CITY ZONING COMMISSION

AGENDA-Tuesday, October 14, 2020, 4:30 p.m.

Virtual Format

NOTICE TO THE PUBLIC

Public Comment:
There will be a Public Comment Section as noted on the agenda. This is the time members of the public may comment on any item not appearing on the agenda by calling 406-237-6165. Under State law, matters presented under this section cannot be discussed or acted upon by the Zoning Commission during this time. For items appearing on the agenda, the public will be invited to make comments at the appropriate time. It is very important to speak clearly, and state your name and address for the record. Please limit your comments to three (3) minutes or less.

Call the meeting to order.

Introduction of City Zoning Commission Members and Planning Department Staff.

Public Comment

Public Hearings:

a. The City Zoning Commission has concluded a series of six public hearings reviewing the Zoning Code Amendments and Map Update through Project Re:Code, a three-year collaborative effort initiated by the Yellowstone County Board of Planning in June 2017. The mission of the initiative by the Board was to ensure the zoning regulations for the City and County were updated to help implement the Growth Policies and community goals. The current regulations were first adopted in the County in 1972 and have not been thoroughly updated since adoption.

This final public hearing is to review the amendments and map update and to make a formal recommendation on these changes to the City Council for their consideration. The City Council is scheduled to hold a public hearing and first reading on the amendments and map update on November 9, 2020.

Other Business/Announcements

Adjournment

The City Council has designated Monday, November 9, 2020, at 5:30 p.m. as the date and time to receive the Zoning Commission recommendation

Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to bartleyr@ci.billings.mt.us

Testimony regarding the above mentioned item may also be submitted in writing to the Planning Division, 2825 3rd Avenue North, 4th Floor, Miller Building, Billings, MT 59101 (247-8676) or to the Mayor and City Council, P.O. Box 1178, Billings, MT 59103.

City Zoning Commission

Meeting Date: 10/14/2020

SUBJECT: Project ReCode - City Zoning Commission - Zoning Code Amendment and Map Update - Public Hearing

THROUGH: Nicole Cromwell **PRESENTED BY:** Nicole Cromwell

Information

REQUEST

The City Zoning Commission has concluded a series of six public hearings reviewing the Zoning Code Amendments and Map Update through Project Re:Code, a three-year collaborative effort initiated by the Yellowstone County Board of Planning in June 2017. The mission of the initiative by the Board was to ensure the zoning regulations for the City and County were updated to help implement the Growth Policies and community goals. The current regulations were first adopted in the County in 1972 and have not been thoroughly updated since adoption.

This final public hearing is to review the amendments and map update and to make a formal recommendation on these changes to the City Council for their consideration. The City Council is scheduled to hold a public hearing and first reading on the amendments and map update on November 9, 2020.

RECOMMENDATION

Planning staff recommends approval of the proposed Zoning Code Amendment and Map Update based on the findings of the ten criteria for zone changes.

APPLICATION DATA

OWNER: NA
AGENT:
LEGAL DESCRIPTION:
ADDRESS:
CURRENT ZONING:
EXISTING LAND USE:
PROPOSED USE:
SIZE OF PARCEL:

CONCURRENT APPLICATIONS

NA

APPLICABLE ZONING HISTORY

The current zoning regulations for the City were adopted on May 3, 1972 and unified with the County zoning regulations in December 1997. Since 1972, the City has amended the text of the regulations and added several zoning districts. The city has amended the 1972 zoning code 166 times in the past 48 years since its adoption. Of those 166 amendments, six were major changes. The first occurred in 1977 when the code was updated in its entirety and re-adopted. The second major amendment added the new zoning district for the Medical Corridor in 1986. The next major amendment occurred in 1989 when the entire sign code was replaced with a new code. The combining of the City and County zoning codes took 3 years of editing and drafting and was finally adopted in 1997. In 2004 and 2005, the city adopted the Shiloh Corridor Overlay District to apply higher site design,

landscaping and sign standards within this corridor. The sixth major change to the code happened in 2012 with the adoption of the new section for the East Billings Urban Renewal District (EBURD).

In 2017, in anticipation of a comprehensive code update, the City and County agreed to formally separate the zoning codes to aid in the process of the comprehensive update known as Project Re:Code.

SURROUNDING LAND USE & ZONING

NORTH: NA	Zoning: Land Use:
SOUTH:	Zoning: Land Use:
EAST:	Zoning: Land Use:
WEST:	Zoning: Land Use:

BACKGROUND

In 2016, the City Council adopted a new Growth Policy that updated a 2008 policy and presented several new community goals. These goals were stated in a set of "guidelines" under the seven major themes of the policy update:
1. Essential Investments (relating public and private expenditures to public values)
2. Place Making (enhance, maintain, preserve, and improve existing public places)
3. Community Fabric (attractive, aesthetically pleasing, uniquely Billings)
4. Strong Neighborhoods (livable, safe, sociable and resilient neighborhoods)
5. Home Base (healthy, safe and diverse housing options)
6. Mobility and Access (transportation choices in places where goods and service are accessible to all)
7. Prosperity (promoting equal opportunity and economic advancement)

The Growth Policy statement adopted by the City Council is:
"In the next 20 years, Billings will manage its growth by encouraging development within and adjacent to the existing City limits, but preference will be given to areas where City infrastructure exists or can be extended within a fiscally constrained budget and with consideration given to increased tax revenue from development. The City will prosper with strong neighborhoods with their own unique character that are clean, safe, and provide a choice of housing and transportation options."

The City/County Planning Board realized the existing zoning regulations, intended to implement the Billings and Yellowstone County adopted Growth Policies, were no longer effective tools for advancing these goals. The existing code was primarily based on a set of growth goals adopted before 1970 with some new code sections added to try and achieve smaller area goals. The Planning Board initiated this major code update in June 2017 and appointed an ad hoc Steering Committee to help guide the process of the code update. The City Council and Board of County Commissioners were in complete agreement with the need for a major code update.

The Steering Committee set to work and met monthly from August 2017 until December 2017. In December 2017, the Steering Committee finalized a set of Guiding Principles for the code update and appointed four Working Groups to handle the intensive, hands-on work of updating the code. Those groups included some Steering Committee members as well as interested residents. The four groups consisted of the County Issues Working Group, the Urban Issues Working Group, Sign Code Working Group and Landscaping Code Working Group. The groups met monthly from January 2018 until January of 2020 to review, draft, and accept public comment on the draft code sections. The City and County also agreed to fund the services of a consultant team to help the Steering Committee and Working Groups evaluate the code deficiencies, analyze the character of Billings and County neighborhoods, and help draft a new set of regulations.

The consultant team was hired in April 2018 and consists of Elizabeth Garvin, of Community ReCode (CO), Leslie Olberholtzer of Codametrics (IL) and Randy Hafer of High Plains Architects (MT). This team met with each Working Group through the project development and helped the local residents create a code that is uniquely crafted for our local community goals. Best practices were brought to the table from around the Rocky Mountain

region as well as similar communities throughout the country. A Code Assessment was presented to the community in October 2018 that helped the Steering Committee and Working Groups create a path forward to building the new code.

The Planning Division requested and was awarded VISTA members to assist with the code analysis in particular as it related to creating new attainable housing choices in Billings. The VISTA members created a Billings Pattern Guide which is an online publication and guide to the core neighborhoods of Billings. The VISTA members analyzed Home Mortgage Data to find out if there were neighborhoods in Billings where home loans might be skewed or denied due to race or ethnicity. Some Billings neighborhoods had much lower mortgage origination rates than others but there was no clear distinction based on the applicants race or ethnicity.

The VISTA members also completed special research to analyze the existing housing choices in Billings and identify gaps in market demand and housing supply. Their findings indicated a mismatch between the household size (1 & 2 person households >60% of Billings) and the housing choices available (3+ bedroom housing >60% of housing stock). We have a deficit of one and two-bedroom housing stock. A detailed research project was completed about the re-emerging housing choice of an Accessory Dwelling Unit (ADU) in the country. ADUs became very popular throughout the US in the post-WWII building boom and over 900 of these units still exist in Billings, although the 1972 zoning code made most of them non-conforming to code. All of this information and public education helped inform the work of the Urban Issues Working Group while they considered new neighborhood zone districts.

On July 21, 2020, the City Zoning Commission began its series of six public hearings on the new code. The first session covered the proposed new residential zone districts and the requirements for these new zone districts. There are currently 22 zone districts where residential uses are allowed and only 10 of those districts are restricted to just residential uses. The Code Assessment completed by the consultant team and accepted by the Steering Committee indicated our code could be less complicated by coding for the development style and character of our existing neighborhoods. This resulted in seven neighborhood zone districts based on those neighborhood characteristics and uses. Those seven zone districts are:

N1 - First Neighborhood Residential
N2 - Mid-Century Neighborhood Residential
N3 - Suburban Neighborhood Residential
NX1 - Mixed Residential 1
NX2 - Mixed Residential 2
NX3 - Mixed Residential 3
RMH - Residential Manufactured Home

On July 22, 2020, the Commission met to review the special uses that may be allowed in these new zone districts and the proposed new zoning process called Planned Neighborhood Development (PND) to address new neighborhoods to be annexed. The special uses reviewed were Accessory Dwelling Units (ADUs) and Short Term Rentals (STRs). The current zoning code does not allow either of these particular uses within a residential area. Commission member Jack King asked the Zoning Commission to have a further discussion on the proposed ADU regulations in this final hearing. Current code recognizes every dwelling unit on a property as a "primary" use of property. For example, a property in a residential zone that requires 9,600 square feet for each dwelling unit, an owner could build two dwellings if the lot is at least 19,200 square feet (1/2 acre). This lot area would be required regardless of the size or location of the second dwelling unit. The current code does not categorize dwellings as "primary" or "accessory". The proposed code would recognize an "accessory" dwelling by its size, location and its less than "primary" use. The accessory dwelling could not be sold as a separate dwelling unit, it has to stay with the primary dwelling forever. The proposed code would require one of the dwelling units to be owner-occupied and an accessory dwelling could not be a third unit on the property. In other words, you could have a primary dwelling and an accessory dwelling but if you already have two primary dwelling units you cannot add a third as an accessory dwelling unit. There are several other restrictions on size, design and other site development requirements. The new code would apply to new construction and to existing ADUs if the owner wants to take advantage of the new code allowance. Only four zone districts will be allowed to have an ADU by right: N1, N2, NX1 and RMH. The N3 zone would require a special review approval by the City Council to add an ADU to a property. The new ADU regulations would not override subdivision covenants or restrictions.

