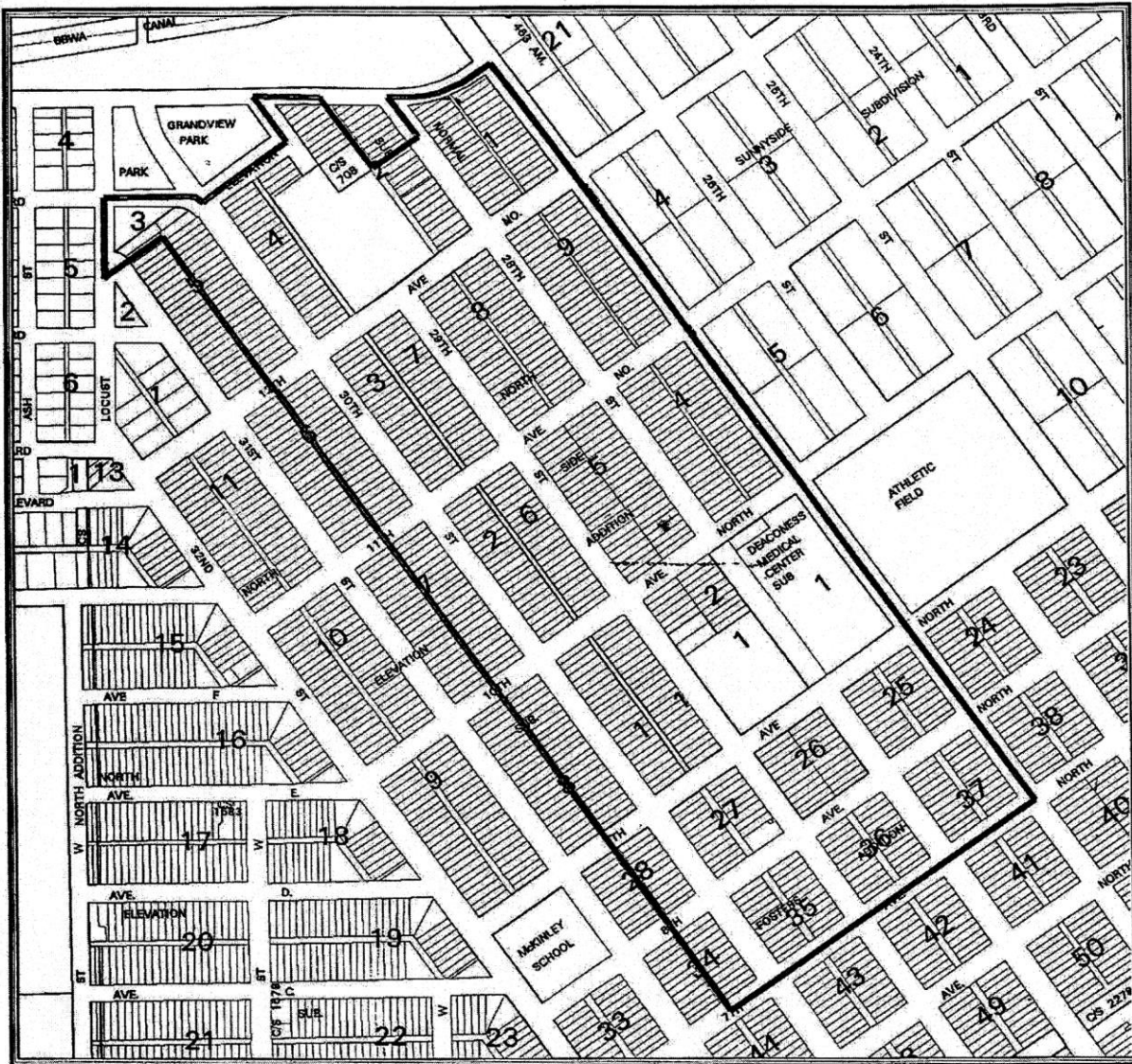
In order for the changes in zoning within this district to become effective, they must be entered on the official zoning map which is located in the office of the Yellowstone County board of planning. Such map shall be the final authority as to the current zoning status of land inside the city.

Sec. 27-905. - Boundaries.

The boundaries of the Medical Corridor Permit Zoning District are described as follows:

The area in the city which is inside the boundaries described, beginning with the point of intersection of center lines of 7th Avenue North and North 27th Street; thence in a northwesterly direction along the centerline of North 27th Street to the intersection of North 27th Street and Poly Drive; thence westerly along the centerline of Poly Drive to the intersection of Poly Drive and North Broadway; thence southeasterly along the centerline of North Broadway to the intersection of North Broadway and the northern border of Lot 15, Block 2, Normal Subdivision; thence southwesterly along the northern border of Lot 15 to the alley; thence in a northwesterly direction along the centerline of the alley to Poly Drive; thence westerly along the centerline of Poly Drive to the intersection of Poly Drive and North 29th Street; thence southeasterly along the centerline of North 29th Street to the intersection of North 29th Street and Elevation Avenue; thence southwesterly along the centerline of Elevation Avenue to the intersection of Elevation Avenue and Grandview Boulevard; thence westerly along the centerline of Grandview Boulevard; to the intersection of Grandview Boulevard and Locust Street; thence southerly along the centerline of Locust Street to the intersection of Locust Street and the vacated portion of Elevation Avenue (Resolution 83-14404 vacated Elevation Street between North 30th and North 31st Streets on September 26, 1983); thence northeasterly along the centerline of the vacated portion of Elevation Avenue to the intersection of vacated Elevation Avenue and the alley between North 31st Street and North 30th Street; thence southeasterly along the centerline of the alley to the intersection of the alley and 7th Avenue North; thence northeasterly along the centerline of 7th Avenue North; to the intersection of 7th Avenue North and North 27th Street, which is the point of beginning.

Map 1. Medical Corridor Permit Zoning District



Medical Corridor Permit Zoning District

Sec. 27-906. - Medical corridor permit zoning system process.

- (a) The permit zoning system process is a review of development proposals against a set of absolute and relative criteria. Permit zoning allows those land uses that can meet the criteria pertinent to a specific site.
- (b) Every land use must satisfy the criteria listed in the "all development" category, as well as, any other applicable criteria from the "special requirements" categories. The specific criteria which a proposal must satisfy are dependent upon the type of land use being proposed.
- (c) The absolute criteria must be satisfied before approval can be granted. These include assuming compatibility and compliance with adopted official plans, minimum engineering and public service requirements and environmental standards as outlined in this document. Each of the applicable absolute criteria must be answered yes before approval can be granted.

- (d) Relative criteria are the "points" of the system. Each development must achieve a specified minimum percentage of these criteria. A score above the minimum percentage may be used to receive extra points. The absolute criteria are designed to address public service requirements and reduce negative impact of development, while the relative criteria focus on the actual design of a project including but not limited to: building layout, open space, landscaping, pedestrian circulation, and architectural design. The design of a site plan is thus evaluated against the relative criteria and scored on a point chart.
- (e) The performance of a particular development plan shall be evaluated as follows:
- (1) *Absolute criteria.* Each of the absolute criteria is answered yes, no, or not applicable. A "no" answer to any applicable absolute criteria will automatically exclude the plan, as proposed, from further consideration. Modifications to correct any problems would have to be made before further consideration could be given to the development proposal.
 - (2) *Relative criteria.* The development plan is evaluated against each applicable relative criteria and assigned a "score." The numerical score is assigned based on the following:

2 =	For an excellent job of implementing the criteria or for doing the best job possible, given the constraints and opportunities of the site.
1 =	For an adequate job of implementing the criterion.
0 =	For no effort or failure to implement the criterion.

Each relative criteria has been preassigned a "multiplier" which determines the relative importance of that criterion to the other criteria. The meaning of each multiplier is as follows:

3 =	Very important
2 =	Average importance
1 =	Minor importance

The points earned for each criterion are the product of multiplying the "score" times the "multiplier." The maximum points possible in each category are added together, as are the total points earned by the proposal. The points the proposal has earned must equal at least seventy (70) percent of the maximum points possible in order to proceed if the proposed development is medically-related and seventy-five (75) percent if it is not medically-related. The objective is to receive the maximum number of points.

Sec. 27-907. - Special requirements.

The following special requirements shall apply to any area development.

- (1) *Residential developments.* The maximum density permitted shall not be allowed as a matter of right, and the actual density shall be as determined by the final plan and approved in accordance with the permit zoning process. A score of seventy-five (75) percent or more must be achieved among the relative criteria for a proposal which is not medically-related to proceed.

- (2) The city shall have the right to establish general design standards, guidelines, and policies, for the purpose of implementing and interpreting the permit zoning.

Sec. 27-908. - Procedures.

- (a) *Conceptual review.* This is an opportunity for applicants to discuss requirements, standards, and policies that apply to development proposals. Major problems can be identified and solved before a formal application is made. The applicant must arrange a conceptual review meeting with the zoning coordinator or his/her designee. Representatives of the building, engineering, parks and recreation, community services, city-county health, public works administration, public utilities, fire, traffic and planning departments will be sent notification of the conceptual review meeting along with copies of building and/or site plans. Should it be necessary, department representation may be reviewed and changed, subject to the city administrator's directive. Representatives from the departments will decide at the conceptual review whether any of the absolute or relative criteria are not applicable for the application in question and whether their department needs to participate at the preliminary and final review stages.

The general outline of the proposal, evidenced schematically by sketch plans, shall be submitted by the applicant and reviewed by the zoning coordinator. Following the review the zoning coordinator shall furnish the applicant with written comments regarding the application, including appropriate recommendations to inform and assist the applicant prior to preparing the formal application.

The applicant shall allow two (2) weeks from the conceptual review meeting for written staff evaluation of the conceptual review and the recommendation(s) of the zoning coordinator.

- (b) *Preliminary plans.* An application for preliminary review may be filed with the zoning coordinator upon completion of the conceptual review meeting and after the recommendation of the zoning coordinator has been made. If the zoning coordinator has not made written comments within the required two (2) weeks after the conceptual review, then the applicant may submit a preliminary plan at any time thereafter. It is at this point that the applicant addresses the pertinent absolute and relative criteria. A review meeting is held between the applicant, zoning coordinator, and other departments and agencies. Adjacent property owners (including the property owners adjacent to, in the rear of and to either side, and directly across the street from and to either side of the proposal site) will be invited to attend and participate in the meeting. Adjacent property owners will be notified by the zoning coordinator by letter which includes a brief explanation of what the developer proposes to build so those persons have an opportunity to review and comment on the proposal and to attend the preliminary plan review meeting. The preliminary plan review meeting will be held within thirty days (30) days of the submittal unless the developer agrees to an extension.

Two (2) weeks from the review meeting date are allowed for the written evaluation of the preliminary plan by the appropriate departments/agencies having responsibility for review of such proposals, as determined by the zoning coordinator.

If approval is granted following the review, then preliminary approval will be valid for one hundred eighty (180) days.

Applications requiring a major subdivision, abandonment of rights-of-way or other items requiring city council action by ordinance will be subject to city council approval before the final plan approval can be granted.

If no revisions are required of the preliminary plan, then the plan shall be automatically considered as the final plan and the final plan review meeting will be waived.

- (c) *Final plans.* The submittal of the final plan follows within one hundred eighty (180) days of the granting of the preliminary plan, and it will be in substantial compliance with the approved preliminary plan. The submitted final plan will not:
 - (1) Change the use or character of the development; or

- (2) Cause changes in the development that will reduce the total points earned by more than five (5) percent or to a point below the minimum point total required for the proposed development.

A final plan review meeting will be held within thirty (30) days of the final plan submittal, between the applicant, zoning coordinator, as well as, other departments and agencies. Adjacent property owners will again be invited to attend and participate in the meeting. As with the preliminary plan review, the zoning coordinator shall notify adjacent property owners by letter of the final plan submittal, inviting their comments prior to and at the meeting. The zoning coordinator will distribute plans to the departments and agencies which participated in the conceptual and preliminary reviews for their evaluation. The applicant shall allow thirty (30) days from the date of submittal for receipt of the written staff evaluation of the final plan review.

Applicant and adjacent property owners dissatisfied with the decision of the zoning coordinator shall have the process of appeal to the city council, as outlined below in section 27-916.

Sec. 27-909. - Content of development submittal.

- (a) Applications for site and building permit review are not required for the conceptual review, as this stage of the process is intended to allow the developer to meet informally with the zoning coordinator and other appropriate staff to determine if the proposal is worth pursuing before he/she has incurred any substantial expense. The conceptual review stage is also provided so that a developer can obtain initial feedback from the zoning coordinator as to what he/she and other departments may want to include in the preliminary and final plans.
- (b) For the preliminary and final review process, copies of the site plan and complete building and supporting data, as determined necessary, shall be submitted to the zoning coordinator, along with the application fee which shall be set by the city administrator. In this regard, the following will be required:
 - (1) A legal and general description of the tracts upon which review is sought.
 - (2) Names and addresses of owners of real property adjacent to the project site plus legal descriptions of the adjacent properties.
 - (3) Statement of proposed use.
 - (4) A site plan at a suitable scale (no greater than 1" = 4' or no less than 1" = 50'), and indicating:
 - a. Suggested plans for proposed storm water drainage system sufficient to drain and dispose of all surface water accumulation within the area, indication of sanitary sewer, water, gas, electric, etc., easements, and written notifications that they have been reviewed by the city engineer and public utilities department for feasibility purposes;
 - b. Landscape plans including species, size and spacing of trees and shrubs;
 - c. Locations of all existing and proposed buildings, recreation areas, utility and service areas, fire hydrants, access drives, full width of street and adjacent drives, parking areas, storage areas, existing and proposed utility lines, and easements;
 - d. Location and description of all other existing and proposed site improvements including fences, walls, signs, lighting, walkways, patios, decks, and barriers;
 - e. A clear delineation of all areas to be paved or surfaced, including a description of surfacing material to be used;
 - f. The planned use of all yards;
 - g. Location and description of all off-site improvements and right-of-way dedication; and
 - h. Payment of application fees.
 - (5) Building plans for all structures including:
 - a. The size, alignment and intended use of all structures;

- b. Architectural plans for proposed buildings complete with exterior finishes and including floor plans and elevations; and
 - c. These plans shall also indicate unit sizes, ratios of dwelling unit to total lot sizes and parking spaces.
- (6) A timetable for the proposed construction project.
 - (7) Any other information pertinent to the particular project which, in the opinion of the zoning coordinator and/or city staff, is determined to be necessary for the review of the project (i.e., traffic accessibility study).

Sec. 27-910. - Review procedures.

The following review procedures have been established to assure that the process as outlined in this document is handled in a smooth and timely manner for a developer in the medical corridor and to protect the interests of adjacent property owners.

- (1) It will be the responsibility of the zoning coordinator to process permit requests under this system in the following manner:
 - a. A developer will bring his/her request for a permit to the planning department.
 - b. The zoning coordinator shall determine the time and place of the conceptual plan review with the developer. A formal application and payment of any required fees under this system is not required at this time.
 - c. The zoning coordinator shall notify all departments and/or agencies regarding the conceptual review meeting. Those parties will determine whether their attendance is necessary at the future meetings.
 - d. Following the conceptual review the applicant shall pay required fees and prepare a formal application at the time of preliminary plan submittal.
 - e. The zoning coordinator shall distribute copies of building and site plans submitted at the preliminary plan review stage and the final plan stage to all departments and/or agencies who have participated in the conceptual review.
 - f. The zoning coordinator shall notify adjacent property owners, by certified letter, of the development proposal and afford them the opportunity to review the preliminary plan after submission to the zoning coordinator. Staff will have thirty (30) days to review the preliminary plan and adjacent property owners are encouraged to give their comments during this period prior to the preliminary plan review meeting so that the developer can be made aware of any major differences or concerns on the part of any adjacent property owners to the development proposal. Feedback during this period will also minimize any major problems for the developer and the city prior to approval of the final plan. If necessary, the zoning coordinator can arrange a separate meeting between the developer and adjacent property owners to resolve differences. Adjacent property owners will be invited to attend the preliminary plan review meeting.
 - g. Following the preliminary plan review meeting the zoning coordinator shall again notify adjacent property owners as outlined in this document, by letter, of the time and place of the final plan review meeting to afford them another opportunity to comment on the proposal.

Should either the developer and/or adjacent property owner be dissatisfied with the final decision, either party has the right to appeal the decision directly to the city council as outlined in BMCC section 27-916 of this document.

- (2) The review may result in disapproval, approval, or approval with certain conditions of the proposed development. Approval of the preliminary plan does not constitute final approval, but rather indicates an expression of intent. The issuance of the building permit itself constitutes final approval.

- (3) Activities authorized by granting of the building permit shall be initiated within six (6) months and completed within twelve (12) months after issuance of the permit, or within the approved time schedule submitted and approved for larger projects. The building official has the ability to grant a six (6) month extension under this system. Time schedules are included to assure the timely development of the area. Should the time period expire and an extension is not granted, the developer shall file a new application which will require resubmission of building and site plans and payment of fees as in the original application, as outlined in BMCC section 27-909 of this document.

Sec. 27-911. - Point chart for all development—Absolute criterion.

(To be completed by Zoning Coordinator and city staff)

ABSOLUTE CRITERION	Is the Criterion Applicable?		Is the Criterion Complied With?	
	Yes	No	Yes	No
Building Standards				
Utilities				
Vehicular Traffic				
Pedestrian Access				
Public Facilities				
Public Right-of-Way				
Lighting				
Drainage				
Signage				
Noise				
Parking				

A proposal must receive a "yes" answer to all applicable criteria in order to qualify for approval.

Building
Standards:

Does all construction conform to the adopted building and site development codes?

All structures to be constructed in the medical corridor shall require site approval by the Planning and Engineering Departments and building plan approval by the Building

Official before a building permit can be issued. Any structure will also require Fire Department approval of the structure's fire design.

Developer:

Building Official:
(building plan)

Criterion complied with: Yes ___No

Planning:
(site plan)

Criterion complied with: Yes ___No

Fire Department:
(fire design)

Criterion complied with: Yes ___No

Standards:
Billings, Montana City Code, Chapter 6, "Buildings and Building Regulations": All sections except Section 6-1100.

Utilities:
Is the proposed development served by city services (water, sanitary and storm sewer) with adequate capacity or have arrangements been made for extension and augmentation?

Developer:

Public
Utilities:

Criterion complied with: Yes ___No

Public
Works:

Criterion complied with: Yes ___No

Fire
Department:

Criterion complied with: Yes ___No

Standards:

No definite answer exists for the amount of new development which could be sustained in the medical corridor area because it depends upon the type of development proposed. Assessing the capacity of existing sewer and water lines is very difficult on a small scale basis due to a number of variables.

Large multiple family, commercial, and institutional complexes or projects would require increased capacity in order to meet the sanitation, water and fire protection needs. Property owners and developers of such complexes will be required to comply with the Public Utilities Department policy regarding fire suppression water facilities, stating that:

It is the Public Utilities Department's policy to require property annexed to the City of Billings and property rezoned or redeveloped within the corporate city limits to upgrade water lines and appurtenances and to install the proper number of fire hydrants, if necessary, in order to provide the required fire suppression water for the city's fire department. Such facilities shall be constructed by public works contractors either by special improvement district methods or by private contract and the cost of such construction will be directly assessed to the properties benefitted from the construction of said facilities.

Property owners and developers will have to include the cost of upgrading the water and sanitary sewer mains and appurtenances and installing the proper number of fire hydrants within their expected cost of development. Since the utility systems rely on system components outside the immediate development area for proper functioning, upgrading may involve more than just those facilities in the specific development site area. Any designs for the upgrading of water mains, appurtenances, and fire hydrants must have plans and specifications stamped by a Montana Registered professional engineer. Any such plans and specifications must be approved by the Public Utilities Department and the State Department of Environmental Quality.

The Billings Fire Department will determine the required fire suppression water flow.

Vehicular

Traffic:

What will be the impacts of the traffic generated by the proposed development project, and how does the developer propose to mitigate these impacts?

In assessing these impacts the developer should be as specific as possible in addressing the present and future capacity of the street system so that the city traffic engineer can evaluate the proposed development.

Developer: _____

City Traffic

Engineer: _____

Criterion complied with: Yes ___No

Standards:

If development generates more than five hundred (500) vehicle trips a day, an accessibility study will be

required. See BMCC Section 6-1208(d). Traffic accessibility studies will also be required if the proposal includes a drive-up window or special traffic characteristics:

BMCC Section 27-604: (Fences and Hedges); and
BMCC Section 27-615: (Visibility at Intersections).

See the report entitled "Traffic Accessibility Studies" available from the Traffic Engineering Division, if there are any questions regarding whether an accessibility study is required and what its contents should be.

Pedestrian

Access:

Pedestrian access must be provided to every building in the proposed development. It may be achieved in two (2) ways: "Public," as normally required and specified in the engineering standards of the city, and/or "private," a system of pedestrian sidewalks and paths which provides to the satisfaction of the city equal or better performance than the "public" system. The developer is to assess the condition of the present city sidewalks.

Developer: _____

City

Engineer: _____

Criterion complied with: Yes ___ No

Standards:

Billings, Montana City Code, Chapter 22, "Streets, Sidewalks and Other Public Places": Articles 22-200 and 22-400.

Public works department standards.

Public

Facilities:

Does the project comply with all city design standards, requirements, and specifications for the following?

- Fire equipment accessibility
- Fire protection
- Street lighting
- Streets
- Utility services
- Clear vision
- Handicapped access (public and private)
- Traffic control devices
- Trash collection
- Walks
- Curb cuts
- Arterial setbacks

Developer: _____

Fire
Department: _____

Criterion complied with: Yes ___ No

Planning: _____

Criterion complied with: Yes ___ No

Public
Utilities: _____

Criterion complied with: Yes ___ No

Public
Works: _____

Criterion complied with: Yes ___ No

Building
Official: _____

Criterion complied with: Yes ___ No

Standards:
Billings, Montana City Code:

Chapter 14, "Fire Prevention and Protection": All sections.

Chapter 6, "Buildings and Building Regulations": Section 6-300, Section 6-305 and
Section 6-301.

Chapter 22, "Streets, Sidewalks, and Other Public Places": All sections.

Chapter 24, "Traffic and Motor Vehicles": Sections 24-100 and 24-400.

Chapter 21, "Solid Waste": All sections.

Chapter 26, "Water and Wastewater Utilities": All sections.

Chapter 27, "Zoning": Sections 27-602 and 27-615.

Public Works Department standards.

Public Utilities Department standards.

Building Division standards.

Public Right-
of-Way:

Does the proposed project require either dedication of additional right-of-way or vacation of a public right-of-way (a right-of-way is a strip of land dedicated or acquired for use as a public way)?

Developer: _____

Public
Utilities: _____

Criterion complied with: Yes No

Public
Works: _____

Criterion complied with: Yes ___No

Standards:

Billings, Montana City Code, Chapter 22, "Streets, Sidewalks and Other Public Places": Article 22-600.

Example. If an alley is vacated, any and all public utilities located therein will have to be relocated at the expense of the developer or owner as the city will not want public utilities such as sewer and water lines located within privately-owned land.

Lighting:

Is sufficient exterior lighting proposed and will it be installed so the light source sufficiently avoids spillover of light and glare on operators of motor vehicles, pedestrians, and land uses in the proximity of the light source? (This criterion does not include public street lighting which is regulated under the public facilities criterion.)

Developer: _____

Public
Works: _____

Criterion complied with: Yes ___No

Standards:

Definitions:

Candlepower: The amount of light that will illuminate a surface one foot distant from a light source to an intensity of one footcandle. Peak candlepower is the largest amount of candlepower emitted by any lamp, light source, or luminaire.

Cutoff: The point at which all light rays emitted by a lamp, light source, or luminaire are completely eliminated at a specific angle above the ground.

Cutoff angle: The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source, above which no light is emitted.

Cutoff-type luminaire: A luminaire with elements such as shields reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than ninety (90) degrees.

Footcandle: A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one candle.

Luminaire: A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

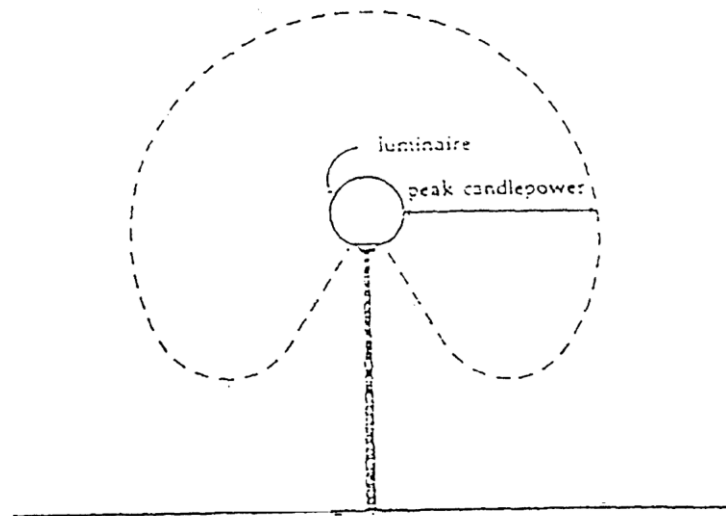
Maximum permitted illumination: The maximum illumination measured in footcandles at the interior bufferyard line at ground level in accordance with the following standards.

The maximum height of light posts is correlated to the amount of cutoff provided. Exterior lighting must meet one of these options:

- A. When a light source or luminaire has no cutoff:

Maximum permitted illumination - 0.30

Maximum permitted height of luminaire - 20 feet

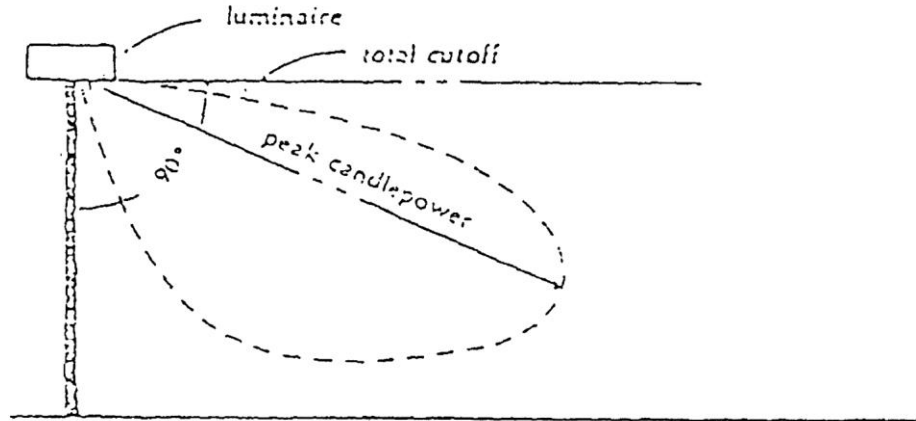


No Cutoff Luminaire

NO CUTOFF LUMINAIRE

- B. When a luminaire has total cutoff of an angle equal to ninety (90) degrees, the maximum illumination and the maximum permitted luminaire height shall be:

Maximum permitted illumination - 1.0
Maximum permitted height of post - 30 feet

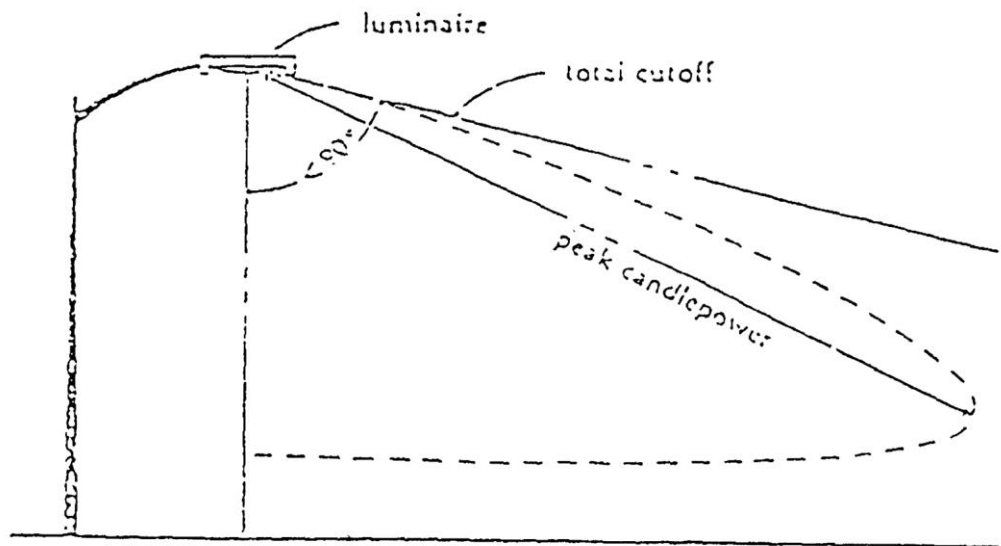


90 degree Cutoff Luminaire

90° CUTOFF LUMINAIRE

- C. When a luminaire has total cutoff of light at an angle less than ninety (90) degrees and is located so that the bare light bulb, lamp, or light source is completely shielded from the direct view of an observer five (5) feet above the ground at the point where the cutoff angle intersects the ground, then the maximum illumination and maximum permitted height of the luminaire shall be:

Maximum permitted illumination - 3.
Maximum permitted height of post - 40 feet



Luminaire with less than 90 degree Cutoff

LUMINAIRE WITH LESS THAN 90° CUTOFF

No flickering or flashing lights are permitted.

Light sources or luminaries are not allowed within bufferyard areas, except on pedestrian walkways.

Billings, Montana City Code, Chapter 6, "Buildings and Building Regulations": Section 6-1203(q)(5) (Lighting of parking lots).

Drainage:

The project will have the proper drainage as per city standards.

Developer: _____

City

Engineer: _____

Criterion complied with: Yes ___No

Standards:

Billings, Montana City Code: Chapter 6, "Buildings and Building Regulations", Articles 6-200 and 6-1200.

Public works department standards.

Ordinance No. 83-4565, Section 3.

Signage:

Signs will be constructed to conform with the Sign Code. Signs shall not be mounted on a roof. There shall be no signs in a clear vision area. No moving, flashing or blinking signs shall be allowed.

Developer: _____

Sign Code

Administrator: _____

Criterion complied with: Yes ___No

Standards:

Sign Code and all other applicable ordinances regulating signs.

Noise:

Projects will be designed to protect against noise pollution on the part of or happening to the project users.

Developer: _____

Building

Official: _____

Criterion complied with: Yes ___No

Standards:

Billings, Montana City Code, Sections 17-101 through 17-112, "Noise."

For purposes of this criterion, the applicable district corresponding with the medical corridor will be "residential." (See Section 17-101, definition of "residential area" and BMCC section 17-104, Table I)

Examples of design methods to reduce external noise intrusion include insulation, double-glazed windows, solid core doors, and acoustical ceiling tiles.

Parking:

Projects shall meet or exceed the city standards for off-street parking and loading area requirements.

Developer: _____

Building

Official: _____

Criterion complied with: Yes ___No

Standards:

Billings, Montana City Code, Chapter 6, "Buildings and Building Regulations": Article 6-1200.

Sec. 27-912. - Point chart for all development - Relative criterion.

(To be completed by Zoning Coordinator and city staff)

RELATIVE CRITERION	Is the Criterion Applicable? Yes No	Awarded Score 0-1-2	Multiplier	Points Earned	Maximum Points
Building Scale			3		6
Landscaping			3		6
Parking			3		6
Land Use			3		6
Density			3		6
Compatibility			3		6
Access on North 27th Street			2		4

Architectural Design			2		4
Building Materials			2		4
Removal of Dwellings			1		2
Residential Multi-Family			1		2
Transit			1		2
Multiple-Use			1		2
Pollution			1		2
TOTAL					58

Note:

All medically-related proposals must achieve a minimum score of seventy (70) percent of the applicable criterion points possible in the relative criteria rating before a project can be approved, in addition to receiving "yes" answers to all applicable absolute criteria. If the land use proposal is not medically-related, then the proposal must achieve seventy-five (75) percent of the total points possible plus a "yes" answer to all applicable absolute criteria. Thus if all the relative criteria are applicable, a project must score forty (41) points (seventy (70) percent) or forty-four (44) points (seventy-five (75) percent), depending on its land use.

Building

Scale:

The scale of a building (its height, bulk, setback, and lot coverage) is encouraged to be sensitive to the immediate environment and, when possible, compatible in appearance with the scale of neighboring buildings. Property located between North 30th Street and the alley toward North 31st Street must maintain at least a ten (10) foot minimum setback from the alley. Where access is a problem for fire equipment, the Fire Department will require built-in fire protection systems.

Developer:

—
—

Requested Score

Planning:

—
—

Recommended Score

Multiplier x3

Total Points

Final Plan
Review: _____

Awarded Score

Multiplier x3

Total Points

Standards
and Scoring:

For arterial setbacks see Chapter 27, "Zoning": Section 27-602.

See BMCC Sections 27-308 and 27-309 for general requirements for the Residential Multi-Family - Restricted, Residential Professional, Community Commercial, and Central Business Districts and BMCC section 27-310 for Supplemental Area, Yard and Height Restrictions.

Points	Scale of Project
2	Fifty (50) percent or less lot coverage; same maximum height and minimum yard requirements as Residential Professional zoning classification for commercial uses and Residential Multi-Family Restricted for multiple family dwellings.
1	Standards for Community Commercial zoning classification met.
0	Standards for Central Business District zoning classification met.

Landscaping:

A project is encouraged to be landscaped in such a way as to provide public open space and areas of pedestrian activity and create an aesthetically pleasing setting around buildings and parking lots, and to create buffers between the proposed development and potentially incompatible uses (e.g., between parking lots and residential area).

Developer: _____

Requested Score

Planning: _____

Recommended Score

Multiplier x3

Total Points

Final Plan
Review: _____

Awarded Score

Multiplier x3

Total Points

Standards
and Scoring:

Existing, healthy plant material may be counted for contributing toward the total plant material required. All plantings in right-of-way are subject to review and approval by the Parks Department and may be counted for up to twenty-five (25) percent required landscaping area.

Adequate maintenance must be included in the proposal to assure upkeep of all plant materials and landscaping treatments.

Appropriate plant materials are set forth in Section 27-913 and the "Plant Materials" reference document.

Understory trees may be substituted for canopy trees where it is found that canopy trees would destroy solar access on adjacent properties.

User safety is to be considered when selecting plant materials for landscaping areas heavily used at night.

The standards are applied proportionately when the total linear feet of building perimeter is over three hundred (300) feet for non-residential uses or ten (10) residential dwelling units.

Number of plant units required per three hundred (300) square feet of nonresidential use or ten (10) dwelling units:

2	Canopy;
2	Understory;
10	Shrubs.

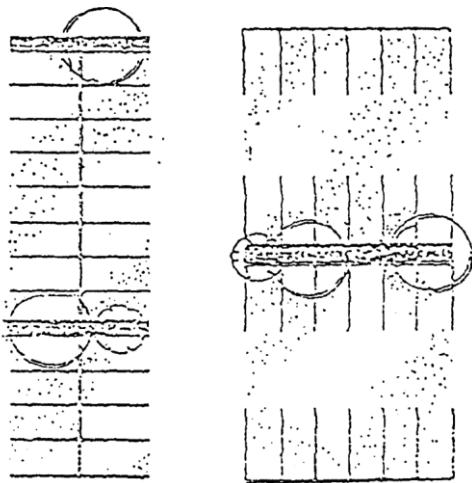
The number and type of plant units suggested per twenty-four (24) automobile spaces in an off-street parking area is shown below. The standards shall be applied proportionally to any number of spaces over twenty-four (24).

Minimum area within which recommended planting should be provided - three hundred sixty (360) square feet:

2	Canopy;
1	Understory;
4	Shrubs.

360 S.F./24 Stalls

2	Canopy
1	Understory
4	Shrubs



Stalls

Example

Points	Plant Material

2	Greater than 100% of standard.
1	Meets 100% of standard.
0	Meets less than 100% of standard or no effort made.

Note:

Lot area set aside for green areas and landscaping are not to include concrete, asphalt, cement, or gravel treatments. However, consideration to point adjustment will be given based on quality (e.g. benches, lawn areas, usable space, pedestrian plazas, and plantings).

Parking:

Parking garage construction or joint use agreements are encouraged in order to reduce the amount of land being used for parking.

Developer:

Requested Score

Building

Official:

Recommended Score

Multiplier x3

Total Points

Final Plan

Review:

Awarded Score

Multiplier x3

Total Points

Standards
and Scoring:

Billings, Montana City Code, Chapter 6, "Buildings and Building Regulations": Article 6-1200.

Maintain parking according to building code occupancy for employees (one space per employee). In addition to this, meet "Table of Minimum Standards-Off-Street Parking" (BMCC section 6-1203(j)) according to proposed land use.

Points	Parking Requirement
2	Provide 20% over minimum parking standard plus joint use agreements for at least 25% of the parking provided, or a parking garage for at least the minimum parking standard.
1	Provide 10%-20% over minimum parking standard, or provide minimum standard plus a plan to promote mass transit or carpooling (as approved by MET).
0	Less than 10% over the minimum standard met for parking.

Land Use:

The land use of the development is encouraged to be medically-related, given that the primary reason for establishing the medical corridor is to provide for a systematic development of medical services in this area and to have its development be consistent with high quality standards.

Developer: _____

Requested Score

Planning: _____

Recommended Score

Multiplier x3

Total Points

Final Plan

Review: _____

Awarded Score

Multiplier x3

Total Points

Standards
and Scoring:

Set forth below are general and specific land use definitions.

Generally:

Points	Land Use
2	Offices for physicians and surgeons, dentists and dental surgeons, osteopathic physicians, or chiropractors; hospitals and clinics; medical laboratories; dental laboratories; convalescent homes; health and allied services.
1	Medical support services, accessory uses.
0	All other land uses.

Specific land use definitions:

Point Value - 2

Offices of physicians and surgeons:

Clinics (operated by physician groups)
Gynecologists
Neurologists
Nuclear medicine and radio-therapists
Obstetrics
Oculists
Offices of physicians and surgeons
Ophthalmologists
Pathologists
Psychiatrists
Psychoanalysts
Radiologists

Offices of dentists and dental surgeons

Offices of osteopathic physicians

Offices of chiropractors

Hospitals:

- Hospitals for humans
- Hospital-operated clinics
- Nurses' training schools

Medical laboratories:

- Laboratories (not manufacturing) for biological, bacteriological, chemist, medical, x-ray (picture and treatment)
- Pathological laboratories
- Research laboratories (medically-related)

Dental laboratories

Denturists

Convalescent homes:

- Convalescent homes
- Nursing homes
- Rest homes

Health and allied services:

- Birth control clinics
- Blood banks
- Clinics, not operated by hospitals or physician groups
- Dieticians and diet centers
- Group health associations
- Medical photography
- Mental health centers
- Nursing services
- Occupational therapist
- Optometrists
- Out-patient treatment clinics for alcoholism and drug abuse
- Physiotherapy
- Psychiatric clinics
- Podiatrists
- Prosthesis
- Orthopedic Supply
- Audiologists
- Psychotherapists
- Rehabilitation centers (therapy and treatment)
- Speech defect clinics

Point Value - 1

Medical support services:

- Day care centers
- Group homes
- Medically-related office space
- Medical educational facilities
- Out-patient medical and surgical support services
- Pharmacies

Accessory uses and uses incidental to any of the above uses:

Cafeteria
Churches, chapels, houses of worship
Heliport (no bulk-fuel storage will be allowed)
Hotels, motels
Mortuaries
Off-street parking garages and lots
Recreational facilities
Restaurant (without beer/wine or all beverage liquor license)
Restaurant (affiliated with hotel or motel, without beer/wine or all beverage liquor license)

Point Value - 0

All other land uses.

Density:

Increased density of dwelling units is encouraged in order to provide increased housing opportunities close to the hospitals, Central Business District and near major employers and Montana State University - Billings.

Developer: _____

Requested Score

Planning: _____

Recommended Score

Multiplier x3

Total Points

Final Plan
Review: _____

Awarded Score

Multiplier x3

Total Points

Standards and Scoring:	<i>Minimum Lot Size</i>	<i>Number of Units</i>
	2,500 square feet	1
	4,000 square feet	2
	5,000 square feet	3
	6,000 square feet	4
	(500 square feet)	(each additional unit)

Points	Density
2	21% or more units than the standard
1	Up to 20% more units than the standard
0	Fewer units than the standard

Compatibility:

All efforts toward promoting neighborhood compatibility are encouraged, such as:

1. Having resolved all differences between proposed development and the affected neighborhood;
2. Keeping the development compatible with and sensitive to the immediate environment of the site and neighborhood relative to architectural design; scale, bulk and building height, disposition and orientation of buildings on the lot, and visual integrity;
3. Having conflicts between the proposed development and the surrounding land uses effectively mitigated; and
4. Designing the project so that any additional traffic generated does not have significant adverse impact on surrounding development, and the street system.

Developer: _____

Requested Score

Planning:

—
—

Recommended Score

Multiplier x3

Total Points

Final Plan

Review:

—
—

Awarded Score

Multiplier x3

Total Points

Standards
and Scoring:

Compatibility has been stressed throughout this document. The reason for that is the desire to protect the residents in the area and to preserve the neighborhood-type setting now enjoyed. Past construction activity has threatened that quality, and this chapter is an attempt to instead enhance the area.

Again, it is recognized that the primary purpose for the corridor is to serve as a central location for medically-related services and products, with all other land uses being secondary in importance. However, the permit zoning system will allow the city to have more control over the area's development than in the past in order to protect both the existing residences and the area to the immediate west of the medical corridor from encroachment by unsightly or inappropriate land uses. At the same time, the city will be able to encourage development which will be beneficial to the entire community in terms of design, health care, and economic return.

Protection of the remaining areas of single-family residences must be assured through communication between the developers and the property owners, and through design. In particular, compatibility is sought for the homes south of 11th Avenue North on North 30th Street, between 12th and 10th Avenues North on North Broadway, and the areas of homes south of 11th Avenue North on North 29th Street. It is these areas which are most in need of compatible, sensitive development around their environs.

Points	Compatibility Effort
2	Developer met with adjacent property owners on own accord in effort to keep differences to a minimum and achieved high degree of compatibility with immediate environment.

1	Developer either met with adjacent property owners on own accord to assure compatibility or achieved high degree of architectural compatibility.
0	No effort made.

Access on
North 27th
Street:

If the project is proposed on property adjacent to North 27th Street, it is encouraged that limited access be provided on North 27th Street and, where applicable, side streets be used for accessibility.

Developer:

—
—

Requested Score

City Traffic
Engineer:

—
—

Recommended Score

Multiplier x2

Total Points

Final Plan
Review:

—
—

Awarded Score

Multiplier x2

Total Points

Standards
and Scoring:

Billings, Montana City Code; Chapter 6, "Buildings and Building Regulations," Section 6-1208 (Curb Cut Regulations).

If property abuts an avenue, access to the site is to be provided by a curb into the avenue rather than North 27th Street.

The minimum standards from the Curb Cut Ordinance shall be met, as well as the American Association of State Highway and Transportation Officials' standards for site distance.

Points	Access
2	0 access on North 27th Street if avenue is available; otherwise 1 access when frontage is only along North 27th Street; shared access between two properties with property widths of 60 feet or less.
1	1 access for property with 60 feet or less frontage; 2 accesses for any single property tract or business establishment in excess of 60 feet frontage when distance between curb cuts exceeds minimum standard of 25 feet.
0	2 accesses for property or business establishment in excess of 60 feet frontage with 25 feet distance between curb cuts; no effort to use avenue for access when possible to do so.