The proposed Short Term Rental regulations were reviewed by the Commission and there were no concerns about this draft. This draft is a set of "starter" regulations the city will likely revisit in one or two years to make adjustments as the new code is implemented. On any given day there are several hundred short term rentals advertised within the city although most of these locations are within residential neighborhoods. The Code Enforcement Division handles between one and five complaints each calendar year on short term rentals. In most cases, the owners were not aware the use was not allowed in the residential zone and the short term renting is stopped. The proposed code would allow this use - either as a guest house (renting a bedroom or a space within an occupied dwelling) or as a tourist home (an unoccupied dwelling) in residential areas and in some mixed use zone districts. The STR would have to be registered with the city and a 24/7 contact person named for any complaints about disruptions from the guests or if there are issues with property maintenance.

On July 23, 2020, the Commission met to review the new Commercial, Mixed Use, Industrial and Public zone districts. The proposed zoning districts for Commercial and Mixed Uses include the following:

CBD - Central Business District - existing
DX - Downtown Support
CMU1 - Corridor Mixed-Use 1
CMU2 - Corridor Mixed-Use 2
NMU - Neighborhood Mixed-Use
NO - Neighborhood Office-Residential
CX - Heavy Commercial
EBURD - East Billings Urban Renewal District (5 sub- zone districts) - existing

These eight zone districts will replace the current lineup of 12 zone districts. The EBURD zone districts east of downtown and the CBD zone district will remain essentially same as current code. The ten retired zone districts have corollary zone districts such as the Residential Professional (RP) zone district is similar to the proposed Neighborhood Office-Residential (NO) zone district. The Downtown Support (DX) zone district will replace the S 27th St Corridor zone and the CC zoning along North 27th Street from downtown towards the airport, along 6th Avenue North and west of downtown to Division Street. The CMU1 and CMU2 will replace the CC zoning along commercial corridors and some of the Neighborhood Commercial (NC) zoning along these corridors. The NMU and NO districts will replace the NC and RP zoning in character with the site development and proximity to neighborhoods. The CX zone will replace most of the Highway Commercial (HC) zoning and some of the CI zoning.

The Industrial zone districts are essentially the same as the current industrial districts but area re-named to Light Industrial (I1) and Heavy Industrial (HI). Most of the existing uses will remain the same along with the basic setbacks, lot coverage and height limitations. Some of the incompatible uses allowed in the CI or HI zone districts, such as hospitals, nursing homes, residential dwellings, are not being carried forward into the new industrial zone districts. Some of the areas currently zoned CI may not update to the I.V district because of these less than industrial property uses. For example, some of the CI zoning on the south side of King Ave West will update to the CMU2 or CX zone to better fit the established uses.

The Public zone district will now have three sub-categories to better represent and predict the future uses of these zone districts. The proposed P1 zone will be for open space, parks and recreational property (public or private). The P2 zone district is a designation for schools, churches or religious institutions, cemeteries and civic uses with one or two structures on the property. The P3 zone is intended for larger campuses with three or more primary buildings focused on education, medical services or civic uses. These categories of Public zoning should help neighbors understand the expectations for the use and development of these adjacent parcels.

On September 15, 2020, the Commission met in a joint session with the County Zoning Commission to review the new Landscaping and Off-street Parking requirements as well as the new Proportionate Compliance section. The County has already adopted the new landscaping regulations (May 2019). The city's new landscaping regulations are similar and are a point-based system where the developer and designer can make a wide variety of choices to meet the landscaping requirements. A new provision in the code is that all zone districts for all developments will need to meet the minimum street frontage landscaping requirements. For most of the city zone districts this requires

one street tree for every 40 feet of street frontage, but downtown will require a street tree for every 25 feet of street frontage. The Downtown Business Alliance and the City Engineering Division agree this was a reasonable number of street trees given the urban design of downtown with little private property landscaping. The P1 zone district is exempt from this requirement. Street trees can be planted within the front yard (within 10 feet of the back of the sidewalk) or in the public right of way with City Engineering approval.

The Off-street Parking requirements are not within the current city zoning code. The existing code section under the city code for Buildings will be retired and the parking requirements placed back into the zoning code. The construction specification for parking lots will remain under the purview of the City Engineering Division, but the parking ratio requirements will be part of the zoning code. The parking code has been updated based on an initial draft create by the Parking Advisory Board and staff in 2014. The Working Groups picked up where the 2014 draft left off and updated based on current understanding of parking demand, increasing demand for bike parking and the need for better walkability in commercial zones. Most of the mixed use zone districts will require off-street parking to be constructed to the side or rear of buildings so the building can be place along the main street frontage. Buildings that frame streets tend to slow traffic and provide more commercial visibility to drivers and pedestrians. It reduces the need for large freestanding signs since the buildings are prominent along the street frontage rather than a parking lot. There are provisions in the code that allow limited front yard parking in some of the zone districts and allow a double row of side yard parking in other zone districts. Downtown and the EBURD zone districts will continue to be exempt from minimum off-street parking requirements.

The Proportionate Compliance section of the code is intended to allow existing developed parcel incrementally increase site development amenities - such as landscaping and off-street parking - without triggering the full legal nonconforming compliance requirements. For example, a property developed along Grand Avenue in 1972, will likely not have much if any street frontage landscaping and may not meet the full off-street parking requirements. If the property were to change uses and a significant investment is proposed to upgrade the building, the Proportionate Compliance regulations can gradually allow some landscaping to be installed or parking spaces to be added without requiring full compliance with the new code.

A September 16, 2020 joint session with the County Zoning Commission was postponed to September 22 due to the lack of a quorum. This joint session on September 22, covered the new Sign Code, Nonconformities, Measurements and Definitions section. The new sign code was the result of gleaning the best features of the existing seven sign codes for the city and county, and two years of monthly meetings of the Sign Code Working Group. The resulting single sign code will result in new signs that make sense in the context of the zone district, the neighborhood and urban areas of Billings. The maximum height of freestanding signs is reduced from 30 feet to 25 feet, how to measure the size of the sign is clarified, and several signs not currently subject to regulations are included in this new code.

On September 23, 2020 the City Zoning Commission met a final time to review the draft Zoning Map Update and the Administrative Procedures in the new code. The zoning map update will move parcels in to one of the new zone districts based on the existing zone and current development of the property. The Planning staff and consultant team release an initial draft map in May 2019 and have been review and correcting errors as these or reported by property owners or found during an internal review. There are have eight map updates since May 2019. Final small corrections are still coming in and those will be added and corrected on the map as necessary up until the first reading of the update by the City Council.

The Administrative Procedures section has collected all of the processes currently scattered throughout the code into one code section for ease of understanding by the public and the administrators of the new code. Everything from internal staff review of building permits and site plans, to Zone Changes and Planned Neighborhood Developments is covered in this one code section. Flow charts and tables of processes are included throughout to help illustrate the sometimes obscure nature of zoning approvals. One item of note has changed from current practice and that is the way we define and process Special Review uses. Current code approaches a special review use as an "allowed" use. This puts the burden of proving a negative consequence on the City Council rather than the applicant. The proposed code defines a special review use as a special exception to the allowed uses in the zone district and will require the applicant to prove the use will not burden or have unmitigated impacts on the neighborhood. The new code has also reduced the number of special review uses listed in the use table so each zone

district is more predictable for neighborhoods.

In all six sessions, the City Zoning Commission conducted a combined in-person/virtual and live broadcast meeting. The public could attend in-person, call in to the hearing or join and make comments via the Zoom meeting. Comments were received from Blaine Poppler with a concern about the off-street parking section and the requirement to place most new parking lots to the side or the rear of new commercial developments. The proposed Mixed-Use zone district do require this site development requirement so the business neighborhood can offer a more walkable environment. When parking is developed to the side of a building, the structure can be located at the street front, which adds visibility for people traveling by car or on foot. Framing the public street with buildings - rather than parking - contributes to lower traffic speeds and enhances the visibility of signs. Some cities that have adopted similar parking rules have allowed "limited front yard parking" (see attachments). This allows the development of a short section of a frontage road with some parking along the front of the buildings with safe access to the side and rear yard parking. This would allow some parking along the front of a building. The Working Groups considered this proposal but agreed the new code would better allow for change over time on the existing commercial corridors.

SUMMARY

Before making a recommendation to the City Council, the City Zoning Commission will consider the findings of the ten review criteria for zoning changes and map updates:
1) Whether the new zoning is designed in accordance with the growth policy;
The proposed Zoning Amendments and Map Updates are consistent with the 2016 Billings Growth Policy Statement and Growth Guidelines:

Statement:

> *In the next 20 years, Billings will manage its growth by encouraging development within and adjacent to the existing City limits, but preference will be given to areas where City infrastructure exists or can be extended within a fiscally constrained budget and with consideration given to increased tax revenue from development. The City will prosper with strong neighborhoods with their own unique character that are clean, safe, and provide a choice of housing and transportation options.*

Growth Guidelines:

- **Essential Investments** (relating to public and private expenditures to public values)
  - Planning and construction of safe and affordable interconnected sidewalks and trails are important to the economy and livability of Billings.
  - 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
  - Natural landscapes are important because they define the uniqueness of Billings and help protect the environment
  - Landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors
  - Infill development and development near existing City infrastructure may be the most cost effective
  - The history and heritage of Billings are cornerstones of our community
  - Neighborhoods that are safe and attractive and provide essential services are much desired
  - Infrastructure and service investments that stabilize or improve property values, secure future utility costs, consider maintenance costs, and improve our environmental quality far into the future (i.e.. energy efficient) are desirable
- **Place Making** (enhance, maintain, preserve and improve existing public places):
  - Enhancement and maintenance of public spaces and buildings through City stewardship is integral to a vibrant community
  - Public and private partnerships are valuable for creating enhanced entryways into Billings
  - Locally grown foods help sustain agriculture, provide healthy options, and support local businesses
  - Encouraging the installation of art in public spaces enhances the places and showcases the talents and diversity of the community
- **Community Fabric** (attractive, aesthetically pleasing, uniquely Billings)
  - Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant

commercial activity
    - Attractive street scapes provide a pleasant and calming travel experience in urban and suburban neighborhoods
    - Outdoor public spaces provide casual and relaxing gathering areas for people
    - Cost-effective landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors
- **Strong Neighborhoods** (livable, safe, sociable and resilient neighborhoods)
    - Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels
    - 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
    - Safe and livable neighborhoods can be achieved through subdivision design that focuses on complete streets, pedestrian-scale street lights, street trees and walkable access to public spaces
    - Implementation of the Infill Policy is important to encourage development of underutilized properties
- **Home Base** (healthy, safe and diverse housing options)
    - A mix of housing types that meet the needs of a diverse population is important
    - The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future development
    - Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe
    - Homes that are safe and sound support a healthy community
    - Accessory dwellings units provide an important type of affordable housing options if compatible
- **Mobility and Access** (transportation choices in places where goods and services are accessible to all)
    - Connecting people to places with transportation choices is vital to the well-being of Billings' residents, businesses and visitors
    - Safe and accessible transportation systems benefit everyone's quality of life
    - Affordable public transit is much desired
    - Development oriented to transit routes will provide more transportation choices and is preferred
- **Prosperity** (promoting equal opportunity and economic advancement)
    - Predictable, reasonable City taxes and assessments are important to Billings' taxpayers
    - A diversity of available jobs can ensure a strong Billings' economy
    - Successful businesses that provide local jobs benefit the community
    - Community investments that attract and retain a strong, skilled and diverse workforce also attracts businesses
    - Retaining and supporting existing businesses helps sustain a healthy economy

As the Steering Committee and Working Groups considered each code section for the City of Billings, these Growth Guidelines and the Guiding Principles set forth by the Steering Committee in January 2018 were front and center to the discussions and decision making. The proposed Zoning Code and the Zoning Map update meet and exceed each one of the guidelines listed above. The proposed code conserves the un-renewable resource of land so the city can better meet the needs of all its residents, businesses and visitors now and into the future.

2) Whether the new zoning is designed to secure from fire and other dangers;
The new zoning requires minimum setbacks, open and landscaped areas and building separations in most of the new zone districts. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers. The proposed code is more predictable for public safety services by eliminating the unlimited height in the multi-family zone districts, and by making site design for safe access part of the development requirements for new construction.

3) Whether the new zoning will promote public health, public safety and general welfare;
Public health, public safety and the general welfare will be promoted by the proposed zoning code update. The proposed neighborhood zone districts remove the unnecessary 1972 suburban zoning designation from Billings' first neighborhoods, restoring property equity throughout these districts. The new neighborhood zone districts reflect the development character of existing zones rather than imposing a pattern that does not exist and never existed in these areas of Billings. The new code allows developers and builders to choose this historical

development pattern for new neighborhoods as well. The Planned Neighborhood Development zoning tool will allow the city to plan new neighborhoods in partnership with owners so these newly annexed areas fit better. The PND rules allows the city to be a full participant at the table rather than accepting a zone decision and neighborhood plan developed without city input.

4) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
Transportation: The proposed zoning code should help the city provide transportation across the entire spectrum of options from public transit, private vehicles, walking and biking. Sprawling development patterns of homogenous land uses separated by miles from different land uses is an unsustainable development pattern. It unnecessarily increases vehicle trips, drives up demand for parking spaces, wider and more abundant high speed arterial streets, contributes to air pollution and unhealthy life styles. The proposed code will allow new neighborhoods to be close to everyday services, will require amenities that support walking (street trees), and allow compact site designs that are currently prohibited by our out-of-date zoning.
Water & Sewer: The proposed code will make extension and renewal of existing city water and sewer services more sustainable by allowing traditional development patterns to persist and to be replicated in new neighborhoods.
Schools and Parks: Schools and parks should be sustainable with the new zoning code. The creation of new Public zone districts specific for these public facilities will help maintain these large pieces of the community fabric in neighborhoods. Demand for additional classroom space further and further from the urban core may persist for some time, but the sustainability and renewal of close in neighborhoods should provide more opportunity for in-fill that will maintain student populations within existing schools. Parks will be part of every new Planned Neighborhood Development and will be developed. The requirement can count towards the state requirement for dedication of parkland for new residential subdivisions (or payment of cash-in-lieu), but every new neighborhood will have at least a small gathering space to improve the sociability and resiliency of these new areas.

5) Whether the new zoning will provide adequate light and air;
The proposed zoning, as does the current zoning, provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6) Whether the new zoning will effect motorized and non-motorized transportation;
The new zoning has updated off-street parking requirements that better reflect the parking demand for land uses. This will allow businesses to supply the right amount of parking and for neighborhoods to be assured off street parking is adequate for new developments. The new code supports the efforts of many of our neighborhoods by allowing existing neighborhood service business to stay in place. Non-motorized travel should also be improved with the new standards for zone districts that require street front landscaping for all new development, and the provision for at least one bike parking rack at new businesses.

7) Whether the new zoning will promote compatible urban growth;
The new zoning does promote compatibility with urban growth. The City and County will have separate zoning codes but the new code requires the use of a Planned Neighborhood Development (PND) process to ensure compatibility between the city and the county.

8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;
This criteria is not necessarily applicable other than the Zoning Map Update will place each zoned parcel into a new zone district that correlates to the existing zoning of the property and the existing or intended uses of the property. For example, a manufacture home park in a single family zone district would update to Residential Manufactured Home.

9) Whether the new zoning will conserve the value of buildings;
In general, the new zoning code should conserve the value of buildings throughout the City. The Zoning Map update seeks to ensure that current development and zoning is preserved and not placed in a nonconforming status whenever possible.

10) Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings.

The zoning map update will encourage the most appropriate use of land in the City of Billings.

RECOMMENDATION

Planning staff recommends approval of the proposed Zoning Code Amendment and Map Update based on the findings of the ten criteria for zone changes.

Attachments

Draft Zoning Code Amendment
Northwest Map Section
North Central Map section
Northeast Map Section
South West Map Section
South Central Map Section
South East Map Section
Zoning Map Legend
Limited front yard parking example 1
Limited front yard parking example 2

JULY 2020
Billings
27-100 General Provisions
27-200 Zone Districts Generally
27-300 Residential Districts
27-400 Commercial and Mixed Use Districts
27-500 Public Districts
27-600 Industrial Districts
27-700 Planned Development
27-800 Planned Neighborhood Districts
27-900 EBURD
27-1000 Use Table and Use Standards
27-1100 Proportionate Compliance
27-1200 Landscaping
27-1300 Parking and Loading
27-1400 Signs
27-1500 Nonconformities
27-1600 Administrative Procedures
27-1700 Violations, Enforcement, and Remedies
27-1800 Measurements and Definitions

ARTICLE 27-100: GENERAL PROVISIONS

SECTION 27-101 TITLE

This chapter and maps shall be known and cited as the City of Billings Zoning Code.

SECTION 27-102 PURPOSE

A. The Zoning Code, classifications, and the districts as herein set forth are in accordance with MCA 76-2-301, et seq., Municipal Zoning.

B. This Zoning Code has been established in accordance with the 2016 City of Billings Growth Policy and ancillary and related policy documents including but not limited to adopted neighborhood plans, area plans and City Council adopted policies related to growth and development of city services and has 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 these goals, this Zoning Code 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.

C. The city council of the City of Billings further declares these zoning regulations are adopted for the following specific purposes:

1. To promote and guide development consistent with the goals and objectives of the Growth Policy and area plans;
2. To prevent waste and inefficiency in land use;
3. 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
4. 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 Growth Policy and area plans.

SECTION 27-103 SCOPE

A. This chapter applies to all lands within the City of Billings.

B. In their interpretation and application, the provisions of this Zoning Code may be regarded as the minimum requirements for the protection of the public health, safety, comfort, prosperity, and welfare.

C. 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.

SECTION 27-104 SEPARABILITY CLAUSE

If any provision of this Zoning Code or its application to any person or circumstances is held invalid, the remainder of the Zoning Code or the application of the provision to other persons or circumstances is not affected.

SECTION 27-105 EFFECTIVE DATE AND ARCHIVED ZONING CODE

This Zoning Code shall become effective on_____. The zoning code that was effective immediately prior to this Zoning Code shall be retained and referred to as the Archived Zoning Code. One copy of the Archived Zoning Code shall remain of record in the Planning and Community Services Office and one copy shall be stored in the City Clerk's office, either in hard copy or electronically. An unofficial public copy may also be maintained on the City's website.

SECTION 27-106 SCHEDULE OF FEES, CHARGES, AND EXPENSES

The city council shall establish a schedule of fees, charges and expenses and a collection procedure for appeals and other matters pertaining to this chapter. This schedule may be amended from time to time by resolution of the city council.

SECTION 27-107 TRANSITIONAL PROVISIONS

A. EXISTING APPROVALS

This Zoning Code 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 Zoning Code. Applications and permits that have not achieved final approval as of the effective date of this Zoning Code shall be processed according to the provisions of this section.

B. APPROVED PROJECTS

1. Validity

(a) Except for planned developments approved prior to the effective date of this Zoning Code, permits and approvals that are valid on the effective date of this Zoning Code shall remain valid until their expiration date. Projects with valid approvals or permits may be carried out in accordance with the development standards in effect at the time of approval, provided that the permit or approval is valid and has not lapsed.

(b) 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 Zoning Code , it may be completed under the regulations in effect at the time of issuance without regard to this Zoning Code; provided, that construction is begun within six months of the effective date and diligently prosecuted to completion. Upon completion, the structure may be occupied under a City of Billings certificate of occupancy by the use for which originally designated, even if the structure or use is nonconforming under the terms of this Zoning Code.

2. Changes

No provision of this Zoning Code shall require any change in the plans, construction, or designated use of any structure for which a building or planning permit has been issued prior to the effective date.

3. Extensions

The decision-making body that granted the original approval may renew or extend the time of a previous approval if the required standards or criteria for approval remain valid.

Any extension granted shall not exceed the time specified for the extension of the specific permit approval in Sec. 27-1600, Administrative Procedures.

C. RE-APPLICATION

Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.

D. PLANNED DEVELOPMENTS AND MASTER SITE PLANS APPROVED PRIOR TO THE EFFECTIVE DATE

1. Any planned development identified on the zoning map and approved prior to the effective date shall remain valid. Planned Developments that refer to zone districts not included in this Zoning Code shall use the Archived Zoning Code requirements. For example, a reference to an underlying zone district of “Community Commercial” shall refer to the use table, use standards, and other requirements for that zone district in the Archived Zoning Code.

2. Planned Development and Master Site Plan approvals that predate the adoption of this Zoning Code shall be narrowly interpreted and are limited to the specified terms of approval. Where a term was not included in the PD or MSP approval, the most closely similar provision of this Zoning Code shall be applied. For example, if a planned development does not specify a process for amendment, the process for amending planned development approvals in tis Zoning Code will be used.

E. APPLICATIONS IN PROGRESS

1. Completed Applications

(a) Complete applications submitted before the effective date and pending approval at the time of adoption of this Zoning Code may, at the applicant's option, be reviewed wholly under the terms of the previous zoning code. If approved, these projects may be carried out in accordance with the development standards in effect at the time of application. Any re-application for an expired permit shall meet the standards in effect at the time of re-application.

(b) Complete preliminary subdivision and check print certificate of survey applications submitted prior to the effective date of this Zoning Code shall continue to be processed as long as they are compliance with the terms of the previous zoning code. The lots created may be conforming or nonconforming to the terms of this Zoning Code. The owner or agent may request written confirmation of conformance or non-conformance with this Zoning Code.

2. No Applications Submitted

Projects for which no application has been submitted and accepted as complete prior to the effective date shall be subject to all requirements and standards of this Zoning Code.