Architectural

Design:

Development design is encouraged to be either compatible in design with the neighboring properties or promote harmonious transitions in scale and character in areas between different land uses. Design should thus be appropriate to the site and function of the project and should promote interior energy conservation measures.

Developer:

Requested Score

Building
Official:

Recommended Score

Multiplier x2

Total Points

Planning:

Recommended Score

Multiplier x2

Total Points

Final Plan
Review: _____

Awarded Score

Multiplier x2

Total Points

Standards and Scoring:

Examples of design features promoting energy conservation include double-glazed windows, thickness or density of walls and doors, insulation, and sealing around windows and doors.

Examples of compatibility are use of similar building materials, closeness in scale with neighboring structures, color or style similarities.

Solar collectors are to be designed as harmoniously as possible with the natural features of the building or property.

Billings, Montana City Code, Chapter 6, "Buildings and Building Regulations": All appropriate sections.

Points	Scale of Project
2	Either achieves highest possible compatibility in design with surrounding area or provides for maximum level of effort to be harmonious with adjacent, differing land uses, plus incorporating interior energy conservation measures.
1	Makes an effort to be compatible or harmonious and incorporates interior energy conservation measures.
0	No effort made in design or interior energy conservation.

Building Materials:

The use of building materials for structures and fences which are compatible with the surrounding environment is encouraged.

Developer:

Requested Score

Building
Official:

Recommended Score

Multiplier x2

Total Points

Planning:

Recommended Score

Multiplier x2

Total Points

Final Plan
Review:

Awarded Score

Multiplier x2

Total Points

Standards
and Scoring:

The use of materials such as wood, brick, or siding which have subdued colors and help blend the building into the landscape is encouraged.

Loud, obnoxious colors, untreated block, and plain metal buildings visible from streets are discouraged.

Points	Materials Used

2	When feasible, building materials are natural; colors are otherwise subdued; exceptional effort made to be compatible with neighboring building materials.
1	Colors are subdued and building materials are generally compatible.
0	Loud colors, untreated block, plain metal buildings visible from street, and incompatible materials with surroundings.

Removal of
Dwellings:

The removal of existing dwellings more than forty-five (45) days prior to the start of construction is discouraged. In addition to this, the proper abandonment of existing utility services is required, unless services will be reused.

Developer:

Requested Score

Building
Official:

Recommended Score

Multiplier x1

Total Points

Final Plan
Review:

Awarded Score

Multiplier x1

Total Points

Standards
and Scoring:

Billings, Montana, Chapter 6, "Buildings and Building Regulations": Article 6-1000.

A cash bond will be deposited with the City in order to ensure the meeting of the deadlines when either "2" or "1" point(s) are sought. The City Administrator will set the terms and conditions of the bond.

Points	Removal of Dwellings
2	Dwelling to be removed less than 30 days prior to project start-up date.
1	Dwelling to be removed 45 to 30 days prior to project start-up date.
0	Dwelling to be removed over 45 days in advance of project start-up date.

Residential

Multi-Family:

Residential multiple family development is encouraged in the southern portion of the medical corridor area and along the west side of North 30th Street.

Developer:

Requested Score

Planning:

Recommended Score

Multiplier x1

Total Points

Final Plan Review:

Awarded Score

Multiplier x1

Total Points

Standards
and Scoring:
1990 Yellowstone County Comprehensive Plan.

Points	Location of Proposed Multi-Family Development
2	Between 9th Avenue North and 7th Avenue North; or along the west side of North 30th Street between 9th Avenue North and Grandview Boulevard.
1	Between 11th Avenue North and 9th Avenue North.
0	North of 11th Avenue North.

Transit:
Developments are encouraged to promote the use of MET by residents, employees and patrons.

Developer: _____

Requested Score

MET Transit: _____

Recommended Score

Multiplier x1

Total Points

Final Plan
Review: _____

Awarded Score

Multiplier x1

Total Points

Standards
and Scoring:

MET Transit Bus Shelter Specifications.

Billings, Montana City Code, Chapter 7, "Businesses and Business Regulations": Article 7-1000.

Upon the developer's request, staff will establish criteria for awarding one (1) or two (2) points for each specific development. These criteria may include, but are not limited to, such items as providing funding for bus shelters, benches, shelter maintenance agreements, subsidized bus passes or fares for development users, schedule displays, and advertising.

The developer can then secure the one (1) or two (2) points by agreeing to comply with the criteria. If the developer does not agree that the criteria are appropriate for the specific development, the criteria established can be appealed to the City Council.

No effort made will result in a zero score.

Multiple-Use

Development:

A development which provides facilities for more than one function is encouraged. Examples of such developments are an office building with child care facilities for employees and a building offering ground floor commercial/office space, as well as, multiple family units on the upper floors.

Developer:

Requested Score

Planning:

_____ ;

Recommended Score

Multiplier x1

Total Points

Final Plan

Review:

Awarded Score

Multiplier x1

Total Points

Standards
and Scoring:

Billings, Montana City Code:

Chapter 6, "Building and Building Regulations," Article 6-1200.

1990 Yellowstone County Comprehensive Plan.

Uses being proposed in a development should be uses which are allowed within the existing zoning categories of either Residential Professional or Neighborhood Commercial.

Points	Number of Uses
2	3 or more
1	2
0	1

Pollution:

Developments are encouraged to be designed so that odor and air quality are controlled at its source or by the structure from which it is emitted so it does not constitute a nuisance.

Developer:

—

—

Requested Score

City

Engineer:

—

—

Recommended Score

Multiplier x1

Total Points

Final Plan

Review:

—

—

Standards
and Scoring:

If determined that the proposed development will adversely affect air quality, the city can refer the proposal to the County Air Pollution Control Board.

Awarded Score

Multiplier x1

Total Points

Points	Mechanism
2	Maximum protection from generating air and odor pollution will be given.
1	Adequate protection from generating air and odor pollution will be given.
0	Minimal effort to be made to protect from possibility of generating air and odor pollution.

Sec. 27-913. - Plant materials for landscaping and bufferyards.

- (a) *Rules and regulations.* The city administrator shall promulgate and publish rules and regulations which will be on file at the parks, recreation, and public lands department specifying the plant materials and standards which must be met in order to satisfy the requirements of landscaping and bufferyards. The rules and regulations will be used to determine which plant materials will satisfy the requirements of this chapter. The plant materials are listed by type: Conifers and evergreen trees, evergreen shrubs, deciduous trees, deciduous shrubs, ground covers, and vines.

Although the rules and regulations will not generally specify the location or spacing of plant material required, all plant materials shall be installed to maximize achieving the purpose(s) for which the planting is required. In the case of bufferyard planting, this means that plant material shall be located so as to achieve the maximum level of protection to the less intense use.

- (b) *Minimum plant size.* Unless otherwise specifically indicated elsewhere in this chapter, all plant materials shall meet the minimum size standards set forth in Table 1.

TABLE 1.

Plant Material Type	Minimum Size	
	Planting in Bufferyards Abutting Vacant Lands	All Other Plantings
Canopy tree:		
Single stem	1½ inch caliper	2½ inch caliper
Multi-stem clump	6 feet (height)	10 feet (height)
Understory tree	4 feet (height)	1½ inch caliper
Evergreen tree	3 feet (height)	5 feet (height)

Shrub:		
Deciduous	15 inch (height)	24 inch (height)
Evergreen	12 inch (height)	18 inch (height)

(c) *Existing plant material.* Existing, healthy plant material may be counted as contributing to the total plant material required by this regulation.

Sec. 27-914. - Review chart—All criteria.

A.	Absolute Criteria:	Complied With
	1. Building Standards	Yes ____No ____N/A
	2. Utilities	Yes ____No ____N/A
	3. Vehicular Traffic	Yes ____No ____N/A
	4. Pedestrian Access	Yes ____No ____N/A
	5. Public Facilities	Yes ____No ____N/A
	6. Public Right-of-Way	Yes ____No ____N/A
	7. Lighting	Yes ____No ____N/A
	8. Drainage	Yes ____No ____N/A
	9. Signage	Yes ____No ____N/A
	10. Noise	Yes ____No ____N/A
	11. Parking	Yes ____No ____N/A

A proposal must receive a "Yes" answer to all of the above criteria, if applicable, in order to be considered for approval.

Does the proposal qualify for a permit based on the above criteria? Yes No

B.	Relative Criteria	Points Earned
	1. Building Scale	
	2. Landscaping	
	3. Parking	
	4. Land Use	
	5. Density	
	6. Compatibility	
	7. Access on North 27th Street	
	8. Architectural Design	
	9. Building Materials	
	10. Removal of Dwellings	
	11. Residential Multi-Family	
	12. Transit	
	13. Multiple-Use	
	14. Pollution	
	TOTAL	

Minimum Points Required. Seventy (70) percent of total applicable points possible for medically-related land use proposal; seventy-five (75) percent of total applicable points possible for nonmedical-related land use proposal.

Proposal (has ____)(has not ____) attained minimum points required to total applicable points.

Proposal qualifies for a permit. Yes ____No

Sec. 27-915. - Existing development.

- (a) Should an existing development propose to externally remodel fifty (50) percent or more of the building, have an addition put on in excess of ten (10) percent of the existing building, change its use, or create

some nonbuilding improvements (e.g., parking lots, fences), then certain provisions shall be complied with. The property will have to comply with all of the applicable absolute criteria and address four (4) of the relative criteria of the permit system before a permit is issued by the zoning coordinator.

- (b) Existing developments which involve the external remodeling of less than fifty (50) percent of the building or an addition of ten (10) percent or less onto an existing building must comply with the absolute criteria. The relative criteria will not be addressed by these projects. However, if the existing development is a single-family dwelling or a duplex now meeting and proposed to continue meeting the standards of the residential 6,000 (R-60) zoning category, then it will not need to go through this permit procedure for remodeling, additions, or fences. When these conditions are met, the building permit shall be issued for these development types.
- (c) Internal remodeling projects (which are not changing the use of the building) will be exempt from this chapter and will go through the regular building permit process.
- (d) Parking lots for existing developments which are proposed to add ten (10) or fewer spaces for off-street parking will go through this section's process. All other parking lots will go through the entire permit zoning procedure.

Relative Criterion	Awarded Score	Multiplier	Points Earned	Maximum Points
Building Scale		3		6
Landscaping		3		6
Architectural Design		2		4
Building Materials		2		4
Total Maximum Points				20

- (e) All building permit applications for existing development must receive a "yes" to all applicable absolute criteria plus achieve a minimum score of seventy-five (75) percent among the applicable relative criteria before a project can be approved and a building permit issued. Thus if all four (4) criteria apply, the applicant must achieve at least fifteen (15) points before a permit is issued. The zoning coordinator will notify the applicant of the awarded scores. Depending upon the scope of the project it is suggested that the zoning coordinator "fast track" this process and allow no more than two (2) weeks for departmental review of the preliminary plan BMCC section 27-908(B) and one (1) week for review of the final plan BMCC section 27-908(C). A conceptual review BMCC section 27-908(A) is not required for this section but is highly recommended. The same notification procedures will be used as is outlined in BMCC section 27-908 for contacting department representatives and adjacent property owners.

Sec. 27-916. - Appeal process relating to issuance of denial of permit.

- (a) *Generally.* The following outlines the appeal process which can be exercised by either a developer who is denied a permit or an adjacent property owner who wishes to protest or appeal the city staff decision to grant a permit for a particular development.
- (b) *Developer appeal.* Should a permit be denied, a developer will receive a written explanation from the zoning coordinator as to the reasons for the denial within two (2) weeks of the final plan's submittal. The developer then has fourteen (14) days from the date on the letter in which to file a request for

appeal before the city council. The petition requesting an appeal and a copy of the zoning coordinator's letter giving the reason(s) for the denial of the permit shall be filed with the city clerk and shall be placed on the city council agenda within thirty (30) days after receipt of the petition. The city council will review the petition and vote (by simple majority) whether an appeal may be filed for their consideration. If permission to appeal is not granted, then the zoning coordinator's denial of the permit stands. Should permission be given to hear an appeal, then the developer will have thirty (30) days in which to file a written appeal with the city clerk. It shall include a copy of the zoning coordinator's explanation for denial of the permit, and the developer's reasons why the permit should be issued. A copy of this appeal must be sent to the zoning coordinator.

The city clerk shall then place the item on the city council agenda. The city clerk shall notify all adjacent property owners as outlined in this document, by letter, of the time and place of the city council meeting so that they may appear and comment on the appeal.

- (c) *Adjacent property owner appeal.* Once the zoning coordinator decides to grant a permit, the zoning coordinator must notify all adjacent property owners (including all lands directly opposite the site) by letter and inform them that they have fourteen (14) days from the date of the letter to submit a request of an appeal of the decision to the city council. If a request for appeal is not submitted for council consideration, then the decision of the zoning coordinator stands. If the property owners want to submit a petition requesting an appeal, it shall be filed along with the zoning coordinator's letter with the city clerk, and the clerk shall place the petition on the city council agenda within thirty (30) days. Should the council agree to hear the appeal, then the property owners filing the request must submit, in writing, reasons why adjacent property owners feel the permit should not be granted. The filing must take place within thirty (30) days of the granting of permission by the city council to hear the appeal and shall be filed with the city clerk.

If the affected property owners do not appeal the decision to grant the permit within the fourteen (14) day period, they have waived their right to appeal and the zoning coordinator shall then issue a permit for the proposed development. If a request for an appeal is filed, a copy must be sent to the zoning coordinator by the city clerk, and any issuance of a permit shall be delayed until the city council can resolve the matter.

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, 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 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.

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 BMCC 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, 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, serveways and the interstate highway.
- (26) *Suspended sign*: A sign that is suspended from the underside of a horizontal place 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 urban 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 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: $\frac{1}{4}"=1'0"$ 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 ($1\frac{1}{2}$) 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 BMGC 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~~

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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

Sec. 27-1401. - Purpose.

The purpose of the Shiloh Corridor Overlay District is to provide standards for industrial, commercial, and mixed-use development as called for in the West Billings Plan. This overlay zoning district is intended to promote an aesthetically pleasing and distinct entryway corridor by encouraging abundant landscaping, attractive building design, and preservation of scenic vistas. Single family and duplex residential development are exempt from the requirements of this overlay zoning district. The overlay zoning does not alter the category of permitted uses in the underlying zoning.

Sec. 27-1402. - District boundaries.

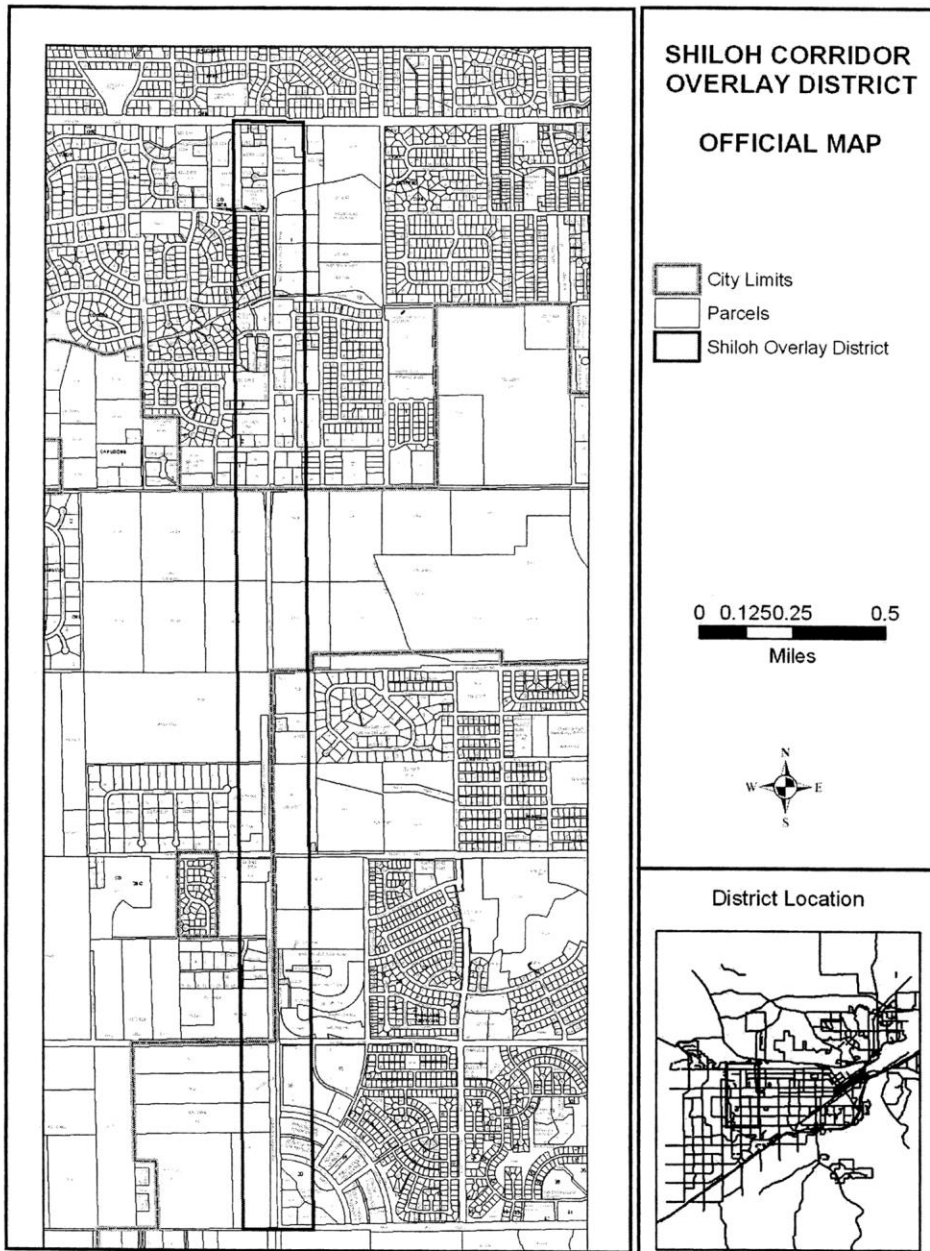
The boundaries of the Shiloh Corridor Overlay District shall be that displayed on the map at the end of section 27-1403. In no case shall the boundaries of the district exceed a depth of five hundred (500) feet from the centerline of the right-of-way of Shiloh Road from King Avenue north to Rimrock Road. If only a portion of the property falls within the boundaries of the district, the entire property will be subject to the regulations in section 27-1400.

Sec. 27-1403. - Review criteria.

- (a) *Generally.* The Shiloh Corridor overlay district review process is a review of development proposals against a set of absolute and relative criteria. Site and development plans are evaluated to determine whether the proposed development meets the identified criteria. If the criteria are met, the development may proceed.

New developments and existing development in which the gross floor area (GFA) or the number of parking stalls is increased by twenty-five (25) percent must comply with these regulations.

- (b) *Absolute criteria.* A developer must meet all absolute criteria to obtain planning and community services department approval. The absolute criteria are defined in sections 27-1406 through 27-1408. Absolute criteria also include all other applicable codes, ordinances, and statutes, including, but not necessarily limited to, minimum engineering and building standards, public service and utility requirements, and environmental regulations.
- (c) *Relative criteria.* Relative criteria are the "points" of the review process. Each development must obtain a specified minimum number of points based on the relative criteria identified in section 27-1409. The development plans are evaluated against the relative criteria and scored on a point chart.



Shiloh Corridor Overlay District Map

Sec. 27-1404. - Application and approval process.

- (a) *Approval required.* This chapter applies only to properties within the city. Any new development or remodel requires a building permit from the city Building Division. Planning Division approval is also required prior to construction. Planning Division approval is to ensure compliance with the zoning regulations. This does not in any way imply approval by any other city department.
- (b) *Content of application.* Each application for development located in the Shiloh Corridor overlay district shall include the following:
- (1) The name and address of the property owner and applicant, if different;
 - (2) The legal and general description of the tracts or lots upon which review is sought;
 - (3) A statement of proposed use;
 - (4) A complete site development plan drawn to scale of no less than one (1) inch = forty (40) feet indicating:
 - a. Plans for landscape development, including irrigation, drainage, grading, and planting detail showing species, size and spacing of trees and shrubs and percent of living and non-living material;
 - b. Dimension and location of all existing and proposed buildings, recreation areas, utility and service areas, trash storage area, fire hydrants, access drives, full width of street and adjacent drives, parking areas, existing utility lines, and easements;
 - c. Dimension, location and description of all other existing and proposed site improvements including fences, walls, walkways, patios, decks, and barriers;
 - d. A clear delineation of all areas to be paved or surfaced, including a description of surfacing materials to be used;
 - e. Location and description of all off-site improvements and right-of-way dedication; and
 - f. Location and type of lighting, including a scaled or dimensioned elevation of each type of lighting fixture, and the maximum illumination measured in foot-candles at the property line.
 - g. Information describing how sound suppression will be accomplished when property is adjacent to residential use.
 1. Building plans drawn to a scale of no less than one-sixteenth (1/16) inch = one (1) foot for all structures, including architectural plans for proposed buildings complete with exterior finishes and including floor plans and elevations.
 2. A signage plan describing specifications and location of all signage. A separate application and approval shall be required for all signs;
 3. A timetable for the proposed construction project; and
 4. A complete form showing compliance with the relative criteria and points assigned (see section 27-1424);
 5. Any other information pertinent to the particular project which, in the opinion of the zoning coordinator, is determined to be necessary for the review of the project.

Within fifteen (15) working days following the submittal of a complete application, the zoning coordinator or his/her designee shall approve or deny the application, unless the applicant consents in writing to an extension of the review period. In the event that review exceeds fifteen (15) days, the applicant may seek immediate approval from the planning director. If an application is determined to be incomplete, the applicant shall be notified within five (5) days of the submittal. Should the application be denied, the applicant shall be notified in writing specifying all areas of noncompliance with this section.

Sec. 27-1405. - Definitions.

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

Sec. 27-1406. - Absolute criteria.

(a) *Development standards.*

- (1) *Shiloh road frontage setbacks.* The minimum frontage setback from the property line along Shiloh Road for all developments excluding residential single family or duplex shall be twenty (20) feet. The clear vision triangle will be maintained as required in section 27-615. Side and rear building setbacks shall be the same as the underlying zoning district. All arterial setbacks as outlined in section 27-602 must also be maintained.
- (2) *Other regulations.* All other city codes shall apply, including but not 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 both this section and other codes, those in this section apply.
- (3) *Sidewalks.* All sidewalks along internal platted streets shall be boulevard walks. The boulevard shall be at least five (5) feet wide and landscaped. The landscaping shall contain ground cover such as sod, shrubs, flower beds or living plant material. River rock, bark chips, flagstones or similar non-living material may be used as mulch or decorative landscape features to supplement the living plant material. No more than twenty-five (25) percent of the landscaped area shall contain non-living material. There shall be at least one (1) canopy tree per every forty (40) linear feet.

(b) *Landscaping standards.*

- (1) *Shiloh Road frontage setback landscaping required.* All developments are required to landscape the frontage setback adjacent to and along the length of Shiloh Road, excluding driveways. Frontage setbacks shall be landscaped with a minimum of five (5) canopy or evergreen trees and fifteen (15) shrubs per one hundred (100) feet of frontage.
 - a. Developer is encouraged to mass trees to create interest along the frontage. Two (2) ornamental trees may be substituted for one (1) canopy or evergreen tree. Within two hundred (200) lineal feet of street frontage the required number of trees and shrubs may be massed together to create one (1) or more large tree and shrub planting area(s) somewhere within the two hundred (200) lineal foot length. Developer is encouraged to mass ornamental trees and shrub beds at intersections with Shiloh Road and other right-of-way frontage roads and at internal street intersections while still maintaining clear vision triangle height restrictions, pursuant to section 27-618.
 - b. Up to thirty (30) percent of the required landscaping may be located in the boulevard of the public right-of-way.
- (2) *Right-of-way frontage other than Shiloh Road landscaping required.* All developments are required to landscape the frontage setback adjacent to and along the length of all rights-of-way other than Shiloh Road, excluding driveways. Right-of-way frontage setbacks shall be landscaped with a minimum of three (3) canopy or evergreen trees and eight (8) shrubs per one hundred (100) feet of frontage. See subsection (1)a. above
 - a. Up to thirty (30) percent of the required landscaping may be located in the boulevard of the public right-of-way.
- (3) *Off-street parking lot landscaping.*
 - a. A minimum of twenty (20) square feet of internal landscaping shall be provided for each parking space.
 - b. One (1) canopy and/or evergreen tree and (5) shrubs shall be required for every eight (8) parking spaces. Developer is encouraged to mass trees to create interest inside parking lot. Two (2) ornamental trees may be substituted for one (1) canopy or evergreen tree. Developer is encouraged to create several large shrub areas throughout the parking lot and to use parking lot islands with trees and shrubs to direct traffic through parking lot.

- c. The shortest dimension of any parking lot landscaped area shall not be less than five (5) feet.
 - d. Internal parking lot landscaping shall be proportionately dispersed, at the developer's discretion, in order to define aisles and limit unbroken rows of parking. The maximum unbroken distance in any direction shall be limited to one hundred (100) feet. See section 27-1106 for additional requirements.
- (4) *Commercial uses abutting residential and public uses.* All commercial or industrial uses shall be separated from abutting, including across an alley, residential single family, duplex and public uses by a fifteen (15) foot wide bufferyard. The bufferyard shall be landscaped with a minimum of five (5) canopy or evergreen trees and twelve (12) shrubs per one hundred (100) linear feet. See subsection (1)a. above. If the adjacent land use is a vacant building or ground, then the zoning shall be used in place of the land use.
- A solid fence or wall that is architecturally similar in color and design shall be required on the property line. The fence shall be a minimum of six (6) feet high. Chain link or other wire fencing material is prohibited. All fences shall be maintained by the commercial property owner.
- (5) *Non-living material allowed.* River rock, bark chips, flagstones or similar material may be used as mulch or decorative landscape features to supplement the living plant material. Bufferyards may include boulevard sidewalks. No more than twenty-five (25) percent of the landscaped area shall contain non-living material.
 - (6) *Landscape maintenance required.* All landscaped areas shall be irrigated, maintained and kept free of weeds, debris and litter. Dead or dying material shall be replaced within one (1) year.
 - (7) *Protection of landscaped areas.* Landscaped areas within parking lots or along the perimeter of the property must be protected from vehicular traffic through the use of continuous concrete curbs, extruded asphalt or other approved barriers.
 - (8) *Automobile and recreation vehicle sales.* Automobile and recreation vehicle sales are required to install two (2) of the required trees and one and one half (1½) the required shrubs along street frontages or are exempt from the tree requirements as long as the required trees are replaced with shrubs and/or other landscape features, including but not limited to water features, landscape rock, public art, etc.
 - (9) *Plant standards.*
 - a. *Canopy tree.* A species of tree that normally bears crown foliage no lower than six (6) feet above ground level upon maturity. Minimum size of canopy trees shall be at least two (2) inches in caliper at the time of installation. Caliper shall be defined by the American Nurseryman Standard Definition.
 - b. *Evergreen.* A tree or shrub of a species that normally retains leaves/needles throughout the year. Minimum size of evergreen trees shall be five (5) feet in height at the time of installation.
 - c. *Ornamental tree.* A species of tree that normally bears flowers in the spring time of the year or has other ornamental features such as unique leaves, bark, leaf color or fruit. Minimum size at installation shall be one and one half (1½) inch caliper. Caliper shall be defined by the American Nurseryman Standard Definition.
 - d. *Shrubs.* The minimum size of a shrub shall be at least five (5) gallons.
 - e. *Recommended tree types.* It is recommended that the developer work with the city parks department, county extension agent, a local greenhouse operator, landscape architect or other professional designer to determine the species of trees that are most suitable for each situation. The use of native, drought tolerant plant materials is strongly encouraged. Evergreen trees are discouraged for internal parking areas if they limit sight lines. The planting of trees should be done in such a manner as to provide maximum solar efficiency throughout the site. A list of recommended plant material shall be available at the planning department.

- f. *Fractions in the calculations of number of trees and shrubs.* In the calculation of trees and shrubs for bufferyards or parking landscaping, fractions of less than five-tenths (.5) shall be rounded down to the nearest whole number; fractions of more than five-tenths (.5) shall be rounded up to the nearest whole number.

Sec. 27-1407. - Building design standards.

- (a) *Materials.* 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 metal panels with covered fasteners, exterior insulation and finishing systems (i.e., Dryvit, etc.), stone, wood, and integrally colored or exposed aggregate concrete. Exposed-seam metal buildings shall be prohibited unless covered with an acceptable finishing material.
- (b) *Roofs.* Roofs exposed to view shall be finished with a durable material that is architecturally coordinated in color and design with the building material. Recommended materials include: standing seam, dimensional asphalt shingles, shakes or shingles. Other types or styles of roofing materials that are consistent with this chapter may be approved by the zoning coordinator or his/her designee. Pitched roofs are encouraged wherever possible.
- (c) *Mechanical equipment.* mechanical equipment, placed at ground level or on a roof, shall be screened. The screening shall be at least the height of the mechanical equipment. Sound suppression/abatement shall be provided when mechanical equipment is installed on property that is adjacent to residential uses or zoning districts.
- (d) *Elevations and facades.* Buildings shall incorporate one or more of the following: recesses, off sets, angular forms, or other architectural features such as bell towers or clock towers to provide a visually interesting shape. The break in facade shall be a minimum of twelve (12) feet in length and with a minimum protrusion or recess of four (4) feet. Buildings shall incorporate a break in the architectural facade at least every sixty (60) feet. It is encouraged that each offset area contain landscaping or other similar amenities that will complement the offset area.

Sec. 27-1408. - Additional provisions.

- (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 coordinated in color and design with the building. However, 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. Bufferyards or required landscaping shall not be used for the displaying of merchandise. Chain link and other types of wire fencing are prohibited.
- (b) *Area lighting.*
 - (1) All outdoor pole lighting shall be fully shielded (no light emitted by the fixture is projected above the horizontal plan of the fixture) and mounted at heights no greater than twenty (20) feet above grade.
 - (2) All outdoor lighting, except street lights, shall be located and aimed or shielded so as to minimize stray light trespassing across property boundaries.
- (c) *Canopy, marquee and "wall pack" lighting.* Canopy, marquee and "wall pack" lighting shall be fully shielded. No internally illuminated fascia shall be allowed.
- (d) *Storage of junk.* No person shall store junk, partially or completely dismantled vehicles, or salvaged materials outside a building. In the case of repair shops, such material 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.
- (e) *Waste storage area.* All 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. The following materials are acceptable: brick, fluted block, colored textured block, glass, stucco, architectural metal

panels with covered fasteners, exterior insulation and finishing systems (i.e., Dryvit, etc.), stone, wood, and integrally colored or exposed aggregate concrete. Exposed-seam metal buildings shall be prohibited unless covered with an acceptable finishing material. Solid waste enclosures are encouraged to be landscaped.

Sec. 27-1409. - Development features required to earn points (relative criteria).

In accordance with section 27-1403, each application for development in this overlay district must score a minimum number of points based on the relative criteria described below. The number of points required depends on the underlying zoning of the property on which the development is located. Design elements are listed under nine (9) category headings. A project shall earn one (1) point for each design element that it incorporates. At least one (1) point shall be earned from eight (8) out of the nine (9) categories listed. The developer must attain the following minimum number of points:

Twenty (20) points if the lot size is greater than twenty-five thousand (25,000) square feet; or

Fifteen (15) points if the lot size is less than twenty-five thousand (25,000) square feet.

(1) *Site development:*

- a. Pavement along Shiloh frontage setback is less than or equal to thirty-five (35) feet.
- b. Construct one or more public use spaces such as mini-parks, water feature, playfields or playgrounds, rest areas, for example.

(2) *Access:*

- a. A transit or school bus stop.
- b. Easement granted for bike path or pedestrian trail other than sidewalk. The easement must be in addition to what is required by the Subdivision Regulations.
- c. Construction of bike path or pedestrian trail other than sidewalk (one (1) point for each fifty (50) feet of ten (10) foot wide concrete or comparably durable hard surface pathway, four (4) points maximum).
- d. Provision for internal access between lots.
- e. Shared driveway.
- f. Internal sidewalks incorporating stone, brick, patterned or colored concrete.
- g. Installation of a curvilinear boulevard walk.

(3) *Lighting:*

- a. Demonstrate lighting does not spill over to adjacent residential properties.
- b. Establish an overall outdoor lighting budget for the property that does not exceed fifty thousand (50,000) initial lamp lumens per net acre for all fully shielded and unshielded light sources.
- c. Continuity of lighting fixture design with adjacent properties.
- d. Incorporate outdoor light fixtures at heights less than twenty (20) feet.

(4) *Parking:*

- a. A joint use parking agreement.
- b. Parking provided does not exceed one hundred (100) percent of required spaces.
- c. Landscaping internally integrated in parking areas and/or sales area.
- d. Parking lots placed at the rear and/or side of the building, none in front.

(5) *Scale:*

- a. The mass and scale does not exceed that of the surrounding development by more than ten (10) percent.
- b. The height of structures does not exceed that of the surrounding development by more than ten (10) percent.
- c. The building size does not exceed that of the surrounding development by more than ten (10) percent.

(6) *Landscaping:*

- a. Buildings have foundation planting.
- b. Landscaping exceeds minimum number of trees and shrubs that are required by ten (10) percent each.
- c. Landscaping material exceeds minimum caliper width by one (1) inch or fifty (50) percent additional height required.
- d. Drought tolerant tree, shrub and grass species requiring a significant reduction of water use.
- e. Terraced or bermed site design.
- f. Stormwater retention areas include significant landscaping.
- g. Bufferyards larger than required by at least ten (10) percent.
- h. Continuity of landscaping features at interface with adjacent property.
- i. Canopy trees placed in the boulevard along internal streets at one tree per twenty-five (25) feet of street frontage.
- j. Installation of a curvilinear boulevard walk.
- k. Incorporates existing trees in landscape design.

(7) *Architectural design:*

- a. Building materials are natural, i.e. wood or stone.
- b. Pitched roof with a minimum 3:12 pitch.
- c. Exceeds the state energy code requirements by:
 Twenty-five (25) percent = One (1) point
 Fifty (50) percent = Two (2) points
 More than seventy-five (75) percent = Three (3) points
- d. The use of alternative energy sources, for example: photovoltaic, solar, geothermal, wind.
- e. Each building up to seventy-five (75) feet in length contains four (4) facade relief elements;
- f. Each building of seventy-five to one hundred fifty (75-150) feet in length contains five (5) facade relief elements;
- g. Each building exceeding one hundred fifty (150) feet in length contains six (6) facade relief elements;
 Facade relief elements:
 - 1. Two (2) or more colors.
 - 2. Natural earth toned colors.
 - 3. Substantial fenestration using windows, doors, or other openings.
 - 4. Two (2) or more materials that break up the mass of the structure.

5. Articulation of the parapet walls.
6. Change in wall plane.
7. Change in roof plane.
8. Extended roof overhangs.
9. Significant variation in building masses and/or forms.

(8) *Signage:*

- a. Signage is not internally illuminated.
- b. Monument signs used in lieu of pole signs.
- c. Area of signage is at least twenty (20) percent less than total area allowable for each sign type.
- d. Maximum sign height does not exceed one-third ($1/3$) the maximum height of the building(s).
- e. Comprehensive sign plan.

(9) *Mixed use:* One point will be given for each building that contains two (2) or more of the following uses:

- a. Office.
- b. Retail.
- c. Personal services such as dry cleaner, laundromats, beauty salons.
- d. Residential.
- e. Hotel/motel.
- f. Medical.
- g. Entertainment.
- h. Restaurant.

Sec. 27-1410. - Signage standards—Purpose, intent, and scope.

The purpose and intent of this section is to promote commerce, traffic safety, and community identity while improving the visual environment of residential, commercial, and industrial areas.

This section of the Code shall not regulate traffic and directional signs installed by a governmental entity or in a private parking lots; signs not readable from nor intended to be viewed from a public right-of-way; merchandise displays; point-of-purchase advertising displays, such as product dispensers; national flags; flags of a political subdivision; symbolic flags of an institution; legal notices required by law; barber poles; historic site monuments/plaques; gravestones; structures intended for a separate use, such as phone booths, donation and recycling containers; lettering or symbols applied directly onto or flush-mounted magnetically to a motor vehicle operating in the normal course of business.

- (1) *Permits required.* Any on-premise sign shall hereafter be erected, re-erected, constructed, painted, posted, applied or structurally altered in accordance with this chapter and pursuant to a sign permit issued by the planning and community services department. A sign permit shall be required for each group of signs on a single supporting structure installed simultaneously. Thereafter, each additional sign erected on the structure must have a separate sign permit. The owner of a sign shall produce a permit upon request. Within fifteen (15) working days following the submittal of a complete sign permit application, the zoning coordinator or his/her designee shall approve or deny the application, unless the applicant consents in writing to an extension of the review period. In the event that review exceeds fifteen (15) days, the applicant may seek immediate approval from the planning director. If an application is determined to be incomplete,

the applicant shall be notified within five (5) days of the submittal. Should the application be denied, the applicant shall be notified in writing specifying all areas of noncompliance with this section.

- (2) *Permit applications.* All permit applications for signs shall include a site plan that provides the following information:
- a. The location of the affected lot, building and sign;
 - b. The scale of the site plan;
 - c. A drawing of the proposed sign or sign revision, including size, height, copy, structural footing details, method of attachment and illumination;
 - d. All existing signs on the site including their size and height; and
 - e. The legal description of the parcel.

Sec. 27-1411. - Definitions.

The definitions used in this chapter may be found below and in section 27-703 of the city sign regulations.

Bulletin board means a sign which identifies an institution or organization on the premises on which it is located and which contains the name of the institution or organization, the names or individuals connected with it, or general announcements of events or activities or similar messages.

Electronically changeable message sign means a computer programmable, microprocessor controlled electric display utilizing a means of illumination (light bulb, LED, fiber optics, etc) upon which alphanumeric characters, graphics, electronic animations, symbols and words can be displayed. Message and symbols that have the capability of alternating, traveling and animating along with any other of a variety of change, appear and disappear methods are allowed. This definition does not include video boards.

Flashing sign means an electrical sign or portion thereof which changes light intensity in a brief, brilliant, or sudden and transient outburst of light causing a steady on and off, glittering, sparkling, or scintillating pattern.

Individual business means one business on one parcel provided that the parcel is not part of a multiple business complex; and also provided the parcel is not part of a group of multiple contiguous parcels under the same ownership.

Monument sign means a sign and supporting structure constructed as a solid structure or one that gives the appearance of a continuous, non-hollow, unbroken mass.

Multiple businesses include businesses that may be located in a single building or in multiple buildings on a single site.

Support structure(s) means posts or columns and their anchors and bolts that structurally support the sign attached to it.

Three-sided sign means a sign with three (3) faces.

Two-sided sign means a sign with two (2) faces.

Sec. 27-1412. - Exempt signs.

The following shall not require a sign permit, provided that these exemptions shall not be construed as relieving the owner from the responsibility to comply with the provisions of this Code or any other law or ordinance, including the Uniform Building Code.

- (1) The changing of the advertising copy or message on a lawfully erected sign that is currently in compliance with this section, reader board or similar sign specifically designed for replaceable copy.
- (2) Painting, repainting or normal maintenance, unless a structural or electrical change is made.

- (3) Temporary banners and temporary signs as permitted herein.
- (4) Real estate sign as permitted herein.
- (5) Incidental signs.
- (6) Political signs.
- (7) Bench signs on city or county rights-of-way, provided approval has been granted for the location by the appropriate city or county agency.

Sec. 27-1413. - Prohibited signs.

The following signs are prohibited in all zones unless otherwise specifically permitted.

- (1) Sign which by coloring, shape, wording or location resemble or conflict with traffic control signs or devices.
- (2) Signs that create a safety hazard for pedestrian or vehicular traffic.
- (3) Flashing signs.
- (4) Portable signs.
- (5) Portable reader boards.
- (6) Portable electric signs.
- (7) Banner signs.
- (8) Signs attached to or placed on a vehicle or trailer parked on public or private property, provided that this provision shall not be construed as prohibiting the identification of a firm or its product on a vehicle operating during the normal course of business. Franchised buses and taxis are exempt from these provisions.
- (9) Roof signs.
- (10) Video boards.
- (11) Billboards.
- (12) Painted signs on buildings, including those attached on or to the surface of windows.

Sec. 27-1414. - Signs permitted in all zones in connection with specific uses.

The following signs may be permitted in any zone, subject to the limitations as provided herein.

- (1) *Bulletin boards.* In addition to the permanent signs allowed in section 27-1415 below, bulletin boards may be permitted on property used for public or private assembly subject to the following:
 - a. Such sign shall contain not more than thirty-two (32) square feet in area on a face and may be double-faced.
 - b. No part of the sign shall exceed a height of six (6) feet above the ground.
 - c. The sign, if illuminated, shall use external low-intensity lighting.
- (2) *Temporary residential subdivision or area name signs.* A temporary real estate sign advertising the prospective sale or lease of a group of lots or dwellings within a tract, condominium, or apartment complex shall be permitted, subject to the following conditions:
 - a. The freestanding sign shall be located on the premises being sold or leased.
 - b. The sign shall not exceed forty (40) square feet in area on a face and may be double-faced.
 - c. The sign shall remain only as long as property remains unsold or unleased for the first time with the tract, but not to exceed one (1) year. The planning division may extend the one-year time period upon written request by the owners/developers of the project.

- d. The sign shall be non-illuminated.
 - e. The top of the sign shall be no higher than ten (10) feet above grade of the lot or parcel on which the sign is located.
- (3) *Permanent residential subdivision or area name signs.* Decorative subdivision or area name signs of a permanent character at the street entrance or entrances to the subdivision or area that identifies the name of the subdivision or area only are permitted, subject to the following conditions:
- a. The sign shall consist of decorative building material with illuminated, indirectly lighted or non-illuminated name plates or letters, and be located in a maintained landscaped area; and
 - b. The wall and or sign shall not exceed six (6) feet above grade of the lot or parcel.
- (4) *Contractor, architect, surveyor, or engineer signs.* One on-premises sign identifying the project, developers, building contractor and/or subcontractors, architect, surveyor and engineer engaged in the construction is permitted on a property during the period of construction, provided that:
- a. The sign is located on the parcel on which the construction is located.
 - b. The sign shall not exceed forty (40) square feet in area; and
 - c. The top of the sign shall not exceed ten (10) feet above grade of the lot or parcel on which the sign is located. The sign shall be removed prior to final building inspections. However, no such sign shall be maintained for a period in excess of twelve (12) months without approval from the planning department. The planning department may extend the one (1) year time period upon written request of the owners/developers of the project.
- (5) *Real estate sign.*
- a. *Residential use or property.* One (1) temporary on-premise sign per frontage road, advertising the sale, lease or rental of the building, property or premises, is permitted on the property. Such sign shall be unlighted, no more than five (5) square feet and no higher than five (5) feet above grade. A thirty-two (32) square foot sign is allowed on agricultural property of twenty (20) acres or more, with or without a dwelling on site.
 - b. *Commercial and industrial use or property.* One (1) temporary on-premise sign advertising the sale, lease or rental of the building, property or premises is permitted on the property. Such sign shall be unlighted, no more than thirty-two (32) square feet and no higher than ten (10) feet above grade.
 - c. *Open house and directional sign.* For (a) and (b), an open house or directional sign shall be allowed on each street access street to the property. Signs shall not be placed in such a manner as to interfere with vehicular or pedestrian traffic, shall be used when the property is actually open for immediate inspections, shall be unlighted, and shall be no more than five (5) square feet and no higher than three (3) feet above grade.
- (6) *Electronically changeable message sign.* Electronically changeable message signs shall be permitted in community commercial, highway commercial, controlled industrial, heavy industrial, entryway general commercial, and entryway light industrial zones in accordance with the standards of sections 27-1417 through 27-1423 and their definitions.