3. Lapsing

Regardless of whether or not a completed application has been received prior to the adoption of this Zoning Code, any permit or approval issued following the adoption of this Code shall be subject to the lapsing provisions of Section 27-1612.

F. LAPSING OF PREVIOUS APPROVALS

If (a) a development permit or approval has been approved prior to the effective date of this Zoning Code; and (b) under the prior zoning code, that type of permit or approval did not

have a lapsing date, but (c) under this Zoning Code that type of permit or approval is subject to a lapsing date under Section 27-1612, then the permit or approval shall be subject to lapsing under Section 27-1612, but the lapsing periods set forth in Section 27-1612 shall be deemed to begin running on the effective date of this Zoning Code, not the date of the prior permit or approval.

G. SPECIAL USE PERMITS DEEMED APPROVED

If (a) a use of land or structures was listed as a permitted use in a specific zone district under the previous zoning code, and (b) that use of land or structures was established on property in that district prior to the adoption of this Zoning Code, and (c) the same use of land or property is now listed as a special review use in the same district in Table 27-1000.1, then the established use shall be deemed to have received a special review approval and shall be a legal, conforming use of land. Upon request by the property owner and submission that the use was established prior to approval of this Zoning Code, the zoning coordinator shall provide written confirmation of the legal, conforming status of the use.

SECTION 27-108 VIOLATIONS CONTINUE

Any violation occurring under the previous Zoning Code will continue to be a violation under this Zoning Code and be subject to penalties and enforcement pursuant to Sec. 27-1700, Violations, Enforcement, and Remedies, unless the use, development, construction, or other activity currently complies with the provisions of this Zoning Code.

ARTICLE 27-200: Zone Districts and Official Zoning Map

SECTION 27-201 ZONE DISTRICTS

A. It is the intent of this article to establish zones (zone districts or zoning districts) 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 article 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.

B. To carry out the provisions of this article, the City is hereby divided into the following zone 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.

Table 27-200.1 Zone Districts Established

Abbreviation	District Name
N1	First Neighborhood Residential
N2	Mid-Century Neighborhood Residential
N3	Suburban Neighborhood Residential
NX1	Mixed Residential 1
NX2	Mixed Residential 2
NX3	Mixed Residential 3
RMH	Residential Manufactured Home
NO	Neighborhood Office-Residential
NMU	Neighborhood Mixed-Use
CMU1	Corridor Mixed-Use 1
CMU2	Corridor Mixed-Use 2
CBD	Central Business District
DX	Downtown Support
CX	Heavy Commercial
I1	Light Industrial
I2	Heavy Industrial
EBURD	East Billings Urban Redevelopment District
P1	Parks and Open Space
P2	Public, Civic, and Institutional, Small
P3 Civic	Civic Campus
P3 Ed	Educational Campus
P3 Med	Medical Campus

SECTION 27-202 OFFICIAL ZONING MAP

A. The boundaries of the zone districts are 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 article. The Official Zoning Map shall be identified by the signature of the mayor, attested by the city clerk, and shall bear the words "the Official Zoning Map of the City of Billings". 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 Planning Division and the Billings City Clerk. An electronic version of the official map may be displayed on the City of Billings website or other online venue at the discretion of the city council.

B. All references in this Zoning Code to the zoning map shall be construed as references to the Official Zoning Map.

C. Changes made in district boundaries shall be promptly entered on the zoning map after amendment by the city council. Amendments to the zoning map shall not become effective until entered on the map.

D. No changes of any nature shall be made in the zoning map or matter shown thereon except in conformity with the provisions set forth in this Zoning Code. In the event the hard copy of the Official Zoning Map is damaged or destroyed, a new version shall be printed and submitted to the city council for review. No such map shall have the effect of amending the official zoning map or any subsequent amendment thereof.

SECTION 27-203 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

A. The following rules shall be applied as necessary to interpret the official zoning map. Rules of interpretation may be applied either singularly or jointly, as needed.

1. Boundaries indicated as appearing to follow the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as appearing to follow platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as appearing to follow the City's jurisdictional boundary shall be construed as following the jurisdictional boundary.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines. In the event of change in the shoreline, they shall be construed as moving with the actual shoreline.
6. 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.

B. Boundaries indicated as parallel to or extensions of features indicated in above Subsections A.1 through A.6 shall be so construed.

C. 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 amending the official zoning map.

SECTION 27-204 APPLICATION AND GENERAL RULES

A. Within the various zone districts and as indicated on the zoning map and subject to the requirements of those districts in Articles 27-300 through 27-600, 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 allowed in the zone district in which such building, land, or use is located unless the provisions of Article 27-1500, Nonconformities, applies.

B. The regulations set forth by this Zoning Code within each zone shall be minimum regulations and shall apply uniformly to each class or type of structure or land except as otherwise specifically stated in this Zoning Code.

Article 27-300 Neighborhood Districts

SECTION 27-301 DISTRICTS ESTABLISHED

The neighborhood zoning districts are established in Table 27-300.1. When this zoning code refers to “neighborhood” zoning districts, it is referring to these districts.

TABLE 27-300.1 NEIGHBORHOOD DISTRICTS

Symbol	Neighborhood District Name
N1	First Neighborhood Residential
N2	Mid-Century Neighborhood Residential
N3	Suburban Neighborhood Residential
NX1	Mixed Residential 1
NX2	Mixed Residential 2
NX3	Mixed Residential 3
RMH	Residential Manufactured Home

SECTION 27-302 DISTRICT DESCRIPTIONS

Neighborhood districts are primarily intended to allow a mix of residential uses within appropriately scaled buildings to maintain and promote the desired physical character of neighborhoods within the city.

A. N1: FIRST NEIGHBORHOOD RESIDENTIAL

The N1 district is intended to continue the existing character of single-and two-family homes in the first residential neighborhoods developed in the early part of the twentieth century in the city. This district may also be used for new neighborhoods designed with similar characteristics of the first neighborhoods. These characteristics include parking/garages located in the rear of the lot, pitched roofs, and doors and windows on the front facades. Building and garage location are specified in the regulations, with basic parameters for front doors and windows.

B. N2: MID-CENTURY NEIGHBORHOOD RESIDENTIAL

The N2 district is intended to continue the existing character of the residential neighborhoods with single-and two-family homes developed during the middle of the twentieth century. This district may also be used for new neighborhoods designed with similar characteristics of the mid-century neighborhoods. These characteristics include homes wide on the lot, single garages located in the front facade though less than 35% of the facade, low pitched roofs, and doors and windows on the front facades. Building and garage location are specified in the regulations, with basic parameters for front doors and windows.

C. N3: SUBURBAN NEIGHBORHOOD RESIDENTIAL

The N3 district is intended for residential neighborhoods primarily with single-family homes. Characteristics include wide lots and attached garages typically located on the front building façade, often greater than 35% of the façade. Basic setback and height parameters apply.

D. NX1: MIXED RESIDENTIAL 1

The NX1 district is intended to continue the character of the first neighborhoods with single-family, two-family, and small-scale multiple-family homes with 3 to 4 units. Multiple-family homes are intended to match the scale of the neighborhood single-family homes with characteristics such as building width, parking and garages location, roof design, and doors and windows on the front facades.

E. NX2: MIXED RESIDENTIAL 2

The NX2 district is intended for small- and mid-scale multiple-family homes with 2 to 8 units, in small neighborhood nodes. The buildings are oriented to the streets in walkable blocks with doors and windows on front facades and parking/garages located behind the buildings.

F. NX3: MIXED RESIDENTIAL 3

The NX3 district is intended for large-scale multiple-family homes in larger neighborhood nodes. The buildings may include larger apartment buildings with more than eight units per structure. The development may have an internal private street system for access throughout the larger node with walkable blocks. Buildings are oriented to the street with doors and windows on front facades and parking/garages located behind the buildings. Covered parking may include rows of canopies or enclosed garages. Common open space, shared recreational facilities, or central gathering spaces are generally provided for residents.

G. RMH: RESIDENTIAL MANUFACTURED HOME

The RMH district is intended to provide stable environments for individual manufactured homes, manufactured home parks, and compatible accessory uses.

SECTION 27-303 REGULATIONS APPLICABLE TO ALL NEIGHBORHOOD DISTRICTS

All buildings must comply with the general regulations and the specific regulations per each district, unless otherwise expressly stated in this ordinance. See Article 27-1600. Nonconformities for existing buildings that do not fully conform to the district regulations.

A. ALLOWED USES

Allowed uses are provided in Article 27-1000.

B. EXISTING BUILDINGS

Existing buildings are not required to meet these regulations except as defined in Article 27-1500. Nonconformities.

C. SITE ACCESS FOR LOTS

Access to residences must be from any public or approved private street right-of-way. All lots shall have one lot line located fully on a public or private street right-of-way, except one of every four lots in the development may be located on a shared open space.

D. PERMANENT STRUCTURES

All buildings constructed in any neighborhood district, except the RMH district, must be of permanent construction without a chassis, hitch, or wheels, or other features that would make the structure mobile, unless otherwise expressly stated in this code. Modular construction that meets state adopted building code is allowed.

E. ACCESSORY STRUCTURE REGULATIONS

1. Accessory structures are subject to Article 27-1000 Uses, except as defined in the district site and structure regulations.
2. Façade siding on accessory structures over 200 square feet in footprint must match the façade material and design of the principal structure to the maximum extent practicable.

F. EXCEPTIONS AND EXEMPTIONS

The following exceptions and exemptions may apply to the district site and structure regulations. Use specific standards in Article 27-1000 are still applicable.

1. Utility Installations. The following structures are not required to comply with site and structure regulations applicable to a specific district.
   (a) Wireless communications facilities and uses
   (b) Public and private utility stations, substations, and associated utility station facilities
2. Civic and Institutional Uses. Civic and institutional uses allowed in the district are required to the meet the district site and structure regulations, except the following applies:
   (a) The minimum dimension of any build-to zone shall be treated as a minimum setback.

(b) Minimum heights are not required. Heights above the maximum allowed may be approved through an Administrative Relief, based upon similar civic structures on similar lots in the surrounding neighborhood. See Article 27-1600 for Administrative Relief procedure.

(c) Window, front door, and roof regulations are not required.

G. TRASH, RECYCLING, REFUSE LOCATIONS

For all buildings with five or more units, all trash, recycling, and other refuse areas must be located and treated as follows:

1. Trash, recycling, and other refuse areas must be located in the rear yard of the lot.
2. When no rear yard exists or when the rear yard is less than 10 feet in depth, trash, recycling, and other refuse areas may be located in the rear portion of an interior side yard.
3. Trash, recycling, and other refuse areas may be located inside the building with access doors off the rear or interior side facade. Access doors may be located off a non-primary frontage facade with a design exception per Article 27-1600. Access doors must be opaque, screening a minimum of 80 percent of the opening.
4. See Article 27-1200 for required screening of trash, recycling, and other refuse areas.