Sec. 27-1415. - Sign standards in residential (R-96, R80, R-70R, R-70, R-60R, R-60, R-50, RMF, RMF-R, RMH) zones.

- (a) *Permitted signs by zone.* Sign structures are permitted in residential zones in accordance with the following uses and standards:
 - (1) A nameplate, which indicates no more than the name and address of the occupant of the premises, is permitted, provided that such sign shall not exceed a maximum area of five (5) square feet and a maximum height of four (4) feet above grade.

- (2) Reserved.
- (b) *Permitted signs by use.* Public or private assembly and non-residential uses within residential zones are allowed the following signs:
- (1) *Wall signs.* On-premises wall signs are permitted, not to exceed one (1) sign of thirty-two (32) square feet. Wall signs shall be non-illuminated or have low-intensity external lighting, and shall be placed flat against the outside wall of a building.
 - (2) *Freestanding signs.* On-premises freestanding signs are permitted, not to exceed one (1) sign of thirty-two (32) square feet* and a maximum height of fifteen (15) feet. On-premises freestanding signs shall be non-illuminated or have low-intensity external lighting.
- * Maximum sign area may be increased to forty-eight (48) square feet for monument signs seven (7) feet or less in height.
- (c) *Multiple arterials.* In the event the use or group of uses is adjacent to more than one (1) arterial, including through and corner lots, they will be allowed a freestanding sign exclusively oriented to the additional arterial. The above allowance shall be calculated independently, using only the additional arterial frontage. However, in no instance shall the square footage allowance from one arterial be transferred to the other.

Sec. 27-1416. - Sign standards for commercial and industrial (RP, NC, CC, HC, CI, HI, ELG, EGC, EMU, ELI) zones.

- (a) *Permitted signs by zone.* Sign structures are permitted in commercial and industrial zones in accordance with the following uses and standards.
- (1) *Wall signs—Individual and multiple businesses.* Wall signs are permitted on each wall of a building provided the wall sign does not exceed twenty (20) percent of the total area of the wall or a maximum of two hundred fifty (250) square feet, whichever provides the smaller area. "False fronts" and mansard roofs shall not be included when calculating the total area of the wall.
 - (2) *Freestanding signs (pole or monument design)—Individual businesses.* One on-premises freestanding sign is permitted. Signs shall not exceed the area and height limits as provided in table 3.

Zoning District	Maximum Area $\leq$ 100' Street Frontage	Maximum Area $\geq$ 100' Street Frontage	Maximum Sign Height
RP	50 square feet	50 square feet	15 feet
NC	50 square feet	50 square feet	15 feet
CC	80 square feet	140 square feet	20 feet
HC	80 square feet	140 square feet	20 feet
CI	80 square feet	140 square feet	20 feet
HI	50 square feet	50 square feet	15 feet
ELC	80 square feet	120 square feet	20 feet

EGU	80 square feet	140 square feet	20 feet
EMU	50 square feet	50 square feet	15 feet
ELI	80 square feet	140 square feet	20 feet

Table 3 - Freestanding Signs - Commercial and Industrial Zones

(3) *Freestanding signs (pole or monument design)—Multiple businesses.*

- a. Freestanding on-premises sign(s) for multiple businesses are permitted, not to exceed the number, area and height limits as provided in table 4.
- b. Freestanding signage allowed for an individual business under paragraph (a)(2) of this section shall not be combined with signage allowed for multiple businesses under this paragraph.
- c. The minimum separation between signs shall be five hundred (500) feet, measured from the center of the sign.

Zoning District	Maximum Number of Signs	Maximum Area	Maximum Sign Height
RP	1	75 square feet	15 feet
NC	1	75 square feet	15 feet
CC	1 per 500 feet of street frontage*	175 square feet	20 feet
HC	1 per 500 feet of street frontage*	175 square feet	20 feet
CI	1 per 500 feet of street frontage*	175 square feet	20 feet
HI	1 per 500 feet of street frontage*	75 square feet	15 feet
ELC	1 per 500 feet of street frontage*	150 square feet	15 feet
EGU	1 per 500 feet of street frontage*	175 square feet	20 feet
EMU	1	75 square feet	15 feet
ELI	1 per 500 feet of street frontage*	175 square feet	20 feet

*One (1) freestanding sign is permitted on parcels with less than five hundred (500) feet of lineal street frontage.

Table 4 - Standards for on-premises signs for multiple businesses

(b) *Incentive to substitute height restricted monument signs for freestanding signs.*

- (1) Monument signs, not to exceed seven (7) feet in height, may substitute for individual and multiple business signs under paragraphs (a)(2) and (3) with maximum sign number(s) and area(s) as provided in tables 5 and 6. There is no minimum separation requirement between signs.

Zoning District	Maximum Number of Signs	Maximum Area/Each Sign
RP	1	50 square feet
NC	1	50 square feet
CC	2	90 square feet
HC	2	90 square feet
CI	2	90 square feet
HI	2	90 square feet
ELC	2	80 square feet
EGC	2	90 square feet
EMU	2	50 square feet
ELI	2	90 square feet

Table 5—Standards for on-premises monument signs for individual businesses

*Two (2) freestanding signs are permitted on parcels with less than five hundred (500) feet of lineal street frontage.

Zoning District	Maximum Number of Signs	Maximum Area/Each Sign
RP	2	50 square feet
NC	2	50 square feet

CC	2 per 500 feet of street frontage*	90 square feet
HC	2 per 500 feet of street frontage*	90 square feet
CI	2 per 500 feet of street frontage*	90 square feet
HI	2 per 500 feet of street frontage*	90 square feet
ELC	2 per 500 feet of street frontage*	80 square feet
EGC	2 per 500 feet of street frontage*	90 square feet
EMU	2 per 500 feet of street frontage*	50 square feet
ELI	2 per 500 feet of street frontage*	90 square feet

Table 6—Standards for on-premises monument signs for multiple businesses

- (c) *Multiple arterials.* In the event the use or group of uses is adjacent to more than one arterial, including through and corner lots, they will be allowed a freestanding sign exclusively oriented to the additional arterial. The above allowance shall be calculated independently, using only the additional arterial frontage. However, in no instance shall the square footage allowance from one arterial be transferred to the other.

Sec. 27-1417. - Modification to sign standards in CC, HC, CI, HI, EGC, ELI zoning districts.

For shopping centers, industrial parks, mixed use developments, and hotel conference centers; the zoning coordinator may approve a comprehensive sign plan that deviates from the provisions set forth in section 27-1416 above, provided the following standards and conditions are met:

- (1) The development exceeds the following minimum square foot floor area requirements:
 - a. Two hundred fifty thousand (250,000) square feet for a shopping center or hotel conference center.
 - b. Two hundred fifty thousand (250,000) square feet of commercial/industrial floor space for a mixed use development.
 - c. Three hundred thousand (300,000) square feet for an industrial park.
- (2) The applicant shall submit a sign plan that includes size, location, height, lighting, construction materials, and orientation of all proposed signs in addition to any other information deemed necessary by the staff.
- (3) The sign plan shall conform to the standards of section 27-1416; except that a maximum of three (3) of the allowed signs under section 27-1416 may be allowed an increase of twenty (20) percent in sign height and area over the maximum allowed in the underlying zone.
- (4) The sign plan shall be consistent with the Yellowstone County - City of Billings Growth Policy, the West Billings Master Plan, and the purpose and intent of this section, as determined by the zoning coordinator.

- (5) The applicant/owner(s) shall sign a binding agreement ensuring compliance with the approved sign plan. The agreement shall be filed with the planning department and shall apply to present as well as future property owners. All signage shall be installed in conformance with the approved sign plan.
- (6) Modifications to the approved sign plan shall require reapplication and approval by the zoning coordinator.

Sec. 27-1418. - Sign location and setback.

- (a) All signs shall be located so that they:
 - (1) Do not interfere with vehicular or pedestrian accessibility or sight distance;
 - (2) Conform to the provisions of section 27-615, the clear vision triangles and visibility at intersections; and
 - (3) No sign may encroach upon, or overhang, adjacent property or public right-of-way.
- (b) All signs shall be located and set back as follows:
 - (1) Any portion of a sign (including structural supports) that is higher than three (3) feet and less than seven (7) feet above grade shall be located a minimum of ten (10) feet back from any property line abutting a public right-of-way.
 - (2) Structural supports less than two (2) feet in width or diameter, measured at any point on the support, and three (3) to seven (7) feet above grade, shall be located a minimum of five (5) feet back from any property line abutting a public right-of-way.

Sec. 27-1419. - Sign area and calculation.

- (a) The sign area of a wall sign made up of letters, words or symbols shall be measured from the outside edge of the frame. The square footage of a sign composed of only letters, words or symbols shall be determined from imaginary straight lines drawn from high point to high point around the entire copy or grouping of such letters, words or symbols. Those portions that are an integral part of the sign display shall be considered in the determination of square footage allowed. An obvious border designed as an integral part of a sign shall be calculated in the total square footage allowed. All measurements for sign height shall be from the grade to the topmost part of the sign.
- (b) Logos or identification symbols shall be considered signs and shall conform to all provisions of this section.
- (c) The sign area of a freestanding sign shall be measured from the outside edge of the frame. The sign area of a freestanding sign consisting of more than one sign shall be computed by adding together the total area(s) of all signs. Any portion of the sign not necessary for structural support of the sign or any structural support greater than two (2) feet in width shall be considered in the determination of the square footage of the sign. A ten (10) percent increase in sign area is allowed for decorative framing or borders. Area calculation does not include decorative rocks or landscaping adjacent to a monument sign.
- (d) The sign area for multiple-sided signs shall be calculated as follows:
 - (1) The total sign area for a two-sided sign shall be calculated using one face, but the second face may not exceed the area of the first face.
 - (2) The total sign area for a three-sided sign shall be calculated using one face, but the second and third face total area may not exceed the area of the first face.

Sec. 27-1420. - Maintenance of signs.

- (a) Any sign that has been approved or that has been issued a permit shall be maintained by the owner or person in possession of the property on which the sign is located. Maintenance shall be such that the signage continues to conform to the conditions imposed by the sign permit.

- (b) Any damaged sign base shall be repaired within sixty (60) days.
- (c) Any signage which has been damaged to such extent that it may pose a hazard to passersby shall be repaired or removed immediately.

Sec. 27-1421. - Nonconforming signs.

Nonconforming signs are those that were permanently installed and legally erected prior to the adoption of this Code. Nonconforming signs shall be allowed to continue in use so long as they are continuously maintained, are not relocated, and are not structurally altered or made more nonconforming in any way. If a sign is nonconforming and the copy is changed in any way or the sign is structurally altered, the sign shall be brought into conformance with these regulations.

Sec. 27-1422. - Landscaping for freestanding and monument signs.

All freestanding and monument signs shall be located in a landscaped area. Landscaping should be appropriately sited to ensure that signs are not blocked or obscured by trees or bushes.

Sec. 27-1423. - Sign illumination.

Externally illuminated signs shall have lighting confined to the sign, and positioned and shielded to minimize impacts to the surrounding area(s). The light source for internally illuminated signs must be entirely enclosed within the sign. Internally illuminated signs shall be constructed with an opaque background and translucent letters and symbols. (Opaque means that the material must not transmit light from an internal illumination source.)

Sec. 27-1424. - Shiloh corridor overlay district application form.

SHILOH CORRIDOR OVERLAY ZONE PERMIT _____

Permit # _____

Application Information

Applicant Name: _____ Date: _____

Applicant Address: _____ Phone: _____

Property Owner Name (if different): _____

Property Owner Address: _____ Phone: _____

Property Information

Property Address: _____

Section, Township, Range: _____ Zoning District: _____

Lot size: _____ sq. ft. Lot area covered by structure(s): _____ sq. ft. _____%

Subdivision/COS: _____ Block: _____ Lot: _____

Proposed Use: _____

FOR OFFICE USE ONLY

Date Received _____ / _____ / _____

Number of relative criteria categories met: _____ Total number of points scored: _____

Approved _____ Denied _____ Date: _____

Reviewed By: _____

RELATIVE CRITERIA		
	• Applicant must obtain points from eight (8) of nine (9) categories. • Applicant must obtain the following number of points: 20 points if the lot size is greater than 25,000 square feet. 15 points if the lot size is less than 25,000 square feet.	
1.	SITE DEVELOPMENT:	
a.	Frontage pavement less than 35' along Shiloh Road	—
b.	Public use space included	—
2.	ACCESS	
a.	MET transit or school bus stop	—
b.	Bikepath or pedestrian trail easement (above what subdivision requires)	—
c.	Bikepath or pedestrian trail construction (1 point for each 50 feet, 4 points max)	—
d.	Reciprocal access between lots	—
e.	Shared driveway approaches	—
f.	Internal sidewalks incorporating stone, brick patterned or colored concrete.	—
g.	Installation of a curvilinear boulevard walk.	—
3.	LIGHTING	
a.	Establish an overall outdoor lighting budget for the property that does not exceed 50,000 initial lamp lumens per net acre for all fully shielded and unshielded light sources.	—
b.	Continuity of lighting fixture design with adjacent properties.	—
c.	Incorporate outdoor light fixtures at heights less than twenty-five (25) feet.	—
d.	Demonstrate light does not spill over to adjacent residential properties.	—
4.	PARKING	

a.	Joint use parking agreement.	—
b.	Parking does not exceed 100% of required spaces.	—
c.	Landscaping internally integrated in parking areas.	—
d.	Parking lots placed at the rear and/or side of building—none in front.	—
5.	SCALE	
a.	Mass and scale of structures does not exceed that of the surrounding development by more than 10 percent.	—
b.	Height of structures does not exceed that of the surrounding development by more than 10 percent.	—
c.	Building size does not exceed that of the surrounding development by more than 10 percent.	—
6.	LANDSCAPING	
a.	Buildings have foundation planting.	—
b.	Landscaping exceeds minimum number of trees and shrubs that are required by ten (10) each.	—
c.	Landscaping material exceeds minimum caliper width by one (1) inch or fifty (50) percent additional height required.	—
d.	Drought tolerant tree, shrub and grass species requiring a significant reduction of water use.	—
e.	Terraced or bermed site design.	—
f.	Stormwater retention areas include significant landscaping.	—
g.	Bufferyards larger than required by at least ten (10) percent.	—
h.	Continuity of landscaping features at interface with adjacent property.	—
i.	Canopy trees placed in the boulevard along internal streets at one tree per 25 feet of street frontage.	—
j.	Installation of curvilinear boulevard walk.	—
k.	Incorporates existing trees in landscape design.	—
7.	ARCHITECTURAL DESIGN	

a.	Building materials are natural, i.e. wood or stone.	—
b.	Pitched roof with a minimum 3:12 pitch.	—
c.	Exceeds the state energy code requirements by:	—
	• Twenty-five (25) percent = One (1) point	
	• Fifty (50) percent = Two (2) points	
	• More than seventy-five (75) percent = Three (3) points	
d.	The use of alternative energy sources, for example: photovoltaic, solar, geothermal, wind.	—
e.	Each building up to seventy-five (75) feet in length contains four (4) facade relief elements.	—
f.	Each building of seventy-five to one hundred fifty (75-150) feet in length contains five (5) facade relief elements.	—
g.	Each building exceeding one hundred fifty (150) feet in length contains six (6) facade relief elements.	—
	Facade relief elements	
	• Two (2) or more colors	
	• Natural earth toned colors	
	• Substantial fenestration using windows, doors, or other openings	
	• Two (2) or more materials that break up the mass of the structure	
	• Articulation of the parapet walls	
	• Change in wall plane	
	• Change in roof plane	
	• Extended roof overhangs	
	• Significant variation in building masses and/or forms	—
8.	SIGNAGE	

a.	Signage is not internally illuminated.	—
b.	Monument signs used in lieu of pole signs.	—
c.	Area of signage is at least twenty (20) percent less than total area allowable for each sign type.	—
d.	Maximum sign height does not exceed one-third (1/3) the maximum height of the building(s).	—
e.	Comprehensive sign plan.	—
9.	MIXED USE	
	One point will be given for each building that contains two (2) or more of the following uses:	—
	• Office	
	• Retail	
	• Personal services	
	• Residential	
	• Hotel	
	• Medical	
	• Entertainment	
	• Restaurant	
	TOTAL POINTS	—

Sec. 27-1425. - Reexamination of regulations.

After one (1) year of the effective date of this article, and periodically afterwards, these regulation shall be reviewed for their effectiveness and the practicality of implementation and enforcement.

Sec. 27-1426. - Appeal process.

An appeal may be made by any applicant aggrieved by a denial of a Shiloh corridor overlay zone permit by the planning and community services department. The applicant shall first appeal to the department director, and if not satisfied with the director's determination, may then file an appeal with city council. The city council shall hold a public hearing and make a determination whether to approve or deny the permit. Before either the director or city council makes a determination on the permit, the following criteria shall be considered:

- (1) That the official erred in the interpretation or application of this chapter;
- (2) That approving the permit will not confer on the applicant any special privilege that is denied by this chapter to other land in the same district;
- (3) That no substantial detriment to the public good is created;
- (4) That the intent and purpose of this chapter is not impaired.

Upon receiving written notice of denial of a permit from the planning and community services department, the aggrieved applicant has fourteen (14) days from the date on the notice to submit a written request for appeal to the department director. The director shall meet with the applicant within five (5) days of receiving the request and issue a determination on the decision to deny the permit. If the department director upholds the decision to deny, the applicant may file, within fourteen (14) days from the date of the director's determination, a request for appeal before the city council. If an appeal is requested, the planning and community service director shall:

- (5) Submit a staff report to the city council within thirty (30) days after receipt of the appeal scheduling a public hearing and describing the nature of the appeal. The memo shall include the request for the appeal and a copy of the notice stating reason(s) for the denial of the permit.
- (6) 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.
- (7) Notify, by mail, the party requesting the appeal and all adjacent property owners of the time, date and place of the public hearing and nature of the appeal five (5) days in advance of the public hearing.

Upon reversing a decision to deny a permit, the council 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 appeal is granted, shall be deemed a violation of this chapter.

Under no circumstances shall the council issue a decision that would allow a use not permitted under the terms of this chapter in the district involved. Approval of a permit shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.

Sec. 27-1427. - South Shiloh corridor overlay district.

Sec. 27-1428. - Purpose.

The purpose of the South Shiloh corridor overlay district is to provide standards for industrial, commercial, and mixed-use development as called for in the West Billings Plan. This overlay zoning district is intended to promote an aesthetically pleasing and distinct entryway corridor by encouraging abundant landscaping, attractive building design, and preservation of scenic vistas. Single family and duplex residential development are exempt from the requirements of this overlay zoning district. The overlay zoning does not alter the category of permitted uses in the underlying zoning.

Sec. 27-1429. - District boundaries.

The boundaries of the South Shiloh corridor overlay district shall be that displayed on the map at the end of section 27-1430. In no case shall the boundaries of the district exceed a depth of five hundred (500) feet from the centerline of the right-of-way of Shiloh Road from King Avenue south to Interstate 90 and Zoo Drive from Interstate 90 to the intersection of Shiloh Road; and from the centerline of King Avenue West, extending five hundred (500) feet to the south, between the intersection of Shiloh Road and King Avenue West and the intersection of King Avenue West and 32nd Street West. If only a portion of the property falls within the boundaries of the district, the entire property will be subject to the regulations in section 27-1427.

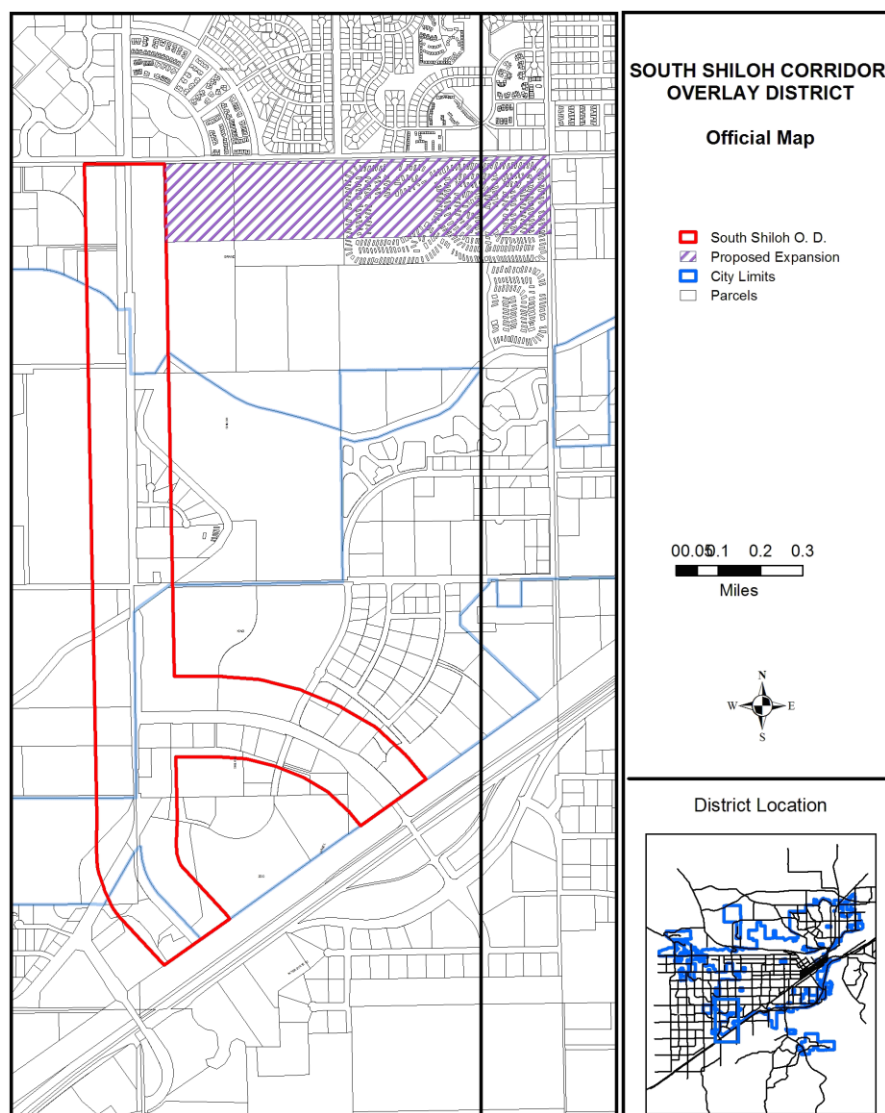
Sec. 27-1430. - Review criteria.

- (a) *Generally.* The South Shiloh corridor overlay district review process is a review of development proposals against a set of absolute and relative criteria. Site and development plans are evaluated to

determine whether the proposed development meets the identified criteria. If the criteria are met, the development may proceed.

New developments and existing development in which the gross floor area (GFA) or the number of parking stalls is increased by twenty-five (25) percent must comply with these regulations.

- (b) *Absolute criteria.* A developer must meet all absolute criteria to obtain planning and community services department approval. The absolute criteria are defined in sections 27-1433 through 27-1436. Absolute criteria also include all other applicable codes, ordinances, and statutes, including, but not necessarily limited to, minimum engineering and building standards, public service and utility requirements, and environmental regulations.
- (c) *Relative criteria.* Relative criteria are the "points" of the review process. Each development must obtain a specified minimum number of points based on the relative criteria identified in section 27-1436. The development plans are evaluated against the relative criteria and scored on a point chart.



Sec. 27-1431. - Application and approval process.

- (a) *Approval required.* This chapter applies only to properties within the city. Any new development or remodel requires a building permit from the city Building Division. Planning Division approval is also required prior to construction. Planning Division approval is to ensure compliance with the zoning regulations. This does not in any way imply approval by any other city department.
- (b) *Content of application.* Each application for development located in the South Shiloh corridor overlay district shall include the following:
 - (1) The name and address of the property owner and applicant, if different;
 - (2) The legal and general description of the tracts or lots upon which review is sought;
 - (3) A statement of proposed use;
 - (4) A complete site development plan drawn to scale of no less than one (1) inch = forty (40) feet indicating:
 - a. Plans for landscape development, including irrigation, drainage, grading, and planting detail showing species, size and spacing of trees and shrubs and percent of living and non-living material;
 - b. Dimension and location of all existing and proposed buildings, recreation areas, utility and service areas, trash storage area, fire hydrants, access drives, full width of street and adjacent drives, parking areas, existing utility lines, and easements;
 - c. Dimension, location and description of all other existing and proposed site improvements including fences, walls, walkways, patios, decks, and barriers;
 - d. A clear delineation of all areas to be paved or surfaced, including a description of surfacing materials to be used;
 - e. Location and description of all off-site improvements and right-of-way dedication; and,
 - f. Location and type of lighting, including a scaled or dimensioned elevation of each type of lighting fixture, and the maximum illumination measured in foot-candles at the property line.
 - g. Information describing how sound suppression will be accomplished when property is adjacent to residential use.
 - (5) Building plans drawn to a scale of no less than one-sixteenth (1/16) inch = one (1) foot. for all structures, including architectural plans for proposed buildings complete with exterior finishes and including floor plans and elevations.
 - (6) A signage plan describing specifications and location of all signage. A separate application and approval shall be required for all signs;
 - (7) A timetable for the proposed construction project; and
 - (8) A complete form showing compliance with the relative criteria and points assigned (see section 27-1451);
 - (9) Any other information pertinent to the particular project which, in the opinion of the zoning coordinator, is determined to be necessary for the review of the project.

Sec. 27-1432. - Definitions.

Terms not specifically defined in this chapter shall have the same meanings as defined in sections 27-201 and 27-1104. The standard dictionary meaning shall be applied to terms not otherwise defined.

Sec. 27-1433. - Absolute criteria.

- (a) *Development standards.*

- (1) *Shiloh Road and Zoo Drive frontage setbacks.* The minimum frontage setback from the property line along Shiloh Road and Zoo Drive for all developments excluding residential single family or duplex shall be twenty (20) feet. The clear vision triangle will be maintained as required in section 27-615. Side and rear building setbacks shall be the same as the underlying zoning district. All arterial setbacks as outlined in section 27-602 must also be maintained.
 - (2) *Other regulations.* All other city codes shall apply, including but not 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 both this section and other codes, those in this section apply.
 - (3) *Sidewalks.* All sidewalks along internal platted streets shall be boulevard walks. The boulevard shall be at least five (5) feet wide and landscaped. The landscaping shall contain ground cover such as sod, shrubs, flower beds or living plant material. River rock, bark chips, flagstones or similar non-living material may be used as mulch or decorative landscape features to supplement the living plant material. No more than twenty-five (25) percent of the landscaped area shall contain non-living material. There shall be at least one (1) canopy tree per every forty (40) linear feet.
- (b) *Landscaping standards.*
- (1) *Shiloh Road and Zoo Drive frontage setback landscaping required.* All developments are required to landscape the frontage setback adjacent to and along the length of Shiloh Road and Zoo Drive, excluding driveways. Frontage setbacks shall be landscaped with a minimum of five (5) canopy or evergreen trees and ten (10) shrubs per one hundred (100) feet of frontage. Trees may be massed within the frontage setback as long as the same densities are maintained.
 - a. Developer is encouraged to mass trees to create interest along the frontage. Two (2) ornamental trees may be substituted for one (1) canopy or evergreen tree. Within two hundred (200) lineal feet of street frontage the required number of trees and shrubs may be massed together to create one (1) or more large tree and shrub planting area(s) somewhere within the two hundred (200) lineal foot length. Developer is encouraged to mass ornamental trees and shrub beds at intersections with Shiloh Road, Zoo Drive and other right-of-way frontage roads and at internal street intersections while still maintaining clear vision triangle height restrictions, pursuant to section 27-618.
 - b. Up to thirty (30) percent of the required landscaping may be located in the boulevard of the public right-of-way.
 - (2) *Right-of-way frontage other than Shiloh Road and Zoo Drive landscaping required.* All developments are required to landscape the frontage setback adjacent to and along the length of all rights-of-way other than Shiloh Road, excluding driveways. Right-of-way frontage setbacks shall be landscaped with a minimum of four (4) canopy or evergreen trees and eight (8) shrubs per one hundred (100) feet of frontage. Massing of landscaping elements with the required number of landscaping is permitted to meet the intent of subsection (b)(1)a.
 - a. Up to thirty (30) percent of the required landscaping may be located in the boulevard of the public right-of-way.
 - (3) *Off-street parking lot landscaping.*
 - a. A minimum of twenty (20) square feet of internal landscaping shall be provided for each parking space.
 - b. One (1) canopy and/or evergreen tree and five (5) shrubs shall be required for every nine (9) parking spaces. Developer is encouraged to mass trees to create interest inside parking lot. Two (2) ornamental trees may be substituted for one (1) canopy or evergreen tree. Developer is encouraged to create several large shrub areas throughout the parking lot and to use parking lot islands with trees and shrubs to direct traffic through parking lot.
 - c. The shortest dimension of any parking lot landscaped area shall not be less than five (5) feet.

- d. Internal parking lot landscaping shall be proportionately dispersed, at the developer's discretion, in order to define aisles and limit unbroken rows of parking. The maximum unbroken distance in any direction shall be limited to one hundred fifty (150) feet. See section 27-1106 for additional requirements.
 - e. Trees and shrubs may be massed.
- (4) *Commercial uses abutting residential and public uses.* All commercial or industrial uses shall be separated from abutting, including across an alley, residential single family, duplex and public uses by a 15-foot wide bufferyard. The bufferyard shall be landscaped with a minimum of five (5) canopy or evergreen trees and ten (10) shrubs per one hundred (100) linear feet. If the adjacent land use is a vacant building or ground, then the zoning shall be used in place of the land use.
- A solid fence or wall that is architecturally similar in color and design shall be required on the property line. The fence shall be a minimum of six (6) feet high. Chain link or other wire fencing material is prohibited. All fences shall be maintained by the commercial property owner.
- (5) *Non-living material allowed.* River rock, bark chips, flagstones or similar material may be used as mulch or decorative landscape features to supplement the living plant material. Bufferyards may include boulevard sidewalks. No more than twenty-five (25) percent of the landscaped area shall contain non-living material.
 - (6) *Landscape maintenance required.* All landscaped areas shall be irrigated, maintained and kept free of weeds, debris and litter. Dead or dying material shall be replaced within one (1) year.
 - (7) *Protection of landscaped areas.* Landscaped areas within parking lots or along the perimeter of the property must be protected from vehicular traffic through the use of continuous concrete curbs, extruded asphalt or other approved barriers.
 - (8) *Landscape exemptions.* Uses for automobile and recreation vehicle sales are required to install one-half ($\frac{1}{2}$) the required trees and one and one-half ($1\frac{1}{2}$) the required shrubs along street frontages or are exempt from the tree requirements in the interior of their lots only as long as the required trees are replaced with shrubs and/or other landscape features, including but not limited to water features, landscape rock, public art, etc. If no landscaping is provided in the interior of lots, at least one (1) additional tree and two additional shrubs per five hundred (500) feet of frontage should be provided in perimeter landscape to offset the exemption. This landscaping may also be massed.
 - a. Developer is encouraged to mass trees to create interest inside their lot. Two (2) ornamental trees may be substituted for one (1) canopy or evergreen tree. Developer is encouraged to create several large shrub areas throughout their lot and to use planting islands with trees and shrubs to direct traffic through their lot.
- (9) *Plant standards.*
- a. *Canopy tree.* A species of tree that normally bears crown foliage no lower than six (6) feet above ground level upon maturity. Minimum size of canopy trees shall be at least two (2) inches in caliper at the time of installation. Caliper shall be defined by the American Nurseryman Standard Definition.
 - b. *Evergreen.* A tree or shrub of a species that normally retains leaves/needles throughout the year. Minimum size of evergreen trees shall be five (5) feet in height at the time of installation.
 - c. *Ornamental tree.* A species of tree that normally bears flowers in the spring time of the year or has other ornamental features such as unique leaves, bark, leaf color or fruit. Minimum size at installation shall be one and one-half ($1\frac{1}{2}$) inch caliper. Caliper shall be defined by the American Nurseryman Standard Definition.
 - d. *Shrubs.* The minimum size of a shrub shall be at least five (5) gallons.
 - e. *Recommended tree types.* It is recommended that the developer work with the city parks department, county extension agent, a local greenhouse operator, landscape architect or

other professional designer to determine the species of trees that are most suitable for each situation. The use of native, drought tolerant plant materials is strongly encouraged. Evergreen trees are discouraged for internal parking areas if they limit sight lines. The planting of trees should be done in such a manner as to provide maximum solar efficiency throughout the site. A list of recommended plant material shall be available at the planning department.

- f. *Fractions in the calculations of number of trees and shrubs.* In the calculation of trees and shrubs for bufferyards or parking landscaping, fractions of less than five-tenths (.5) shall be rounded down to the nearest whole number; fractions five-tenths (.5) and more shall be rounded up to the nearest whole number.

Sec. 27-1434. - Building design standards.

- (a) *Materials.* 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 metal panels with covered fasteners, exterior insulation and finishing systems (i.e., Dryvit, etc.), stone, wood, and integrally colored or exposed aggregate concrete. Exposed-seam metal buildings shall be prohibited unless covered with an acceptable finishing material.
- (b) *Roofs.* Roofs exposed to view shall be finished with a durable material that is architecturally coordinated in color and design with the building material. Recommended materials include: standing seam, dimensional asphalt shingles, shakes or shingles. Other types or styles of roofing materials that are consistent with this chapter may be approved by the zoning coordinator or his/her designee. Pitched roofs are encouraged wherever possible.
- (c) *Mechanical equipment.* Mechanical equipment, placed at ground level or on a roof, shall be screened. The screening shall be at least the height of the mechanical equipment. Sound suppression/abatement shall be provided when mechanical equipment is installed on property that is adjacent to residential uses or zoning districts.
- (d) *Elevations and facades.* Buildings shall incorporate one or more of the following: recesses, off sets, angular forms, or other architectural features such as bell towers or clock towers to provide a visually interesting shape. The break in facade shall be a minimum of twelve (12) feet in length and with a minimum protrusion or recess of four (4) feet. Buildings shall incorporate a break in the architectural facade at least every sixty (60) feet. It is encouraged that each offset area contain landscaping or other similar amenities that will complement the offset area.

Sec. 27-1435. - Additional provisions.

- (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 coordinated in color and design with the building. However, 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. Bufferyards or required landscaping shall not be used for the displaying of merchandise. Chain link and other types of wire fencing are prohibited.
- (b) *Area lighting.*
 - (1) All outdoor pole lighting shall be fully shielded cut off fixtures with recessed lamps (no light emitted by the fixture is projected above the horizontal plan of the fixture, and no dropped lenses) and mounted at heights no greater than twenty (20) feet above grade.
 - (2) All outdoor lighting, except street lights, shall be located and aimed or shielded so as to minimize stray light trespassing across property boundaries and no more than one and one-half (1.5) foot candles as measured vertically at the lot line.
- (c) *Canopy, marquee and "wall pack" lighting.* Canopy, marquee and "wall pack" lighting shall be fully shielded with recessed lamps. No internally illuminated fascia shall be allowed.

- (d) *Storage of junk.* No person shall store junk, partially or completely dismantled vehicles, or salvaged materials outside a building. In the case of repair shops, such material 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.
- (e) *Waste storage area.* All 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. The following materials are acceptable: brick, fluted block, colored textured block, glass, stucco, architectural metal panels with covered fasteners, exterior insulation and finishing systems (i.e., Dryvit, etc.), stone, wood, and integrally colored or exposed aggregate concrete. Exposed-seam metal buildings shall be prohibited unless covered with an acceptable finishing material. Solid waste enclosures are encouraged to be landscaped.

Sec. 27-1436. - Development features required to earn points (relative criteria).

In accordance with section 27-1430, each application for development in South Shiloh corridor overlay district must score a minimum number of points based on the relative criteria described below. Design elements are listed under nine (9) category headings. A project shall earn one(1) point for each design element that it incorporates. At least one (1) point shall be earned from six (6) out of the nine (9) categories listed. The developer must attain a minimum of fifteen (15) points.

(1) *Site development.*

- a. Pavement along Shiloh and Zoo frontage setback is less than or equal to thirty-five (35) feet.
- b. Construct one or more public use spaces such as mini-parks, water feature, playfields or playgrounds, rest areas, for example.

(2) *Access.*

- a. A transit or school bus stop.
- b. Easement granted for bike path or pedestrian trail other than sidewalk. The easement must be in addition to what is required by the subdivision regulations.
- c. Construction of bike path or pedestrian trail other than sidewalk (one (1) point for each fifty (50) feet of ten (10) foot wide concrete or comparably durable hard surface pathway, four (4) points maximum).
- d. Provision for internal access between lots.
- e. A single approach onto a public road that serves multiple lots.

(3) *Lighting.*

- a. Light spill over limits of less than one and one-half (1.5) foot candles.
- b. Continuity of lighting fixture design with adjacent properties.
- c. Incorporate outdoor light fixtures at heights less than twenty (20) feet.

(4) *Parking.*

- a. A joint use parking agreement.
- b. Parking provided does not exceed one hundred twenty-five (125) percent of required spaces.
- c. Landscaping internally integrated in parking areas and/or sales area.
- d. Parking lots placed at the rear and/or side of the building, none in front.

(5) *Scale.*

- a. The mass and scale does not exceed that of the surrounding development by more than ten (10) percent.

- b. The height of structures does not exceed that of the surrounding development by more than ten (10) percent.
- c. The building size does not exceed that of the surrounding development by more than ten (10) percent.

(6) *Landscaping.*

- a. Buildings have landscaping immediately adjacent to a building.
- b. Landscaping exceeds the minimum number of trees and shrubs that are required by ten (10) percent each.
- c. Landscaping material exceeds minimum caliper width by one (1) inch or fifty (50) percent additional height required.
- d. Drought tolerant tree, shrub and grass species requiring a significant reduction of water use.
- e. Terraced or bermed site design.
- f. Stormwater retention areas include significant landscaping.
- g. Bufferyards larger than required by at least ten (10) percent.
- h. Continuity of landscaping features at interface with adjacent property.
- i. Canopy trees placed in the boulevard along all streets except Shiloh Road and Zoo Drive, at one (1) tree per twenty-five (25) feet of street frontage.
- j. Installation of a curvilinear boulevard walk.
- k. Incorporates existing trees in landscape design.

(7) *Architectural design.*

- a. Building materials are natural, i.e. wood or stone.
- b. Pitched roof with a minimum 3:12 pitch.
- c. Exceeds the state energy code requirements by:
Twenty-five (25) percent = One (1) point

Fifty (50) percent = Two (2) points

More than seventy-five (75) percent = Three (3) points
- d. The use of alternative energy sources, for example: photovoltaic, solar, geothermal, wind.
- e. Each building up to seventy-five (75) feet in length contains four (4) facade relief elements;
- f. Each building of seventy-five (75) to one hundred fifty (150) feet in length contains five (5) facade relief elements;
- g. Each building exceeding one hundred fifty (150) feet in length contains six (6) facade relief elements;

Facade relief elements

- 1. Two (2) or more colors.
- 2. Natural earth toned colors.
- 3. Substantial fenestration using windows, doors, or other openings.
- 4. Two (2) or more materials that break up the mass of the structure.
- 5. Articulation of the parapet walls.

6. Change in wall plane.
7. Change in roof plane.
8. Extended roof overhangs.
9. Significant variation in building masses and/or forms.

(8) *Signage.*

- a. Signage is not internally illuminated.
- b. Monument signs used in lieu of pole signs.
- c. Area of signage is at least twenty (20) percent less than total area allowable for each sign type.
- d. Maximum sign height does not exceed one-third ($1/3$) the maximum height of the building(s).
- e. Comprehensive sign plan (See also section 27-1444).

(9) *Mixed use.* One point will be given for each subdivision or building that contains two (2) or more of the following uses:

- a. Office.
- b. Retail.
- c. Personal services such as dry cleaner, laundromats, beauty salons.
- d. Residential.
- e. Hotel/motel.
- f. Medical.
- g. Entertainment.
- h. Restaurant.

Sec. 27-1437. - Signage standards—Purpose, intent, and scope.

The purpose and intent of this section is to promote commerce, traffic safety, and community identity while improving the visual environment of residential, commercial, and industrial areas.

This section of the Code shall not regulate traffic and directional signs installed by a governmental entity or in a private parking lots; signs not readable from nor intended to be viewed from a public right-of-way; merchandise displays; point-of-purchase advertising displays, such as product dispensers; national flags; flags of a political subdivision; symbolic flags of an institution; legal notices required by law; barber poles; historic site monuments/plaques; gravestones; structures intended for a separate use, such as phone booths, donation and recycling containers; lettering or symbols applied directly onto or flush-mounted magnetically to a motor vehicle operating in the normal course of business.

- (1) *Permits required.* Any on-premise sign shall hereafter be erected, re-erected, constructed, painted, posted, applied or structurally altered in accordance with this chapter and pursuant to a sign permit issued by the planning and community services department. A sign permit shall be required for each group of signs on a single supporting structure installed simultaneously. Thereafter, each additional sign erected on the structure must have a separate sign permit. The owner of a sign shall produce a permit upon request. Within fifteen (15) working days following the submittal of a complete sign permit application, the zoning coordinator or his/her designee shall approve or deny the application, unless the applicant consents in writing to an extension of the review period. In the event that review exceeds fifteen (15) days, the applicant may seek immediate approval from the planning director. If an application is determined to be incomplete, the applicant shall be notified within five (5) days of the submittal. Should the application be

denied, the applicant shall be notified in writing specifying all areas of noncompliance with this section.

- (2) *Permit applications.* All permit applications for signs shall include a site plan that provides the following information:
- a. The location of the affected lot, building and sign;
 - b. The scale of the site plan;
 - c. A drawing of the proposed sign or sign revision, including size, height, copy, structural footing details, method of attachment and illumination;
 - d. All existing signs on the site including their size and height; and
 - e. The legal description of the parcel.

Sec. 27-1438. - Definitions.

The definitions used in this chapter may be found below and in section 27-703 of the city sign regulations.

Bulletin board means a sign which identifies an institution or organization on the premises on which it is located and which contains the name of the institution or organization, the names or individuals connected with it, or general announcements of events or activities or similar messages.

Electronically changeable message sign means a computer programmable, microprocessor controlled electric display utilizing a means of illumination (light bulb, LED, fiber optics, etc) upon which alphanumeric characters, graphics, electronic animations, symbols and words can be displayed, such as a programmable display system. Message and symbols that have the capability of alternating, traveling and animating along with any other of a variety of change, appear and disappear methods are allowed.

Flashing sign means an electrical sign or portion thereof which changes light intensity in a brief, brilliant, or sudden and transient outburst of light causing a steady on and off, glittering, sparkling, or scintillating pattern.

Incidental sign means signs allowed under temporary use groups I and II, such as garage sale signs and banners.

Individual business means one business on one parcel provided that the parcel is not part of a multiple business complex; and also provided the parcel is not part of a group of multiple contiguous parcels under the same ownership.

Monument sign means a sign and supporting structure constructed as a solid structure or one that gives the appearance of a continuous, non-hollow, unbroken mass.