H. ALLOWED ENCROACHMENTS

The following encroachments are permitted within setbacks as defined in Table 27-300.2. Encroachments are not allowed where a build-to zone is required.

TABLE 27-300.2 TABLE OF ALLOWED ENCROACHMENTS

Type of Encroachment	Front Setback	Side Setback	Rear Setback	Street-Side Setback	Additional Info
Eaves, gutters, cornices, other arch features	2 feet	2 feet	2 feet	2 feet	Projections over 2 feet in any yard count as lot coverage
Fireplaces Bay Windows	2 feet	2 feet	2 feet	2 feet	
Open or Enclosed Porches, Stoops	8 feet (N3, RMH) All others not less than 5 feet to front P/L	None	2 feet	2 feet	
Open decks, Stairways & Landings	8 feet (N3 & RMH) All others not less than 5 feet to front P/L	2 feet	2 feet	2 feet	Ramps providing an accessible way are exempt from these requirements

I. YARD TREATMENT

Build-to zones, and front, side and rear yards shall be a minimum of 60 percent landscape area. Driveways are not permitted within the minimum side setbacks.

J. FRONT ENTRANCES

The following applies only when required by the site and structure regulations for the district. Front building entrances shall be emphasized, adding interest to the building façade, through one or more of the following design features:

1. Roof or Canopy. The entrance is covered by a roof or canopy differentiating it from the overall building roof type.
2. Porch. The entrance is through a porch.
3. Sidelights and Transom. Sidelights and/or transom windows are included abutting the entrance door.
4. Recessed or Projecting Bay. The entrance is located in a separate bay of the building that is either recessed or projected from the front façade.
5. Other Design. Other designs adding emphasis and drawing attention to the entrance on the facade may be approved with Administrative Relief (Art. 27-1600).

K. ARTERIAL SETBACKS

Minimum arterial setbacks as follows apply to all neighborhood districts:

1. No building or structure shall be erected or maintained within 50 feet of the centerline of an arterial street. In addition, no required parking area or portion thereof, including driving aisles, shall be constructed or located within 40 feet of the centerline of an arterial street. 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 these locational standards.
2. Approved signs and public use controls and systems, trees trimmed up eight feet and canopies with at least eight 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.
3. The designation of a street as an arterial shall be recommended by the city engineer, or in conformity with the most recent urban transportation plan.

SECTION 27-304 N1 DISTRICT

The following site and structure regulations apply to any lot in the N1 district. Refer to 27-303 for general regulations applicable to all districts and Table 27-300-3, below, for regulations specific to this district, keyed to illustrations in Figure 27-300(1). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-300.3SITE AND STRUCTURE REGULATIONS

			REFERENCES
A.	**BUILDING SITING**		
1	Minimum Lot Width (feet) per principal building Maximum Lot Width (feet) per principal building	20 80	See 27-304.D for 2-unit buildings. See Article 27-1500 existing lots of record.
2	Maximum Front Building Width (feet)	65 per principal building	
3	Front Build-to Zone (feet)	8-20; match block face average	See Article 27-1800 for block face averaging instructions.
4	Street-Side Build-to Zone (feet)	5-15	
5	Side Setback (feet) Space Between Principal Buildings on Lot (feet)	5 minimum 10 minimum	See 27-304.D for side street lots
6	Rear Setback (feet)	5 minimum	
7	Accessory Building Yard Location	Rear	
8	Accessory Building: Min. Rear Setback (feet)	3, except 0 at alley	
9	Maximum Building Coverage (%)	60	.
10 11	Permitted Driveway Access Location Attached Garage Entrance Location	Alley, side street if no alley Rear, side, or street-side façade; front façade allowed maximum 15 feet in width and no more than 30% of facade	See Article 27-1305 for driveway access.
B.	**HEIGHT**		
12	Principal Building: Maximum Height (stories) Maximum Height (feet)	2.5 34	See Article 27-1800 for instructions for measuring height Accessory roof pitch shall match principal building
12	Accessory Building: Maximum Height (stories) Maximum Height (feet)	2; not taller than the principal structure 27	
C.	**WINDOWS, FRONT DOOR, ROOF**		
14	Minimum Window & Door Coverage: Front Façade (%)	15 measured per story of all full stories	Measured per each full and half story. See Article 27-1800 for information on measuring front façade window & door coverage
15	Front Door Location Entrance Treatment	Front Façade See 27-303.J for Front Entrance	See 27-304.D for 2-unit buildings.
16	Permitted Roof Types Minimum pitch, less than 2 stories Minimum pitch, 2 or more stories	Pitched, tower permitted 4:12 (rise:run) 3:12 (rise:run)	See Article 27-1800 for definition of roof types and exception for other allowed roof types. See Article 27-1500 for existing buildings

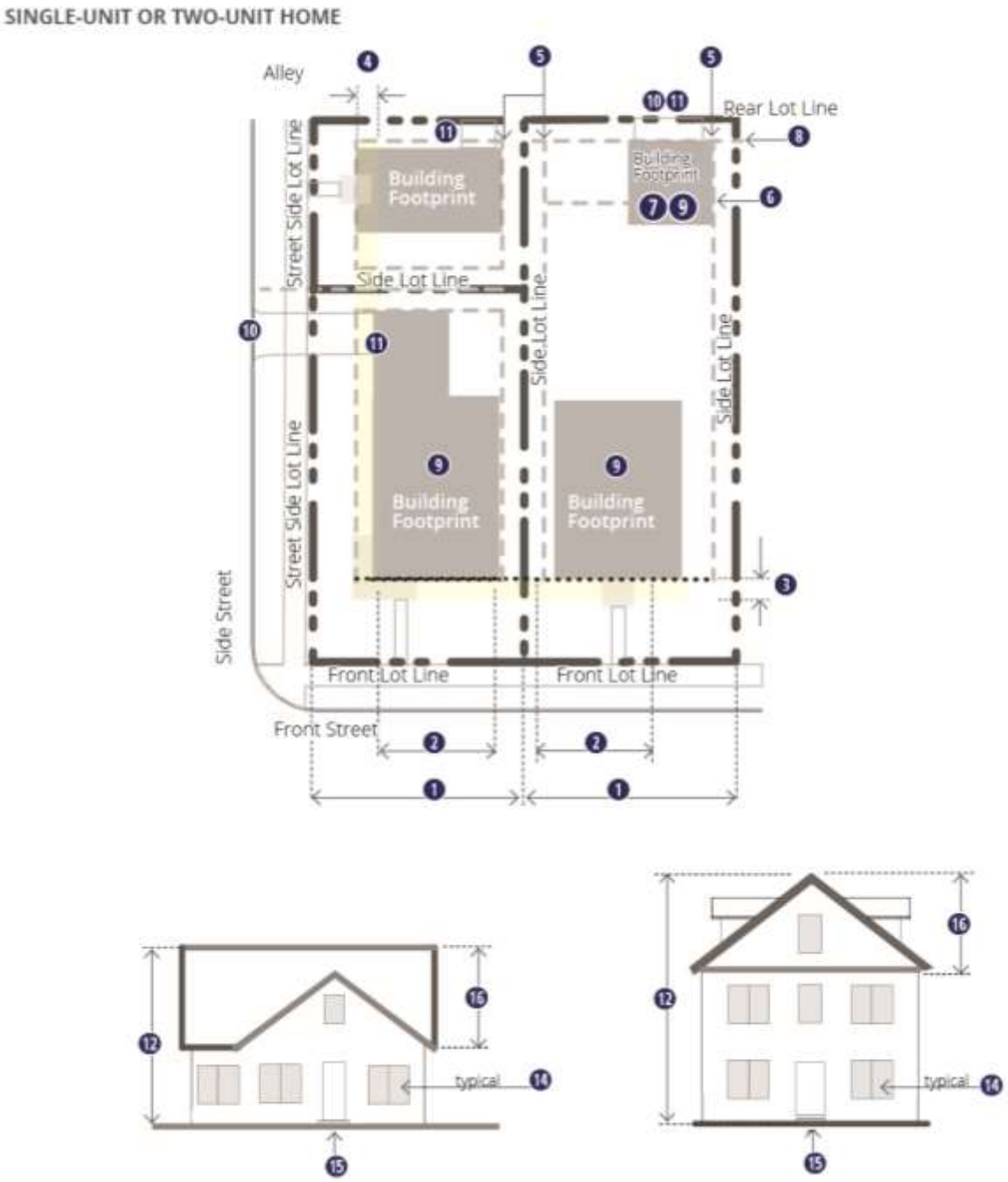


Figure 27-300(1). N1 district diagrammatic plans and elevations.

D. Supplemental Regulations

1. Side Street Lots. Side street lots are those lots located along the short end of blocks, where the front of the lot faces the side street and the depth of the lot is generally the width of most of the lots on the block. Lots with only side street frontage are allowed maximum building coverage of 80%.
2. The following applies to 2-unit buildings:

(a) Configuration. Allowed configurations include the following: side-by-side units, stacked units, front and rear units, all located in the principal building; two principal buildings on one lot; or a principal building with an accessory building (see Article 27-1000). For side-by-side units, the lot may be split to allow a fee simple configuration with a zero side yard setback and shared wall between the two units.

(b) Entrance. One entrance is permitted per street facade, except for side-by-side units on separate lots.

SECTION 27-305 N2 DISTRICT

The following site and structure regulations apply to any lot in the N2 district. Refer to 27-303 for general regulations applicable to all districts and Table 27-300-4, below, for regulations specific to this district, keyed to illustrations in Figure 27-300(2). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-300.4 SITE AND STRUCTURE REGULATIONS

			REFERENCES
A.	**BUILDING SITING**		
1	Minimum Lot Width(feet) per principal building Maximum Lot Width (feet) per principal building	50 120	See 27-305.D for 2-unit buildings. See Article 27-1500 existing lots of record.
2	Maximum Front Building Width (feet)	80 per principal building	
3	Front Build-to Zone (feet)	10-20; match block face average	See Article 27-1800 for block face averaging instructions
4	Street-Side Build-to Zone (feet)	10-15	
5	Side Setback (feet) Space Between Principal Buildings on Lot (feet)	5 minimum 10 minimum	
6	Rear Setback (feet)	5 minimum	See 27-305.D for side street lots
7	Accessory Building Yard Location	Rear	
8	Accessory Building: Rear Setback (feet)	3 minimum, except 0 at alley	
9	Maximum Total Building Coverage (%)	40	
10 **1**	Permitted Driveway Access Location Attached Garage Entrance Location	Any Any façade; front façade limited to no more than 35% of façade	See 27-1305 for driveway access exceptions
B.	**HEIGHT**		
12	Principal Building: Maximum Height (stories). Maximum Height (feet)	1.5; 2 stories on maximum 60% of footprint 27	
12	Accessory Building: Maximum Height (stories)	1.5 stories, no taller than the principal building	Accessory roof pitch shall match principal building
C.	**WINDOWS, FRONT DOOR, ROOF**		
14	Minimum Window & Door Coverage: Front Façade (%)	15 per story	Measured per each full and half story. See Article 27-1800 for information on measuring window and door facade coverage
15	Front Door Location	Street Façade	See 27-305.D for 2-unit buildings.
16	Permitted Roof Types Minimum pitch Maximum pitch	Low pitched, flat 3:12 (rise:run) 6:12 (rise:run)	See Article 27-1800 for definition of roof types and exception for other allowed roof types.

Figure 27-300(2). N2 district diagrammatic plans and elevations.

D. Supplemental Regulations

1. Side Street Lots. Side street lots are those lots that along the short end of blocks, where the front of the lot faces the side street and the depth of the lot is generally the width of most of the lots on the block. Lots with only side street frontage are allowed maximum building coverage of 80%.
2. The following applies to 2-unit buildings:

(a) Configuration. Allowed configurations include the following: side-by-side per below, stacked units, front and rear units, all located in the principal building; two principal buildings on one lot; or a principal building with an accessory building (see Article 27-1000).

(b) Side-by-side units in N2 shall be located perpendicular to the street in a U-shaped configuration with a courtyard or shared yard. The lot may be split to allow a fee simple configuration with a zero side yard setback and shared wall between the two units. Two units attached end to end are permitted with a maximum width along the street of 60 feet.

(c) Entrance. One entrance is permitted on the street, except for side-by-side units on separate lots, the entrances may be located off the courtyard.

SECTION 27-306 N3 DISTRICT

The following site and structure regulations apply to any lot in the N3 district. Refer to 27-303 for general regulations applicable to all districts and Table 27-300-5, below, for regulations specific to this district, keyed to illustrations in Figure 27-300(3). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-300.5 SITE AND STRUCTURE REGULATIONS

	A. BUILDING SITING		REFERENCES
1	Minimum Lot Width (feet) per principal building Minimum Lot Size (square feet) per principal building	65 none	See Article 27-1500 existing lots of record. See 27-306.C for exemption from minimum lot widths.
2	Maximum Building Width (feet)	None	
3	Front Setback (feet)	20 minimum	
4	Street-Side Setback (feet)	10 minimum	
5	Side Setback (feet) Space Between Principal Buildings on Lot (feet)	5 minimum 10 minimum	
6	Rear Setback (feet)	5 minimum	.
7	Accessory Building Yard Location	Rear	
8	Accessory Building: Rear Setback (feet)	5 minimum, except 0 at alley	
9	Maximum Total Building Coverage (%)	40	
10	Permitted Driveway Access Location	Any	
11	Attached Garage Entrance Location	Any façade; front façade limited to no more than 50% of façade	
	B. Height		
	Principal Building: Maximum Height (stories) Maximum Height (feet)	3 34	See Article 27-1800 for instructions for measuring height. Accessory roof pitch shall match principal building
	Accessory Building: Maximum Height (stories)	1.5 stories, no taller than the principal building	

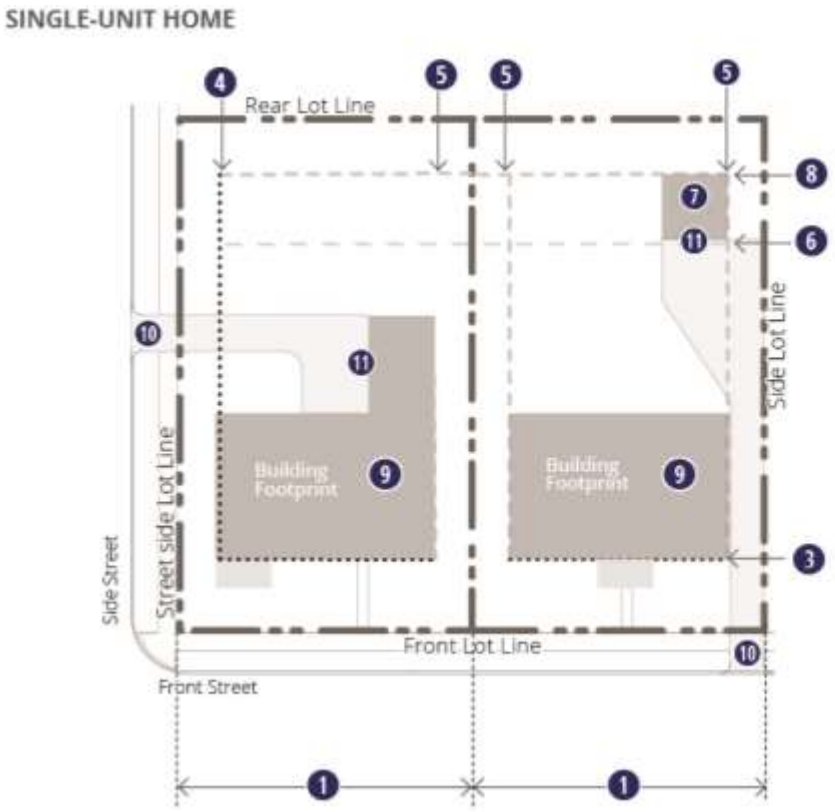


Figure 27-300(3). N3 district diagrammatic plan.

C. Supplemental Regulations

1. Lots on cul-de-sacs and flag lots are exempt from minimum lot width regulations. See also Article 27-1500 for existing lots of record.

SECTION 27-307 NX1 DISTRICT

The following site and structure regulations apply to any lot in the NX1 district. Refer to 27-303 for general regulations applicable to all districts and Table 27-300-6, below, for regulations specific to this district, keyed to illustrations in Figure 27-300(4). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-300.6 SITE AND STRUCTURE REGULATIONS

	A. BUILDING SITING	Single or Multi-Unit Building	Side-by-Side Attached Units	REFERENCES
1	Minimum Lot Width (feet) per principal building	20 for 1 or 2 units; 50 for 3 or more units	50	See Article 27-1500 for existing lots of record. Side-by-side means units attached along front façade. See 27-307.D for fee simple side-by-side attached units.
2	Maximum Front Building Width (feet)	60	80, 4 units; 120, 4 units on side street	See 27-307.D for fee simple side-by-side attached units.
3	Front Build-to Zone (feet)	8-20; match block face average		See Article 27-1800 for block face averaging instructions. See definitions for front and street-side. See 27-307.D for through lots. Refer to 27-700 for visibility at intersections. See 27-303.K for arterial setback regulations.
4	Street-Side Build-to Zone (feet)	8-15		
5	Side Setback (feet) Space Between Principal Buildings on Lot (feet)	5 minimum 10 minimum		See 27-307.D for side street lots.
6	Rear Setback (feet)	5 minimum		See 27-307.D for side street lots.
7	Accessory Building Yard Location	Rear	Rear	See Article 27-1800 for explanation of yards.
8	Accessory Building: Rear Setback (feet)	5 minimum or 0 at alley		
9	Maximum Building Coverage (%)	60		See 27-307.D for side street lots.
10	Permitted Driveway Access Location	Alley, side street; front street if no side street is available		See 27-1305 for driveway access exceptions.
11	Attached Garage Location Allowed Garage Entrance	Rear half of the building; Rear or side adjacent to street façade only		
	B. HEIGHT			
12	Principal Building: Maximum Height (stories) Maximum Height (feet)	2.5 27	2.5 27	See Article 27-1800 for definition half story.
12	Accessory Building: Maximum Height (stories)	1.5, no taller than the principal building		Accessory roof pitch shall match principal building
	C. WINDOWS, FRONT DOORS, ROOF			
14	Minimum Window & Door Coverage: Front Façade (%)	15 per story	15 per story	Measured per each full and half story. See Article 27-1800 for information on measuring door & window coverage.
15	Front Door Façade Location & Number of Doors	1 on street façade per building	1 per unit on street facade	See 27-307.D for multiple buildings on a courtyard.
	Entrance Treatment	See 27-303.J for Front Entrance		
16	Permitted Roof Types	Parapet, pitched; tower permitted		See Article 27-1800 for definition of roof types and exception for other allowed roof types.

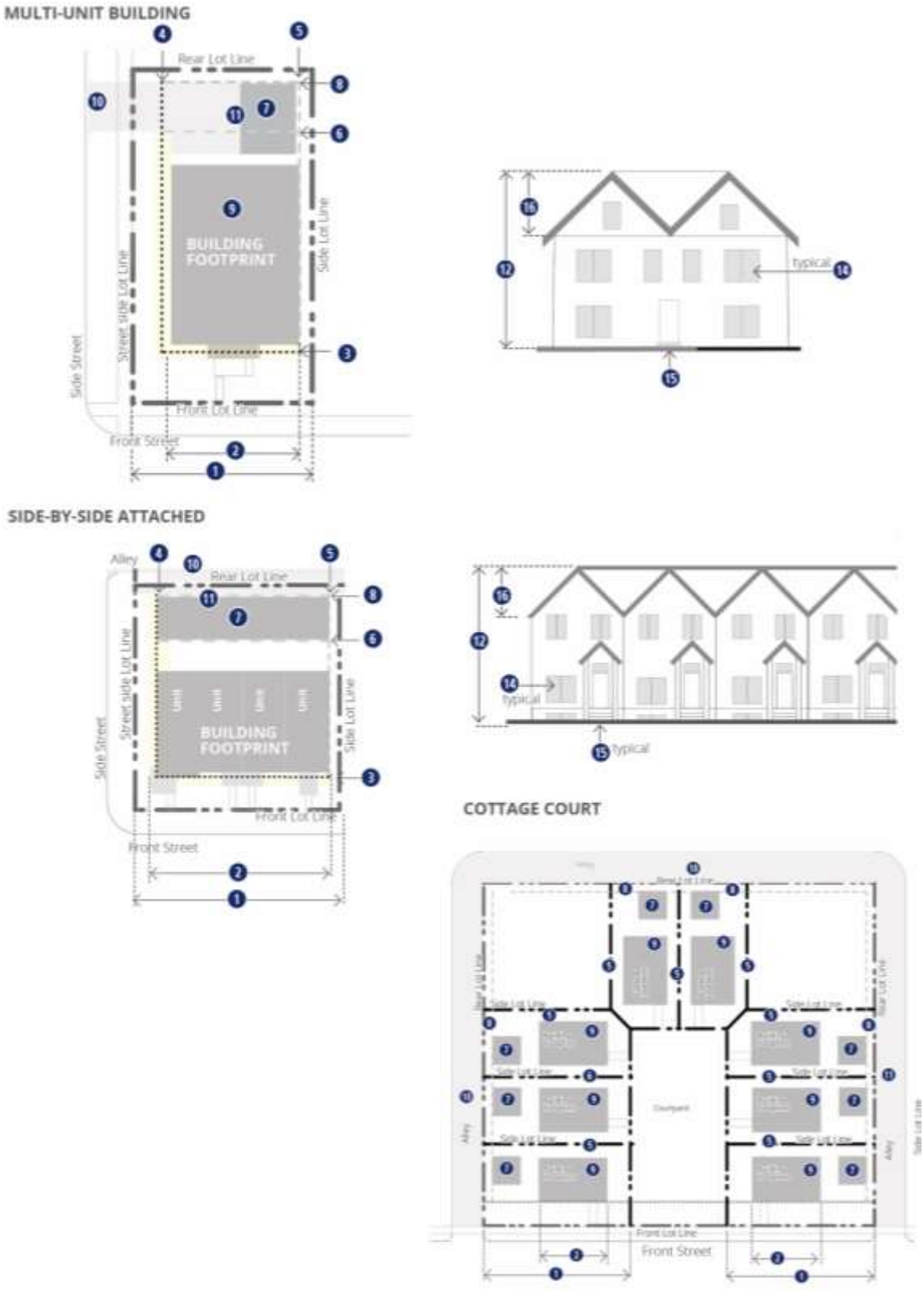


Figure 27-300(4). NX1 district diagrammatic plan.