Multiple businesses means multiple businesses include businesses that may be located in a single building or in multiple buildings on a single site.

Support structure(s) means posts or columns and their anchors and bolts that structurally support the sign attached to it.

Three-sided sign means a sign with three (3) faces.

Two-sided sign means a sign with two (2) faces.

Sec. 27-1439. - Exempt signs.

The following shall not require a sign permit, provided that these exemptions shall not be construed as relieving the owner from the responsibility to comply with the provisions of this Code or any other law or ordinance, including the International Building Code.

- (1) The changing of the advertising copy or message on a lawfully erected sign that is currently in compliance with this section, reader board or similar sign specifically designed for replaceable copy.

- (2) Painting, repainting or normal maintenance, unless a structural or electrical change is made.
- (3) Temporary banners and temporary signs as permitted herein.
- (4) Real estate sign as permitted herein.
- (5) Incidental signs.
- (6) Political signs.
- (7) Bench signs on city or county rights-of-way, provided approval has been granted for the location by the appropriate city or county agency.

Sec. 27-1440. - Prohibited signs.

The following signs are prohibited in all zones unless otherwise specifically permitted.

- (1) Sign which by shape, wording or location resemble or conflict with traffic control signs or devices.
- (2) Signs that create a safety hazard for pedestrian or vehicular traffic.
- (3) Signs with special or auxiliary flashing lights which are not a part of the sign's message.
- (4) Portable signs.
- (5) Portable reader boards.
- (6) Portable electric signs.
- (7) Banner signs.
- (8) Signs attached to or placed on a vehicle or trailer parked on public or private property, provided that this provision shall not be construed as prohibiting the identification of a firm or its product on a vehicle operating during the normal course of business. Franchised buses and taxis are exempt from these provisions.
- (9) Roof signs.
- (10) Billboards.
- (11) Painted signs on buildings, including those attached on or to the surface of windows.

Sec. 27-1441. - Signs permitted in all zones in connection with specific uses.

The following signs may be permitted in any zone, subject to the limitations as provided herein.

- (1) *Bulletin boards.* In addition to the permanent signs allowed in section 27-1442 below, bulletin boards may be permitted on property used for public or private assembly subject to the following:
 - a. Such sign shall contain not more than thirty-two (32) square feet in area on a face and may be double-faced.
 - b. No part of the sign shall exceed a height of six (6) feet above the ground.
 - c. The sign, if illuminated, shall use external low-intensity lighting.
- (2) *Temporary residential subdivision or area name signs.* A temporary real estate sign advertising the prospective sale or lease of a group of lots or dwellings within a tract, condominium, or apartment complex shall be permitted, subject to the following conditions:
 - a. The freestanding sign shall be located on the premises being sold or leased.
 - b. The sign shall not exceed forty (40) square feet in area on a face and may be double-faced.
 - c. The sign shall remain only as long as property remains unsold or unleased for the first time with the tract, but not to exceed one (1) year. The planning division may extend the one-year time period upon written request by the owners/developers of the project.
 - d. The sign shall be non-illuminated.

- e. The top of the sign shall be no higher than ten (10) feet above grade of the lot or parcel on which the sign is located.
- (3) *Permanent residential subdivision or area name signs.* Decorative subdivision or area name signs of a permanent character at the street entrance or entrances to the subdivision or area that identifies the name of the subdivision or area only are permitted, subject to the following conditions:
- a. The sign shall consist of decorative building material with illuminated, indirectly lighted or non-illuminated name plates or letters, and be located in a maintained landscaped area; and
 - b. The wall and or sign shall not exceed six (6) feet above grade of the lot or parcel.
- (4) *Contractor, architect, surveyor, or engineer signs.* One (1) on-premises sign identifying the project, developers, building contractor and/or subcontractors, architect, surveyor and engineer engaged in the construction is permitted on a property during the period of construction, provided that:
- a. The sign is located on the parcel on which the construction is located.
 - b. The sign shall not exceed forty (40) square feet in area; and
 - c. The top of the sign shall not exceed ten (10) feet above grade of the lot or parcel on which the sign is located. The sign shall be removed prior to final building inspections. However, no such sign shall be maintained for a period in excess of twelve (12) months without approval from the planning department. The planning department may extend the one-year time period upon written request of the owners/developers of the project.
- (5) *Real estate sign.*
- a. *Residential use or property.* One (1) temporary on-premise sign per frontage road, advertising the sale, lease or rental of the building, property or premises, is permitted on the property. Such sign shall be unlighted, no more than five (5) square feet and no higher than five (5) feet above grade. A thirty-two (32) square foot sign is allowed on agricultural property of twenty (20) acres or more, with or without a dwelling on site.
 - b. *Commercial and industrial use or property.* One (1) temporary on-premise sign advertising the sale, lease or rental of the building, property or premises is permitted on the property. Such sign shall be unlighted, no more than thirty-two (32) square feet and no higher than ten (10) feet above grade.
 - c. *Open house and directional sign.* For a. and b. above, an open house or directional sign shall be allowed on each street access street to the property. Signs shall not be placed in such a manner as to interfere with vehicular or pedestrian traffic, shall be used when the property is actually open for immediate inspections, shall be unlighted, and shall be no more than five (5) square feet and no higher than three (3) feet above grade.
- (6) *Electronically changeable message sign.* Electronically changeable message signs shall be permitted in community commercial, highway commercial, controlled industrial, heavy industrial, entryway general commercial, and entryway light industrial zones in accordance with the standards of sections 27-1443 through 27-1446 and their definitions.

Sec. 27-1442. - Sign standards in residential (R-96, R80, R-70R, R-70, R-60R, R-60, R-50, RMF, RMF-R, RMH) zones.

- (a) *Permitted signs by zone.* Sign structures are permitted in residential zones in accordance with the following uses and standards:
- (1) A nameplate, which indicates no more than the name and address of the occupant of the premises, is permitted, provided that such sign shall not exceed a maximum area of five (5) square feet and a maximum height of four (4) feet above grade.
 - (2) Reserved.

(b) *Permitted signs by use.* Public or private assembly and non-residential uses within residential zones are allowed the following signs:

- (1) *Wall signs.* On-premises wall signs are permitted, not to exceed one (1) sign of thirty-two (32) square feet. Wall signs shall be non-illuminated or have low-intensity external lighting, and shall be placed flat against the outside wall of a building.
- (2) *Freestanding signs.* On-premises freestanding signs are permitted, not to exceed one (1) sign of thirty-two (32) square feet* and a maximum height of fifteen (15) feet. On-premises freestanding signs shall be non-illuminated or have low-intensity external lighting.

* Maximum sign area may be increased to forty-eight (48) square feet for monument signs seven (7) feet or less in height.

(c) *Multiple arterials.* In the event the use or group of uses is adjacent to more than one (1) arterial, including through and corner lots, they will be allowed a freestanding sign exclusively oriented to the additional arterial. The above allowance shall be calculated independently, using only the additional arterial frontage. However, in no instance shall the square footage allowance from one (1) arterial be transferred to the other.

Sec. 27-1443. - Sign standards for commercial and industrial (RP, NC, CC, HC, CI, HI, ELG, EGC, EMU, ELI) zones.

(a) *Permitted signs by zone.* Sign structures are permitted in commercial and industrial zones in accordance with the following uses and standards.

- (1) *Wall signs—Individual and multiple businesses.* Wall signs are permitted on each wall of a building provided the wall sign does not exceed twenty (20) percent of the total area of the wall or a maximum of two hundred fifty (250) square feet, whichever provides the smaller area. Mansard roofs shall not be included when calculating the total area of the wall.

Zoning District	Maximum Area ≤ 100' Street Frontage	Maximum Area ≥ 100' Street Frontage	Maximum Sign Height
RP	50 square feet	50 square feet	15 feet
NC	50 square feet	50 square feet	15 feet
CC	80 square feet	140 square feet	20 feet
HC	80 square feet	140 square feet	20 feet
CI	80 square feet	140 square feet	20 feet
HI	50 square feet	50 square feet	15 feet
ELC	80 square feet	120 square feet	20 feet
EGU	80 square feet	140 square feet	20 feet

EMU	50 square feet	50 square feet	15 feet
ELI	80 square feet	140 square feet	20 feet

- (2) *Freestanding signs (pole or monument design)—Individual businesses.* One (1) on-premises freestanding sign is permitted. Signs shall not exceed the area and height limits as provided in table 3.
- (3) The maximum height of the on-premise sign may be increase to forty (40) feet above grade measured at the centerline of Shiloh Road or Zoo Drive, whichever is adjacent and the area may be increased to two hundred (200) square feet, provided the parcel is contiguous with Interstate 90 or Zoo Drive.

Table 3—Freestanding Signs—Commercial and Industrial Zones

- (4) *Freestanding signs (pole or monument design)—Multiple businesses.*
- Freestanding on-premises sign(s) for multiple businesses are permitted, not to exceed the number, area and height limits as provided in table 4.
 - Freestanding signage allowed for an individual business under subsection (a)(2) of this section shall not be combined with signage allowed for multiple businesses under this paragraph.
 - The minimum separation between signs shall be five hundred (500) feet, measured from the center of the sign.

Zoning District	Maximum Number of Signs	Maximum Area	Maximum Sign Height
RP	1	75 square feet	15 feet
NC	1	75 square feet	15 feet
CC	1 per 500 feet of street frontage*	175 square feet	20 feet
HC	1 per 500 feet of street frontage*	175 square feet	20 feet
CI	1 per 500 feet of street frontage*	175 square feet	20 feet
HI	1 per 500 feet of street frontage*	75 square feet	15 feet
ELC	1 per 500 feet of street frontage*	150 square feet	15 feet
EGU	1 per 500 feet of street frontage*	175 square feet	20 feet
EMU	1	75 square feet	15 feet

ELI	1 per 500 feet of street frontage*	175 square feet	20 feet

*One (1) freestanding sign is permitted on parcels with less than five hundred (500) feet of lineal street frontage.

Table 4—Standards for on-premises signs for multiple businesses

(b) *Incentive to substitute height restricted monument signs for freestanding signs.*

- (1) Monument signs, not to exceed seven (7) feet in height, may substitute for individual and multiple business signs under paragraphs (a)(2) and (3) with maximum sign number(s) and area(s) as provided in tables 5 and 6. There is no minimum separation requirement between signs.

Zoning District	Maximum Number of Signs	Maximum Area/Each Sign
RP	1	50 square feet
NC	1	50 square feet
CC	2	90 square feet
HC	2	90 square feet
CI	2	90 square feet
HI	2	90 square feet
ELC	2	80 square feet
EGC	2	90 square feet
EMU	2	50 square feet
ELI	2	90 square feet

Table 5—Standards for on-premises monument signs for individual businesses

*Two (2) freestanding signs are permitted on parcels with more than five hundred (500) feet of lineal street frontage.

Zoning District	Maximum Number of Signs	Maximum Area/Each Sign

RP	2	50 square feet
NC	2	50 square feet
CC	2 per 500 feet of street frontage*	90 square feet
HC	2 per 500 feet of street frontage*	90 square feet
CI	2 per 500 feet of street frontage*	90 square feet
HI	2 per 500 feet of street frontage*	90 square feet
ELC	2 per 500 feet of street frontage*	80 square feet
EGC	2 per 500 feet of street frontage*	90 square feet
EMU	2 per 500 feet of street frontage*	50 square feet
ELI	2 per 500 feet of street frontage*	90 square feet

Table 6—Standards for on-premises monument signs for multiple businesses

- (c) *Multiple arterials.* In the event the use or group of uses is adjacent to more than one (1) arterial, including through and corner lots, they will be allowed a freestanding sign exclusively oriented to the additional arterial. The above allowance shall be calculated independently, using only the additional arterial frontage. However, in no instance shall the square footage allowance from one arterial be transferred to the other.

Sec. 27-1444. - Comprehensive sign plan.

For shopping centers, industrial parks, mixed use developments, and hotel conference centers; the zoning coordinator may approve a comprehensive sign plan that deviates from the provisions set forth in section 27-1443 above, provided the following standards and conditions are met:

- (1) The development exceeds the following minimum square foot floor area requirements:
 - a. Two hundred fifty thousand (250,000) square feet for a shopping center or hotel conference center.

- b. Two hundred fifty thousand (250,000) square feet of commercial/industrial floor space for a mixed use development.
 - c. Three hundred thousand (300,000) square feet for an industrial park.
- (2) The applicant shall submit a sign plan that includes size, location, height, lighting, construction materials, and orientation of all proposed signs in addition to any other information deemed necessary by the staff.
 - (3) The sign plan shall conform to the standards of section 27-1443; except that a maximum of three (3) of the allowed signs under section 27-1443 may be allowed an increase of twenty (20) percent in sign height and area over the maximum allowed in the underlying zone.
 - (4) The sign plan shall be consistent with the Yellowstone County - City of Billings 2003 Growth Policy, the West Billings Master Plan, and the purpose and intent of this section, as determined by the zoning coordinator.
 - (5) The applicant/owner(s) shall sign a binding agreement ensuring compliance with the approved sign plan. The agreement shall be filed with the planning and community services department and shall apply to present as well as future property owners. All signage shall be installed in conformance with the approved sign plan.
 - (6) Modifications to the approved sign plan shall require reapplication and approval by the zoning coordinator.

Sec. 27-1445. - Sign location and setback.

- (a) All signs shall be located so that they:
 - (1) Do not interfere with vehicular or pedestrian accessibility or sight distance;
 - (2) Conform to the provisions of section 27-615, the clear vision triangles and visibility at intersections; and
 - (3) No sign may encroach upon, or overhang, adjacent property or public right-of-way.
- (b) All signs shall be located and set back as follows:
 - (1) Any portion of a freestanding sign shall be located a minimum of ten (10) feet back from any property line abutting a public right-of-way.
 - (2) The support structure of a monument sign shall be located a minimum of five (5) feet back from any property line abutting a public right-of-way.

Sec. 27-1446. - Sign area and calculation.

- (a) The sign area of a wall sign made up of letters, words or symbols shall be measured from the outside edge of the frame. The square footage of a sign composed of only letters, words or symbols shall be determined from imaginary straight lines drawn from high point to high point around the entire copy or grouping of such letters, words or symbols. Those portions that are an integral part of the sign display shall be considered in the determination of square footage allowed. An obvious border designed as an integral part of a sign shall be calculated in the total square footage allowed. All measurements for sign height shall be from the grade to the topmost part of the sign.
- (b) Logos or identification symbols shall be considered signs and shall conform to all provisions of this section.
- (c) The sign area of a freestanding sign shall be measured from the outside edge of the frame. The sign area of a freestanding sign consisting of more than one (1) sign shall be computed by adding together the total area(s) of all signs. Any portion of the sign not necessary for structural support of the sign or any structural support greater than two (2) feet in width shall be considered in the determination of the square footage of the sign. A fifty (50) percent increase in monument sign area is allowed for decorative

framing or borders. Area calculation does not include decorative rocks or landscaping adjacent to a monument sign.

(d) The sign area for multiple-sided signs shall be calculated as follows:

- (1) The total sign area for a two-sided sign shall be calculated using one (1) face, but the second face may not exceed the area of the first face.
- (2) The total sign area for a three-sided sign shall be calculated using one (1) face, but the second and third face total area may not exceed the area of the first face.

Sec. 27-1447. - Maintenance of signs.

- (a) Any sign that has been approved or that has been issued a permit shall be maintained by the owner or person in possession of the property on which the sign is located. Maintenance shall be such that the signage continues to conform to the conditions imposed by the sign permit.
- (b) Any damaged sign base shall be repaired within sixty (60) days.
- (c) Any signage which has been damaged to such extent that it may pose a hazard to passersby shall be repaired or removed immediately.

Sec. 27-1448. - Nonconforming signs.

Nonconforming signs are those that were permanently installed and legally erected prior to the adoption of this Code. Nonconforming signs shall be allowed to continue in use so long as they are continuously maintained, are not relocated, and are not structurally altered or made more nonconforming in any way. If a sign is nonconforming and the copy is changed in any way or the sign is structurally altered, the sign shall be brought into conformance with these regulations.

Sec. 27-1449. - Landscaping for freestanding and monument signs.

All freestanding and monument signs shall be located in a landscaped area. Landscaping should be appropriately sited to ensure that signs are not blocked or obscured by trees or bushes.

Sec. 27-1450. - Sign illumination.

Externally illuminated signs shall have lighting confined to the sign with the light source positioned and shielded to eliminate spill over impacts to the surrounding area(s) in such a manner that it conforms to the site lighting standards. See subsection 27-1435(b). The light source for internally illuminated signs must be entirely enclosed within the sign. Internally illuminated signs shall be constructed with an opaque background and translucent letters and symbols. (Opaque means that the material must not transmit light from an internal illumination source.)

Sec. 27-1451. - South Shiloh corridor overlay district application form.

SHILOH CORRIDOR OVERLAY ZONE PERMIT

Permit # _____

Application Information

Applicant Name: _____ Date: _____

Applicant Address: _____ Phone: _____

Property Owner Name (if different): _____

Property Owner Address: _____ Phone: _____

Property Information

Property Address: _____

Section, Township, Range: _____ Zoning District: _____

Lot size: _____ sq. ft. Lot area covered by structure(s): _____ sq. ft. _____%

Subdivision/COS: _____ Block: _____ Lot: _____

Proposed Use: _____

FOR OFFICE USE ONLY

Date Received _____ / _____ / _____

Number of relative criteria categories met: _____ Total number of points scored: _____

Approved _____ Denied _____ Date: _____

Reviewed By: _____

RELATIVE CRITERIA		
		• Applicant must obtain points from eight (8) of nine (9) categories. • Applicant must obtain the following number of points: 20 points if the lot size is greater than 25,000 square feet. 15 points if the lot size is less than 25,000 square feet.
1.	SITE DEVELOPMENT:	
a.	Frontage pavement less than 35' along Shiloh Road	—
b.	Public use space included	—
2.	ACCESS	
a.	MET transit or school bus stop	—
b.	Bikepath or pedestrian trail easement (above what subdivision requires)	—
c.	Bikepath or pedestrian trail construction (1 point for each 50 feet, 4 points max)	—
d.	Reciprocal access between lots	—
e.	Shared driveway approaches	—
f.	Internal sidewalks incorporating stone, brick patterned or colored concrete.	—
g.	Installation of a curvilinear boulevard walk.	—
3.	LIGHTING	

a.	Establish an overall outdoor lighting budget for the property that does not exceed 50,000 initial lamp lumens per net acre for all fully shielded and unshielded light sources.	—
b.	Continuity of lighting fixture design with adjacent properties.	—
c.	Incorporate outdoor light fixtures at heights less than twenty-five (25) feet.	—
4.	PARKING	
a.	Joint use parking agreement.	—
b.	Parking does not exceed 100% of required spaces.	—
c.	Landscaping internally integrated in parking areas.	—
d.	Parking lots placed at the rear and/or side of building—none in front.	—
5.	SCALE	
a.	Mass and scale of structures does not exceed that of the surrounding development by more than 10 percent.	—
b.	Height of structures does not exceed that of the surrounding development by more than 10 percent.	—
c.	Building size does not exceed that of the surrounding development by more than 10 percent.	—
6.	LANDSCAPING	
a.	Buildings have foundation planting.	—
b.	Landscaping exceeds minimum number of trees and shrubs that are required by ten percent (10%) each.	—
c.	Landscaping material exceeds minimum caliper width by one (1) inch or fifty (50) percent additional height required.	—
d.	Drought tolerant tree, shrub and grass species requiring a significant reduction of water use.	—
e.	Terraced or bermed site design.	—
f.	Stormwater retention areas include significant landscaping.	—
g.	Bufferyards larger than required by at least ten (10) percent.	—

	h.	Continuity of landscaping features at interface with adjacent property.	—
	i.	Canopy trees placed in the boulevard along internal streets at one tree per 25 feet of street frontage.	—
	j.	Incorporates existing trees in landscape design.	—
7.	ARCHITECTURAL DESIGN		
	a.	Building materials are natural, i.e. wood or stone.	—
	b.	Pitched roof with a minimum 3:12 pitch.	—
	c.	Exceeds the state energy code requirements by:	—
		• Twenty-five (25) percent = One (1) point	
		• Fifty (50) percent = Two (2) points	
		• More than seventy-five (75) percent = Three (3) points	
	d.	The use of alternative energy sources, for example: photovoltaic, solar, geothermal, wind.	—
	e.	Each building up to seventy-five (75) feet in length contains four (4) facade relief elements.	—
	f.	Each building of seventy-five to one hundred fifty (75-150) feet in length contains five (5) facade relief elements.	—
	g.	Each building exceeding one hundred fifty (150) feet in length contains six (6) facade relief elements.	—
		Facade relief elements	
		• Two (2) or more colors	
		• Natural earth toned colors	
		• Substantial fenestration using windows, doors, or other openings	
		• Two (2) or more materials that break up the mass of the structure	
		• Articulation of the parapet walls	
		• Change in wall plane	

		• Change in roof plane	
		• Extended roof overhangs	
		• Significant variation in building masses and/or forms	—
8.		SIGNAGE	
	a.	Signage is not internally illuminated.	—
	b.	Monument signs used in lieu of pole signs.	—
	c.	Area of signage is at least twenty (20) percent less than total area allowable for each sign type.	—
	d.	Maximum sign height does not exceed one-third (1/3) the maximum height of the building(s).	—
	e.	Comprehensive sign plan.	—
9.		MIXED USE	
		One point will be given for each building that contains two (2) or more of the following uses:	—
		• Office	
		• Retail	
		• Personal services	
		• Residential	
		• Hotel	
		• Medical	
		• Entertainment	
		• Restaurant	
		TOTAL POINTS	—

Sec. 27-1452. - Reexamination of regulations.

After one (1) year of the effective date of this article, and periodically afterwards, these regulation shall be reviewed for their effectiveness and the practicality of implementation and enforcement.

Sec. 27-1453. - Appeal process.

An appeal may be made by any applicant aggrieved by a denial of a Shiloh corridor overlay zone permit by the planning and community services department. The applicant shall first appeal to the department director, and if not satisfied with the director's determination, may then file an appeal with city council. The city council shall hold a public hearing and make a determination whether to approve or deny the appeal. Before either the director or city council makes a determination on the appeal, the following criteria shall be considered:

- (1) That the official erred in the interpretation or application of this chapter;
- (2) That approving the permit will not confer on the applicant any special privilege that is denied by this chapter to other land in the same district;
- (3) That no substantial detriment to the public good is created;
- (4) That the intent and purpose of this chapter is not impaired.

Upon receiving written notice of denial of a permit from the planning and community services department, the aggrieved applicant has fourteen (14) days from the date on the notice to submit a written request for appeal to the department director. The director shall meet with the applicant within five (5) days of receiving the request and issue a determination on the decision to deny the permit. If the department director upholds the decision to deny, the applicant may file, within fourteen (14) days from the date of the director's determination, a request for appeal before the city council. If an appeal is requested, the planning and community service director shall:

- (5) Submit a staff report to the city council within thirty (30) days after receipt of the appeal scheduling a public hearing and describing the nature of the appeal. The memo shall include the request for the appeal and a copy of the notice stating reason(s) for the denial of the permit.
- (6) 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.
- (7) Notify, by mail, the party requesting the appeal and all adjacent property owners of the time, date and place of the public hearing and nature of the appeal five (5) days in advance of the public hearing.

Upon reversing a decision to deny an appeal, the council 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 appeal is granted, shall be deemed a violation of this chapter.

Under no circumstances shall the council issue a decision that would allow a use not permitted under the terms of this chapter in the district involved. Approval of a permit shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.

Secs. 27-1454—27-1459. - Reserved.

Sec. 27-1460. - East Billings Parking Overlay District.

Sec. 27-1461. - Purpose.

The purpose of the East Billings Parking Overlay District is to provide alternative off-street parking standards to encourage the development and re-development of property. The overlay zoning does not alter the category of permitted uses in the underlying zoning.

Sec. 27-1462. - District boundaries.

The boundaries of the East Billings Parking Overlay District shall be as follows:

Starting at the intersection of Montana Avenue and North 22nd Street, extending north down the centerline of North 22nd to the intersection of 3rd Avenue North, extending westerly down the centerline of 3rd Avenue North to the intersection of North 23rd Street, then northerly along the centerline of North 23rd Street to the intersection of 4th Avenue North, then westerly along the centerline of 4th Avenue North to the intersection of North 25th Street, then northerly along the centerline of North 25th Street to the intersection of 6th Avenue North, then easterly along the centerline of 6th Avenue North to the intersection of North 22nd Street, then northerly along the centerline of to the intersection of 8th Avenue North, extending east down the centerline of 8th Avenue North to the intersection of 8th Avenue North and North 19th Street, extending south down the centerline of North 19th Street to the intersection of North 19th Street and 7th Avenue North, extending east along the centerline of 7th Avenue North to the intersection of North 18th Street and 7th Avenue North, extending south down the centerline of North 18th Street to be perpendicular with the northern most edge of property line of LT 23 & 24 BLK 274 BILLINGS 1ST ADD, extending east along the Northern edge of LT 23 & 24 BLK 274 BILLINGS 1ST ADD, and hence eastward including in their entirety the southernmost properties most directly adjacent to 6th Avenue North to the city boundary line including Lots 4—10 of Block 5 and the vacated 20-foot adjacent alley of North Park Subdivision, extending southerly and westerly along the city boundary lines to the northern edge of the rail road tracks, extending west along the northern edge of the railroad tracks to the centerline of North 22nd Street, extending north along the centerline of North 22nd Street to the ending point at the intersection of Montana Avenue and North 22nd Street. Excluding the non-incorporated land that envelops the Empire Steel property LTS 3 TO 23 & VAC 10FT ADJ ALLEY & E 404T ADJ N 16TH ST BLK 258 & 259.



Official Map - East Billings Overlay District

Sec. 27-1463. - Application of regulations.

Within this district, the regulations found within BMCC 24-468 and 24-490 as amended shall apply to all property within the East Billings parking overlay district. These regulations include but are not limited to the following:

- (1) No minimum off-street parking spaces are required at the time of development, re-development, expansion, change of use or addition to public, commercial, industrial or residential property.
- (2) Where off-street parking spaces are developed, the design of such spaces and parking lots shall meet the standards set forth in subsections 6-1203(o) through 6-1203(u) and other design standards for off-street parking that are adopted policies of the city engineer.
- (3) These regulations in no way diminish or reduce a property owner's liability or obligation to provide accessibility in compliance with the Federal Americans with Disabilities Act (ADA) standards.

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;
 - c. 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 (c) 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 ($\frac{2}{3}$) 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 BMCC 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 closet 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 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 or Ordinances or parts of resolutions/ordinances in conflict with this Resolution/Ordinance [Ord. No. 97-5048] 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.

Section 4. AMENDMENT. ARTICLE 27-1800. - EAST BILLINGS URBAN REVITALIZATION DISTRICT CODE – Has no changes, amendments or deletions and will be re-adopted exactly as currently stated within the Billings, Montana City Code (BMCC).

Section 5. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

Section 7. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading August 14, 2017.

PASSED, ADOPTED AND APPROVED on second reading August 28, 2017.

CITY OF BILLINGS:

BY: _____
Mayor Thomas W. Hanel

ATTEST:

BY: _____

Denise Bohlman, City Clerk

2017 – City and County Zoning Code Separation

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Second Reading of Ordinance Amending Billings Montana City Code (BMCC) Article 26-600, Industrial Waste Discharge

PRESENTED BY: David Mumford, Public Works Director

Department: Public Works

Presentation: No

PROBLEM/ISSUE STATEMENT

The City's industrial pretreatment program is published in the City Code (BMCC), Article 26-600 and was first adopted by the City Council in 1985. Since that initial adoption it has been modified several times. The last significant modification was approved in 2013. This program controls substances discharged into the City's sanitary sewer system by the City's commercial and industrial customers. The proposed modifications are necessary for the City's program to continue to meet USEPA standards. The USEPA has reviewed and approved the modifications following a 30 day public notice and comment period. City Council held a public hearing and approved the ordinance on first reading on June 12, 2017. Some of the modifications to the ordinance include:

- Modification of the local limits for pollutants. These are limits which are more inclusive or restrictive than the national pretreatment standards and are calculated based on the City's collection and treatment system. The pollutants BTEX, Methylene Chlordie, and Tetrachloroethene were removed from the first reading due to non-detection of these pollutants.
- Updating and modifying the ordinance in keeping with the USEPA streamlining rule for pretreatment. This rule was designed to reduce the regulatory burden on both the pretreatment users of the sanitary system and the City of Billings.
- Clarifies the City's control authority to implement the pretreatment regulations in the service area.

ALTERNATIVES ANALYZED

City Council may:

- Approve the ordinance modifying and updating Article 26-600 of the BMCC on the second reading to be in compliance with current USEPA standards and requirements for pretreatment; or,
- Not approve the ordinance. If the ordinance is not approved, the pretreatment program will not be updated to current USEPA standards and will not allow certain Significant Industrial Users (SIUs) to discharge into the City's wastewater collection system in the future.

FINANCIAL IMPACT

There is no direct budget/financial impact from this action.

RECOMMENDATION

Staff recommends that the City Council approve the second reading of the ordinance that amends City Code Article 26-600, Industrial Waste Discharge.

APPROVED BY CITY ADMINISTRATOR

Attachments

Ordinance

ORDINANCE NO. 17 - _____

AN ORDINANCE OF THE CITY OF BILLINGS,
AMENDING BILLINGS MUNICIPAL CODE ARTICLE
26-600, INDUSTRIAL WASTE DISCHARGE.
PROVIDING UPDATES FOR THE CITY'S
INDUSTRIAL WASTE DISCHARGE AND
AMENDING ALL ORDINANCES AND RESOLUTIONS
INCONSISTENT THEREWITH.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. AMENDMENT. That Section 26-604 of the Billings, Montana City Code be amended as follows:

Sec. 26-604. – Prohibited Discharges and Limitations.

(d) The following pollutant limits are established to protect against pass through and interference and will be applied to discharges from significant industrial users through industrial wastewater permits or control mechanisms, based on the reasonable potential to exceed the following maximum allowable discharge limits:

Pollutant	Daily Maximum Discharge Limit ⁽¹⁾	Units ⁽²⁾
Arsenic	1.33 1.52	#/day
Cadmium	~~0.03~~ 0.04	mg/l
Chromium	~~27.25~~ 12.96	mg/l
Chromium VI	~~3.39~~ 1.33	mg/l
Copper	~~5.18~~ 2.91	mg/l
Cyanide	~~0.66~~ 0.39	mg/l
Lead	1.04	mg/l
Mercury	~~0.0057~~ 0.0017	mg/l
Nickel	~~8.87~~ 3.44	mg/l
Selenium	~~3.87~~ 5.17	#/day
Silver	~~1.80~~ 0.375	mg/l
Zinc	~~24.87~~ 12.76	mg/l
~~BTEX~~	~~0.75~~	~~mg/l~~
~~Methylene Chloride~~	~~0.80~~	~~mg/l~~
~~Tetrachloroethene~~	~~1.60~~	~~mg/l~~

(1) All pollutants show in the Table are total.

(2) All mass limits (#/day) proportionately allocated to permitted users.

- (de) Dilution is prohibited as a substitute for treatment and shall be a violation of this Article. Except where expressly authorized to do so by an applicable Pretreatment Standard or Requirement, no Industrial User shall ever increase the use of process water, or in any other way attempt to dilute a Discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard or Requirement. The City may impose mass limitations on industrial users which are using dilution to meet applicable Pretreatment Standards or Requirements or in other cases where the imposition of mass limitations is appropriate.
- (ef) All industrial users subject to a Categorical Pretreatment Standard shall comply with all requirements of such Standard, and shall also comply with any limitations contained in this Article. Where the same pollutant is limited by more than one Pretreatment Standard, the limitations which are more stringent shall prevail. Compliance with Categorical Pretreatment Standards shall be the timeframe specified in the applicable Categorical Pretreatment Standard.
- (fg) The City may establish more stringent pollutant limits, additional site-specific pollutant limits, Best Management Practices, or additional Pretreatment Requirements when, in the judgment of the City, such limitations are necessary to implement the provisions of this Article.
- (gh) Promulgation of Standards.
 - (1) Upon the promulgation of the federal Categorical Pretreatment Standard for a particular industrial subcategory, the federal Standard, if more stringent than limitations imposed by this Article for sources in that subcategory, shall immediately supersede the limitations imposed by this Article as required by the applicable Categorical Pretreatment Standard.
 - (2) State requirements and limitations on discharges shall apply in any case where they are more stringent than federal Pretreatment Standards and Requirements or those in this Article.

Section 2. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

PASSED by the City Council on first reading this 12th day of June, 2017.

PASSED, ADOPTED and APPROVED on second reading this 11th day of September, 2017.

CITY OF BILLINGS

By _____
Thomas W. Hanel, Mayor

ATTEST:

By _____
City Clerk

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Zone Change 959 - Text Amendment - 2nd reading

PRESENTED BY: Nicole Cromwell

Department: Planning & Community Services

Presentation: No

PROBLEM/ISSUE STATEMENT

This is an amendment to Section 27-304 to clarify that land uses contrary to local, state or federal law will not be allowed by right or by conditional approval. In March 2017, the City Council directed staff to develop appropriate amendments to the City Code to ensure medical marijuana providers and dispensaries are not allowed to locate within the city limits. This zoning code amendment is a companion amendment to BMCC, Section 7-1700 regarding Medical Marijuana Storefronts. The City Zoning Commission held a public hearing on August 1, 2017, and is forwarding a recommendation of approval on a 4 to 1 vote. The City Council conducted a public hearing and approved the text amendment on 1st reading on August 28, 2017. A second reading of the ordinance is required to approve the zone change.

ALTERNATIVES ANALYZED

City Council may:

- Approve the zone change as recommended by the Zoning Commission;
- Deny the zone change; or
- Withdraw the zone change; or
- Delay action on the zone change for up to 30 days.

FINANCIAL IMPACT

Approval of the amendment may curtail the location of new medical marijuana providers or dispensaries within the city limits. This may diminish business activity and related or ancillary business ventures associated with the medical marijuana industry. It is not known how many medical marijuana providers or dispensaries currently exist within the city limits. The financial impact from adoption of the code amendment should be minimal across the entire economic activity in the City.

RECOMMENDATION

The Zoning Commission recommends approval of the proposed text amendment on a 4 to 1 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

Ordinance

ORDINANCE NO. 17-_____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 27-304 – APPLICATION AND GENERAL RULES - TO ADD LANGUAGE TO CLARIFY THE REGULATION AND ADOPT THE REVISION AS AN AMENDMENT TO THE ZONING REGULATIONS AND SET A TIME PERIOD FOR THE REGULATION TO BE EFFECTIVE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Section 27-1502, BMCC,* provide for amendment to the City Zoning Regulations from time to time. The City Council initiated the amendment to the City Zoning Regulations and the City Zoning Commission and staff have reviewed the proposed zoning regulations hereinafter described. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the proposed amendments to the City Zoning Regulations.

2. DESCRIPTION. The zoning regulation shall apply to all land within the City of Billings.

3. ZONE AMENDMENT.

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. No use of land shall be permitted by right or conditionally permitted within the City of Billings that is in violation of federal, state or local law. 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.

4. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading August 28, 2017

PASSED, ADOPTED AND APPROVED on second reading September 11, 2017.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: Denise Bohlman, City Clerk

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Second/Final Reading Ordinance Amending Section 7-1700, BMCC, relating to medical marijuana dispensaries and storefronts

PRESENTED BY: Tina Volek, City Administrator

Department: City Hall Administration

Presentation: No

PROBLEM/ISSUE STATEMENT

This is an amendment to Sections 7-1701, 7-1702, 7-1703, and 13-438 of the City Code to insert a definition of "dispensaries" and to delete unnecessary or outdated language which was revised upon the passage of I-182 in November 2016 and amendments to the Montana Marijuana Act during the 2017 legislative session. In March 2017, the City Council directed staff to develop appropriate amendments to the City Code to clarify that medical marijuana dispensaries and storefronts are not permitted within the city limits. This amendment is a companion to the zoning amendment to BMCC, Section 27-304 prepared by Planning & Community Services. A First Reading and Public hearing was held on August 28, 2017, and the Council approved the amendments on a 7-4 vote. These amendments are now before the Council for Second Reading and final approval.

ALTERNATIVES ANALYZED

City Council may:

- Approve the proposed amendments to Sections 7-1701, 7-1702, 7-1703, and 13-438, BMCC on Second Reading;
- Postpone action on the proposed amendments; or,
- Disapprove the proposed amendments and provide staff with additional direction to address the inconsistencies in the City Code.

FINANCIAL IMPACT

Currently, medical marijuana dispensaries and storefronts are not issued business licenses and therefore the financial impact should be limited. However, there may be some business activity which is constrained for any providers who may have obtained a business license in error or in violation of the current City Code. It is unknown how many medical marijuana providers currently exist within the city limits.

BACKGROUND

In 2004, Montana voters passed Initiative I-148 which legalized the medical use of marijuana which was later codified as §50-46-101, MCA, *et. seq.* known as the Medical Marijuana Act. This was later amended in 2011 by the Montana Legislature. These amendments prohibited advertising, limited providers to three patients, and did not allow providers to charge for their product. After much litigation, the Montana Supreme Court, in February 2016, upheld the 3 provider limit and the ban on advertising. However, the MT Supreme Court found that the provision prohibiting remuneration for marijuana products to providers violated due process.

Citizen initiative I-182 was passed in November 2016. This initiative repealed the three patient limit for providers (effective immediately upon passage) and allows providers to hire employees to cultivate, dispense, and transport medical marijuana (effective June 30, 2017). During the 2017 legislative session, the legislature amended MCA Section 50-46-328, which allows local governments to regulate medical marijuana dispensaries in addition to storefronts, which became effective on May 19, 2017.

In May 2010, the City of Billings enacted a 6-month interim zoning ordinance which established a moratorium on medical marijuana establishments. In September 2010, the City enacted a 12-month extension to this ordinance to take effect November 2010. In November 2011, the City of Billings again extended the moratorium on medical marijuana establishments and also enacted Article 7-1700, "Medical Marijuana," into its city code. The provisions of this Article prohibited any medical marijuana providers from operating "storefront businesses" within city limits. Section 7-1702(a), allowed a provider who was in full compliance with state law and the requirements of the Act to dispense marijuana within the city limits. However, this conflicted with other provisions of the BMCC, specifically §13-438, which does not allow a business license to be issued for any business, occupation, or profession that violates city, state, or federal law. Therefore, since the distribution of marijuana in any context is a violation of federal law, business licenses have not been issued for the operation of dispensaries or storefronts within City limits.

The amendments to the Montana Medical Marijuana Act have made certain provisions of the City Code outdated. Additionally, during a Work Session in March 2017, the City Council requested staff proceed with drafting amendments to clarify the City's position on operating dispensaries and storefronts. These amendments clarify that storefronts and dispensaries are not permitted within City limits as well as update any language that has been superseded by state law amendments.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

This amendment will bring Sections 7-1701, 7-1702, and 7-1703 up to date with current state law and consistent with other sections of BMCC, specifically §13-438 (which does not allow a business license to be issued for any business, occupation, or profession that violates city, state, or federal law) and the proposed zoning amendment to Section 27-304, BMCC.

SUMMARY

The amendments to Chapter 7-1700 and section 13-438 are recommended to bring consistency with the proposed zoning amendment (section 27-304) and to update the City Code to reflect the changes made in state law.

RECOMMENDATION

Staff recommends that the City Council approve the proposed amendments to BMCC Sections 7- 1701, 1702 and 1703 and to Section 13-438 on Second Reading.

APPROVED BY CITY ADMINISTRATOR

Attachments

ORDINANCE NO. 17-_____

**AN ORDINANCE OF THE CITY OF BILLINGS,
PROVIDING THAT THE BILLINGS, MONTANA
CITY CODE RELATING TO MEDICAL
MARIJUANA BE AMENDED BY REVISING
SECTIONS 7-1701, 7-1702, 7-1703, ADDING
AND DEFINING "DISPENSARY" AND
DELETING OUTDATED LANGUAGE IN
SECTION 13-438.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY BILLINGS
THAT:

Section 1. That section 7-1701 of the Billings, Montana City Code is amended so that such section shall read as follows:

Sec. 7-1701. – Definitions

The terms "dispensary," "marijuana," "provider," "marijuana-infused product," "marijuana-infused product provider," "registered cardholder" or "cardholder" shall have the meaning provided to such terms by the Montana Medical Marijuana Act, as amended, ~~Section 2, (SB 423) passed by the 2011 Montana Legislature.~~

The term "storefront business" means any commercial establishment, structure or building that is openly accessible by members of the general public. ~~Storefront business does not include a commercial establishment, structure, or building that is inaccessible to the general public, which only provides access to cardholders registered with that provider by the Montana Department of Health and Human Services or other persons, by appointment, who are intending to establish a bona fide provider/cardholder relationship with that provider.~~

Section 2. That section 7-1702 of the Billings, Montana, City Code is amended so that such section shall include "Dispensaries" and shall delete outdated references to past state legislation, to read as follows:

Sec. 7-1702. – Dispensaries and Storefronts prohibited.

- a) ~~As authorized by Senate Bill (SB) 423, Section 13(2) or the Montana Medical Marijuana Act, as amended, passed by the 2011 Montana Legislature, no "provider" of marijuana or marijuana-infused products shall be permitted to open or operate a dispensary or "storefront business" within the city limits. "Providers" who are in full compliance with the Montana Medical Marijuana Act shall be permitted to dispense medical marijuana and marijuana infused products to "cardholders" who are registered with that provider by the Montana Department of Health and Human Services; provided that access to the storefront business is limited to cardholders registered with that provider and other persons, by appointment, who are intending to establish a bona fide provider/cardholder relationship with that provider.~~
- (b) ~~As authorized by Senate Bill (SB) 423, Section 13(1) of the Montana Marijuana Act, passed by the 2011 Montana Legislature, "providers" permitted to dispense medical marijuana and medical marijuana infused products under subsection (a) above are prohibited from displaying, in an open or visible manner to the general public, any medical marijuana plant, marijuana infused product, or any depictions, caricatures, or other artistic renditions of a marijuana plant, leaf, bud or parts in a manner visible from the exterior of the establishment, structure or building in which the "provider" does business.~~

Section 3. That section 7-1703 of the Billings, Montana City Code is amended so that such section shall read as follows:

Sec. 7-1703. - Penalties.

Any individual, entity or establishment that violates the terms of Section 7-1702 ~~this ordinance set forth above~~ shall be deemed to be creating a public nuisance and shall be subject to misdemeanor criminal penalties as provided in section 1-110 and shall further be subject to civil action to restrain or abate as authorized in sections 18-301 et seq. ~~As~~ the city deems appropriate. Such ability of the city to prosecute and/or enjoin or abate is in addition to any other remedies available to the city at law or in equity.

~~It shall be a defense to a violation of this section that a provider did not allow members of the general public, who were not registered cardholders with that provider or persons seeking, by appointment, to establish a bona fide provider/cardholder relationship with that provider, to access the provider's place of business.~~

Section 4. That section 13-438 of the Billings, Montana City Code is amended so that such section shall read as follows:

Sec. 13-438. – All businesses, occupations, and professions to comply with local, state and federal law.

- a) No business tax determination or business license shall be issued for any business, occupation, or profession that violates any provision of city, state, or federal ordinance, regulation, law, or statute. The issuance of a business tax determination or acceptance of payment by the city does not authorize any business, occupation, or profession to operate in violation of any provision or local, state, or federal ordinance, regulation, law, or statute. Any such ~~business tax or business determination~~ license mistakenly issued by the city shall be deemed void from the date of issuance.
- ~~(b) All existing businesses with current business tax determinations or licenses shall fully comply with this provision within two (2) years of the effective date of this section. Any such businesses, occupation or profession licensed on the effective date of this section but in violation of this section shall be deemed a legal non-conforming use, and shall be permitted to renew such business tax determination or license for a period of two (2) years from the effective date of this section. Two (2) years from the effective date of this section, any prior issued business tax determination or license which violates this section shall be cancelled and deemed void, no matter when issued or renewed.~~

Section 5. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

Section 6. Repealer. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 7. Effective Date. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

PASSED by the City Council on first reading this ____ day of _____, 2017.

PASSED, ADOPTED and APPROVED on second reading this ____ day of _____, 2017.

CITY OF BILLINGS

Thomas W. Hanel, Mayor

ATTEST:

Denise Bohlman, City Clerk

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Final Plat of Blue Creek Storage Subdivision

PRESENTED BY: Wyeth Friday

Department: Planning & Community Services

Presentation: No

PROBLEM/ISSUE STATEMENT

The final plat for the Blue Creek Storage Subdivision is being presented to City Council for final approval. On August 4, 2017, the applicant submitted a proposed 2 lot subdivision that was reviewed as an expedited plat as outlined in Section 23-305 in the City of Billings Subdivision Regulations. The proposed plat is reviewed internally and is not required, as outlined in Section 23-305, to be preliminarily approved by City Council, but Council must approve the final plat. This plat will create 2 lots from a 10.869 acre parcel of land. The parcel is generally located on the east side of Blue Creek Road, south of Santiago Boulevard. The subject property is legally described as Certificate of Survey 3426, Parcel 2 and is zoned Community Commercial and Neighborhood Commercial. This subdivision is proposed for commercial uses. The owner is Blue Creek Storage, LLC and the representing agent is Sanderson Stewart. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

ALTERNATIVES ANALYZED

The City Council may approve or disapprove the final plat of Blue Creek Storage Subdivision. If the City Council chooses to deny the final plat, it must base the denial on the criteria outlined in MCA 76-3-611 and BMCC Section 23-307.

FINANCIAL IMPACT

Should the City Council approve the final plat, the newly created lots may be developed, increasing the tax and assessment revenues for the City while also generating service demands.

RECOMMENDATION

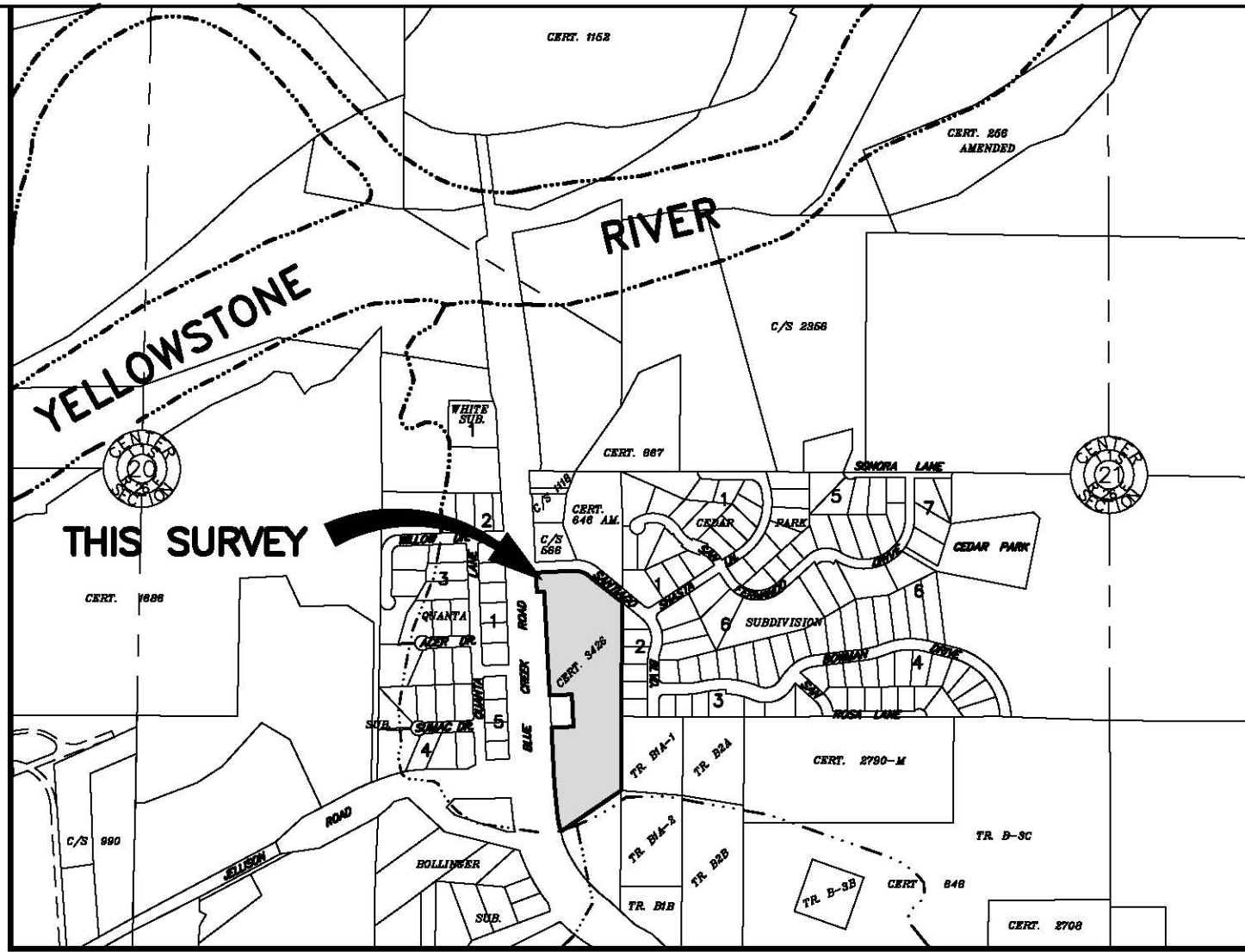
Staff recommends that the City Council approve the final plat of the Blue Creek Storage Subdivision.

APPROVED BY CITY ADMINISTRATOR

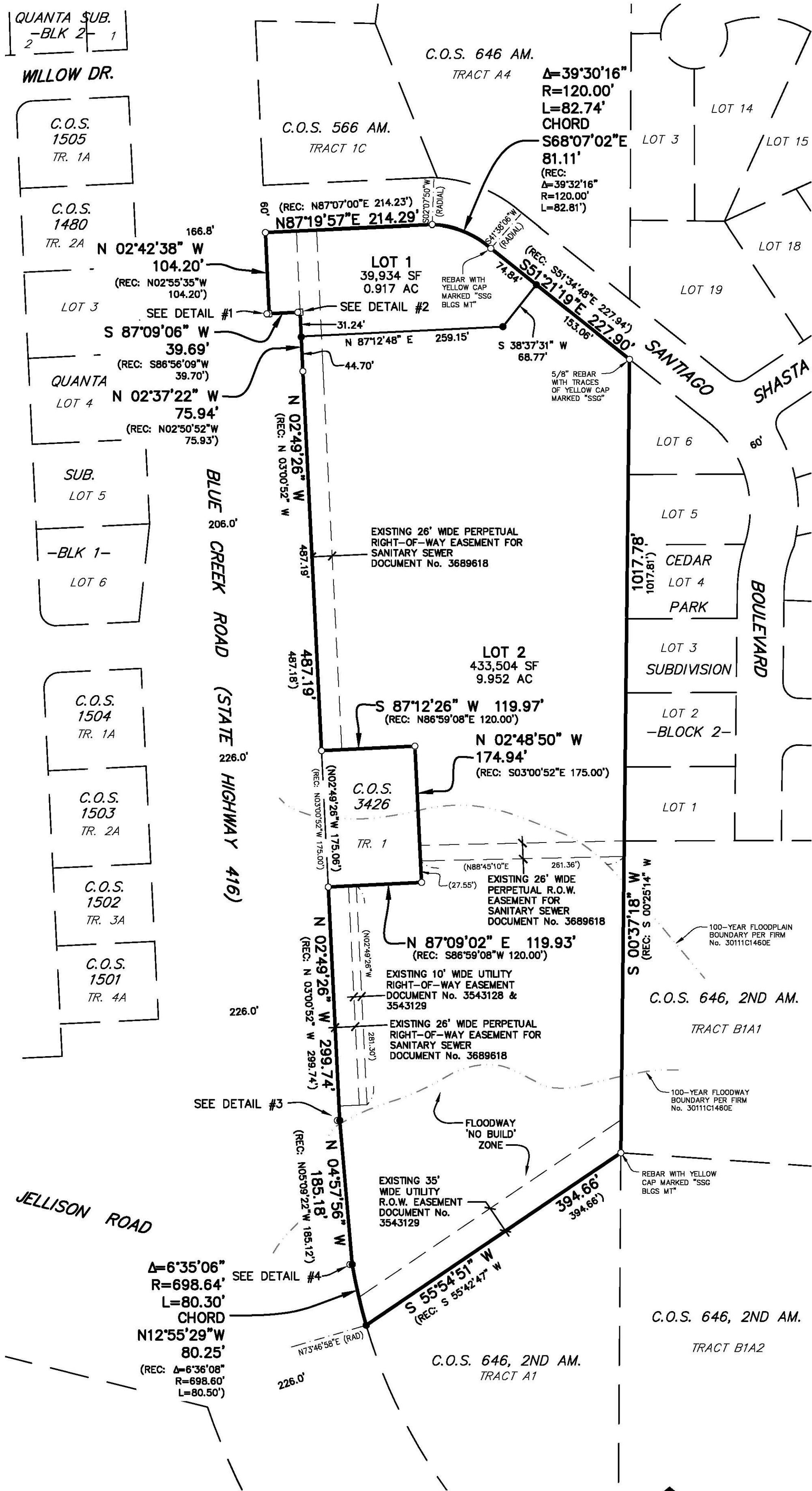
Attachments

Final Plat

PLAT OF
BLUE CREEK STORAGE SUBDIVISION
BEING TRACT 2 OF CERTIFICATE OF SURVEY No. 3426
SITUATED IN THE SE1/4 OF SECTION 20, T. 1 S., R. 26 E., P.M.M.,
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA
PREPARED FOR : BLUE CREEK STORAGE, LLC
AUGUST, 2017
PREPARED BY : SANDERSON STEWART



VICINITY MAP
NOT TO SCALE



ERRORS AND OMISSIONS REVIEW

I hereby certify that I have examined the annexed and foregoing plat for errors and omissions in computations and drafting.

Examining Land Surveyor

Date

CERTIFICATE OF CITY ATTORNEY

This document has been reviewed by the City Attorney's office and is acceptable as to form.

Date:

Reviewed by:

CERTIFICATE OF COUNTY TREASURER

I hereby certify that all real property taxes and special assessments have been paid per 76-3-611(1)(b)/76-3-207(3), M.C.A.

Date:

Yellowstone County Treasurer

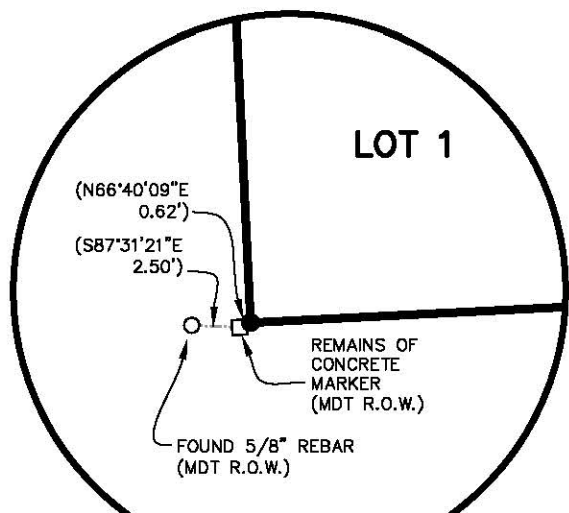
By: Deputy

SUBDIVISION IMPROVEMENT AGREEMENT

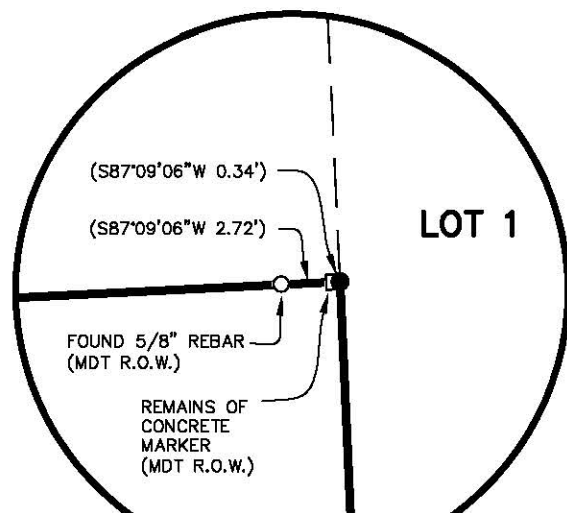
Document No. _____

RESERVED FOR CLERK AND RECORDER

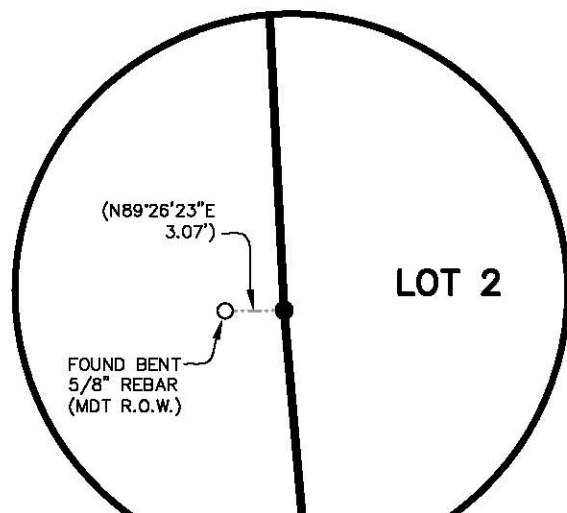
DETAIL #1
SCALE: 1"=10'



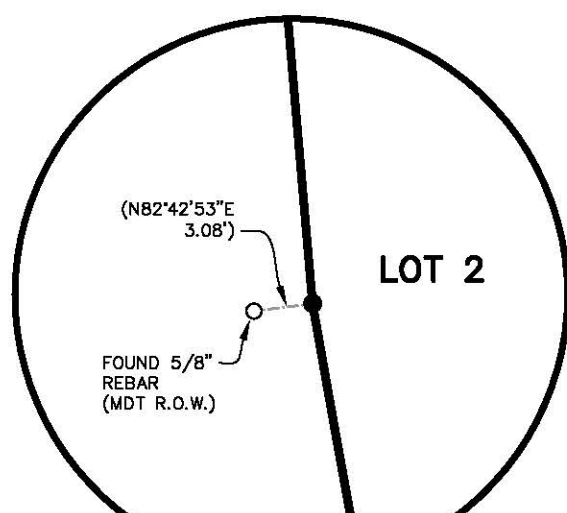
DETAIL #2
SCALE: 1"=10'



DETAIL #3
SCALE: 1"=10'



DETAIL #4
SCALE: 1"=10'



NOTICE OF APPROVAL

STATE OF MONTANA)
County of Yellowstone) ss

This plat has been approved for filing by the Yellowstone County Board of Planning and conforms to the recommendations of this board.

Date _____ President _____

Executive Secretary _____

CERTIFICATE OF DEDICATION

STATE OF MONTANA)
County of Yellowstone) ss

KNOW ALL MEN BY THESE PRESENTS: That BLUE CREEK STORAGE, LLC., the owner of the following described tract of land, does hereby certify that it has caused to be surveyed, subdivided and platted into lots, and blocks as shown on the annexed plat, said tract being situated in the SE1/4 of Section 20, T. 1 S., R. 26 E., P.M.M., in the City of Billings, Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Tract 2 of Certificate of Survey No. 3426, on file in the office of the Clerk and Recorder of Yellowstone County, Montana, under Document No. 3543127.

Pursuant to Section 76-3-621(3)(b), M.C.A., there is no park requirement for this non-residential subdivision.

Said tract to be known and designated as BLUE CREEK STORAGE SUBDIVISION.

BLUE CREEK STORAGE, LLC.

By: _____ Title: _____

STATE OF MONTANA)
County of Yellowstone) ss

On this _____ day of _____, 20____, before me, the undersigned Notary Public for the State of Montana, personally appeared _____, known to me to be the person who signed the foregoing instrument as _____ of BLUE CREEK STORAGE, LLC., and acknowledged to me that said corporation executed the same. Witness my hand and seal the day and year herein above written.

Notary Public in and for the State of Montana

CERTIFICATE OF CITY COUNCIL APPROVAL

STATE OF MONTANA)
County of Yellowstone) ss

We hereby certify that we have examined the annexed and foregoing PLAT OF BLUE CREEK STORAGE SUBDIVISION, and find that said plat conforms with the requirements of the laws of the State of Montana, and the requirements of The Yellowstone County Board of Planning. It is therefore approved and the dedication to public use of any and all lands shown on this plat as being dedicated to such use are accepted.

IN WITNESS WHEREOF, we have set our hands and the seal of the CITY OF BILLINGS, MONTANA, this _____ day of _____, 20____.

CITY OF BILLINGS, MONTANA

By: _____ Mayor _____ Attest: _____ City Clerk

CERTIFICATE OF CITY ENGINEER'S OFFICE

I hereby certify that annexed and foregoing plat conforms with Section 76-4-125(2)(d), M.C.A., for the removal of sanitary restrictions since the plat is inside a master planning area and said lots will be provided with municipal facilities for the supply of water and the disposal of sewage and solid waste.

IN WITNESS WHEREOF, I have executed this CERTIFICATE OF APPROVAL this _____ day of _____, 20____.

City Engineer's Office

CERTIFICATE OF SURVEYOR

STATE OF MONTANA)
County of Yellowstone) ss

The undersigned, a Land Surveyor licensed in the State of Montana, states that during the month of September, 2016, a survey was performed under his supervision of a tract of land to be known as BLUE CREEK STORAGE SUBDIVISION, in accordance with the request of the owner thereof and in conformance with the Montana Subdivision and Platting Act; said subdivision, description of boundaries and dimensions being in accordance with the Certificate of Dedication and as shown on the annexed plat; that the monuments found and set are of the character and occupy the positions shown hereon and that the gross and the net area is 10.869 acres.

SANDERSON STEWART

By: _____

Montana Registration No. _____

Date _____

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Final Plat of Amended Lot 6, Block 21, Sunnyside Subdivision, 4th Filing

PRESENTED BY: Wyeth Friday

Department: Planning & Community Services

Presentation: No

PROBLEM/ISSUE STATEMENT

The final plat for the Amended Lot 6, Block 21 Sunnyside Subdivision, 4th Filing, is being presented to City Council for approval. On May 8, 2017, the City Council conditionally approved this preliminary plat which will create 2 lots from a 0.96 acre parcel of land. The parcel is generally located on the northeast corner of North 27th Street and 12th Avenue North. The subject property is legally described as Lot 6, Block 21, Sunnyside Subdivision, 4th Filing and is zoned Community Commercial. This subdivision is proposed to be for commercial and professional office uses. The owner is Rimrock Inn, LLC and the representing agent is Performance Engineering. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

ALTERNATIVES ANALYZED

The City Council may approve or disapprove the final plat of Amended Lot 6, Block 21, Sunnyside Subdivision 4th Filing. If the City Council chooses to deny the final plat, it must base the denial on the criteria outlined in MCA 76-3-611 and BMCC Section 23-307.

FINANCIAL IMPACT

If the City Council approves the final plat, the newly created lots may be sold separately and developed, increasing the tax and assessment revenues for the City while also generating service demands.

RECOMMENDATION

The applicant has met all conditions of approval, therefore, staff recommends that the City Council approve the final plat of the Amended Lot 6, Block 21, Sunnyside Subdivision, 4th Filing.

APPROVED BY CITY ADMINISTRATOR

Attachments

Final Plat

Consent 1. N. 1.

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Payment of Claims August 14,2017

PRESENTED BY: Andy Zoeller

Department: City Hall Administration

Presentation: No

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$642,354.74 have been audited and are presented for City Council payment approval. A complete listing of the claims dated August 14, 2017, is available in the Finance Department.

ALTERNATIVES ANALYZED

No other alternatives were analyzed.

FINANCIAL IMPACT

Claims have a varying impact on department budgets, but are submitted by the departments and reviewed by Finance staff before being sent to the Council.

RECOMMENDATION

Staff recommends that Council approve the Payment of Claims.

APPROVED BY CITY ADMINISTRATOR

Attachments

councilmemo_8.14.2017

Check Date	Check #	Name	Fund Name	Amount	Item Desc
08/14/2017	806606	Ace Electric Inc	Water	\$3,225.00	Conduit through service center for lighting
08/14/2017	806606	Ace Electric Inc	Wastewater	\$1,075.00	Conduit through service center for lighting
08/14/2017	806611	Allstream Business US Inc	Airport	\$44.07	Airport Alarm 406-294-8370
08/14/2017	806611	Allstream Business US Inc	Telephone System	\$282.34	Main Bill New Account # 330046
08/14/2017	806611	Allstream Business US Inc	General	\$46.00	Main Bill New Account # 330046
08/14/2017	806611	Allstream Business US Inc	Public Safety	\$39.00	CPC line 247-8592
08/14/2017	806611	Allstream Business US Inc	Information Resources	\$79.95	Main Bill New Account # 330046 -IT
08/14/2017	806611	Allstream Business US Inc	Telephone System	\$4,595.63	Main Bill New Account # 330046
08/14/2017	806611	Allstream Business US Inc	CDBG	\$41.40	Community Development Services
08/14/2017	806611	Allstream Business US Inc	City County Planning	\$39.00	Planning FAX 406-657-8327
08/14/2017	806611	Allstream Business US Inc	Building Inspection	\$39.00	Building FAX 406-657-8252
08/14/2017	806623	Beartooth Environmental, Inc.	Solid Waste	\$4,820.00	Hazardous Waste removal
08/14/2017	806630	Billings Bookstore Cooperative	Tax Increment N 27th	\$16,471.27	illings Bookstore Cooperative TIF
08/14/2017	806634	Billings Gazette	General	\$1,045.00	102-60001620
08/14/2017	806634	Billings Gazette	General	\$792.00	102-60001620
08/14/2017	806634	Billings Gazette	Water	\$792.00	102-60001620
08/14/2017	806640	Chicago Title of Montana LLC	CDBG	\$15,000.00	FTHB Hunter Higbee 3915 2nd
08/14/2017	806643	Cormier	Tax Increment N 27th	\$49,000.00	Cormier Properties TIF reimbursement
08/14/2017	806645	Crescent Electric Supply	Water	\$4,797.25	WD SPD Panel
08/14/2017	806649	DC Frost Associates Inc	Wastewater	\$3,614.69	10 Lamps
08/14/2017	806652	Dustbusters	Street/Traffic Oper	\$6,413.83	dust suppressant used fpr gravel roads
08/14/2017	806658	Empire Garage Owner's Association	Parking	\$7,837.42	City of Billings July Assessment.
08/14/2017	806659	Enterprise Rent-A-Car	Police Programs	\$35,400.00	UC vehicles. Receipts on file at the BPD.
08/14/2017	806664	Fischer Commercial Flooring	Public Safety	\$1,658.00	FIRE2: REPLACE EXISTING DAMAGED
08/14/2017	806664	Fischer Commercial Flooring	Public Safety	\$2,109.00	FIRE3: REPLACED EXISTING CARPET
08/14/2017	806669	Gallagher Benefit Services Inc	City Health Ins Fund	\$6,371.36	Inv. #122676 Project Fees: St. Vincent's
08/14/2017	806670	Galles Filter Service	Wastewater	\$245.39	FMC 22-0368
08/14/2017	806670	Galles Filter Service	Solid Waste	\$18.17	Filters for Landfill equipment
08/14/2017	806670	Galles Filter Service	Solid Waste	\$70.26	Filters for Landfill equipment
08/14/2017	806670	Galles Filter Service	Solid Waste	\$80.34	Filters for Landfill equipment
08/14/2017	806670	Galles Filter Service	Solid Waste	\$120.06	Filters for Landfill equipment
08/14/2017	806670	Galles Filter Service	Solid Waste	\$126.00	Filters for Landfill equipment
08/14/2017	806670	Galles Filter Service	Solid Waste	\$373.17	Filters for Landfill equipment
08/14/2017	806670	Galles Filter Service	Solid Waste	\$520.69	Filters for Landfill equipment
08/14/2017	806670	Galles Filter Service	Solid Waste	\$596.20	Filters for Landfill equipment
08/14/2017	806670	Galles Filter Service	Solid Waste	\$965.62	Filters for Landfill equipment
08/14/2017	806670	Galles Filter Service	Solid Waste	\$1,286.61	Filters for Landfill equipment
08/14/2017	806670	Galles Filter Service	Transit	\$36.06	BUS MET PO NUM 303440
08/14/2017	806670	Galles Filter Service	Transit	\$38.92	BUS MET PO NUM 303440
08/14/2017	806670	Galles Filter Service	Transit	\$359.73	BUS MET PO NUM 303440
08/14/2017	806670	Galles Filter Service	Transit	\$381.20	BUS MET PO NUM 303440

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08/14/2017	806670	Galles Filter Service	Transit	\$77.00	AUTO &TRUCK MAINT.ITEMS
08/14/2017	806670	Galles Filter Service	Water	\$483.94	WATER PARTS AND SUPPLIES
08/14/2017	806670	Galles Filter Service	Water	\$23.50	WATER PARTS AND SUPPLIES
08/14/2017	806670	Galles Filter Service	Water	\$47.00	WATER PARTS AND SUPPLIES
08/14/2017	806670	Galles Filter Service	Fleet	\$314.23	P-70821-01 PO NUM 303440
08/14/2017	806670	Galles Filter Service	Fleet	\$230.72	P-70824-01
08/14/2017	806670	Galles Filter Service	Fleet	\$10.81	P-71025-01 PO NUM 303440
08/14/2017	806670	Galles Filter Service	Public Safety	\$83.33	P-71103-01
08/14/2017	806670	Galles Filter Service	Fleet	\$174.90	P-70958-01 PO NUM 303440
08/14/2017	806670	Galles Filter Service	Fleet	\$107.35	P-71214-01 PO NUM 303440
08/14/2017	806670	Galles Filter Service	Street/Traffic Oper	-\$63.22	T-69288
08/14/2017	806670	Galles Filter Service	Water	\$16.59	T-69492
08/14/2017	806670	Galles Filter Service	Water	\$370.62	WATER PARTS AND SUPPLIES
08/14/2017	806670	Galles Filter Service	Fleet	\$160.04	P-70883-01 PO NUM 303440
08/14/2017	806670	Galles Filter Service	Fleet	\$195.74	P-71121-01 PO NUM 303440
08/14/2017	806670	Galles Filter Service	Street/Traffic Oper	\$21.58	T-69287
08/14/2017	806670	Galles Filter Service	General	\$3.51	T-69451
08/14/2017	806670	Galles Filter Service	Water	\$102.67	WATER PARTS AND SUPPLIES
08/14/2017	806670	Galles Filter Service	Fleet	\$408.54	P-71024-01 PO NUM 303440
08/14/2017	806670	Galles Filter Service	Fleet	\$314.65	P-71361-01 PO NUM 303440
08/14/2017	806670	Galles Filter Service	Water	\$64.48	WATER PARTS AND SUPPLIES
08/14/2017	806670	Galles Filter Service	Fleet	\$67.65	P-71445-01 PO NUM 303440
08/14/2017	806670	Galles Filter Service	Fleet	\$18.68	T-69162 PO NUM 303440
08/14/2017	806670	Galles Filter Service	Fleet	\$13.44	T-69647 PO NUM 303440
08/14/2017	806676	Guardian Security Inc	Library	\$8,374.36	June security guard service
08/14/2017	806676	Guardian Security Inc	Library	\$8,018.19	Invoice 188
08/14/2017	806680	HCL Truck Equipment Inc	Airport	\$4,990.00	Invoice #21613. A31 Plow Blade
08/14/2017	806692	Journal Technologies Inc	General	\$4,968.00	JustWare Support
08/14/2017	806696	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$1,254.00	asphalt
08/14/2017	806696	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$4,950.08	asphalt
08/14/2017	806696	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$61.53	1 1/2" crushed base
08/14/2017	806696	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$98.96	1 1/2" crushed base
08/14/2017	806696	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$348.53	1 1/2" crushed base
08/14/2017	806696	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$353.59	1 1/2" crushed base
08/14/2017	806696	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$1,020.71	1 1/2" crushed base
08/14/2017	806696	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$658.90	3" crushed base
08/14/2017	806710	Luminator Holding LP	Transit	\$3,133.88	AUTO &TRUCK MAINT.ITEMS
08/14/2017	806715	Mailing Technical Services	Library	\$190.51	July mail service
08/14/2017	806715	Mailing Technical Services	Central Services	\$6,215.61	Postage Fund (weekly bills)
08/14/2017	806726	Montana Municipal Interlocal Authority	Property Ins	\$48,030.79	Inv. 717001 August 2017
08/14/2017	806731	Moulton Bellingham PC	General	\$2,570.00	Good Stuff-Zoning Violations

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08/14/2017	806738	NorthWestern Energy	Transit	\$3,237.67	Electricity at Metroplex 6/23/17 to 7/25/17
08/14/2017	806738	NorthWestern Energy	Wastewater	\$158.23	Electricity EA
08/14/2017	806738	NorthWestern Energy	Water	\$1,374.89	1699 High Sierra Blvd
08/14/2017	806738	NorthWestern Energy	Wastewater	\$1,725.09	2750 BITTERROOT DR LIFT
08/14/2017	806738	NorthWestern Energy	Wastewater	\$113.70	389 62nd st Lift
08/14/2017	806738	NorthWestern Energy	Water	\$569.85	5809 Canyonwoods
08/14/2017	806738	NorthWestern Energy	Water	\$404.98	805 CONSTITUTION AVE
08/14/2017	806738	NorthWestern Energy	Public Safety	\$11.46	0712532-1
08/14/2017	806738	NorthWestern Energy	Airport	\$115.03	0712533-9. Airport Entrance. July 2017
08/14/2017	806738	NorthWestern Energy	Airport	\$18.54	0712791-3. Gate 16. July 2017
08/14/2017	806738	NorthWestern Energy	Public Safety	\$494.33	0720817-6
08/14/2017	806738	NorthWestern Energy	Airport	\$245.32	0712535-4. Employee Parking. July 2047
08/14/2017	806738	NorthWestern Energy	General	\$935.10	0712538-8
08/14/2017	806738	NorthWestern Energy	Airport	\$18.30	0712795-4. Gate 17. July 2017
08/14/2017	806738	NorthWestern Energy	General	\$1,578.25	0720841-6
08/14/2017	806738	NorthWestern Energy	Airport	\$2,419.73	0719543-1. Parking Lot Lights. July 2017
08/14/2017	806738	NorthWestern Energy	General	\$8.08	0722258-1
08/14/2017	806738	NorthWestern Energy	Airport	\$6.82	0712813-5. Burn Pit. July 2017
08/14/2017	806738	NorthWestern Energy	General	\$223.78	0722256-5
08/14/2017	806738	NorthWestern Energy	Airport	\$15.11	0712797-0. Gate 9. July 2017
08/14/2017	806738	NorthWestern Energy	General	\$5.97	0722253-2
08/14/2017	806738	NorthWestern Energy	Airport	\$17.80	0719759-3. Gate 12. July 2017
08/14/2017	806738	NorthWestern Energy	General	\$16.74	0722259-9
08/14/2017	806738	NorthWestern Energy	Airport	\$20.11	0719760-1. Gate 14. July 2017
08/14/2017	806738	NorthWestern Energy	Water	\$6,535.16	0722270-6
08/14/2017	806738	NorthWestern Energy	Airport	\$17.55	0719761-9. Gate 15. July 2017
08/14/2017	806738	NorthWestern Energy	General	\$9.96	0722272-2
08/14/2017	806738	NorthWestern Energy	Airport	\$18.78	0719762-7. Gate 13. July 2017
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$6.64	0722272-2
08/14/2017	806738	NorthWestern Energy	Airport	\$15.61	0720296-3. Gate 29. July 2017
08/14/2017	806738	NorthWestern Energy	General	\$14.40	0722273-0
08/14/2017	806738	NorthWestern Energy	Airport	\$18.27	2114868-9. Runway Weather System.
08/14/2017	806738	NorthWestern Energy	Airport	\$10.73	0712805-1. IP-10. July 2017
08/14/2017	806738	NorthWestern Energy	General	\$111.08	0722275-5
08/14/2017	806738	NorthWestern Energy	General	\$13.31	0722274-8
08/14/2017	806738	NorthWestern Energy	General	\$39.98	0722277-1
08/14/2017	806738	NorthWestern Energy	General	\$33.15	0722278-9
08/14/2017	806738	NorthWestern Energy	General	\$17.01	0722279-7
08/14/2017	806738	NorthWestern Energy	General	\$5.97	0722280-5
08/14/2017	806738	NorthWestern Energy	General	\$5.97	0722281-3
08/14/2017	806738	NorthWestern Energy	General	\$5.97	0722283-9

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08/14/2017	806738	NorthWestern Energy	General	\$5.97 0722284-7	
08/14/2017	806738	NorthWestern Energy	General	\$17.01 0722808-3	
08/14/2017	806738	NorthWestern Energy	General	\$8.91 0722852-1	
08/14/2017	806738	NorthWestern Energy	General	\$8.08 0722862-0	
08/14/2017	806738	NorthWestern Energy	General	\$57.69 0722901-6	
08/14/2017	806738	NorthWestern Energy	General	\$6.59 0722976-8	
08/14/2017	806738	NorthWestern Energy	General	\$274.15 0722995-8	
08/14/2017	806738	NorthWestern Energy	General	\$85.62 0723005-5	
08/14/2017	806738	NorthWestern Energy	General	\$5.97 0723025-3	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$7.72 0723392-7	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$6.71 0723393-5	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$5.97 0723394-3	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$5.97 0723395-0	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$5.97 0723396-8	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$5.97 0723397-6	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$5.97 0723398-4	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$5.97 0723835-5	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$8.08 0723836-3	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$5.85 0723840-5	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$174.41 0723879-3	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$6.71 0723883-5	
08/14/2017	806738	NorthWestern Energy	General	\$129.92 0723884-3	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$6.71 0723885-0	
08/14/2017	806738	NorthWestern Energy	General	\$17.78 0723887-6	
08/14/2017	806738	NorthWestern Energy	General	\$273.04 0793134-8	
08/14/2017	806738	NorthWestern Energy	General	\$81.50 0813489-2	
08/14/2017	806738	NorthWestern Energy	Street/Traffic Oper	\$6.21 0855404-0	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$7.42 0881455-0	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$1.12 0971824-8	
08/14/2017	806738	NorthWestern Energy	General	\$15.12 0978917-3	
08/14/2017	806738	NorthWestern Energy	General	\$89.30 0999807-1	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$51.72 1045813-1	
08/14/2017	806738	NorthWestern Energy	Street/Traffic Oper	\$19.25 1045820-6	
08/14/2017	806738	NorthWestern Energy	General	\$48.91 1156527-2	
08/14/2017	806738	NorthWestern Energy	Water	\$42.81 1160807-2	
08/14/2017	806738	NorthWestern Energy	Public Safety	\$1,934.36 1183483-5	
08/14/2017	806738	NorthWestern Energy	Street/Traffic Oper	\$5.85 1242222-6	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$0.78 1312707-1	
08/14/2017	806738	NorthWestern Energy	Water	\$77.76 1346673-5	
08/14/2017	806738	NorthWestern Energy	General	\$1.56 1409394-2	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$203.42 1513796-1	

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08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$131.65 1513800-1	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$20.38 1513802-7	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$7.31 1513804-3	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$7.31 1514388-6	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$6.71 1564209-3	
08/14/2017	806738	NorthWestern Energy	Building Inspection	\$46.71 1569631-3	
08/14/2017	806738	NorthWestern Energy	General	\$5.85 1588262-4	
08/14/2017	806738	NorthWestern Energy	General	\$62.91 1692666-9	
08/14/2017	806738	NorthWestern Energy	Wastewater	\$10.13 1704025-4	
08/14/2017	806738	NorthWestern Energy	Wastewater	\$32.09 1704030-4	
08/14/2017	806738	NorthWestern Energy	Street/Traffic Oper	\$10.26 1738989-1	
08/14/2017	806738	NorthWestern Energy	General	\$68.01 1849408-8	
08/14/2017	806738	NorthWestern Energy	Water	\$12.43 1867265-9	
08/14/2017	806738	NorthWestern Energy	General	\$7.68 1902257-3	
08/14/2017	806738	NorthWestern Energy	General	\$42.35 1904944-4	
08/14/2017	806738	NorthWestern Energy	General	\$18.54 1941243-6	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$1.19 1948667-9	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$1.67 2041362-1	
08/14/2017	806738	NorthWestern Energy	Street/Traffic Oper	\$7.55 2047007-6	
08/14/2017	806738	NorthWestern Energy	Street/Traffic Oper	\$7.68 2047010-0	
08/14/2017	806738	NorthWestern Energy	Street/Traffic Oper	\$7.06 2047013-4	
08/14/2017	806738	NorthWestern Energy	Street/Traffic Oper	\$7.68 2047017-5	
08/14/2017	806738	NorthWestern Energy	Street/Traffic Oper	\$7.79 2047018-3	
08/14/2017	806738	NorthWestern Energy	Street/Traffic Oper	\$7.06 2047019-1	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$5.45 2055817-7	
08/14/2017	806738	NorthWestern Energy	Street/Traffic Oper	\$36.35 3088038-9	
08/14/2017	806738	NorthWestern Energy	General	\$8.76 3178260-0	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$0.00 1396192-5	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$0.00 1425364-5	
08/14/2017	806738	NorthWestern Energy	General	\$23.40 0723039-4	
08/14/2017	806738	NorthWestern Energy	General	\$5.85 0723046-9	
08/14/2017	806738	NorthWestern Energy	General	\$19.87 0723049-3	
08/14/2017	806738	NorthWestern Energy	General	\$12.75 0723053-5	
08/14/2017	806738	NorthWestern Energy	General	\$17.78 0723064-2	
08/14/2017	806738	NorthWestern Energy	General	\$17.78 0723065-9	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$5.97 0723384-4	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$7.72 0723385-1	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$7.72 0723386-9	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$7.72 0723387-7	
08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$7.72 0723388-5	
08/14/2017	806738	NorthWestern Energy	General	\$3.88 0723391-9	

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08/14/2017	806738	NorthWestern Energy	Parks Maintenance	\$2.58	0723391-9
08/14/2017	806739	OCLC	Library	\$11,955.76	Invoice 546700
08/14/2017	806743	Public Utilities	Parks Maintenance	\$6,601.81	136091
08/14/2017	806743	Public Utilities	Park District 1	\$440.38	249656
08/14/2017	806743	Public Utilities	General	\$74.49	136087
08/14/2017	806743	Public Utilities	General	\$94.95	137793
08/14/2017	806743	Public Utilities	Parks Maintenance	\$11,699.22	236250
08/14/2017	806743	Public Utilities	Parks Maintenance	\$3,549.57	136090
08/14/2017	806743	Public Utilities	Parks Maintenance	\$2,182.12	242652
08/14/2017	806743	Public Utilities	Parks Maintenance	\$678.77	136082
08/14/2017	806743	Public Utilities	Parks Maintenance	\$49.66	136087
08/14/2017	806743	Public Utilities	Parks Maintenance	\$141.96	102418
08/14/2017	806743	Public Utilities	Parks Maintenance	\$234.56	201942
08/14/2017	806743	Public Utilities	Parks Maintenance	\$2,157.09	192352
08/14/2017	806743	Public Utilities	Parks Maintenance	\$122.11	187900
08/14/2017	806743	Public Utilities	Wastewater	\$9.67	180645
08/14/2017	806743	Public Utilities	Parks Maintenance	\$1,111.86	180092
08/14/2017	806743	Public Utilities	Parks Maintenance	\$257.71	180091
08/14/2017	806743	Public Utilities	Parks Maintenance	\$1,697.39	180090
08/14/2017	806743	Public Utilities	Parks Maintenance	\$12.98	179987
08/14/2017	806743	Public Utilities	Parks Maintenance	\$215.77	177710
08/14/2017	806743	Public Utilities	Parks Maintenance	\$232.30	176577
08/14/2017	806743	Public Utilities	Parks Maintenance	\$1,632.75	175850
08/14/2017	806743	Public Utilities	Parks Maintenance	\$872.09	168362
08/14/2017	806743	Public Utilities	Parks Maintenance	\$3,319.42	166674
08/14/2017	806743	Public Utilities	Parks Maintenance	\$5,470.48	164212
08/14/2017	806743	Public Utilities	Parks Maintenance	\$2,626.29	164211
08/14/2017	806743	Public Utilities	Parks Maintenance	\$85.74	163944
08/14/2017	806743	Public Utilities	Parks Maintenance	\$9.67	158992
08/14/2017	806743	Public Utilities	Facilities Mngmt	\$329.62	158260
08/14/2017	806743	Public Utilities	Parks Maintenance	\$1,168.24	158252
08/14/2017	806743	Public Utilities	Parks Maintenance	\$9.67	148702
08/14/2017	806743	Public Utilities	Parks Maintenance	\$1,674.08	148654
08/14/2017	806743	Public Utilities	Parks Maintenance	\$357.98	148423
08/14/2017	806743	Public Utilities	Parks Maintenance	\$2,364.45	148398
08/14/2017	806743	Public Utilities	Parks Maintenance	\$672.16	148074
08/14/2017	806743	Public Utilities	Airport	\$25,793.26	136516
08/14/2017	806743	Public Utilities	Parks Maintenance	\$50.41	136115
08/14/2017	806743	Public Utilities	Parks Maintenance	\$27.26	136112
08/14/2017	806743	Public Utilities	Parks Maintenance	\$96.71	136111
08/14/2017	806743	Public Utilities	Parks Maintenance	\$15,656.66	136103