D. Supplemental Regulations

1. Courtyard Configuration. For multiple buildings and side-by-side attached units with a courtyard, entrances may be located off the courtyard, except every unit abutting a street frontage must include the principal entrance on the street.
2. Through Lots. For developments on lots that extend through a block and addresses on two streets, buildings must front both streets and entrances provided on each street.
3. Fee Simple Side-by-Side Units. For fee simple side-by-side units, the lot width may be smaller; however, the building, comprised of multiple units, shall total meet the minimum regulations.
4. Side Street Frontage. For corner lots, all lot lines other than the front and street-side are side lot lines and, for parking and accessory buildings, the director shall determine where the rear of the lot is located.
5. Open Space. One of the following open space types must be provided for every three contiguous acres of NX1 district:

   (a) Parklet. A parklet is a landscaped open space with a minimum 70% living plant material and a minimum of 20,000 square feet in area, with at least 100 feet of street frontage.

   (b) Green. A green is a larger, landscaped space, a minimum of one acre in size, with at least 200 feet of street frontage.

   (c) Natural Area. A natural area is a large area, a minimum two acres in size, defined to conserve a natural feature, such as a stream, wetland or woodland. At least 50 feet of street frontage is required for a natural area.

SECTION 27-308 NX2 AND NX3 DISTRICT

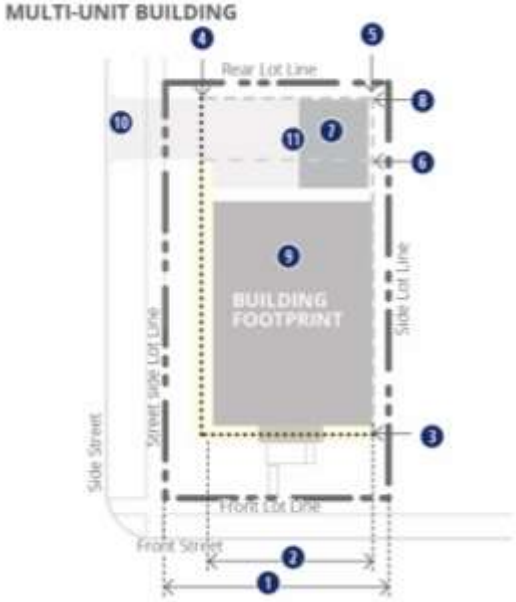
The following site and structure regulations apply to any lot in the NX2 and NX3 district. Refer to 27-303 for general regulations applicable to all districts and Table 27-300-7, below, for regulations specific to this district, keyed to illustrations in Figure 27-300(5). See Article 27-1800 for definitions and information on how to measure the following regulations.

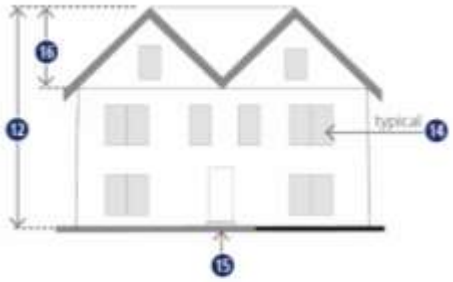
TABLE 27-300.7 SITE AND STRUCTURE REGULATIONS

	A. BUILDING SITING	Multi-Unit Building	Side-by-Side Units	REFERENCES
1	Minimum Lot Width (feet) per principal building	20 for 2 units; 50 for 3 or more units	50	See Article 27-1500 for existing lots of record.
	Minimum Lot Area (square feet)	7000; None for 2 units	None	
2	Maximum Building Width (feet)	16 ft per ground floor unit	8 units/172 feet on any frontage	See 27-307.D for fee simple row building units.
3	Front Build-to Zone (feet)	10-20		See definitions for front and street-side. See 27-303.K for arterial setback regulations. See 27-307.D for through lots. Refer to 27-700 for visibility at intersections.
4	Street-Side Build-to Zone (feet)	5-15		
5	Side Setback (feet) Space Between Principal Buildings on Lot (feet)	5 minimum; 15 abutting N1, N2, N3, or RMH districts 10 minimum		
6	Rear Setback (feet)	10 minimum; 20 abutting N1, N2, N3, or RMH districts		
7	Accessory Building Yard Location	Rear		See Article 27-1800 for definition of yards.
8	Accessory Building: Rear Setback (feet)	7.5		
9	Maximum Building Coverage (%)	60		
10	Permitted Driveway Access Location	Alley, side street; front street if no side street is available		
11	Attached Garage Location Allowed Garage Entrance	Rear half of the building; Rear or street-side façade only		
	B. HEIGHT			
12	Principal Building: Minimum Height (stories)	2	1.5 for NX2; 2 for NX3	See Article 27-1800 for definition of half story.
	Maximum Height (stories)	3 for NX2; 4 for NX3	2.5 for NX2; 3 for NX3	
12	Accessory Building: Maximum Height (stories) Maximum Height (feet)	1.5 27	1.5 27	Accessory roof pitch shall ma principal building
	C. WINDOWS, FRONT DOOR, ROOF			
14	Minimum Window & Door Coverage: Front Façade (%)	15 per story	15 per story	Measured per each full and half story. See Article 27-1800 for information on measuring door & window coverage.
15	Front Door Façade Location & Number of Doors	1 per building on street façade	1 per unit on street facade	See Article 27-1800 for multiple buildings on a courtyard
	Entrance Treatment	See 27-303.J for Front Entrance		
16	Permitted Roof Types	Parapet, pitched, flat; tower permitted		See Article 27-1800 for definition of roof types and exception for other allowed roof types.

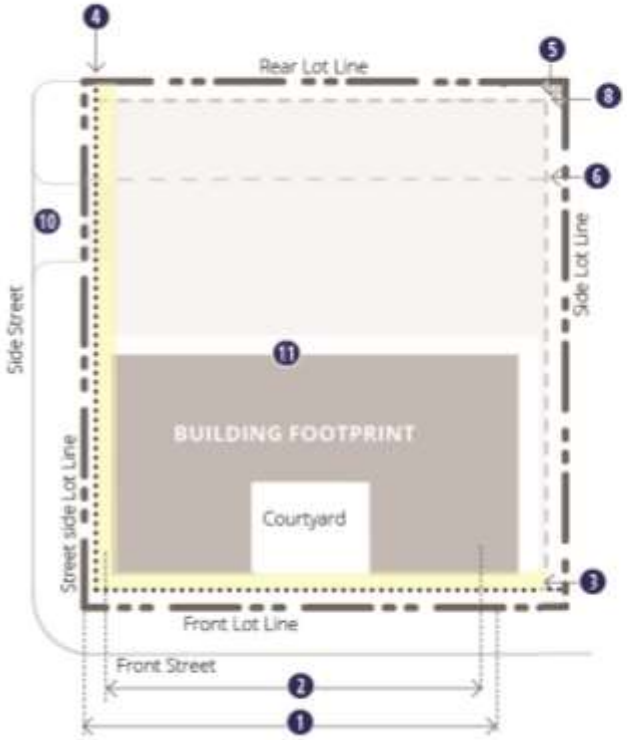
2-4 UNIT BUILDING

MULTI-UNIT BUILDING





5+ UNIT BUILDING



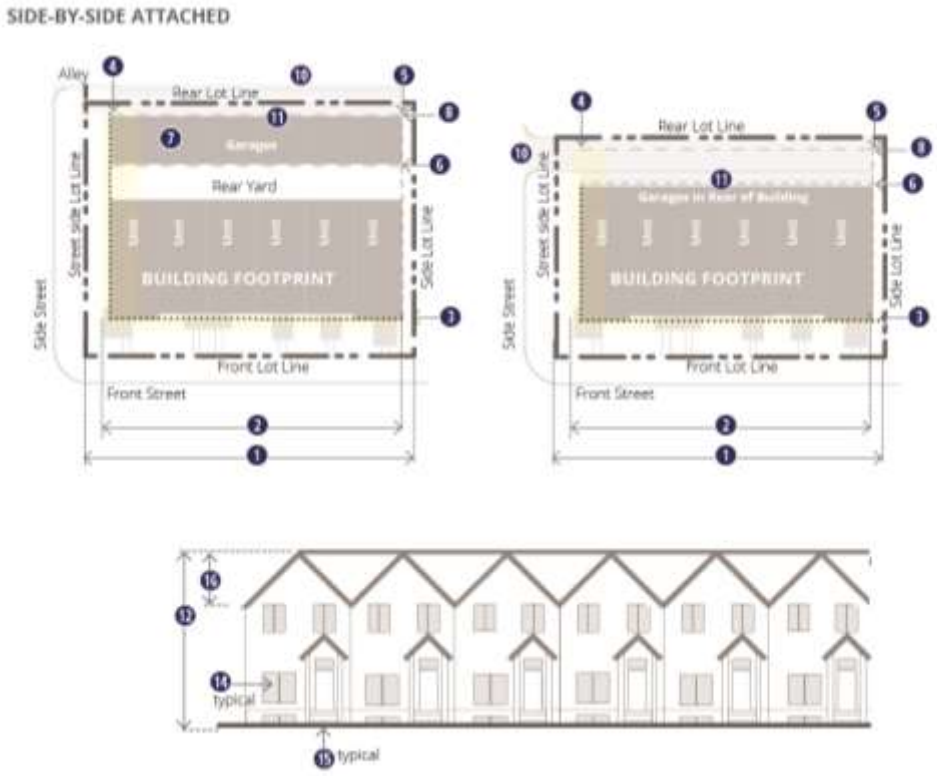


Figure 27-300(5). NX2 and NX3 district diagrammatic plans.