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08/14/2017	806743	Public Utilities	Parks Maintenance	\$2,393.40 136108	
08/14/2017	806743	Public Utilities	Parks Maintenance	\$552.05 136101	
08/14/2017	806743	Public Utilities	Parks Maintenance	\$1,809.84 136100	
08/14/2017	806743	Public Utilities	Parks Maintenance	\$1,574.88 136099	
08/14/2017	806743	Public Utilities	Parks Maintenance	\$125.42 136098	
08/14/2017	806743	Public Utilities	Parks Maintenance	\$16.34 136096	
08/14/2017	806743	Public Utilities	Parks Maintenance	\$16,626.95 136092	
08/14/2017	806743	Public Utilities	Parks Maintenance	\$807.33 136093	
08/14/2017	806743	Public Utilities	Parks Maintenance	\$6,010.83 136095	
08/14/2017	806750	Securitas Security Services USA, Inc	Parking	\$1,764.00 Invoice #W5740659. Additional guard	
08/14/2017	806750	Securitas Security Services USA, Inc	Parking	\$1,795.50 Additional guard services.	
08/14/2017	806750	Securitas Security Services USA, Inc	Parking	\$1,088.33 Invoice #W5669864. Security Patrol	
08/14/2017	806750	Securitas Security Services USA, Inc	Parking	\$1,088.34 Invoice #W5669864. Security Patrol	
08/14/2017	806750	Securitas Security Services USA, Inc	Parking	\$1,088.33 Invoice #W5669864. Security Patrol	
08/14/2017	806750	Securitas Security Services USA, Inc	Parking	\$1,008.00 Invoice #W5716729. Additional guard	
08/14/2017	806750	Securitas Security Services USA, Inc	Parking	\$1,449.00 Invoice #W5725249. Additional guard	
08/14/2017	806750	Securitas Security Services USA, Inc	Parking	\$1,827.00 Invoice #W5731181. Additional guard	
08/14/2017	806750	Securitas Security Services USA, Inc	Parking	\$1,088.33 Invoice #W5740651. Security Patrol	
08/14/2017	806750	Securitas Security Services USA, Inc	Parking	\$1,088.34 Invoice #W5740651. Security Patrol	
08/14/2017	806750	Securitas Security Services USA, Inc	Parking	\$1,088.33 Invoice #W5740651. Security Patrol	
08/14/2017	806752	Skyline Services, Inc	Parking	\$325.00 Invoice #40819. Park Three sky bridge	
08/14/2017	806752	Skyline Services, Inc	Parking	\$65.00 Invoice #40818. Park One.	
08/14/2017	806752	Skyline Services, Inc	Parking	\$30.00 Invoice #40817. Park Three.	
08/14/2017	806752	Skyline Services, Inc	Parking	\$120.00 Invoice #40816. Park Two.	
08/14/2017	806752	Skyline Services, Inc	Library	\$280.00 Invoice 40873	
08/14/2017	806752	Skyline Services, Inc	Parking	\$950.00 Invoice #40821. Park One.	
08/14/2017	806752	Skyline Services, Inc	Parking	\$1,575.00 Invoice #40822. Park Two.	
08/14/2017	806752	Skyline Services, Inc	Parking	\$260.00 Invoice #40820. Park Three sky bridge.	
08/14/2017	806755	Solid Waste Systems Inc	Solid Waste	\$8,244.98 97607	
08/14/2017	806755	Solid Waste Systems Inc	Solid Waste	\$1,139.41 97695	
08/14/2017	806755	Solid Waste Systems Inc	Solid Waste	\$831.44 97409	
08/14/2017	806755	Solid Waste Systems Inc	Solid Waste	\$326.54 97423	
08/14/2017	806755	Solid Waste Systems Inc	Solid Waste	\$18.57 97423	
08/14/2017	806755	Solid Waste Systems Inc	Solid Waste	-\$500.00 92065CR	
08/14/2017	806759	St Vincent Occupational Health	General	\$1,955.00 Drug Testing,	
08/14/2017	806759	St Vincent Occupational Health	General	\$95.00 Drug Testing,	
08/14/2017	806759	St Vincent Occupational Health	Public Safety	\$425.00 Drug Testing,	
08/14/2017	806759	St Vincent Occupational Health	Street/Traffic Oper	\$240.00 Drug Testing,	
08/14/2017	806759	St Vincent Occupational Health	Water	\$47.50 Drug Testing,	
08/14/2017	806759	St Vincent Occupational Health	Water	\$114.00 Drug Testing,	
08/14/2017	806759	St Vincent Occupational Health	Wastewater	\$47.50 Drug Testing,	

Check Date	Check #	Name	Fund Name	Amount	Item Desc
08/14/2017	806759	St Vincent Occupational Health	Wastewater	\$76.00	Drug Testing,
08/14/2017	806759	St Vincent Occupational Health	Solid Waste	\$240.00	Drug Testing,
08/14/2017	806759	St Vincent Occupational Health	Transit	\$95.00	Drug Testing,
08/14/2017	806759	St Vincent Occupational Health	Transit	\$95.00	Drug Testing,
08/14/2017	806759	St Vincent Occupational Health	City Health Ins Fund	\$540.00	Drug Testing,
08/14/2017	806765	Sunset Excavation	Water	\$2,500.00	water service repair curb box 2236 Beloit
08/14/2017	806765	Sunset Excavation	Water	\$4,750.00	Replaced water Service 3502 Granger Ave
08/14/2017	806766	Superior Water Solutions	Public Safety	\$3,580.00	LANDA HOT WATER PRESSURE
08/14/2017	806766	Superior Water Solutions	Public Safety	\$318.00	LANDA HOSE REEL AND BRACKET
08/14/2017	806774	Tire-Rama	Solid Waste	\$666.16	new steer tires for the tank truck
08/14/2017	806774	Tire-Rama	Solid Waste	\$43.95	tire repair for the Forklift
08/14/2017	806774	Tire-Rama	Solid Waste	\$2,386.00	tire repair for the garbage trucks recaps
08/14/2017	806774	Tire-Rama	Solid Waste	\$10.00	Tire repair on unit 0038
08/14/2017	806774	Tire-Rama	Solid Waste	\$1,340.00	Tire repairs for the garbage trucks
08/14/2017	806774	Tire-Rama	Solid Waste	\$3,152.50	Tire repairs for the garbage trucks
08/14/2017	806774	Tire-Rama	Solid Waste	\$2,068.00	Tire sealant for the Landfill
08/14/2017	806774	Tire-Rama	Solid Waste	\$423.40	Tires for Landfill equipment
08/14/2017	806774	Tire-Rama	Solid Waste	\$2,193.00	Recapped tires for the garbage trucks
08/14/2017	806774	Tire-Rama	Solid Waste	\$4,470.50	Recapped tires for the garbage trucks
08/14/2017	806774	Tire-Rama	Street/Traffic Oper	\$17.50	1050289298
08/14/2017	806779	Town & Country Supply Association	Fleet	\$21,974.19	300269 PO NUM 303772
08/14/2017	806779	Town & Country Supply Association	Public Safety	\$464.70	301499: FIRE1 - DIESEL DELIVERED
08/14/2017	806779	Town & Country Supply Association	Public Safety	\$556.92	301511 FIRE5 DIESEL DELIVERED
08/14/2017	806779	Town & Country Supply Association	Airport	\$17,564.41	Invoice #300273. QTA Car Rental Fuel
08/14/2017	806779	Town & Country Supply Association	Water	\$255.79	WATER PARTS AND SUPPLIES
08/14/2017	806779	Town & Country Supply Association	Public Safety	\$520.46	301500: FIRE 2 DIESEL DELIVERED
08/14/2017	806783	Transitional Marketing LLC	Transit	\$4,963.24	Print new route schedule books
08/14/2017	806786	TrueNorth Steel	Solid Waste	\$2,665.00	Netting for the Landfill
08/14/2017	806797	Yellowstone County GIS	Information Resources	\$7,000.00	Yellowstone County GIS MOU Agreement
08/14/2017	806798	Yellowstone County Treasurer	Parking	\$2,611.33	Park One Lease. Big Sky Imaginarium.
08/14/2017	806799	Yellowstone Kellys Catering	General	\$4,365.00	Inv. #2489

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Payment of Claims August 21, 2017

PRESENTED BY: Andy Zoeller

Department: City Hall Administration

Presentation: No

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$7,905,902.73 have been audited and are presented for City Council payment approval. A complete listing of the claims dated August 21, 2017, is available in the Finance Department.

ALTERNATIVES ANALYZED

No other alternatives were analyzed.

FINANCIAL IMPACT

Claims have a varying impact on department budgets, but are submitted by the departments and reviewed by Finance staff before being sent to the Council.

RECOMMENDATION

Staff recommends that Council approve the Payment of Claims.

APPROVED BY CITY ADMINISTRATOR

Attachments

councilmemo_8.21.2017

Check Date	Check #	Name	Fund Name	Amount	Item Desc
08/21/2017	806803	5 Star Industries LLC	Solid Waste	\$14,100.00	8 yard frontload dumpsters
08/21/2017	806804	A & I Distributors	Fleet	\$2,026.39	2988863 PO NUM 303431
08/21/2017	806804	A & I Distributors	Fleet	\$2,134.94	2992491 PO NUM 303431
08/21/2017	806804	A & I Distributors	Public Safety	\$50.00	2994851
08/21/2017	806804	A & I Distributors	Public Safety	-\$50.00	2997513
08/21/2017	806804	A & I Distributors	Fleet	\$1,779.82	2999679 PO NUM 303431
08/21/2017	806804	A & I Distributors	Solid Waste	\$611.03	Blue DEF for the garbage trucks
08/21/2017	806804	A & I Distributors	Solid Waste	\$12.72	Grease for the Landfill
08/21/2017	806804	A & I Distributors	Solid Waste	\$93.27	Grease pump for the Landfill
08/21/2017	806804	A & I Distributors	Wastewater	\$92.95	NONSTOCKING ITEMS-P.U.D.
08/21/2017	806804	A & I Distributors	Solid Waste	\$1,493.30	Oil for the Landfill
08/21/2017	806804	A & I Distributors	Fleet	\$106.89	2988863 PO NUM 303431
08/21/2017	806804	A & I Distributors	Fleet	\$326.15	2994092 PO NUM 303431
08/21/2017	806804	A & I Distributors	Public Safety	\$26.52	2999679
08/21/2017	806804	A & I Distributors	Fleet	\$1,764.40	2996533 PO NUM 303431
08/21/2017	806804	A & I Distributors	Street/Traffic Oper	\$26.52	2999679
08/21/2017	806804	A & I Distributors	Solid Waste	\$26.89	2999679
08/21/2017	806814	Allstates Coating Company	Street/Traffic Oper	\$1,316.40	white 5 gallon buckets
08/21/2017	806814	Allstates Coating Company	Street/Traffic Oper	\$11,627.00	white paint totes
08/21/2017	806814	Allstates Coating Company	Street/Traffic Oper	\$1,316.40	white 5 gal buckets
08/21/2017	806814	Allstates Coating Company	Street/Traffic Oper	\$20,347.25	yellow paint totes
08/21/2017	806831	Black Box Network Services	Library	\$1,975.03	Annual Nortel Switch Maintenance
08/21/2017	806831	Black Box Network Services	Library	\$2,773.00	Annual Phone Equipment
08/21/2017	806831	Black Box Network Services	Information Resources	\$4,146.76	Annual Nortel Switch
08/21/2017	806831	Black Box Network Services	Telephone System	\$36,486.77	Annual Phone Equipment
08/21/2017	806833	Border States Electric	Water	\$284.34	ELECTRICAL FOR WTP & WWTP
08/21/2017	806833	Border States Electric	Wastewater	\$870.22	overhead bridge repair
08/21/2017	806833	Border States Electric	Water	\$2,995.94	PLC components
08/21/2017	806833	Border States Electric	Wastewater	\$3,378.69	Replacement Breaker
08/21/2017	806833	Border States Electric	Water	\$2,592.60	Replacements for PLC card
08/21/2017	806834	Brenntag Pacific Inc	Wastewater	\$2,500.00	Chemicals
08/21/2017	806836	Broadway Property Management	Tax Increment N 27th	\$123,632.00	Hart Albin Garage Renovation
08/21/2017	806836	Broadway Property Management	Tax Increment N 27th	\$81,058.69	Broadway Property Management,
08/21/2017	806838	Business Tax Section	Airport	\$1,782.12	AIP-55 Runway 10R/28L Shift -
08/21/2017	806838	Business Tax Section	EOC 911	\$315.42	Business tax for 911 center
08/21/2017	806838	Business Tax Section	Transit	\$156.74	Business Tax for Wallace
08/21/2017	806838	Business Tax Section	Park District 1	\$740.99	Change order #2 to increase
08/21/2017	806838	Business Tax Section	Park District 1	\$809.75	Tax on South splash pad contract-
08/21/2017	806838	Business Tax Section	Wastewater	\$35,591.33	WO 14-11 Water Reclamation
08/21/2017	806838	Business Tax Section	Wastewater	\$3,357.40	WO1701 Sch 2B COP Construction
08/21/2017	806838	Business Tax Section	Airport	\$198.01	AIP-55 Runway 10R/28L Shift -

Check Date	Check #	Name	Fund Name	Amount	Item Desc
08/21/2017	806838	Business Tax Section	Water	\$5,540.79	WO 1701 2017 Water & Sewer
08/21/2017	806838	Business Tax Section	Wastewater	\$2,378.24	WO1701 2017 Water & Sewer
08/21/2017	806838	Business Tax Section	Water	\$2,039.08	WO 15-18 WTP Clearwell No.2
08/21/2017	806838	Business Tax Section	Gas Tax	\$88.00	WO 15-07 Orchard Lane
08/21/2017	806838	Business Tax Section	Arterial Streets	\$5,627.95	WO 16-09 Grand Ave (48th St W to
08/21/2017	806838	Business Tax Section	Sidewalk Construction	\$248.05	WO 17-02 2017 Misc. Developer
08/21/2017	806838	Business Tax Section	Gas Tax	\$8,480.56	WO 17-03 2017 Street
08/21/2017	806838	Business Tax Section	Gas Tax	\$231.81	WO 17-02 2017 Misc. Developer
08/21/2017	806838	Business Tax Section	Wastewater	\$398.69	WO 16-09 Grand Ave (48th St W to
08/21/2017	806847	CMG Construction LLC	Gas Tax	\$8,712.00	WO 15-07 Orchard Lane
08/21/2017	806848	Coblaco Services Inc	Water	\$201,869.63	WO 15-18 WTP Clearwell No.2
08/21/2017	806849	Cop Construction Co	Wastewater	\$332,382.85	WO 17-01 2017 Water & Sewer
08/21/2017	806850	Cotter's Sewer Service, Inc.	Wastewater	\$4,530.00	WO 16-01 2016 Water & Sewer
08/21/2017	806852	County Water District Of Billings Heights	General	\$4,088.45	Water charges for Hawthorne
08/21/2017	806852	County Water District Of Billings Heights	General	\$1,596.07	Water charges for Primrose
08/21/2017	806852	County Water District Of Billings Heights	Parks Maintenance	\$373.64	Water charges for Uinta
08/21/2017	806852	County Water District Of Billings Heights	Parks Maintenance	\$1,366.54	Water charges for France's
08/21/2017	806852	County Water District Of Billings Heights	Parks Maintenance	\$2,785.51	Water charges for Walden Grove
08/21/2017	806852	County Water District Of Billings Heights	General	\$456.64	Water charges for Cleavenger
08/21/2017	806852	County Water District Of Billings Heights	Parks Maintenance	\$735.48	Water charges for Rolling Hills
08/21/2017	806852	County Water District Of Billings Heights	General	\$18.85	Water charges for Arrowhead
08/21/2017	806852	County Water District Of Billings Heights	General	\$1,782.86	Water charges for Arrowhead
08/21/2017	806852	County Water District Of Billings Heights	Parks Maintenance	\$4,086.13	Water charges for Twin Oaks
08/21/2017	806852	County Water District Of Billings Heights	Parks Maintenance	\$493.36	Water charges for Luthern
08/21/2017	806856	CTA Inc	Rose Park Pool	\$2,597.87	Design aspects of the Rose Pool
08/21/2017	806856	CTA Inc	EOC 911	\$4,670.29	911 Center Architect and
08/21/2017	806862	Dixie Petro-Chem	General	\$1,586.00	Chemicals for pools
08/21/2017	806862	Dixie Petro-Chem	Water	\$3,192.00	WATER PARTS AND SUPPLIES
08/21/2017	806862	Dixie Petro-Chem	Water	\$792.00	WATER PARTS AND SUPPLIES
08/21/2017	806862	Dixie Petro-Chem	General	\$793.00	Chemicals for pools
08/21/2017	806863	DOWL	Arterial Streets	\$735.33	WO 16-05 Central Ave - Shiloh to
08/21/2017	806863	DOWL	Water	\$43,557.79	WO 17-01 2017 Water & Sewer
08/21/2017	806875	First Montana Title Co	CDBG	\$15,000.00	FTHB Samantha Carbery 4121
08/21/2017	806876	First Montana Title Co	CDBG	\$15,000.00	FTHB Jazmine Zerbe 623 North
08/21/2017	806877	Fisher Construction, Inc	EOC 911	\$31,226.58	911 Center construction
08/21/2017	806885	General Contractors Constr	Park District 1	\$80,165.25	Development of the South Side
08/21/2017	806886	Gillig Corporation	Transit	\$3,211.30	BUS MET PO NUM 303856
08/21/2017	806886	Gillig Corporation	Transit	\$70.90	AUTO &TRUCK MAINT.ITEMS
08/21/2017	806888	Granata	Storm Sewer	\$277,000.00	WO 16-22 62nd & Rimrock Rd
08/21/2017	806890	Graybar Electric Company Inc	Wastewater	\$4,679.84	Service Pedestals
08/21/2017	806891	Guardian Security Inc	Library	\$8,651.11	Invoices 170 & 171

Check Date	Check #	Name	Fund Name	Amount	Item Desc
08/21/2017	806891	Guardian Security Inc	Library	\$8,738.26	Invoices 170 & 171
08/21/2017	806894	Hardrives Construction Inc	Facilities Mngmt	\$4,999.85	Inv. #5205 Crackseal
08/21/2017	806895	Hardy Construction Co.	Park District 1	\$73,357.46	Provide landscaping improvement
08/21/2017	806897	Hawkins Inc.	General	\$1,266.80	Chemicals for pools
08/21/2017	806897	Hawkins Inc.	General	\$2,139.00	Chemicals for pools
08/21/2017	806899	Holland & Hart LLP	Storm Sewer	\$2,541.00	Waterkeeper lawsuit
08/21/2017	806904	Iaff	Sidewalk Debt Svc	\$4,640.90	Payroll Summary
08/21/2017	806905	Industrial Communication & Electronics Bozeman INC	Public Safety	\$995.00	DIGITAL INTERCOM 1 RADIO
08/21/2017	806905	Industrial Communication & Electronics Bozeman INC	Public Safety	\$1,300.00	WIRED HEADSET UNDER
08/21/2017	806905	Industrial Communication & Electronics Bozeman INC	Public Safety	\$260.00	HM-10 HEADSET MODULE
08/21/2017	806905	Industrial Communication & Electronics Bozeman INC	Public Safety	\$195.00	INTERFACE CABLES FOR TAIT
08/21/2017	806906	InfoSend Inc	Water	\$7,927.31	Billing and Mailing
08/21/2017	806906	InfoSend Inc	Water	\$2,027.15	Billing and Mailing
08/21/2017	806906	InfoSend Inc	Wastewater	\$5,284.87	Billing and Mailing
08/21/2017	806906	InfoSend Inc	Wastewater	\$1,351.44	Billing and Mailing
08/21/2017	806909	Integrated Solutions Engineering	Water	\$1,445.00	PCS Standards
08/21/2017	806909	Integrated Solutions Engineering	Wastewater	\$1,445.00	PCS Standards
08/21/2017	806912	J & J Concrete Inc.	Sidewalk Construction	\$24,557.02	WO 17-02 2017 Misc. Developer
08/21/2017	806912	J & J Concrete Inc.	Gas Tax	\$22,949.37	WO 17-02 2017 Misc. Developer
08/21/2017	806915	Jay's Waterline Repair	Water	\$4,800.00	158 Windsor Cir N
08/21/2017	806915	Jay's Waterline Repair	Water	\$4,900.00	3331 Windmill Cir
08/21/2017	806915	Jay's Waterline Repair	Water	\$1,450.00	434 Burlington
08/21/2017	806922	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$479.81	1 1/2" crushed base
08/21/2017	806922	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$393.87	asphalt
08/21/2017	806922	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$462.27	asphalt
08/21/2017	806922	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$11,329.89	asphalt for sierra grande
08/21/2017	806922	Knife River (JTL Group Inc.)	Street/Traffic Oper	\$94.87	boulders for mary ditch repair
08/21/2017	806922	Knife River (JTL Group Inc.)	Gas Tax	\$839,575.17	WO 17-03 2017 Street
08/21/2017	806922	Knife River (JTL Group Inc.)	Arterial Streets	\$557,167.00	WO 16-09 Grand Ave (48th St W to
08/21/2017	806922	Knife River (JTL Group Inc.)	Airport	\$176,429.04	Runway 10R/28L Shift - Federal
08/21/2017	806922	Knife River (JTL Group Inc.)	Airport	\$19,603.23	Runway 10R/28L Shift - Local
08/21/2017	806922	Knife River (JTL Group Inc.)	Wastewater	\$39,470.81	WO 16-09 Grand Ave (48th St W to
08/21/2017	806930	Lenovo (United States) Inc	Information Resources	\$11,660.00	Lenovo V3700,Model
08/21/2017	806931	Local 521	Public Safety	\$41,250.00	SUPPRESSION: CLOTHING
08/21/2017	806931	Local 521	Public Safety	\$750.00	TRAINING: FY2018 CLOTHING
08/21/2017	806931	Local 521	Public Safety	\$1,875.00	BUREAU: FY2018 CLOTHING
08/21/2017	806941	Miller Trois LLC	General	\$1,948.00	I18-002744 Miller Trois LLC
08/21/2017	806941	Miller Trois LLC	Building Inspection	\$6,395.00	I18-002744 Miller Trois LLC
08/21/2017	806941	Miller Trois LLC	City County Planning	\$4,241.00	I18-002744 Miller Trois LLC
08/21/2017	806941	Miller Trois LLC	CDBG	\$5,023.00	I18-002744 Miller Trois LLC
08/21/2017	806945	Montana CS&ED	Sidewalk Debt Svc	\$3,806.22	Payroll Summary

Check Date	Check #	Name	Fund Name	Amount	Item Desc
08/21/2017	806952	Montana State Fireman's Assoc	Sidewalk Debt Svc	\$3,916.34	Payroll Summary
08/21/2017	806953	Morrison Maierle Inc	Airport	\$11,593.61	Runway 10R/28L Shift Project -
08/21/2017	806953	Morrison Maierle Inc	Airport	\$1,288.18	Runway 10R/28L Shift Project -
08/21/2017	806953	Morrison Maierle Inc	Airport	\$22,825.87	Runway 10R/28L Shift Project -
08/21/2017	806953	Morrison Maierle Inc	Airport	\$2,536.21	Runway 10R/28L Shift Project -
08/21/2017	806957	MPPA Montana Police Protective Association	Sidewalk Debt Svc	\$3,091.34	Payroll Summary
08/21/2017	806958	MT Waterworks	Water	\$2,998.04	SYSTEMS PO NUM 303723
08/21/2017	806958	MT Waterworks	Water	\$252.00	WATER PARTS AND SUPPLIES
08/21/2017	806958	MT Waterworks	Street/Traffic Oper	\$969.40	handwheel, brackets, pipe, bearing
08/21/2017	806958	MT Waterworks	Water	\$22.00	SYSTEMS PO NUM 303827
08/21/2017	806958	MT Waterworks	Water	\$168.00	WATER PARTS AND SUPPLIES
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$531.29	SILMD 009 ACCT# 0712545-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,235.82	SILMD 173 ACCT# 0712612-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$98.86	SILMD 239 ACCT# 0712673-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,460.53	SILMD 010 ACCT# 0712546-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,038.09	SILMD 174 ACCT# 0712613-9
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$397.96	SILMD 240 ACCT# 0712674-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$4,322.07	SILMD 013 ACCT# 0721276-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$346.03	SILMD 175 ACCT# 0712614-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$647.94	SILMD 241 ACCT# 0712675-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$2,115.76	SILMD 014 ACCT# 0721277-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$45.27	SILMD 176 ACCT# 0712615-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$86.70	SILMD 242 ACCT# 0712676-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,280.02	SILMD 017 ACCT# 0712553-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$271.87	SILMD 178 ACCT# 0712616-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$115.58	SILMD 244 ACCT# 0712677-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$13,873.31	SILMD 097 ACCT# 0712557-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,762.66	SILMD 181 ACCT# 0712619-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,209.45	SILMD 247 ACCT# 0712680-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$460.31	SILMD 095 ACCT# 0712556-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$370.74	SILMD 180 ACCT# 0712618-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$346.74	SILMD 246 ACCT# 0712679-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$91.21	SILMD 018 ACCT# 0712554-5
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$543.76	SILMD 179 ACCT# 0712617-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$89.95	SILMD 245 ACCT# 0712678-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,011.37	SILMD 124 ACCT# 0712573-5
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$71.04	SILMD 196 ACCT# 0712634-5
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$939.22	SILMD 263 ACCT# 0720716-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$404.55	SILMD 125 ACCT# 0712574-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$71.04	SILMD 197 ACCT# 0712635-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$163.36	SILMD 264 ACCT# 0721427-3

Check Date	Check #	Name	Fund Name	Amount	Item Desc
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$202.28	SILMD 126 ACCT# 0712575-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$123.57	SILMD 198 ACCT# 0712636-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$365.86	SILMD 265 ACCT# 0721556-9
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$741.50	SILMD 127 ACCT# 0712576-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$79.16	SILMD 200 ACCT# 0712637-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$35.84	SILMD 266 ACCT# 0721684-9
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$519.06	SILMD 128 ACCT# 0712577-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$519.06	SILMD 201 ACCT# 0712638-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$435.56	SILMD 270 ACCT# 0906944-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$346.74	SILMD 129 ACCT# 0712578-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$586.31	SILMD 202 INV# 0712639-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,043.64	SILMD 271 ACCT# 0995095-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$131.30	SILMD 130 ACCT# 0712579-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$18.94	SILMD 203 ACCT# 0712640-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$2,936.15	SILMD 272 ACCT# 0905005-5
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$895.79	SILMD 131 ACCT# 0712580-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$363.74	SILMD 204 ACCT# 0712641-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$210.67	SILMD 273 ACCT# 0926386-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$243.84	SILMD 133 ACCT# 0712581-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$36.22	SILMD 205 ACCT# 0712642-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$478.34	SILMD 276 ACCT# 0961926-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$562.67	SILMD 134 ACCT# 0712582-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$346.03	SILMD 206 ACCT# 0712643-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$862.33	SILMD 277 ACCT# 1058710-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$543.76	SILMD 135 ACCT# 0712583-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$395.47	SILMD 207 ACCT# 0712644-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$210.04	SILMD 278 ACCT# 1087619-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$491.24	SILMD 136 ACCT# 0712584-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$248.15	SILMD 208 ACCT# 0712645-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$64.23	SILMD 279 ACCT# 1124127-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$389.70	SILMD 137 ACCT# 0712585-9
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$568.48	SILMD 209 ACCT# 0712646-9
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$674.11	SILMD 280 ACCT# 1045653-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$780.19	SILMD 138 ACCT# 0712586-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$85.25	SILMD 210 ACCT# 0712647-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$375.88	SILMD 283 ACCT# 1172743-5
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$260.08	SILMD 139 ACCT# 0712587-5
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$47.38	SILMD 211 ACCT# 0712648-5
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$353.83	SILMD 285 ACCT# 1206985-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$606.82	SILMD 143 ACCT# 0712588-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$47.38	SILMD 212 ACCT# 0712649-3

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08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$248.29	SILMD 286 ACCT# 1296582-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$28.77	SILMD 144 ACCT# 0712589-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$28.43	SILMD 213 ACCT# 0712650-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$87.55	SILMD 287 ACCT# 1246537-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$494.33	SILMD 145 ACCT# 0712590-9
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$495.49	SILMD 214 ACCT# 0712651-9
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,865.67	SILMD 288 ACCT# 1303978-9
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$375.66	SILMD 146 ACCT# 0712591-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$148.31	SILMD 216 ACCT# 0712652-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$221.66	SILMD 289 ACCT# 1685375-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$487.04	SILMD 147 ACCT# 0712592-5
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$358.34	SILMD 217 ACCT# 0712653-5
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$112.07	SILMD 290 ACCT# 1433921-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,512.17	SILMD 149 ACCT# 0712593-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$253.62	SILMD 220 ACCT# 0712654-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$635.72	SILMD 292 ACCT# 1481532-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$790.92	SILMD 150 ACCT# 0712594-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$9.05	SILMD 221 ACCT# 0712655-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$247.18	SILMD 293 ACCT# 1481534-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$664.62	SILMD 151 ACCT# 0712595-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$74.87	SILMD 222 ACCT# 0712656-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$494.33	SILMD 294 ACCT# 1481535-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$4,495.31	SILMD 152 ACCT# 0712596-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$113.67	SILMD 223 ACCT# 0712657-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$115.58	SILMD 295 ACCT# 1481536-9
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$568.48	SILMD 153 ACCT# 0712597-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,902.33	SILMD 224 ACCT# 0712658-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,309.97	SILMD 296 ACCT# 1481537-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,285.25	SILMD 154 ACCT# 0712598-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$361.33	SILMD 225 ACCT# 0712659-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$222.46	SILMD 297 ACCT# 1481539-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$520.13	SILMD 155 ACCT# 0712599-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$304.60	SILMD 226 ACCT# 0712660-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$197.73	SILMD 298 ACCT# 1481540-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$963.94	SILMD 157 ACCT# 0712600-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$616.25	SILMD 227 ACCT# 0712661-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$420.78	SILMD 300 ACCT# 1662840-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$837.98	SILMD 158 ACCT# 0712601-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$837.98	SILMD 228 ACCT# 0712662-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$5,181.09	SILMD 301 ACCT# 1687005-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,141.85	SILMD 159 ACCT# 0712602-2

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08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$433.44	SILMD 229 ACCT# 0712663-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$207.86	SILMD 302 ACCT# 1607534-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$751.30	SILMD 160 ACCT# 0712603-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,011.38	SILMD 230 ACCT# 0712664-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$641.55	SILMD 305 ACCT# 1695873-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,112.24	SILMD 161 ACCT# 0712604-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$606.84	SILMD 231 ACCT# 0712665-9
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$208.86	SILMD 306 ACCT# 1740353-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$63.40	SILMD 162 ACCT# 0712605-5
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$2,629.57	SILMD 232 ACCT# 0712666-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$2,137.07	SILMD 307 ACCT# 2049005-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$685.40	SILMD 163 ACCT# 0712606-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$827.88	SILMD 233 ACCT# 0712667-5
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$275.90	SILMD 308 ACCT# 2072459-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$395.47	SILMD 164 ACCT# 0712607-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$465.87	SILMD 234 ACCT# 0712668-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$260.79	SILMD 309 ACCT# 2001311-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$924.68	SILMD 165 ACCT# 0712608-9
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$521.19	SILMD 235 ACCT# 0712669-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$277.10	SILMD 310 ACCT# 2060519-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$247.18	SILMD 167 ACCT# 0712609-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$165.81	SILMD 236 ACCT# 0712670-9
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$205.43	SILMD 311 ACCT# 3014475-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$593.19	SILMD 171 ACCT# 0712610-5
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$420.19	SILMD 237 ACCT# 0712671-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$190.94	SILMD 312 ACCT# 3146127-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$305.34	SILMD 315 Acct# 3305804-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,146.75	SILMD 316 Acct# 3291842-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$62.46	SILMD 317 Acct# 3253826-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$905.02	SILMD 318 Acct# 3372018-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$54.88	SILMD 320 Acct# 0712569-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$281.71	SILMD 321 Acct# 3338917-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$62.03	SILMD 322 Acct# 3402033-9
08/21/2017	806963	NorthWestern Energy	CDBG	\$17.08	FORECLOSURE - 244 Terry Ave
08/21/2017	806963	NorthWestern Energy	Street/Traffic Oper	\$10,838.51	Signal Bills
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$518.02	SILMD 008 ACCT# 0712544-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$562.70	SILMD 172 ACCT# 0712611-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$15.50	SILMD 238 ACCT# 0712672-5
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$197.73	SILMD 122 ACCT# 0712571-9
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$265.32	SILMD 194 ACCT# 0712632-9
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$520.13	SILMD 261 ACCT# 0720705-3

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08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$346.74	SILMD 123 ACCT# 0712572-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$221.09	SILMD 195 ACCT# 0712633-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$3,280.57	SILMD 262 ACCT# 0720937-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$3,350.24	SILMD 117 ACCT# 0712566-9
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,285.25	SILMD 190 ACCT# 0712628-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$886.69	SILMD 257 ACCT# 0720360-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$242.36	SILMD 118 ACCT# 0712567-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$441.59	SILMD 191 ACCT# 0712629-5
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$2,726.72	SILMD 258 ACCT# 0720606-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$159.68	SILMD 119 ACCT# 0712568-5
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$321.32	SILMD 192 ACCT# 0712630-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$18.47	SILMD 259 ACCT# 1301786-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$2,600.67	SILMD 121 ACCT# 0712570-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$790.92	SILMD 193 ACCT# 0712631-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,291.63	SILMD 259 ACCT# 0720810-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$2,754.66	SILMD 100 ACCT# 0712559-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,235.82	SILMD 183 ACCT# 0712621-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$2,860.76	SILMD 249 ACCT# 0718734-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,683.07	SILMD 099 ACCT# 0712558-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$617.90	SILMD 182 ACCT# 0712620-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$2,563.74	SILMD 248 ACCT# 0712681-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$1,820.46	SILMD 107 ACCT# 0712560-2
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$395.47	SILMD 184 ACCT# 0712622-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$198.97	SILMD 250 ACCT# 0719001-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$4,565.62	SILMD 109 ACCT# 0712561-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$148.31	SILMD 185 ACCT# 0712623-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$4,106.64	SILMD 251 ACCT# 0718801-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$187.91	SILMD 113 ACCT# 0712562-8
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$630.12	SILMD 186 ACCT# 0712624-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$577.93	SILMD 252 ACCT# 0719162-0
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$982.49	SILMD 114 ACCT# 0712563-6
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$247.18	SILMD 187 ACCT# 0712625-3
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$2,021.84	SILMD 253 ACCT# 0719644-7
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$231.17	SILMD 115 ACCT# 0712564-4
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$296.58	SILMD 188 ACCT# 0712626-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$149.73	SILMD 254 ACCT# 0719763-5
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$606.84	SILMD 116 ACCT# 0712565-1
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$247.18	SILMD 189 ACCT# 0712627-9
08/21/2017	806963	NorthWestern Energy	Light Maintenance	\$167.98	SILMD 255 ACCT# 0720813-5
08/21/2017	806964	NorthWestern Energy	General	\$697.10	1191404-1
08/21/2017	806964	NorthWestern Energy	Facilities Mngmt	\$1,532.02	1160804-9

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08/21/2017	806964	NorthWestern Energy	Facilities Mngmt	\$1,378.82	1160802-3
08/21/2017	806964	NorthWestern Energy	Water	\$191.62	1142253-2
08/21/2017	806964	NorthWestern Energy	Water	\$1,344.33	1116452-2
08/21/2017	806964	NorthWestern Energy	Airport	\$391.33	3446396-8. USDA-APHIS. August
08/21/2017	806964	NorthWestern Energy	Facilities Mngmt	\$709.27	0975808-7
08/21/2017	806964	NorthWestern Energy	Airport	\$906.53	1669567-8. TSA Building. August
08/21/2017	806964	NorthWestern Energy	Public Safety	\$697.72	0871546-8
08/21/2017	806964	NorthWestern Energy	Airport	\$100.17	2001867-7. Detail Bay 5
08/21/2017	806964	NorthWestern Energy	General	\$345.25	0925496-2
08/21/2017	806964	NorthWestern Energy	Airport	\$32.09	1138926-9. Aero Interiors. August
08/21/2017	806964	NorthWestern Energy	General	\$28.78	1836666-6
08/21/2017	806964	NorthWestern Energy	Street/Traffic Oper	\$0.96	1748896-6
08/21/2017	806964	NorthWestern Energy	Street/Traffic Oper	\$0.32	1740357-7
08/21/2017	806964	NorthWestern Energy	Facilities Mngmt	\$3,685.96	1269391-7
08/21/2017	806964	NorthWestern Energy	General	\$0.00	0839280-5
08/21/2017	806964	NorthWestern Energy	Solid Waste	\$1,437.61	3252194-0
08/21/2017	806964	NorthWestern Energy	Airport	\$2,171.27	0100483-7. Runway Lights. August
08/21/2017	806964	NorthWestern Energy	General	\$309.77	0712536-2
08/21/2017	806964	NorthWestern Energy	General	\$97.22	Electrical charges for Pioneer tennis
08/21/2017	806964	NorthWestern Energy	General	\$46.00	0712387-0
08/21/2017	806964	NorthWestern Energy	Wastewater	\$333.01	822 Shiloh Crossing Lift
08/21/2017	806964	NorthWestern Energy	Airport	\$56.26	3085107-5. New Employee Parking.
08/21/2017	806964	NorthWestern Energy	Water	\$12,565.34	0723040-2
08/21/2017	806964	NorthWestern Energy	Airport	\$333.05	2001855-2. Detail Bay 2
08/21/2017	806964	NorthWestern Energy	General	\$1,190.63	0722287-0
08/21/2017	806964	NorthWestern Energy	Airport	\$297.82	2001848-7. Detail Bay 1 Hertz.
08/21/2017	806964	NorthWestern Energy	General	\$1,171.97	0723045-1
08/21/2017	806964	NorthWestern Energy	Airport	\$237.05	2001862-8. Detail Bay 3 Enterprise.
08/21/2017	806964	NorthWestern Energy	Water	\$5.85	0723059-2
08/21/2017	806964	NorthWestern Energy	Airport	\$238.15	2001865-1. Detail Bay 4
08/21/2017	806964	NorthWestern Energy	Water	\$16,850.61	0722264-9
08/21/2017	806964	NorthWestern Energy	Airport	\$272.70	2001846-1. Mud Wash. August
08/21/2017	806964	NorthWestern Energy	General	\$2,887.96	0720821-8
08/21/2017	806964	NorthWestern Energy	Airport	\$2,040.41	1993430-6. Car Wash. August 2017
08/21/2017	806964	NorthWestern Energy	General	\$60.88	0720818-4
08/21/2017	806964	NorthWestern Energy	Airport	\$30.06	1647695-4. De Icer. August 2017
08/21/2017	806964	NorthWestern Energy	Airport	\$1,898.48	0100484-5. ARFF Facility. August
08/21/2017	806964	NorthWestern Energy	Transit	\$223.58	0719225-5
08/21/2017	806972	Public Works-Administration	Water	\$2,940.00	PWU July Engineering Permits -
08/21/2017	806972	Public Works-Administration	Water	\$7,129.80	PWU July Engineering Permits -
08/21/2017	806976	Rimrock Engineering Inc	Tax Increment South	\$3,000.00	Geotechnical engineering report for

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08/21/2017	806977	Rimrock Tire Inc	P.W. Admin	\$90.96	5-GS103913
08/21/2017	806977	Rimrock Tire Inc	Public Safety	\$459.00	5-GS103973
08/21/2017	806977	Rimrock Tire Inc	Street/Traffic Oper	\$619.60	5-GS104038
08/21/2017	806977	Rimrock Tire Inc	Street/Traffic Oper	\$28.95	5-103858
08/21/2017	806977	Rimrock Tire Inc	General	\$74.72	5-103964
08/21/2017	806977	Rimrock Tire Inc	Street/Traffic Oper	\$45.00	5-104011
08/21/2017	806977	Rimrock Tire Inc	Street/Traffic Oper	\$92.62	5-103889
08/21/2017	806977	Rimrock Tire Inc	Street/Traffic Oper	\$77.05	5-103859
08/21/2017	806977	Rimrock Tire Inc	Solid Waste	\$818.62	5-104001
08/21/2017	806977	Rimrock Tire Inc	Street/Traffic Oper	\$785.96	5-104080
08/21/2017	806977	Rimrock Tire Inc	Street/Traffic Oper	\$33.28	5-104082
08/21/2017	806980	Rocky Mountain Compost Inc	Park District 1	\$1,800.00	Playground chips
08/21/2017	806980	Rocky Mountain Compost Inc	Street/Traffic Oper	\$405.00	top soil for 24th & king island
08/21/2017	806980	Rocky Mountain Compost Inc	Street/Traffic Oper	\$270.00	top soil for 24th and king island
08/21/2017	806980	Rocky Mountain Compost Inc	Parks Maintenance	\$590.00	Black mulch for skatepark
08/21/2017	806980	Rocky Mountain Compost Inc	General	\$4,500.00	Compost for Amend
08/21/2017	806993	Sletten Construction Company	Wastewater	\$3,523,541.59	WO 14-11 Water Reclamation
08/21/2017	806996	Spencer Industries	Street/Traffic Oper	\$3,300.00	2928176-00
08/21/2017	807000	Stericycle Inc	Public Safety	\$2,624.13	Invoice 3003936808, hazardous
08/21/2017	807002	Stewart Title Company	CDBG	\$10,000.00	FTHB Narayan Diamond 717 Clark
08/21/2017	807003	Stewart Title Company	CDBG	\$15,000.00	FTHB Kylarae Hailstone 30 S.
08/21/2017	807004	Stewart Title Company	CDBG	\$10,000.00	FTHB Jeremy Rittenhouse 3295
08/21/2017	807013	Thomas Appraisal Services Inc	Arterial Streets	\$4,900.00	WO 16-05 Central Ave 32nd St W
08/21/2017	807020	Town & Country Supply Association	General	\$556.92	T&C 300gal dyed diesel#2 301513
08/21/2017	807020	Town & Country Supply Association	Water	\$13,011.60	WATER PARTS AND SUPPLIES
08/21/2017	807020	Town & Country Supply Association	Water	\$334.58	NONSTOCKING ITEMS-P.U.D.
08/21/2017	807020	Town & Country Supply Association	Water	\$363.15	NONSTOCKING ITEMS-P.U.D.
08/21/2017	807020	Town & Country Supply Association	Fleet	\$21,393.72	300276 PO NUM 303870
08/21/2017	807020	Town & Country Supply Association	Transit	\$3,926.13	BUS MET PO NUM 303805
08/21/2017	807021	Tractor & Equipment Co.	Solid Waste	\$1,373.08	BLW00177378
08/21/2017	807021	Tractor & Equipment Co.	Solid Waste	-\$1,478.00	Core return
08/21/2017	807021	Tractor & Equipment Co.	Solid Waste	\$3,823.46	Vehicle parts
08/21/2017	807021	Tractor & Equipment Co.	Solid Waste	\$1,044.34	BLW00177407
08/21/2017	807021	Tractor & Equipment Co.	Solid Waste	\$744.59	BLW00177486
08/21/2017	807031	Wallace Industries Inc	Transit	\$15,517.26	Repair in-ground lift in the
08/21/2017	807033	Westat, Inc	City County Planning	\$36,903.79	Billings-Yellowstone County
08/21/2017	807034	Western Municipal Construction Inc	Wastewater	\$235,445.57	WO1701 2017 Water & Sewer
08/21/2017	807034	Western Municipal Construction Inc	Water	\$548,537.90	WO 1701 2017 Water & Sewer
08/21/2017	807041	Yellowstone Valley Animal Shelter	Public Safety	\$22,855.58	contract 7-22-17\8-21-17
08/21/2017	807042	Zeier Consulting LLC	Tax Increment South	\$43,621.65	1801 - 1st Quarter FY2018

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Approval of Transfer Agreement for Babcock Theater and Acquisition of Green Room & Personal Property

PRESENTED BY: Tina Volek, City Administrator

Department: City Hall Administration

Presentation: Yes

PROBLEM/ISSUE STATEMENT

The City Council is asked to approve a Transfer Agreement between the City, the Downtown Billings Partnership (DBP) and The Babcock, LLC that would give the City ownership of the Babcock Theater (Unit 1A of the Babcock Building, 115 N. Broadway) and includes a recommendation from its Ad-Hoc Committee on the Babcock to acquire a green room and associated personal property for both, at a cost of \$127,977.

The three entities entered into a previous development agreement on September 22, 2008, in which the City was to receive title to the theater in exchange for the City and DBP approving a tax increment financing grant of \$1.9 million to The Babcock LLC for the improvement of the historic Babcock Building. The theater originally was scheduled to be transferred to the City by April 1, 2016, but that was delayed with City Council approval until March 15, 2017, to allow The Babcock LLC to take full advantage of historic preservation tax credits.

As part of the theater renovation, The Babcock LLC created a green room traditionally used as a dressing room by theater performers in Unit 1B, a basement space adjacent to the theater, rather than in the traditional location of the theater basement, because the basement slants in the rear to a height in which today's average person cannot stand up. The basement of the theater also was partly renovated to store water from the roof to help in the cooling of the building.

The transfer has been delayed while the City, DBP and The Babcock LLC negotiated the price for the transfer of the green room and the acquisition of personal property both in the theater and the green room. The City Council has instructed staff to simultaneously issue both a request for proposals (RFP) for management of the theater by an outside group and an invitation to bid for the purchase of the theater. Those options will be advertised as soon as the Transfer Agreement is approved. Entertainment professionals have recommended that the green room and personal property be acquired whichever option is exercised.

The Council's Ad-Hoc Committee on the Babcock Theater voted unanimously at a meeting on August 28, 2017, to recommend that the Council acquire the green room and personal property for the green room and Babcock Theater at the cost of \$127,977.

Attached is a draft Transfer Agreement, which will be finalized and sent to the City Council in the Sept. 8, 2017, Friday Packet.

ALTERNATIVES ANALYZED

City Council may:

- Approve the Transfer Agreement to satisfy the terms of the Development Agreement approved by the Council on September 22, 2008;
- Postpone action, which would delay the transfer; or
- Disapprove the Transfer Agreement and instruct staff to renegotiate the transfer of the Babcock Theater and acquisition of the green room and personal property.

FINANCIAL IMPACT

The City Council approved \$500,000 for capital improvements to the Babcock Theater in its Fiscal Year (FY) 2018 budget, which would be used in part for the green room and personal property acquisition.

The proposed costs of \$127,977 include the following:

Green room estimated value:	\$63,249
Green room personal property and improvements (see attachment):	\$48,648
Theater personal property (see attachment):	\$16,080

Due to time constraints and the difficulty of obtaining appraisals, a Brokers Property Evaluation of the green room was conducted by NAI Business Properties in June 2017, and resulted in an estimated market value of \$60,237. City policy allows an increase of up to 5% for bargaining purposes, bringing the total to \$63,249. A copy of the Brokers Property Evaluation is available from City Administration as requested.

RECOMMENDATION

Staff recommends that the City Council approve the Transfer Agreement for the Babcock Theater, which includes the Ad-Hoc Committee on the Babcock's recommendation to acquire its green room and associated personal property at a cost of \$127,977.

APPROVED BY CITY ADMINISTRATOR

Attachments

Transfer Agreement
Green Room
Theater personal property

September 4, 2017 Draft

TRANSFER AGREEMENT

This Transfer Agreement (“Agreement”) is entered into as of September __, 2017, by and between City of Billings, a municipality of the State of Montana (“City”), the Downtown Billings Partnership, Inc., an I.R.C. §501(c)(4) Montana non-profit corporation, (“DBP”), and The Babcock, LLC, a Montana limited liability company, with its principal place of business at 115 North Broadway, #515, Billings, Montana (“Developer”).

WHEREAS, City, DBP, and Developer entered into a Development Agreement dated September 22, 2008 (“Development Agreement”) to set forth the terms and conditions for an urban renewal project whereby City and DBP would grant tax increment financing funds to Developer for the purchase and rehabilitation of the Babcock Building in downtown Billings.

WHEREAS, pursuant to the terms of the Development Agreement, City would receive title to the portion of the Babcock Building constituting the Babcock Theater following certain stabilization, restoration, and improvements to the Theater.

WHEREAS, Developer’s performance of the Development Agreement and transfer of the Theater was secured by a Deed of Trust in favor of City dated October 2, 2008 and recorded in the records of Yellowstone County, Montana on October 3, 2008 as Instrument No. 3482269 (“City Deed of Trust”).

WHEREAS, Developer’s performance of the Development Agreement was also guaranteed by Developer’s individual limited liability company members, namely Donald Olsen, Kimberly A. Olsen, Katherine G. Foster, and Michael S. Mathew by execution of a member guarantee (“Member Guarantee”).

WHEREAS, effective January 25, 2010, City, DBP and Developer entered into a First Amendment to the Development Agreement to extend the time and construction schedule for Developer to complete the improvements required under Phase 1 of the Development Agreement, including completion of unit ownership documents for the Babcock Building.

WHEREAS, the Historic Babcock Building Non-Profit Owners Association was formed as a Montana non-profit corporation on _____, 2010. Bylaws of The Historic Babcock Building Non-Profit Owners Association dated May 26, 2010 were executed by officer of the Owners Association, upon approval by City and DBP.

WHEREAS, a Declaration of Unit Ownership for Historic Babcock Building dated May 26, 2010 was executed by Developer and recorded on _____, 2010 under Document No. _____ in the records of Yellowstone County, Montana (“Declaration of Unit Ownership”), upon approval of City and DBP. Pursuant to the Declaration of Unit Ownership, Unit 1A of the Historic Babcock Building is the Theater Unit, Unit 1B is the retail and apartments, and Unit 1C is the Montague’s Jewelry retail space unit.

WHEREAS, by letter dated May 25, 2012 DBP provided Developer with a Certificate

of Completion of work and improvements set forth in Phases 1, 2 and 3 of the Development Agreement.

WHEREAS, on _____, 2016, City approved an extension of time for Developer to convey the Theater to City until March 15, 2017.

WHEREAS, City, DBP and Developer have engaged in negotiations since early 2017 to resolve issues related to the transfer of the Theater Unit to City, including conveyance of additional space in the Babcock Building consisting of a green room constructed in the basement of Unit 1B, sale of items of personal property purchased by Developer for the theater and the green room, identification of certain utility improvements, amendment of the Declaration of Unit Ownership, additional work and improvements provided by Developer not anticipated in the Development Agreement, and related matters.

WHEREAS, City, DBP and Developer have reached an agreement, subject to approval of the City Council for resolution of the remaining issues regarding transfer of Unit 1A to the City.

WHEREAS, DBP, City, and Developer wish to enter into this Agreement to set forth the terms and conditions of Developer's transfer of Unit 1A to City.

NOW, THEREFORE, City, DBP, and Developer agree as follows:

1. The Declaration of Unit Ownership shall be amended by a First Amendment to Declaration of Unit Ownership in the approximate form attached hereto as Exhibit A, to include the green room space as part of Unit 1A, amend the percentages of square foot ownership and responsibility for general common expenses accordingly, and to amend the floor plan exhibits to reflect the current utility and HVAC locations, responsibilities and access provisions ("First Amendment to Declaration of Unit Ownership"). Developer shall prepare and provide City with the First Amendment to Declaration of Unit Ownership and any other documents necessary to approve and record the First Amendment to Declaration of Unit Ownership. The final form of the First Amendment to Declaration of Unit Ownership shall be subject to City's approval and City's consent prior to execution and recording. The final approved First Amendment to Declaration of Unit Ownership shall be recorded within five (5) days after City's approval and execution of this Agreement.

2. At Closing, Developer shall transfer and convey Unit 1A as described in the First Amendment to Declaration of Unit Ownership to City by Warranty Deed in the form attached hereto as Exhibit B, free and clear of all liens and encumbrances, subject only to title exceptions acceptable to City.

3. Developer shall sell and City shall purchase from Developer the personal property associated with Unit 1A, the Theater Unit and the green room as set forth in the exhibit(s) to the Bill of Sale ("Personal Property"). At Closing, Developer shall deliver to City a Bill of Sale in the form attached hereto as Exhibit C to transfer ownership of the Personal

Property to City, free and clear of all liens and encumbrances.

4. At Closing, City shall pay to Developer the sum of One Hundred Twenty Seven Thousand Nine Hundred Seventy Seven Dollars (\$127,977.00) as consideration for the purchase of the green room space and the Personal Property.

5. At Closing, City shall deliver for recording an executed Deed of Reconveyance of the City Deed of Trust in the form attached hereto as Exhibit D ("City Deed of Reconveyance") and shall provide Developer with a release of the member guarantees in the form attached hereto as Exhibit E ("Release of Member Guarantees").

6. Closing of the transactions provided for in this Agreement and the Development Agreement shall take place at American Title and Escrow in Billings, Montana ("Closing Agent") on or before October __, 2017 ("Closing"). Developer and City shall share the closing costs equally. City shall be responsible for the cost of an owner's policy of title insurance for Unit 1A. City shall take possession of Unit 1A effective upon Closing.

At Closing, Developer shall deliver the following:

- a. Executed Warranty Deed
- b. Executed Bill of Sale
- c. Any other executed documents required by Closing Agent.

At Closing, City shall deliver the following:

- a. Executed City Deed of Reconveyance
- b. Executed Release of Member Guarantees
- c. Funds for purchase price for green room and Personal Property.

8. At or prior to Closing, City shall reimburse Developer for the amounts of utilities, insurance and other expenses for which City is obligated since March __, 2017. In addition, City shall pay its share of property taxes attributable to the Theater Unit for the period between March __, 2017 and Closing.

9. Promptly following Closing, Developer shall cause the Historic Babcock Non-Profit Owners Association to convene a meeting of the members of the Association to elect or appoint Directors, conduct all necessary business, and commence operation pursuant to the terms of the Bylaws and First Amendment to Declaration of Unit Ownership.

10. Promptly following Closing, Developer shall design and provide a proposal for construction of a door adjacent to the entrance to the green room to limit access to the basement hallway connecting Unit 1A and Unit 1B. The final plan and budget for the door shall be subject to City's approval. The cost of construction of the new door shall be paid equally by City and Developer.

12. All notices or other communications required or permitted hereunder must be in writing, and must be personally delivered (including by a professional messenger service) or sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below. All notices sent by mail will be deemed received 2 (two) days after the date of mailing and all notices sent by other means permitted herein shall be deemed received on the date delivered. Notices will be sent as follows to:

Developer: The Babcock, LLC
Attn: Michael S. Mathew
115 North Broadway, #515
Billings, MT 59101
Telephone: (406) 860-5313
Facsimile: (406) 256-5874

By: _____

This instrument was acknowledged before me on _____ by _____
as Mayor of the City of Billings, Montana.

Printed Name:

Notary Public for the State of Montana
Residing at _____, Montana
My Commission expires: _____
Downtown Billings Partnership ("DBP")

By: _____
Its: President

STATE OF MONTANA)
 :SS
County of _____)

This instrument was acknowledged before me on _____ by
_____ as President of Downtown Billings Partnership, Inc.

(SEAL)

Printed Name: _____
Notary Public for the State of Montana
Residing at _____, Montana
My Commission expires: _____

The Babcock, LLC (“Developer”)

By: _____
Its: Authorized Member/Manager

STATE OF MONTANA)
 :SS
County of _____)

 This instrument was acknowledged before me on _____ by
_____ as authorized member/manager of The Babcock, LLC.

(SEAL)

Printed Name: _____
Notary Public for the State of Montana
Residing at _____, Montana
My Commission expires: _____

Exhibits

- Exhibit A First Amendment to Declaration of Unit Ownership**
- Exhibit B Form of Warranty Deed for Unit 1A**
- Exhibit C Bill of Sale for Personal Property**
- Exhibit D Deed of Reconveyance**
- Exhibit E Release of Member Guarantees**

From: Don [<mailto:dono@o2architects.net>]
Sent: Thursday, August 03, 2017 4:37 PM
To: bcole@cofirm.com
Cc: 'Kay Foster'; mikemathew49@yahoo.com; 'Kim Olsen' (kimo@o2architects.net)
Subject: green room

With regards to selling the Green Room:

\$60,237 (NAI)
X 1.05 (city flex on price)
\$63,249
\$48,648 (major improvements we did to Green Room)
\$16,080 (personal property minus ATM @ 62 cents on dollar)

\$127,977 asking price for Green Room & Personal Property

We feel the NAI analysis is flawed in its comps so added the city flex plus the improvements we did. Deducted ATM from \$17,500 at 62 cents on the value listed for same. in personal property we would include furniture, appliances, etc in green room.

Don Olsen AIA, NCARB
Principal



208 N. Broadway Suite 350
Billings, MT 59101

dono@o2architects.net
(Office) 406.259.7123
(Fax) 406.256.7123
(Cell) 406.591.1591

BABCOCK LLC

PERSONAL PROPERTY LIST

2009 TO PRESENT

3/14/2017

PURCHASE DATE	ITEM	ACCOUNT	VALUE
May-09	LOBBY FLOORMATS	FURNITURE & EQUIPMENT	\$280
Oct-09	ATM MACHINE	FURNITURE & EQUIPMENT	2290
Feb-09	DRAPERY PANELS	RESTORE STAGE	1485
Jul-09	WINCH FOR BACK CURTAIN	RESTORE STAGE	602
Apr-10	YOUNG CHANG PIANO	FURNITURE & EQUIPMENT	
Apr-10	PIANO STOOL	FURNITURE & EQUIPMENT	200
May-10	SIDE CURTAINS	THEATER STAGE EQUIPMENT	282
Aug-10	CHAIN/MATERIALS/LIGHT BAR	THEATER STAGE EQUIPMENT	380
Aug-10	SUPPLIES FOR LIGHT BAR	THEATER STAGE EQUIPMENT	595
Aug-10	PIPE & DRAPE FOR STAGE	THEATER STAGE EQUIPMENT	1362
Mar-12	THEATER CURTAIN	THEATER SUPPLIES	\$923
Jun-11	STAGE DRAPERIES	THEATER STAGE EQUIPMENT	780
Sep-12	*PROJECTOR/BLURAY PLAYER		5400
Mar-13	LIGHT TRUSS	THEATER STAGE EQUIPMENT	2285
Apr-13	LIGHTING PAID BY OZA	THEATER STAGE EQUIPMENT	1130
Jun-13	**THEATER HOISTS		6500
Sep-15	THEATER CHAIRS	FURNITURE & EQUIPMENT	1000
	BACKPACK VACUUM	JANITORIAL SUPPLIES	
	2 14' LADDERS	SMALL TOOLS & EQUIPMENT	
	TRASH CONTAINERS		
	TABLES & FOLDING CHAIRS		

\$25,494

*PAID FOR PERSONALLY BY FOSTER/MATHEW

**PAID FOR PERSONALLY BY OLSENS

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Resolutions to Amend Boundaries of SILMD 217 and SILMD 152

PRESENTED BY: David Mumford, Public Works Director

Department: Public Works

Presentation: No

PROBLEM/ISSUE STATEMENT

When SILMDs 321 and 322 were created in 2016, portions of properties contained in the districts were also included in SILMD 217 and 152 and must now be removed from those districts. Because the change in the SILMD assessment is less than 3%, a modification to the boundaries can be made by City Council via amendment resolution without a public hearing or re-creation of the SILMD.

ALTERNATIVES ANALYZED

City Council may:

- Approve the resolution to amend the boundaries of SILMDs 152 and 217, or;
- Disapprove the resolution to amend the boundaries. If the boundaries are not amended, several lots will be charged for light districts with no benefit.

FINANCIAL IMPACT

There is a less than 3% financial impact to the existing properties within SILMDs 152 and 217. There is no financial impact to the city.

RECOMMENDATION

Staff recommends that City Council approve the resolution to amend the boundaries of SILMDs 152 and 217.

APPROVED BY CITY ADMINISTRATOR

Attachments

SILMD 152 and 217 Resolution
Exhibit A
Exhibit B

RESOLUTION 17-_____

**A RESOLUTION OF THE CITY OF BILLINGS, MONTANA,
AMENDING THE BOUNDARIES OF SPECIAL
IMPROVEMENT LIGHTING DISTRICT NO. 152 and 217**

WHEREAS, properties within Special Improvement Lighting Maintenance District No. 152 and 217 are no longer receiving benefit from said districts; and

WHEREAS, pursuant to § 7-12-4335 MCA the City Council May, by resolution, change the boundaries of any maintenance district;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, THAT:

- 1) That the boundaries of Special Improvement Lighting District No. 152 are hereby amended by removing the following tracts, pieces, lots or parcels of land:
 - a) Lot 20 and the south 80 feet of Lot 18, Block 3 Cowley Subdivision Second Filing as recorded August 5, 1955, under Document Number 547171
 - b) The SILMD 152 property is shown on the map designated "Exhibit A" attached hereto.
- 2) That the boundaries of Special Improvement Lighting District No. 217 are hereby amended by removing the following tracts, pieces, lots or parcels of land:
 - a) Lots 1-A-1-B and 2-A-1, of Amended Plat of Amended Lots 1-A-1 & 2-A, Block 5, of Judd Center Subdivision, as recorded December 29, 1997, under Document Number 1904145
 - b) The SILMD 217 properties are shown on the map designated "Exhibit B" attached hereto.

This Resolution shall become effective immediately upon its passage and approval.

PASSED and APPROVED the 11th day of September, 2017.

THE CITY OF BILLINGS:

BY: _____
Thomas W. Hanel MAYOR

ATTEST:

BY: _____
Denise Bohlman CITY CLERK

EXHIBIT "A"

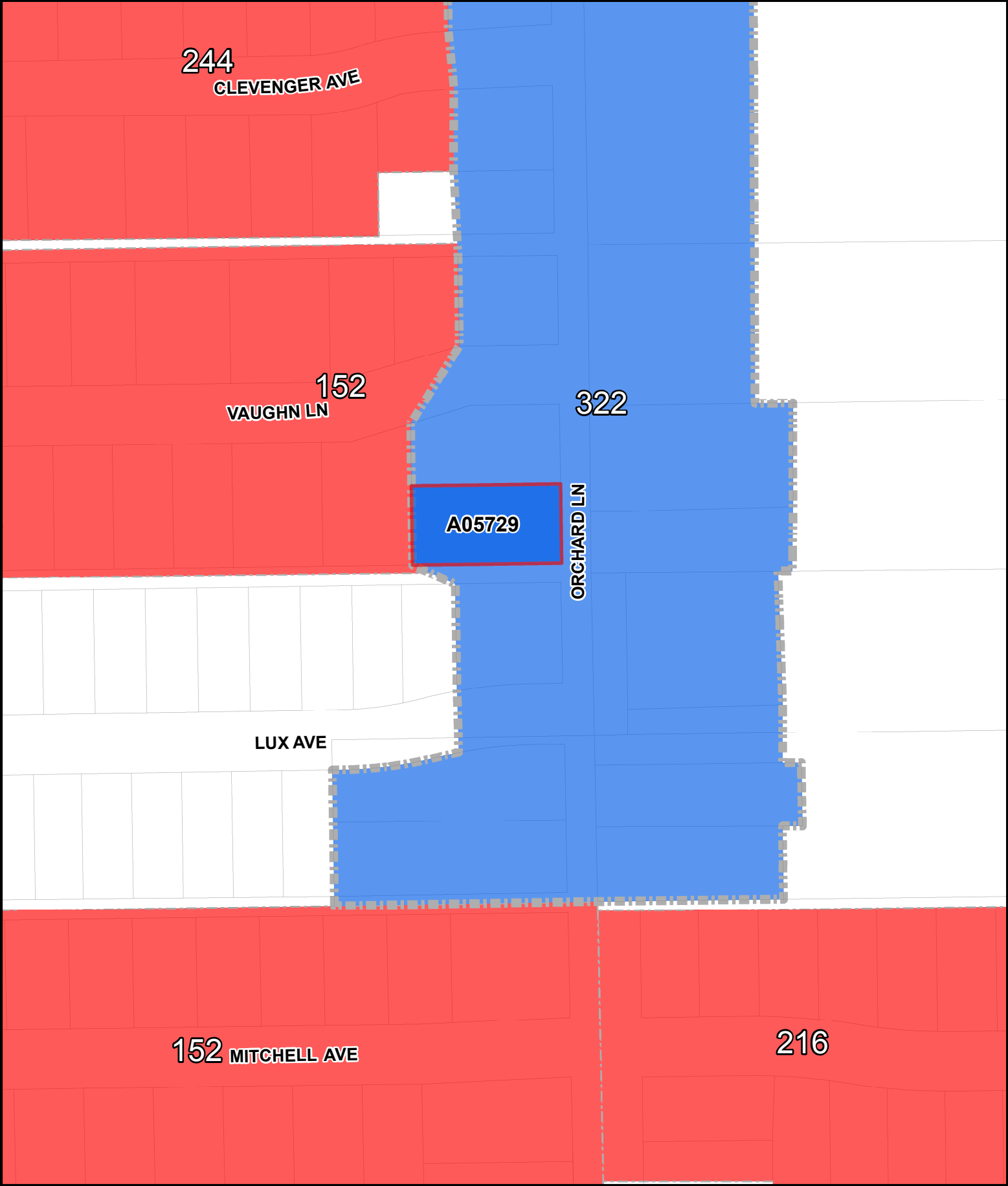
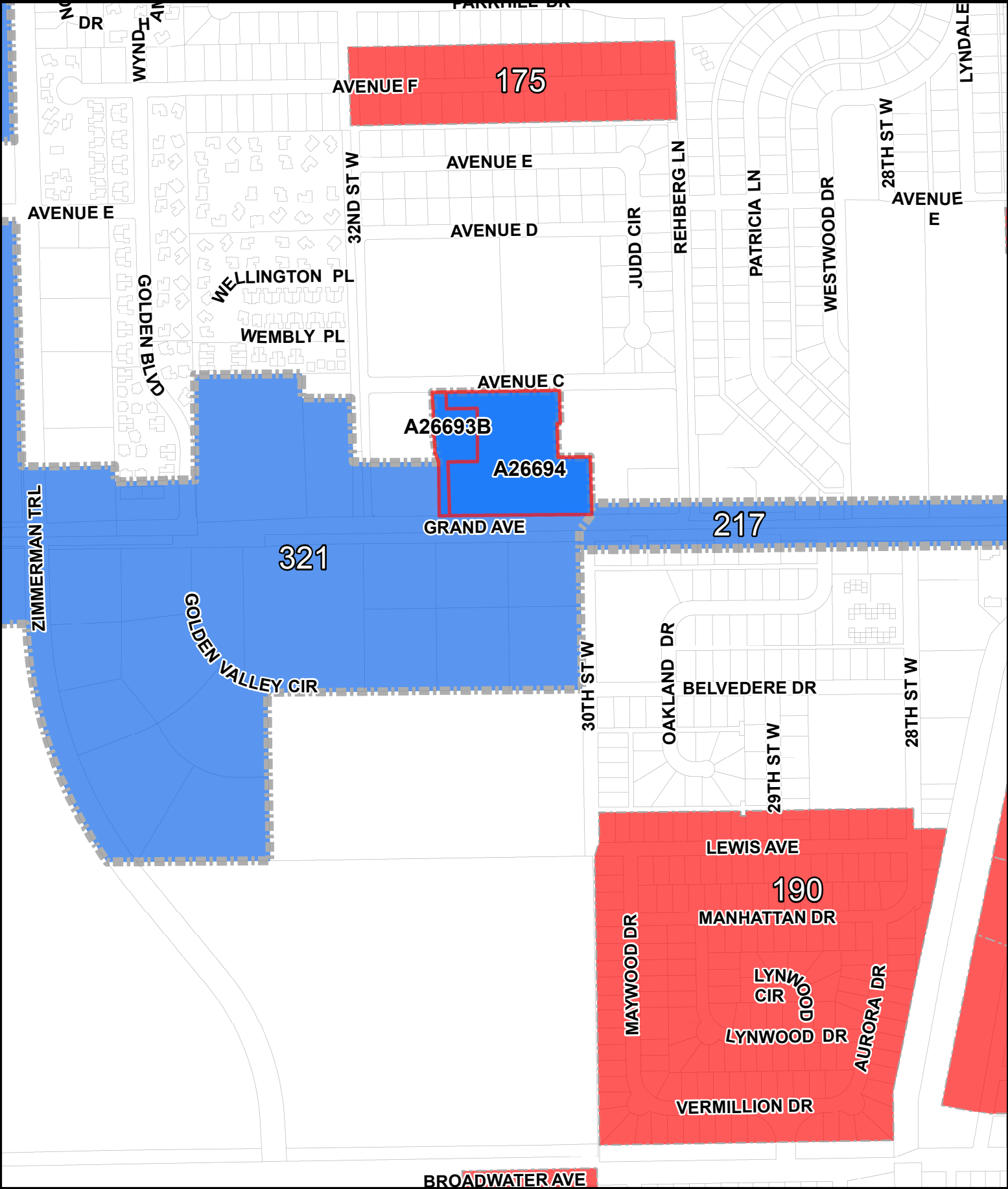


EXHIBIT "B"



Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Public Hearing & Resolution Assessing Fees for Encroachments

PRESENTED BY: Andy Zoeller

Department: City Hall Administration

Presentation: No

PROBLEM/ISSUE STATEMENT

The annual encroachment assessments have been completed by the Finance Department and are ready to be spread on the tax rolls. An encroachment is any permitted private occupancy of the public right of way, such as fences, signs or downtown street-side patios. The Council must conduct a public hearing and then adopt a resolution in order to assess property owners for the encroachments.

ALTERNATIVES ANALYZED

The Council may:

- Approve the resolution; or
- Not approve the resolution, and the Public Works Engineering Fund would be responsible to pay for the assessments.

FINANCIAL IMPACT

The standard encroachment fee is \$1/sq.ft. per year and a list of the assessments is attached. The total amount to be assessed is \$38,205.56 for FY 18.

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and adopt the encroachment assessment resolution.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution Encroachments

RESOLUTION 17 _____

A RESOLUTION FIXING THE AMOUNT OF THE ANNUAL SPECIAL ASSESSMENT FOR THE FISCAL YEAR 2018 TO BE PAID BY PERSONS, FIRMS, AND CORPORATIONS, MAINTAINING ENCUMBRANCES, OBSTRUCTIONS, OR ENCROACHMENTS ON, OVER, ACROSS, OR ABOVE THE STREETS, AVENUES, SIDEWALKS, OR ALLEYS OF THE CITY OF BILLINGS AND LEVYING AND ASSESSING SAID SPECIAL ASSESSMENT.

WHEREAS, Chapter 13 of the Billings, Montana City Code provides that every person, firm, or corporation that has or maintains any encumbrances, obstructions, or encroachments on, over, across, or above any street, avenue, sidewalk, or alley shall pay an annual rental fee, and

WHEREAS, Billings, Montana City Code, Section 13-303 provides that the City Council shall annually, by resolution, make a special assessment for such rental upon certain lots abutting on that part of the street, avenue, sidewalk, or alley upon which encumbrance, obstruction, or encroachment on the owner of such abutting lot or lots.

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

1. ANNUAL ASSESSMENT FOR RENTAL: That for the purposes of collecting said rents for the fiscal year 2018 for said encumbrances, obstructions, and encroachments on, over, across, or above the streets, avenues, alleys, and sidewalks of the City of Billings, there is hereby fixed, levied and assessed a special assessment upon the lots or parcels of land provided in the schedule attached, described as EXHIBIT "A" and by this reference made a part hereof.

2. DISPOSITION OF COLLECTIONS. All monies collected from said assessments shall be paid to the General Fund of the City of Billings, Montana.

3. NOTICE OF HEARING. That on Monday the 11th day of September, 2017 at 6:30 p.m. or as soon thereafter as the matter may be considered on the agenda in the council chambers of the City Hall, Billings, Montana, the council will hear objections to the final adoption of this resolution. The City Clerk published notice hereof twice, on August 25th and September 1st, 2017 in the Yellowstone County News.

4. EFFECTIVE DATE. This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the 11th day of **September**,
2017.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Denise R. Bohlman, CITY CLERK

Exhibit A

[illegible]

A00642A	NA	2812		2	AVE	N	61.56
A00642A	NA	2812		2	AVE	N	61.56
A00642A	THE BABCOCK LLC	2812		2	AVE	N	61.56
A00642B	NA	2812		2	AVE	N	257.20
A00642B	NA	2812		2	AVE	N	257.20
A00642B	NA	2812		2	AVE	N	257.20
A00642B	NA	2812		2	AVE	N	257.20
A00642B	NA	2812		2	AVE	N	257.20
A00642B	NA	2812		2	AVE	N	257.20
A00642B	NA	2812		2	AVE	N	257.20
A00642B	NA	2812		2	AVE	N	257.20
A00642B	THE BABCOCK LLC	2812		2	AVE	N	257.20
A00642C	NA	2810		2	AVE	N	3.24
A00642C	NA	2810		2	AVE	N	3.24
A00642C	NA	2810		2	AVE	N	3.24
A00642C	NA	2810		2	AVE	N	3.24
A00642C	NA	2810		2	AVE	N	3.24
A00642C	NA	2810		2	AVE	N	3.24
A00642C	NA	2810		2	AVE	N	3.24
A00642C	NA	2810		2	AVE	N	3.24
A00642C	NA	2810		2	AVE	N	3.24
A00642C	THE BABCOCK LLC	2810		2	AVE	N	3.24
A00644	ROYER PROPERTY LLC	2814		2	AVE	N	154.00
A00656	SWANK PROPERTIES LLC	2925		1	AVE	N	59.58
A00687	HOLIDAY FURNITURE CO INC	3303		1	AVE	N	3.00
A00708	MARKS, STEVE	3517		MONTANA	AVE		5.00
A00710	MARKS, STEVE	3520		1	AVE	N	5.00
A00735A	MONTANA AVE LOFTS LLC	3217		MONTANA	AVE		25.00
A00737	RIDER, THEODORE J & (ETAL)	3220		1	AVE	N	10.00
A00765	MIGNONE, FRANCIS J	2911		MONTANA	AVE		224.34
A00774	NEAL C LA FEVER TRUST &	2902		1	AVE	N	1,720.00
A00776	BARBAZON APARTMENTS LP	14	N	29	ST		105.00
A00778	GLACIER BANK	24	N	28	ST		602.00
A00781	NELSON, BERT A & ANDREW	2817		MONTANA	AVE		126.00
A00781	NELSON, BERT A & ANDREW d/b/a	2817		MONTANA	AVE		126.00
A00781	NELSON, BERT A & ANDREW d/b/a	2817		MONTANA	AVE		126.00
A00781	NELSON, BERT A & ANDREW	2817		MONTANA	AVE		126.00
A00783	NEAL C LA FEVER TRUST &	15	N	29	ST		108.00
A00796A	SECURITIES BUILDING LLC	2708		1	AVE	N	4.50
A00796B	SECURITIES BUILDING LLC	2708		1	AVE	N	3.17
A00796C	SECURITIES BUILDING LLC	2708		1	AVE	N	1.33
A00796D	SECURITIES BUILDING LLC	2708		1	AVE	N	2.39
A00796E	SECURITIES BUILDING LLC	2708		1	AVE	N	1.35
A00796F	WEBHEN LLC	2708		1	AVE	N	2.56
A00796G	SECURITIES BUILDING LLC	2708		1	AVE	N	1.20
A00796H	SECURITIES BUILDING LLC	2708		1	AVE	N	0.69
A00796I	SECURITIES BUILDING LLC	2708		1	AVE	N	0.67
A00796J	SECURITIES BUILDING LLC	2708		1	AVE	N	0.70
A00796K	SECURITIES BUILDING LLC	2708		1	AVE	N	0.45

A00796L	SECURITIES BUILDING LLC	2708		1	AVE	N	0.63
A00796N	SECURITIES BUILDING LLC	2708		1	AVE	N	0.61
A00796O	SECURITIES BUILDING LLC	2708		1	AVE	N	0.69
A00796P	SECURITIES BUILDING LLC	2708		1	AVE	N	0.67
A00796Q	SECURITIES BUILDING LLC	2708		1	AVE	N	0.70
A00796R	SECURITIES BUILDING LLC	2708		1	AVE	N	0.45
A00796S	SECURITIES BUILDING LLC	2708		1	AVE	N	0.63
A00796T	SECURITIES BUILDING LLC	2708		1	AVE	N	0.61
A00804	MAKENNA HOTEL INVESTMENTS LLC	27	N	27	ST		130.00
A00806	COMPUTERS UNLIMITED	2501		MONTANA	AVE		1,261.00
A00806	COMPUTERS UNLIMITED	2501		MONTANA	AVE		1,261.00
A00806	COMPUTERS UNLIMITED	2501		MONTANA	AVE		1,261.00
A00807	RPS, LLC	2505		MONTANA	AVE		53.00
A00817	REX HOTEL PARTNERSHIP	2401		MONTANA	AVE		50.00
A00822	NELSON, ANDY & BERT	2413		MONTANA	AVE		114.00
A00823	COMPUTERS UNLIMITED	2415		MONTANA	AVE		25.00
A00823	COMPUTERS UNLIMITED	2415		MONTANA	AVE		25.00
A00823	COMPUTERS UNLIMITED	2415		MONTANA	AVE		25.00
A00827	MAV PROPERTIES LLC	2442		1	AVE	N	17.00
A00832	D B SQUARED LLC	2303		MONTANA	AVE		607.50
A00833	COMPUTERS UNLIMITED	2319		MONTANA	AVE		442.00
A00833	COMPUTERS UNLIMITED	2319		MONTANA	AVE		442.00
A00833	COMPUTERS UNLIMITED	2319		MONTANA	AVE		442.00
A00838	2223 MONTANA LLC	2223		MONTANA	AVE		643.00
A00939	SOUTHERN FOODS GROUP LP	101	S	28	ST		126.00
A00949	YELLOWSTONE HEALTH PARTNERSHIP	123	S	27	ST		10.00
A00964	HATZELL PROPERTIES LLP	124	S	24	ST		40.00
A01010	PHILLIPS 66 COMPANY	2305		3	AVE	S	80.00
A01180	CONOCOPHILLIPS COMPANY	301	S	23	ST		160.00
A01251	CONOCOPHILLIPS COMPANY		S	25	ST		20.00
A01259	CITY OF BILLINGS	24	S	26	ST		6.00
A01259	CITY OF BILLINGS THE	24	S	26	ST		6.00
A01264	INTERFAITH HOSPITALITY NETWORK	10	S	26	ST		42.00
A01273	PLATH, R RUSSELL & SUSAN L	2624		MINNESOTA	AVE		135.00
A01281	MORLEDGE, KARL	2702		MINNESOTA	AVE		27.00
A01285	MCKAY, BARBARA J	2712		MINNESOTA	AVE		46.00
A01293	YELLOWSTONE PAPER COMPANY	20	S	28	ST		30.00
A01294	MONTANA RESCUE MISSION	2804		MINNESOTA	AVE		421.00
A01294	MONTANA RESCUE MISSION	2804		MINNESOTA	AVE		421.00
A01294	MONTANA RESCUE MISSION	2804		MINNESOTA	AVE		421.00
A01699	STATE OF MT DEPARTMENT OF ADMI	724	S	26	ST		25.00
A01809	KOINONIA MANAGEMENT CO LLC	924	S	31	ST		50.00
A01963A	YELLOWSTONE ART MUSEUM	505	N	26	ST		220.00
A02434A	BIG SKY FLORAL SUPPLY LLC	1211		24	ST	W	15.00
A02434A	BIG SKY FLORAL SUPPLY LLC	1211		24	ST	W	15.00
A02434A	BIG SKY FLORAL SUPPLY LLC	1211		24	ST	W	15.00
A02434A	BIG SKY FLORAL SUPPLY LLC	1211		24	ST	W	15.00
A02920	COFFMAN, STEPHEN L & VICTORIA	2720		BEARTOOTH	DR		5.00
A03302	ZIMMERER, STEPHEN L & BRENDA &	928		BROADWATER	AVE		12.00
A03492	MILLER, JANEL R	1117		MILES	AVE		10.00

A04983A	WILGUS, MARK A & JOSI D	2010		VIRGINIA	LN		25.00
A05687	ROSE FAMILY TRUST	3221		GREEN TERRACE	DR		41.00
A05812	ARAGON, KATHLEEN J	2323		7	ST	W	25.00
A05968	DEACONESS MEDICAL CENTER OF BI	2800		10	AVE	N	304.00
A06751	GLYNN, ANDREW J	1443		AVENUE D			6.50
A07017	JACOBSON, RICHARD LEE &	138		FLORINE	LN		15.00
A07120	BILLINGS CLINIC	802	N	27	ST		100.00
A07131	BILLINGS CLINIC	801	N	29	ST		1,123.00
A07153	BILLINGS CLINIC	810	N	30	ST		320.00
A07192	BILLINGS CLINIC	704	N	29	ST		20.00
A07279	BILLINGS CLINIC			UNASSIGNED			20.00
A07297	MILLER LAND CO	3000		7	AVE	N	60.00
A07370	KARLSEN, VIRGINIA G	415	N	29	ST		17.00
A08646	BRYSON, JEFFERY A	4148		FRANCES	AVE		25.00
A09085	DEAVER, FRANKLIN KENNEDY JR &	1918		PARKHILL	DR		3.00
A09148	FRIED, WILLIAM JR & SALLY ANN	11		ANTELOPE	TRL		220.00
A09148	FRIED, WILLIAM JR AND SALLY AN	11		ANTELOPE	TRL		220.00
A09148	FRIED, WILLIAM JR & SALLY ANNN	11		ANTELOPE	TRL		220.00
A09148	FRIED, WILLIAM JR & SALLY ANN	11		ANTELOPE	TRL		220.00
A09171	MAIN STREET PARTNERS	595		MAIN	ST		50.00
A10202	LUTHERAN CHURCH OF THE GOOD SH	1108		24	ST	W	2,813.00
A10613	STOUGHTON, ALICE CASADY	1323		GRANITE	AVE		102.00
A11091	BERRY, GALE & AMY	1159		MOON VALLEY	RD		50.00
A11193	ROBERTSON, MATTHEW W	533		PARK	LN		5.00
A11354	STATE OF MT - DEPT OF INSTITUT	1245	N	29	ST		9.00
A11550	BILLINGS CLINIC	2929		10	AVE	N	342.84
A11565	SISTERS OF CHARITH OF LEAVENWO	1233	N	30	ST		273.34
A11592	SISTERS OF CHARITY OF LVNWRTH	1144	N	30	ST		15.00
A12102	DEACONESS MEDICAL CENTER OF BI	904	N	29	ST		223.00
A12194	BILLINGS CLINIC	1002	N	29	ST		57.14
A12226	SISTERS OF CHARITY OF LEAVENWO	1138	N	28	ST		720.00
A12226	SISTERS OF CHARITY OF LEAVENWO	1138	N	28	ST		720.00
A12226	SISTERS OF CHARITY OF LEAVENWO	1138	N	28	ST		720.00
A12971A	POPP, GREGORY A & SHELLY	2706		TREASURE	DR		25.00
A12971A	POPP, GREGORY A & SHELLY	2706		TREASURE	DR		25.00
A13885	THOMAS FAMILY LIVING TRUST, TH	2840		BETH	DR		1.00
A13999	SCHAEFER, JOSHUA T & COREY R	2300		ELIZABETH	ST		25.00
A16557	RIMROCK HOSPITALITY LLC	1315	N	27	ST		15.00
A17196	POULETTE, JOSHUA J & MEGAN	2953		ROCKRIM	LN		25.00
A17571	GRAND LANES INC	1625		CENTRAL	AVE		48.00
A17942	EMERICK, MARIKO G &	230		WYOMING	AVE		9.00
A17949	BALLOU, CAROLYN J	810		2	ST	W	12.00
A19326	ABSMT-O LLC			CENTRAL	AVE		10.00
A19570	IDAHO-WASHINGTON POLE OIL CO	1340		15	ST	W	56.00
A19680	COZZENS, LAWRENCE B & JEANNINE	2760		GREGORY	DR	S	50.00
A19680	COZZENS, LAWRENCE B & JEANNINE	2760		GREGORY	DR	S	50.00
A19680	COZZENS, LAWRENCE B & JEANNINE	2760		GREGORY	DR	S	50.00
A20220	DURAND, KRISTEN M &	828		GOVERNORS	PL		34.00

[illegible]

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Public Hearing and Resolution for Park District 1 Assessment

PRESENTED BY: Andy Zoeller

Department: City Hall Administration

Presentation: No

PROBLEM/ISSUE STATEMENT

This resolution establishes the FY 18 Park District 1 assessment of 1.099% of taxable value, resulting in \$2,000,000 in revenue. The FY 17 assessment was 1.146% of taxable value. There is a per property assessment list in the City Clerk's office.

ALTERNATIVES ANALYZED

The Council must hold a public hearing and then may:

- Approve the resolution; or
- Amend and approve the resolution; or
- Not approve the resolution.

FINANCIAL IMPACT

Applied to a home with a \$200,000 market value, the 1.099% of taxable value would result in an assessment of approximately \$30.00.

RECOMMENDATION

Staff recommends that the City Council hold the public hearing and approve the resolution setting the assessment for Park District 1 for Fiscal Year 2018.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution City Wide Park

RESOLUTION 17- _____

**A RESOLUTION ASSESSING PROPERTIES WITHIN THE CITY OF BILLINGS
FOR THE PARK DISTRICT 1 ASSESSMENT, PROVIDING FOR NOTICE,
HEARING AND ADOPTION.**

WHEREAS, Billings, Montana (the "City") is a municipality duly organized existing under and by virtue of the Constitution and laws of the State of Montana.

WHEREAS: the City Council (the "Council") is authorized by Montana Code Annotated ("MCA"), 7-11-1024 to make assessments or impose fees for the costs and expenses of the special district based upon a budget proposed by the governing body.

WHEREAS: Council adopted the FY 18 Budget on 6/12/17, including the operations and maintenance budget for Park District 1 in the amount of \$3,820,444. Per MCA 7-11-1024 and 7-11-1025(2).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF

BILLINGS, MONTANA, AS FOLLOWS:

1. ASSESSMENT FOR FISCAL YEAR 2018. MCA 7-11-1024(3)(a) (iii) authorizes the Council to assess the percentage of cost for Park District 1 to each parcel of land, including improvements on the lot or parcel for the fiscal year. Each parcel shall pay to the City that portion of the total Park District 1 assessment of \$2,000,000 imposed annually as hereinafter provided, as the total taxable value of each parcel bears to the total taxable value (1.099% per taxable value dollar), within the City.

2 LIST OF PROPERTIES ASSESSED. The official list of those properties subject to the assessment within the District, including the tax code, name/names of the owners of such properties and estimated amount of assessment on each property, is on file for public inspection in the City of Billings Clerk's office per MCA 7-11-1025 (3).

3. NOTICE OF HEARING. On Monday, September 11, 2017 at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council

Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk is hereby directed to publish notice thereof twice, at least five (5) days prior to the hearing, in the Yellowstone County News.

4. EFFECTIVE DATE. This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the 11th day of September, 2017.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Denise R. Bohlman, CITY CLERK

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Public Hearing and Resolution Setting PMD Annual Assessments for Fiscal Year 2018

PRESENTED BY: Andy Zoeller

Department: City Hall Administration

Presentation: No

PROBLEM/ISSUE STATEMENT

The annual assessment resolution for the City's 35 Park Maintenance Districts (PMD's) has been completed by the Finance Department and the assessments are ready to be spread in the tax files for FY 18.

ALTERNATIVES ANALYZED

The Council must hold a public hearing and then may:

- Approve the resolution; or
- Not approve the resolution. The Parks Department could stop maintaining the PMD parks or Council could direct staff to continue maintaining the parks and use General Fund or other resources for that purpose.

FINANCIAL IMPACT

Park maintenance district rates are calculated by estimating the expenses for maintenance and recovering actual expenditures. The total amount to be assessed for all PMD's is \$1,092,253 for FY 18. There are 3 PMD's to be increased:

Kiwanis/Durland	\$1,500
Falcon Ridge	\$5,000
Copper Ridge	\$10,000

These increases are due to an increase of parkland within the PMD, resulting in increased maintenance cost.

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and approve the resolution setting assessments for the City's PMD parks.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution PMD

RESOLUTION 17- _____

A RESOLUTION LEVYING AND ASSESSING ALL PROPERTY WITHIN PARK MAINTENANCE DISTRICTS AN AMOUNT EQUAL TO THE COST OF MAINTAINING THE IMPROVEMENTS IN SAID PARK MAINTENANCE DISTRICTS WITHIN THE CITY OF BILLINGS, PROVIDING FOR NOTICE, HEARING AND FINAL ADOPTION.

WHEREAS, certain Park Maintenance Districts within the City have been created and constructed, and

WHEREAS, certain improvements within those Park Maintenance Districts require maintenance, and

WHEREAS, M.C.A. Section 7-12-4162 provides that the City may levy and assess the costs of maintenance against said districts.

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

1. MAINTENANCE OF IMPROVEMENTS. Certain improvements including trees, shrubs, grass and care thereof require maintenance with certain Park Maintenance Districts.

2. MAINTENANCE DISTRICT BOUNDARIES. The boundaries of the park maintenance districts are established by resolution and are on file in the City Clerk's office.

3. ASSESSMENT METHOD. The entire maintenance costs shall be assessed against the entire district, based on either square footage of the lot or a per lot basis of the entire district exclusive of streets, avenues, alleys and public places all as provided in M.C.A. Section 7-12-4162.

4. COST OF MAINTENANCE. The Parks Department estimates that the cost of maintenance for fiscal year 2018 for the following Park Maintenance Districts is:

<u>PMD Name</u>	<u>Number</u>	<u>Rate</u>
Harvest	684001	.038086 sq/ft
Olympic	684002	.035820 sq/ft
Parkland West	684003	.022394 sq/ft
Kiwanis/Durland	684004	.023299 sq/ft
High Sierra	684005	.008888 sq/ft
Forest Park	684006	.003486 sq/ft
Woodland Estates	684007	.009418 sq/ft

Terra West	684008	.019314 sq/ft
Aspen Grove	684009	.016198 sq/ft
Lakeview Drain	684010	.001670 sq/ft
Montana Avenue	684011	.078006 sq/ft
Country Manor	684012	.011149 sq/ft
Broadway/City Hall	684013	.080164 sq/ft
Rush/Shiloh Point	684014	.006250 sq/ft
Howard heights	684015	.007720 sq/ft
Mission United (West end Bike Trail)	684016	.006703 sq/ft
South Gate	684017	.006052 sq/ft
Frances Park	684018	80.65 per lot
Rolling Hills (Silver Spur Trail)	684019	258.06 per lot
Dokken (Town and Country)	684020	507.00 per lot
Lutheran Park	684022	126.76 per lot
Rimrock West	684023	161.38 per lot
Walden Grove	684024	.023519 sq/ft
Rehberg Ranch	684025	.012028 sq/ft
Uinta and Twin Oaks	684026	114.29 per lot
Ironwood	684027	.016227 sq/ft
Vintage Estates	684028	62.50per lot
Cottonwood	684029	.001830 sq/ft
Kings Green	684030	240.00 per lot
Copper Ridge	684031	384.62 per lot
Riverfront Pointe	684032	26.53 per lot
Falcon Ridge	684033	337.00 per lot
Josephine Crossing	684036	.007692 sq/ft
Terra West Entrance	684038	77.36 per lot
Yellowstone Family	684040	83.12 per lot

5. DISPOSITION OF COLLECTIONS. The monies collected from the assessment shall be paid into the respective Park Maintenance Funds.

6. NOTICE OF HEARING. On Monday, September 11th, 2017, at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk is hereby directed to publish notice thereof twice, at least five (5) days prior to the hearing, in the Yellowstone County News.

7. EFFECTIVE DATE. This Resolution shall be effective upon adoption.

The foregoing Resolution No. _____ was ADOPTED by the City Council and APPROVED on the 11th day of September, 2017.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Denise R. Bohlman, CITY CLERK

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Public Hearing and Resolution Road Maintenance District No. 6

PRESENTED BY: Andy Zoeller

Department: City Hall Administration

Presentation: No

PROBLEM/ISSUE STATEMENT

The annual Road Maintenance District #6 (RMD #6) assessment resolution has been completed by the Finance Department and is ready to be spread on the tax files. This district is for maintaining a secondary fire access road in the Briarwood Subdivision. The assessments must be set no later than October 1 in order for the County Treasurer to collect them in November 2017 and in May, 2018. The fee will remain the same for FY 18 as it was for FY 17.

ALTERNATIVES ANALYZED

The Council must hold a public hearing and then may:

- Approve the resolution; or
- Not approve the resolution. If Council does not approve the resolution, the district will not collect enough money to maintain the road and this would create a conflict with the Subdivision Improvement Agreement and the Fire Code.

FINANCIAL IMPACT

The total assessment of \$2,875 (52 properties at \$55.28) reflects the cost of providing maintenance and repairs as required to meet Fire Code requirements.

RECOMMENDATION

Staff recommends that the City Council hold a public hearing and approve the resolution setting the annual RMD #6 assessment.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution RMD 6

RESOLUTION 17-_____

**A RESOLUTION LEVYING AND ASSESSING ROAD MAINTENANCE
DISTRICT NO. 6 FEES FOR PROPERTIES WITHIN ROAD
MAINTENANCE DISTRICT NO. 6 IN THE CITY OF BILLINGS,
PROVIDING FOR NOTICE, HEARING AND ADOPTION.**

WHEREAS, the City, by Resolution, has defined the boundaries and established a road maintenance district as provided by State Law, and

WHEREAS, Billings Montana City Code and Title 7, Chapter 12, Parts 41 and 44, as amended of the Montana Code Annotated authorizes the City of Billings to adjust the road maintenance district rate and charge to provide for the sufficient collection of revenues adequate for the payment of the reasonable expense of the district.

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

1. METHOD OF ASSESSMENT. The City hereby determines that each lot or parcel of land within Road Maintenance District No. 6 shall be assessed for that portion of the whole cost which each lot or parcel of land in the respective district bears.

2. ASSESSMENT. Each lot or parcel within the boundaries of Road Maintenance District No. 6, is hereby assessed **\$55.28** per lot for fiscal year 2018.

3. LOTS AND PARCELS ASSESSED. A list which describes each lot or parcel of land assessed within the respective district, with the name of the owner thereof,

and the amount levied thereon set is available in the office of the City Clerk, 210 North 27th St, Billings, Montana.

4. COLLECTION OF ASSESSMENTS. Said special assessments shall be placed upon the assessment rolls and collected in the same manner as other taxes.

5. NOTICE OF HEARING. On Monday, **September 11th**, at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk is hereby directed to publish notice thereof twice, at least five (5) days prior to the hearing, in the Yellowstone County News.

6. EFFECTIVE DATE. This resolution shall be effective upon final adoption.

ADOPTED AND APPROVED by the City Council of the City of Billings, Montana, on the 11th day of September 2017.

BY: _____

Thomas W. Hanel, MAYOR

ATTEST:

BY: _____

Denise R. Bohlman, CITY CLERK

Exhibit A

<u>Tax ID</u>	<u>Legal Description</u>
A32132	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 1, Lot 1A, AMD 29382 SQ FT (08)
A32133	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 1, Lot 2, 16843 SQUARE FEET, (06)
A32134	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 1, Lot 3, 18688 SQUARE FEET, (06)
A32135	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 1, Lot 4, 19990 SQUARE FEET, (06)
A32136	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 1, Lot 5, 18532 SQUARE FEET, (06)
A32137	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 1, Lot 6, 18568 SQUARE FEET, (06)
A32138	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 1, Lot 7, 18605 SQUARE FEET, (06)
A32139	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 1, Lot 8, 18641 SQUARE FEET, (06)
A32140	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 1, Lot 9, 18678 SQUARE FEET, (06)
A32141	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 1, Lot 10, 20037 SQUARE FEET, (06)
A32142	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 1, Lot 11, 17170 SQUARE FEET, (06)
A32143	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 1, Lot 12, 21975 SQUARE FEET, (06)
A32144	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 2, Lot 1, 30665 SQUARE FEET, (06)
A32145	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 2, Lot 2, 28271 SQUARE FEET, (06)
A32146	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 2, Lot 3, 22760 SQUARE FEET, (06)
A32147	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 2, Lot 4, 20152 SQUARE FEET, (06)
A32148	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 2, Lot 5, 13290 SQUARE FEET, (06)
A32149	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 2, Lot 6, ACRES 14129, (06)
A32150	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 3, Lot 1, 24360 SQUARE FEET, (06)
A32151	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 3, Lot 2, 22366 SQUARE FEET, (06)
A32152	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 3, Lot 3, 20430 SQUARE FEET, (06)
A32153	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 4, Lot 1
A32154	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 4, Lot 2, 33407 SQUARE FEET, (06)
A32155	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 4, Lot 3, 42372 SQUARE FEET, (06)
A32156	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 4, Lot 4, 46904 SQUARE FEET, (06)
A32157	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 4, Lot 5, 19276 SQUARE FEET, (06)
A32158	THE ESTATES AT BRIARWOOD 1ST FILING, S27, T01 S, R26 E, BLOCK 4, Lot 25, ACRES 17562, (06)
A35428	THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 4
A35429	THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 5
A35430	THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 6
A35431	THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 7
A35432	THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 8
A35433	THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 9
A35434	THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 10
A35435	THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 11
A35436	THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 12
A35437	THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 13
A35438	THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 14
A35439	THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 15
A35440	THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 16
A35441	THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 17

A35442 THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 18
A35443 THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 19
A35444 THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 20
A35445 THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 21
A35446 THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 3, Lot 22
A35447 THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 4, Lot 26
A35448 THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 4, Lot 27
A35449 THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 4, Lot 28
A35450 THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 4, Lot 29
A35451 THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 4, Lot 30
A35453 THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 4, Lot 31
A35453 THE ESTATES AT BRIARWOOD SUB 2ND FIL (15), S22, T01 S, R26 E, BLOCK 5, Lot 1

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Public Hearing & Resolution for Weed Assessments

PRESENTED BY: Andy Zoeller

Department: City Hall Administration

Presentation: No

PROBLEM/ISSUE STATEMENT

The annual weed assessments have been completed by the Finance Department and are ready to be spread on the tax rolls by the attached resolution.

Pursuant to the Billings Montana City Code (BMCC), Section 25-304, property owners are notified in writing and given ten (10) days from the date of the notice of noncompliance to exterminate weeds or tall grass from their property. If owners fail to cut the vegetation, the City may cut it and assess the costs to the real property, together with an additional administrative fee of 25% of the cost of removal, plus a \$25 penalty. If the charges are not paid within a given time, the costs and penalties constitute a lien on the property and special assessments may be levied. The General Fund initially pays the costs, so the collected assessments reimburse those expenses.

The properties on the attached list had weeds removed from them during the growing season, the owners didn't pay the charges and the properties may be assessed to recover the costs, penalty and fee.

ALTERNATIVES ANALYZED

The Council must hold a public hearing and then may:

- Approve the resolution; or
- Not approve the resolution, in which case the property owners will not be assessed, and the General Fund will be responsible for paying for the weed removal.

FINANCIAL IMPACT

The assessments total \$2,597.50 and the payments will reimburse the General Fund.

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and pass the attached assessment resolution.

APPROVED BY CITY ADMINISTRATOR

Attachments

Resolution Weeds

RESOLUTION NO. 17_____

**A RESOLUTION LEVYING A SPECIAL TAX UPON PROPERTY WITHIN
THE CITY OF BILLINGS, MONTANA, TO DEFRAY THE COST OF
CUTTING AND/OR EXTERMINATING WEEDS.**

WHEREAS, Billings, Montana City Code, Section 25-307, provides that the City Clerk shall prepare and present a resolution containing a list of all parcels of land in the City, from which and adjacent to which, the weeds were cut, exterminated and/or removed, and such list shall contain opposite the number of such lots or description of such parcels of land, the name of the owner, if known, and the amount of cost for cutting and removing such weeds.

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

1. LEVYING OF SPECIAL ASSESSMENT. That for the purpose of collecting funds to defray the cost of cutting and removing of weeds, there is hereby levied an assessment upon the owners and the lots or parcels described on the list attached hereto.

2. ASSESSMENT AND COLLECTION. Said assessment shall be placed upon the assessment rolls and collected in the same manner as other assessments.

3. DISPOSITION OF COLLECTIONS. All monies collected from the assessment shall be paid to the General Fund of the City of Billings.

4. NOTICE OF HEARING. On **Monday, September 11th, 2017**, at 6:30 p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the

final adoption of this resolution. The City Clerk published notice hereof twice, on August 25th and September 1st, 2017 in the Yellowstone County News.

5. EFFECTIVE DATE. This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the 11th day of September, 2017.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Denise R. Bohlman, CITY CLERK

Exhibit A

<u>NAME</u>	<u>ADDRESS</u>	<u>TAX CODE</u>	<u>AMOUNT</u>
FLETCHER, BRETT M	2507 LAKE HEIGHTS DRIVE	#C08266	177.50
STEVENSON, FRED W JR	1114 20 ST W	#A02685	177.50
KEITH, DOUGLAS	2215 DAHLIA LN	#A16869	290.00
WEBB, JACK N.	4124 MURPHY DR	#A22951	177.50
FD GROUP 9 LLC	4188 STATE AVE.	#A20297	177.50
EVENSON, TATUM	2417 BROADWATER AVE	#A10246	177.50
HEISER, ERWIN	1204 HAWTHORNE	#C00344	177.50
MONTANA OPTICOM, LLC	5841 CANYONWOODS DR	#A31663	177.50
TOOLE, NICK T	2311 12TH AVENUE NORTH	#A16506	177.50
WINKLER, MARK R	442 LAURIE LN	#C01564	177.50
MEREDITH, W H	1709 ST JOHNS AV	#A17539	177.50
WEGNER HOMES INC	190 W. ANTELOPE TRAIL	#A23155D	177.50
KRAFT, LESLIE	4465 SAN FERNANDO DR.	#C02433	177.50
BEDDOW, CRAIG	720 N WAGNER LN	#C00662C	<u>177.50</u>
		GRAND TOTAL	2,597.50

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Public Hearing and Resolution Setting Annual Light District Assessments for Fiscal Year 2018

PRESENTED BY: David Mumford, Public Works Director

Department: Public Works

Presentation: No

PROBLEM/ISSUE STATEMENT

Montana Code Annotated 7-12-4332 requires that the City Council annually adopt a resolution to assess the costs for each Special Improvement Lighting Maintenance Districts (SILMD) on or before the first Monday in October. The amount assessed is based on anticipated utility rates, estimated maintenance costs and administrative fees, as well as the reserve requirements needed for each district. The attached resolution specifies the proposed SILMD assessments for fiscal year 2018.

ALTERNATIVES ANALYZED

The Council must hold a public hearing and then may

- approve the resolution; or
- not approve the resolution. If Council does not approve the resolution, an amended resolution will need to be adopted at the next City Council meeting for continued operation of the light districts and to be in compliance with state law.

FINANCIAL IMPACT

SILMD assessments for FY 2018 will generate approximately \$2,394,880 in revenues which is the amount calculated to recover the estimated costs of electricity, maintenance, and administration fees and to maintain an adequate cash balance in each light district fund.

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and approve the proposed resolution adopting the annual Special Improvement Lighting Maintenance District assessments for Fiscal Year 2018.

APPROVED BY CITY ADMINISTRATOR

Attachments

FY 17 SILMD Resolution

RESOLUTION 17 - _____

**A RESOLUTION LEVYING AND ASSESSING PROPERTY IN
SPECIAL IMPROVEMENT LIGHTING MAINTENANCE DISTRICTS
OF THE CITY OF BILLINGS, PROVIDING FOR NOTICE, HEARING
AND ADOPTION.**

WHEREAS, certain lighting maintenance districts have been created within the City of Billings, and WHEREAS, State Law provides for assessing the costs of maintaining lights and furnishing electrical current annually within these lighting maintenance districts; and

WHEREAS, Section 7-12-4332, M.C.A. provides that the City shall pass a resolution levying and assessing maintenance costs.

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

1. DISTRICTS AND ASSESSMENTS. The lighting maintenance districts and assessments to defray one hundred percent (100%) of all the costs of maintenance and lighting are hereby levied and assessed as listed on EXHIBIT "A" attached hereto, and by this reference, said exhibit is made a part hereof.

2. PERIOD OF ASSESSMENT. That said assessment is to defray costs for the fiscal year 2018 (July 1, 2017 through June 30, 2018).

3. DISPOSITION OF COLLECTIONS. That the assessments as collected shall be placed in the respective lighting maintenance funds and shall be used to defray the costs of maintenance and lighting as provided by law.

4. NOTICE OF HEARING. On Monday, **September 11, 2017**, at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the adoption of this resolution. The City Clerk is hereby directed to publish notice thereof twice, at least five (5) days prior to the hearing, in the Yellowstone County News.

5. EFFECTIVE DATE. This resolution shall be effective upon adoption.

ADOPTED AND APPROVED by the City Council of the City of Billings, Montana, on the
11th day of September 2017.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Denise Bohlman, CITY CLERK

Exhibit A

District	FY 18
Number	Assessment
8	\$7,800
9	\$8,000
10	\$22,000
13	\$167,000
14	\$83,000
17	\$18,000
18	\$2,160
95	\$9,500
97	\$180,000
99	\$22,600
100	\$36,500
107	\$24,000
109	\$60,000
113	\$6,000
114	\$13,000
115	\$3,100
116	\$8,000
117	\$46,000
118	\$3,500
119	\$2,400
121	\$34,200
122	\$2,640
123	\$4,570
124	\$13,250
125	\$5,300
126	\$2,650
127	\$9,900
128	\$6,960
129	\$4,550
130	\$1,800
131	\$11,900
133	\$3,360
134	\$7,750
135	\$7,280
136	\$6,400
137	\$5,600
138	\$10,250
139	\$3,400
143	\$7,900
144	\$380
145	\$6,600
146	\$5,000
147	\$6,420
149	\$25,700
150	\$10,500
151	\$8,600
152	\$59,000

153	\$7,550
154	\$17,000
155	\$6,850
157	\$12,800
158	\$11,100
159	\$15,000
160	\$9,900
161	\$14,900
162	\$970
163	\$20,000
164	\$5,300
165	\$12,200
167	\$3,290
171	\$7,950
172	\$7,700
173	\$16,500
174	\$13,900
175	\$4,640
176	\$700
178	\$3,550
179	\$7,200
180	\$4,950
181	\$23,200
182	\$8,000
183	\$16,000
184	\$5,280
185	\$1,980
186	\$12,500
187	\$3,300
188	\$3,950
189	\$3,300
190	\$17,000
191	\$5,930
192	\$4,300
193	\$10,600
194	\$5,300
195	\$4,500
196	\$2,300
197	\$1,950
198	\$1,650
200	\$2,900
201	\$6,950
202	\$14,600
203	\$540
204	\$7,800
205	\$560
206	\$4,640
207	\$5,100
208	\$8,900
209	\$7,500
210	\$2,300

211	\$1,720
212	\$0
213	\$0
214	\$6,450
216	\$1,980
217	\$6,200
220	\$6,650
221	\$140
222	\$1,800
223	\$6,150
224	\$25,000
225	\$7,200
226	\$5,200
227	\$10,800
228	\$11,100
229	\$5,740
230	\$13,300
231	\$8,000
232	\$34,800
233	\$22,300
234	\$7,900
235	\$8,700
236	\$3,000
237	\$5,640
238	\$250
239	\$1,290
240	\$7,900
241	\$8,460
242	\$1,150
244	\$1,490
245	\$1,170
246	\$4,600
247	\$16,000
248	\$33,200
249	\$37,500
250	\$4,600
251	\$53,000
252	\$7,600
253	\$26,500
254	\$3,900
255	\$3,800
257	\$16,000
258	\$37,500
259	\$31,000
261	\$6,880
262	\$43,200
263	\$20,000
264	\$4,100
265	\$4,800
266	\$900
270	\$10,000

271	\$13,550
272	\$38,000
273	\$2,800
276	\$8,500
277	\$11,000
278	\$4,300
279	\$870
280	\$13,200
283	\$7,650
285	\$4,600
286	\$3,290
287	\$2,250
288	\$23,600
289	\$0
290	\$2,500
292	\$8,100
293	\$3,180
294	\$6,400
295	\$1,450
296	\$16,900
297	\$2,800
298	\$2,500
299	\$4,600
300	\$5,500
301	\$60,000
302	\$5,500
305	\$15,500
306	\$5,700
307	\$54,000
308	\$3,600
309	\$8,000
310	\$5,700
311	\$6,400
312	\$10,000
313	\$0
315	\$10,500
316	\$15,200
317	\$3,730
318	\$11,000
320	\$2,250
321	\$9,650
322	\$2,850
Total	\$2,394,880

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Public Hearing for Ward Ordinance First Reading - Annexation #17-05

PRESENTED BY: Wyeth Friday

Department: Planning & Community Services

Presentation: No

PROBLEM/ISSUE STATEMENT

City election ward boundaries must be adjusted to conform to city limit amendments resulting from annexation of property into the City. The City Council approved the annexation of property owned by Gary Oakland and Marvin Hessler (Annexation #17-05) on August 28, 2017. The subject property is about 119 acres in size and is described as a portion of Tract A, Certificate of Survey 1651; Tract 1, Certificate of Survey 1871; a portion of Tract 1, Certificate of Survey 2465; Tract 2A, Certificate of Survey 2465; and a portion of the north 30 feet of the NW1/4, NW1/4 of Section 36, T1N, R24E adjacent to Tract 1, Certificate of Survey 2465. The property is located at the northwest corner of the intersection of Rimrock Road and 70th Street West. This annexation requires a change in the boundaries of Ward IV. Two readings are required for this action. The first reading of the ordinance is scheduled for September 11, 2017 along with a public hearing, and the second reading is scheduled for September 25.

ALTERNATIVES ANALYZED

City Council may approve or not approve the ordinance to amend the boundaries of Ward IV on first reading.

- Approving the ordinance will modify the boundaries of Ward IV to include the property owned by Gary Oakland and Marvin Hessler.
- Not approving the ordinance will not modify the boundaries of Ward IV and create a problem where property inside the City Limits is not within one of the City Ward Boundaries.

FINANCIAL IMPACT

There is no budget/financial impact from this action.

RECOMMENDATION

Staff recommends that the City Council hold a public hearing and approve this ordinance on first reading, adding recently annexed property to Ward IV.

APPROVED BY CITY ADMINISTRATOR

Attachments

Ward Ordinance

ORDINANCE NO. 17-_____

AN ORDINANCE OF THE CITY OF BILLINGS, AMENDING BILLINGS MUNICIPAL CODE, CHAPTER 11, ELECTIONS, IN PARTICULAR, SECTION 11-102(c), WARD BOUNDARIES; AND CHANGING THE WARD BOUNDARIES ESTABLISHED THEREIN BY ADDING CERTAIN NEWLY ANNEXED REAL PROPERTY TO WARD IV PROVIDING FOR CERTIFICATION AND REPEALING OF ALL ORDINANCES AND RESOLUTIONS INCONSISTENT THEREWITH.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. AMENDMENT. Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to Ward IV the following described real property:

Tracts of land situated in the SW1/4 of Section 25, T.1N., R.24E., the S1/2 of Section 26, T.1N., R.24E., the N1/2 of Section 35 T.1N., R.24E., and the NW1/4 of Section 36, T.1N., R.24E., P.M.M., Yellowstone County, Montana,

A portion of Tract A, Certificate of Survey No. 1651, Recorded March 25 1977, under Document Number 1046094, of record and on file in the office the Yellowstone County, Clerk and Recorder's: said portion being known as Rimrock Road and being adjacent to Tracts 1, and Tracts 3-6 of said Certificate Of Survey No. 1651;

Tract 1, Certificate of Survey No. 1871, Recorded March 14 1979, under Document Number 1121922, of record and on file in the office the Yellowstone County, Clerk and Recorder's;

A portion of Tract 1, Certificate of Survey No. 2465, Recorded October 1 1987, under Document Number 1458714, of record and on file in the office the Yellowstone County, Clerk and Recorder's: said portion being south and adjacent to Tract 2A, of Amended Tracts 2 and 3, Certificate of Survey No. 2465, Recorded September 16 1996, under Document Number 1845641, of record and on file in the office the Yellowstone County, Clerk and Recorder's,

Tract 2A, of Amended Tracts 2 and 3, Certificate of Survey No. 2465, Recorded September 16 1996, under Document Number 1845641, of record and on file in the office the Yellowstone County, Clerk and Recorder's;

A portion of the north 30.0 feet of the NW 1/4, NW 1/4 of Section 36, T.1N., R.24E., P.M.M., said portion being south and adjacent to said Tract 1, Certificate of Survey No. 2465;

Including all adjacent Right-Of-Way of Rimrock Road, being a part of Yellowstone County road easement for Rimrock Road also described as a

portion of County Road Petition Number 167, filed November 10, 1908,
Declared a County Road December 29, 1908;

Containing 119.370 gross acres and 113.595 net acres, more or less.
(# 17-05) See Exhibit "A" Attached

2. CERTIFICATION. Pursuant to M.C.A. Section 13-3-103, the above change and alteration is hereby certified to the election administrator by the City Council, and the City Administrator or his designee is hereby directed to certify the changes and alterations and to deliver a map showing the boundaries of the ward, the streets, avenues and alleys by name and the ward by number, to the election administrator not more than ten (10) days after the effective date of this ordinance.
3. REPEALER. All other ordinances, sections of the Billings Municipal Code and ordinances inconsistent herewith are hereby repealed.

PASSED by the City Council on the first reading this 11th day of September, 2017.

PASSED by the City Council on the second reading this 25th day of September, 2017.

THE CITY OF BILLINGS:

Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Denise Bohlman, CITY CLERK

(AN 17-05)

[illegible]

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Public Hearing and First Reading of Animal Control Ordinance on Pot bellied Pigs/Public comment

PRESENTED BY: Tom Stinchfield

Department: Police

Presentation: Yes

PROBLEM/ISSUE STATEMENT

The Animal Control Board conducted several meetings to review the existing City Code prohibiting pigs within City limits. The Board was unanimous in the decision to recommend to the Mayor and City Council to allow one pot bellied/micro/mini pig per single family dwelling within City limits. Staff introduced the topic to the City Council at its March 20 and again at its July 17, 2017 work session and Council directed staff to produce an ordinance amending the City Code and schedule it for public hearing and first reading. The proposed code changes will allow one pot bellied/micro/mini pig per single family dwelling with the following restrictions: weight under 125 lbs., spay or neutered, vaccinated in the City, subject to permits issued by the City.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the proposed ordinance. Approving it would allow one pot bellied/micro/mini pig per single family dwelling within City limits; or
- Disapprove the proposed ordinance. Disapproving it would bring no change to the existing ordinance, which prohibits swine.

FINANCIAL IMPACT

There is a small financial impact to the General Fund but staff does not anticipate high costs associated with this ordinance change.

RECOMMENDATION

The Animal Control Board and City staff recommend that the City Council conduct a public hearing and approve the ordinance allowing pot bellied/micro/mini pigs in the City limits.

APPROVED BY CITY ADMINISTRATOR

Attachments

Pot Bellied Pig Ordinance DRAFT

ORDINANCE NO. 17-_____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTIONS 4-302, 4-401, 4-402, 4-409, 4-431, 4-432, 4-433, 4-435, 4-436, 4-437, 4-438, 4-450, AND 4-451; DEFINING "POT-BELLIED PIG" AND ALLOWING ONE (1) POT-BELLIED PIG PER DWELLING UNIT; REQUIRING POT-BELLIED PIGS TO COMPLY WITH ALL REGULATIONS FOR SMALL ANIMALS AND REQUIRING RABIES AND OTHER VACCINATIONS, REGISTRATION AND FEES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY BILLINGS THAT:

Section 1. That section 4-302 of the Billings, Montana City Code is amended so that such section shall read as follows:

Sec. 4-302. – Swine, goats, and pot-bellied pigs within the city.

- (a) No person shall keep any swine (except one (1) pot-bellied pig) or goats within the city at any time except to bring them to market for commercial purposes. When brought to market for commercial purposes, they shall be kept and cared for by the owner or person in their charge at such place as may be authorized.
- (b) The keeping of one (1) pot-bellied pig per dwelling unit as a small animal and in conformance with the requirements of this Article is allowed. However, nothing in this section or chapter shall be intended or interpreted to modify or supersede any applicable land use or rental restrictions including but not limited to covenants, conditions and restrictions and Montana Code Annotated landlord-tenant statutes, or individual landlord rules and policies. Further, nothing in this section or chapter shall be intended or interpreted to supersede any applicable state or federal regulation of pot-bellied pigs.

Section 2. That section 4-401 of the Billings, Montana City Code is amended so that such section shall amend the definition of "small animal" and define "pot-bellied pig" and amend the definition of "Vaccination" to read as follows:

Sec. 4-401. - Definitions.

Terms and words, as used in this article, shall have the following meanings unless the context otherwise indicates:

...

Small animal includes any dog, cat, rabbit, chicken, pot-bellied pig or domesticated small animal, both male and female.

...

Pot-bellied or pot-belly pig means a domesticated miniature Vietnamese, Chinese or Asian pot-bellied or pot-belly pig not exceeding one hundred twenty-five pounds in weight and eighteen inches in height measured at the shoulder.

...

Vaccination means the inoculation of a dog, or cat with anti-rabies vaccine administered by a licensed veterinarian in compliance with regulations established by the state. Pot-bellied pigs shall be required to have the vaccinations listed in Section 4-433(b).

Section 3. That section 4-402 of the Billings, Montana City Code is amended so that such section shall read as follows:

Sec. 4-402. - Small animal permits.

- (a) A small animal permit is required of every dwelling unit ~~of~~ maintaining four (4) or more dogs and/or cats and/or one (1) pot-bellied pig as defined in section 4-401. A small animal permit is required in addition to individual registrations as referenced in section 4-431.
- (b) Every person, dwelling unit, firm, business, or corporation granted a permit under this section shall be subject to regulation and inspection by the animal control officer or the health department. Any small animal permit granted hereunder may be revoked and cancelled by the city upon giving notice as provided in notice and appeal procedure as set forth in subsection 4-402(d).
- (c) Exclusions:
 - (1) No registration fees or small animal permits shall be required of any veterinary hospital, government or government contracted animal shelter, or zoological park.
 - (2) A recognized tax exempt humane society, organization, or animal welfare society must comply with all requirements of the holder of a small animal permit, but the small animal permit fee shall be waived. No registration fees shall be required of dogs/cats waiting for adoption, but rabies vaccinations shall be required of animals over three (3) months of age held over thirty (30) days.
 - (3) The applicant shall, at the time of application for a small animal permit provide the name and address of the owner(s), the name, breed, color, sex, age, proof if the animal(s) have been spayed or neutered, and verification of current rabies vaccination for each animal(s) owned or kept at the dwelling unit, business, or corporation.

(d) The city administrator shall revoke a small animal permit as follows:

- (1) A small animal permit shall be revoked upon refusal to allow inspection, or for three (3) convicted violations of animal ordinances in a twenty-four (24) month period; or for use of shelter facilities to dispose of, or to find homes for surplus puppies and breeding stock; or any other violation of the provisions of this article.
- (2) The city administrator shall give notice to the permittee of any revocation. The notice shall be in writing, shall specify the deficiencies or violations, advise the violator/dwelling unit of the right to appeal, and shall be mailed by certified mail, return receipt requested or personally served. The permittee shall have ten (10) days to appeal the revocation to the city council. The appeal shall be filed in writing with the city clerk. The city administrator shall cause the matter to be placed on the first available agenda. The appellant shall be notified by certified mail or personally served with notice of the date of the council meeting at least three (3) days prior to the hearing. The matter shall be considered by the council after the appellant has had an opportunity to be heard in person or by counsel at the regular council meeting in which the matter appears on the agenda.

Section 4. That section 4-431 of the Billings, Montana City Code is amended so that such section shall read as follows:

Sec. 4-431. - Required.

The owner of every dog, cat or pot-bellied pig kept, harbored or maintained within the city shall register the dog, cat or pot-bellied pig within thirty (30) days after the dog, cat or pot-bellied pig becomes three (3) months old, or within thirty (30) days in the case of a dog, cat, or pot-bellied pig three (3) months or older newly brought into the city or acquired by new owner. Animals placed in private homes by a tax exempt animal welfare organization for foster care while actively looking for a new permanent home will be required to be registered if in the foster home for over six (6) months.

Section 5. That section 4-432 of the Billings, Montana City Code is amended so that such section shall read as follows:

Sec. 4-432. - Application.

At the time of application for registration the name and address of the owner, the name, breed, color, sex, age, verification if the animal has been spayed or neutered and current vaccination history for rabies administered by a licensed veterinarian shall be required for each dog, or cat; that registration is sought. Pot-

bellied pigs shall be registered as required herein and shall be spay or neutered but shall not be required to have a rabies vaccination.

Section 6. That section 4-433 of the Billings Montana City Code is amended so that such section shall read as follows:

Sec. 4-433. - Proof of vaccination prerequisite.

(a) No dog/cat, registration shall be issued unless the applicant therefore produces satisfactory proof that the dog/cat has been vaccinated with a rabies vaccine currently effective. Such proof may be made by presenting the vaccination receipt referred to in section 4-409; provided that when a dog/cat has been reclaimed from the animal shelter, registration fees shall be paid prior to release of the dog/cat. If satisfactory proof of rabies vaccination cannot be produced, the registration tag shall be retained by the city until the dog/cat, has been vaccinated or proof of vaccination is produced. Proof of vaccination must be provided to the city or its registration authority within thirty (30) days after the dog/cat becomes three (3) months old, or within thirty (30) days in the case of a dog/cat three (3) months or older. Failure to provide proof of vaccination will result in the registration being void.

(b) Specific Required Vaccines for Pot-Bellied Pig are:

(1) Tetanus and Tetanus Booster;

Section 7. That section 4-435 of the Billings, Montana City Code is amended so that such section shall read as follows:

Sec. 4-435. - Fees.

(a) Dog, cat, and pot-bellied pig registration fees shall be prescribed by council resolution.

(b) Dog, ~~and cat,~~ registrations shall be issued by duly appointed registration agents, upon proof that the animal has a current rabies vaccination, and if a pot-bellied pig is being registered, proof of the vaccinations required of pot-bellied pigs in Section 4-433(b) shall apply, as well as proof of spay or neuter, upon payment of an annual registration fee. Such registration shall expire on the last day of the month one (1) year from the month of issuance and shall become delinquent on the first day of the following month or shall expire when such applicable rabies-vaccinations ~~is are~~ no longer current, whichever comes first. Delinquent fees shall be prescribed by council resolution.

(c) Persons over sixty-five (65) years of age shall pay fifty (50) percent of the fees imposed under this section, but not less than one dollar (\$1.00). Satisfactory proof of age shall be furnished to the registration authority, appointed registration agent, or city officials.

Section 8. That section 4-436 of the Billings Montana City Code is amended so that such section shall read as follows:

Sec. 4-436. - Exemptions and registration tag provisions.

- (a) No registration shall be required for dogs, cats, or pot-bellied pigs brought into the city for the purpose of participating in any dog, cat, or pot-bellied pig show; but such dogs, cats, or pot-bellied pigs must be vaccinated as required by section 4-409. Further, pot-bellied pigs shall be vaccinated as required by Section 4-433(b).
- (b) Registrations shall be required for service animals, when such animals are actually being used as service animals, but the fees provided for in section 4-435 shall be waived. Such service animals must be vaccinated as required by section 4-409.

Section 9. That section 4-437 of the Billings Montana City Code is amended so that such section shall read as follows:

Sec. 4-437. Tags and collars.

- (a) Upon payment of the registration fee under this division, the registration authority or agent designated as herein provided shall issue to the owner a registration certificate in the form of a receipt and a metallic tag for each dog, cat, or pot-bellied pig so registered. The tag shall have stamped thereon the year for which it was issued and the number appearing on the certificate. The dog, cat, or pot-bellied pig is required to display a registration and vaccination tag when off of the owner's property.
- (b) No registration provided for in this chapter is transferable, and no registration tag shall be fastened to any dog, cat, or pot-bellied pig other than the one for which it was issued.
- (c) Any person who knowingly fastens a registration tag or a vaccination tag to any dog, cat, or pot-bellied pig other than the one for which such tag was issued or who willfully permits such dog, cat, or pot-bellied pig to wear any registration tag or vaccination tag issued for another dog, cat, or pot-bellied pig shall be subject to civil penalties as specified in section 18-1304. The animal control officer shall impound every dog, cat, or pot-bellied pig found bearing a registration tag or vaccination tag not issued for that dog, cat, or pot-bellied pig, and shall dispose of such dog, cat, or pot-bellied pig as provided by section 4-450.

(d) In case a registration tag is lost or destroyed, the owner of the dog, cat, or pot-bellied pig shall apply to the registration authority or agent for a duplicate tag and shall be issued a duplicate tag upon presentation of the receipt showing payment for the registration for the current year and upon payment of a fee.

(e) In case a vaccination receipt is lost or destroyed, the owner of the dog, cat, or pot-bellied pig shall apply to the veterinarian who vaccinated the dog, cat, or pot-bellied pig for a duplicate receipt.

Section 10. That section 4-438 of the Billings, Montana City Code is amended so that such section shall read as follows:

Sec. 4-438. - Unregistered dogs/cats/pot-bellied pigs.

Every person who knowingly keeps, feed, harbors or allows to stay about any premises occupied or controlled by such person, any unregistered dog, cat, or pot-bellied pig or upon which no registration tag current and valid vaccination tag are kept as required by section 4-437 shall be subject to civil penalties as specified in section 18-1304.

Section 11. That section 4-450 of the Billings, Montana City Code is amended so that such section shall read as follows:

Sec. 4-450. Disposition of unclaimed animals. Every dog, cat, or pot-bellied pig impounded shall be held for a period of not less than forty-eight (48) hours nor more than seventy-two (72) hours after such impounding and if not claimed by the owner the animal shall become the property of the city or its designated agent.

Section 12. That section 4-451 of the Billings, Montana City Code is amended so that such section shall read as follows:

Sec. 4-451. Collection of fees for impounded animals.

Before any dog, cat, pot-bellied pig or other animal is released, the animal shelter shall collect from the person claiming/adopting such dog, cat, or pot-bellied pig the usual registration fee for such dog, cat, or pot-bellied pig if it is not already registered, subject to the conditions outlined in section 4-450.

Section 13. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other

provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

Section 14. Repealer. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 15. Effective Date. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

PASSED by the City Council on first reading this ____ day of _____, 2017.

PASSED, ADOPTED and APPROVED on second reading this ____ day of _____, 2017.

CITY OF BILLINGS

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: _____
Denise R. Bohlman, City Clerk

Regular City Council Meeting

Meeting Date: 09/11/2017

TITLE: Resolution Establishing Animal Control Permit Fees including Pot bellied/
Pigs

PRESENTED BY: Tom Stinchfield

Department: Police

Presentation: Yes

PROBLEM/ISSUE STATEMENT

The Animal Control Board conducted several meetings to review the existing City Code prohibiting pigs within City limits. The Board was unanimous in the decision to recommend to the Mayor and City Council to allow one pot bellied/micro/mini pig per single family dwelling within City limits. Staff introduced the topic to the City Council at its March 20 and again at its July 17, 2017 work session and Council directed staff to produce an ordinance amending the City Code and schedule it for public hearing and first reading. The proposed code changes will allow one pot bellied/micro/mini pig per single family dwelling with the following restrictions: weight under 125 lbs., spay or neutered, vaccinated in the City, subject to permits issued by the City. The Animal Control Board recommends a permit fee of \$25. Animal Control does not anticipate high costs associated with this ordinance change and the \$25 fee will cover printing permits and employee hours.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the proposed resolution establishing a \$25 annual permit fee for pot bellied/micro/mini pigs; or
- Disapprove the proposed resolution. Disapproving the resolution would prevent Animal Control from recovering costs of issuing permits for these animals.

FINANCIAL IMPACT

There is a small financial impact to the General Fund as staff does not anticipate high costs associated with this ordinance change. The \$25 fee for a pot bellied/micro/mini pig permit will cover printing permits and employee hours.

RECOMMENDATION

The Animal Control Board and City staff recommend that the City Council approve the resolution charging a fee in the amount of \$25 for a pot bellied/micro/mini pig permit. Staff also recommends that the permit fee amend the current resolution and go into effect after the ordinance's second reading.

APPROVED BY CITY ADMINISTRATOR

Attachments

Pot Bellied Pig RES Permit Fees

RESOLUTION NO. 17-_____

**A RESOLUTION AMENDING RESOLUTION NO. 17-10606
ESTABLISHING FEES TO BE CHARGED BY THE CITY
ANIMAL CONTROL; AND PROVIDING AN EFFECTIVE
DATE.**

WHEREAS, Section 4-453 of the Billings, Montana City Code provides that the City Council shall establish from time to time the fees to be charged by Animal Control; and

WHEREAS, Animal Control fees need to be changed to reflect changes to the Animal Ordinance allowing potbellied/micro/mini pigs within the City limits and requiring a permit; and

WHEREAS, the City Council has duly considered the matter.

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

1. ANIMAL CONTROL FEES: The fees to be charged by Animal Control are hereby established as follows:

Licenses Registrations:

Duplicates \$2.50

Unaltered* Dog/Cat registration for 1 year \$30.00

Spayed/neutered license registration for 1 year \$7.50

Unaltered* Dog/Cat registration for 3 years \$80.00

Spayed/neutered registration for 3 years \$15.00

Senior Citizen 65 or older shall receive 1/2 off license registration fees.

Late fee \$ 5.00

*Unaltered = unsprayed/unneutered.

Potentially Dangerous Dog Registration \$100.00, annually

Dangerous Dog Registration \$100.00, annually

Small Animal Permit \$30.00, annually, plus license
Registration fee for each animal

Animal Release Fee \$2.00

Disposal Fee \$30.00

Euthanasia Fee \$35.00

Rabies Submission Fee \$40.00

Veterinarian Clinic Monthly Disposal Fee \$150.00

Drug & Paraphernalia Disposal Fee \$25.00 per pound
Maximum \$250.00 per burn

Trap Rental \$10.00 per week

Urban Chicken Permit Fee \$25.00, annually

Hobbyist Bee Keepers Permit Fee \$10.00, annually

Pot Bellied/Micro/Mini Pig Permit Fee \$25.00, annually

2. TERM OF FEES: Said fees shall continue in full force and effect until changed by the City Council by subsequent resolution.

3. EFFECTIVE DATE: The above resolution shall be effective thirty (30) days after passage and approval on Second Reading of Pot Bellied Pig Ordinance No. 17-_____.

ADOPTED AND APPROVED by the City Council of the City of Billings, Montana,
on the _____ day of _____, 2017.

CITY OF BILLINGS

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: _____
Denise R. Bohlman, City Clerk