D. Supplemental Regulations

1. Courtyard Configuration. For multiple buildings and side-by-side attached units with courtyards, entrances may be located off a courtyard, except every unit abutting a street frontage must include the principal entrance on the street.
2. Through Lots. For developments on lots that extend through a block and addresses on two streets, buildings must front both streets and entrances provided on each street.
3. Fee Simple Side-by-Side Units. For fee simple side-by-side units, the lot width may be smaller; however, the building, comprised of multiple units, shall total meet the minimum regulations.
4. Side Street Frontage. For corner lots, all lot lines other than the front and street-side are side lot lines and, for parking and accessory buildings, the director shall determine where the rear of the lot is located.
5. Open Space. One of the following open space types must be provided for every three contiguous acres of NX2 district:

   (a) Parklet. A parklet is a landscaped open space with a minimum 70% living plant material and a minimum of 20,000 square feet in area, with at least 100 feet of street frontage.

   (b) Green. A green is a larger, landscaped space, a minimum of one acre in size, with at least 200 feet of street frontage.

(c) Natural Area. A natural area is a large area, a minimum two acres in size, defined to conserve a natural feature, such as a stream, wetland or woodland. At least 50 feet of street frontage is required for a natural area.

SECTION 27-309 RMH DISTRICTS

The following site and structure regulations apply to any lot in the RMH district. Refer to 27-303 for general regulations applicable to all districts and Table 27-310-8, below, for regulations specific to this district. See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-300.8 SITE AND STRUCTURE REGULATIONS

A. BUILDING SITING		REFERENCES
Minimum Lot Size (square feet)	3,000 per principal building	
Front Setback (feet)	20 minimum	
Street-Side Setback (feet)	10 minimum	
Side Setback (feet)	8 minimum	See 27-310.C for site built structures.
Rear Setback (feet)	8 minimum	
Accessory Building Yard Location	Rear and side yard	
Maximum Total Building Coverage (%)	50	
B. HEIGHT		
Principal Building: Maximum Height (feet)	34	See Article 27-1800 for instructions for measuring height
Accessory Building: Maximum Height (feet)	40 and no taller than principal building	Accessory Roof Pitch shall match Principal Building

C. Supplemental Regulations

1. Open Space. One of the following open space types must be provided for every 3 acres of RMH district:

   (a) Parklet. A parklet is a landscaped open space with a minimum 70% living plant material and a minimum of 20,000 square feet in area, with at least 100 feet of street frontage.

   (b) Green. A green is a larger, landscaped space, a minimum of one acre in size, with at least 200 feet of street frontage.

   (c) Natural Area. A natural area is a large area, a minimum two acres in size, defined to conserve a natural feature, such as a stream, wetland or woodland. At least 50 feet of street frontage is required for a natural area.

2. Manufactured home, Type 1: A manufactured home that was certified on or after January 1, 1990, and that satisfies each of the following additional criteria:

   (a) The pitch of the home's roof has a minimum vertical rise of three inches for each 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;

   (b) 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;

(c) A continuous, permanent perimeter foundation is installed under the home; and

3. Manufactured home, Type 2: A manufactured home that does not satisfy the criteria necessary to qualify the house as a Type 1 manufactured home.
4. Site-Built Structure. A site-built structure complying with the State Building Code may be setback a minimum of 5 feet from the side lot line.

Article 27-400 Commercial and Mixed-Use Districts

SECTION 27-401 DISTRICTS ESTABLISHED

The commercial and mixed-use zoning districts are established in Table 27-400-1.

TABLE 27-400-1. COMMERCIAL & MIXED-USE DISTRICTS

Symbol	Neighborhood District Name
CBD	Central Business District
DX	Downtown Support
CMU1	Corridor Mixed-Use 1
CMU2	Corridor Mixed-Use 2
NMU	Neighborhood Mixed-Use
NO	Neighborhood Office-Residential
CX	Heavy Commercial

SECTION 27-402 DISTRICT DESCRIPTIONS

Commercial and mixed-use districts are primarily intended to allow a mix of uses within appropriately scaled buildings to maintain and promote the desired physical character of the downtown and commercial nodes and corridors within the city.

A. CBD: CENTRAL BUSINESS DISTRICT

The CBD district is the downtown mixed-use core intended to continue the existing character of the highly walkable downtown commercial corridors with storefronts on the ground story and upper story residential, lodging, and office uses.

B. DX: DOWNTOWN SUPPORT

The DX district is intended primarily for use surrounding the (CBD) district and would accommodate highly walkable, higher intensity office and residential uses in support of the CBD.

C. CMU1: CORRIDOR MIXED-USE

The CMU1 district is intended to accommodate commercial and other uses along transportation corridors to promote development that is comfortably accessible via all modes of transportation, including motor vehicles, bicycles, and walking. Commercial uses in the CMU1 district may be somewhat larger in scale and more flexible than the neighborhood mixed-use district, including more auto-oriented uses such as gas stations. While ground stories along streets are intended for commercial uses, the upper stories could accommodate residential and/or office uses.

D. CMU2: CORRIDOR MIXED-USE AND COMMERCIAL CENTERS

The CMU2 district is similar in intent to CMU1, supporting commercial and other uses along transportation corridors to promote development that is comfortably accessible via all modes of transportation, including motor vehicles, bicycles, and walking. CMU2 differs from CMU1 as it is meant to accommodate larger-scale commercial, warehouse-style buildings, and other uses in multiple buildings on larger, deeper

parcels along corridors. While ground stories along streets are intended for commercial uses, the upper stories could accommodate residential and/or office uses.

E. NMU NEIGHBORHOOD MIXED-USE

The NMU district is intended to accommodate a mix of uses, primarily located along neighborhood corridors that are highly walkable and accessible to pedestrians. Includes ground story uses focused on daily needs primarily for adjacent neighborhood residents, such as corner stores, personal services, and small restaurants. Upper stories accommodate residential and/or office uses.

F. NO: NEIGHBORHOOD OFFICE

The NO district is intended to accommodate office and office/residential uses on neighborhood corridors and internal neighborhood locations where other commercial uses are inappropriate. This district is meant to be highly walkable and accessible to pedestrians and to fit well with the context of adjacent neighborhood residential buildings, when located on corners or block ends.

G. CX: HEAVY COMMERCIAL

The CX district is intended for heavy commercial, wholesale, warehouse-distribution facilities, and contractor commercial uses. This district allows outdoor storage and accommodates truck traffic. This district is intended to be located along corridors where proximity to residential and walkable mixed-use development is limited. Basic setback and height parameters apply.

SECTION 27-403 REGULATIONS APPLICABLE TO ALL COMMERCIAL AND MIXED-USE DISTRICTS

All buildings must comply with the general regulations of this section and the specific regulations per each district, unless otherwise expressly stated in this ordinance.

A. ALLOWED USES

Allowed uses are provided in Article 27-1000.

B. EXISTING BUILDINGS

Existing buildings are not required to meet these regulations except as defined in Article 27-1500.

C. SITE ACCESS

All lots shall have one lot line located fully on a public or approved private street right-of-way.

D. PERMANENT STRUCTURES

All buildings constructed in any commercial and mixed-use district must be of permanent construction without a chassis, hitch, or wheels, or other features that would make the structure mobile, unless otherwise expressly stated in this code.

E. ACCESSORY STRUCTURE REGULATIONS

Accessory structures are subject to Article 27-1000. Uses, unless otherwise defined in these district regulations.

F. EXCEPTIONS AND EXEMPTIONS

The following exceptions and exemptions may apply to the district site and structure regulations. Use specific standards in Article 27-1000 are still applicable.

1. Administrative Relief. Article 27-1600 defines administrative relief applicable to the site and structure regulations. Additional administrative relief may be noted throughout this article.
2. Outdoor Recreation Uses. Outdoor parks, recreation, outdoor participant sports, and recreation uses are exempt from compliance with district site and structure regulations, except that:
   (a) If a building is incorporated, the building shall meet the regulations of either an accessory kiosk per 27-1000 or an allowed building type.
   (b) Side and rear setbacks for any applicable district must be met.
3. Utility Structures. The following structures are not required to comply with site and structure regulations applicable to a specific district.
   (a) Wireless communications facilities and uses 27-1000.
   (b) Public and private utility stations, substations, and associated utility station facilities.
4. Civic and Institutional Uses. Civic and institutional uses allowed in the district are required to the meet the district site and structure regulations, except the following applies:
   (a) The minimum dimension of any build-to zone shall be treated as a minimum setback.
   (b) Minimum heights are not required. Heights above the maximum allowed may be approved through an Administrative Relief, based upon similar civic structures on similar lots in the surrounding neighborhood. See Article 27-1600 for design exception procedure.
   (c) Window, front door, and roof regulations are not required.

G. YARD TREATMENT

All yards must consist of landscape areas, patio space, or sidewalk space, unless otherwise expressly stated. Paved vehicular areas are limited to specific locations per the applicable district site and structure regulations. Driveways may cross through yards as follows:

1. Where permitted as access to the lot, driveways may cross perpendicularly through the front or street side yards, except as otherwise expressly stated.
2. In all commercial and mixed-use districts, driveways may cross perpendicularly through the side and rear yards to connect to parking on adjacent lots.
3. Side Yard Parking Lots. Some districts permit side yard parking lots. Side yard parking lots must not encroach on the front yard and must not encroach upon the minimum side setback, except as otherwise expressly stated.
4. Rear Yards. Paved vehicular areas (parking lots, loading areas, drives) are typically required to be located in the rear yard; however, minimum rear yard setbacks also apply to parking lots, unless otherwise stated.

H. FRONT AND SIDE STREET FRONTAGES

Per the district regulations, certain site and structure regulations apply to building facades and edges along front and side streets. For example, windows and a principal entrance may be required, or parking

locations, driveways, and garage entrances may be restricted along these street frontages. Front lot lines must be provided as follows:

1. Establishment. All parcels must have a front lot line established by one of the following methods.
   (a) For lots with only one lot line abutting a street, that lot line shall be the front lot line.
   (b) For lots on corners, front lot lines are established by the director, based upon an approved Planned Neighborhood District (PND), the street classification, or the orientation of adjacent and abutting buildings.
   (c) For CMU1 and CMU2 districts, when a new street is established perpendicular to a front street listed above, the director may approve the use of the new street for the front lot line, provided the new perpendicular street is at least 300 feet in length, connects to another street at both ends, provides a second way out of the development, and is treated with streetscape, sidewalks, and on-street parking.
   (d) For NMU or NO districts located on corners of primarily residential neighborhoods, the side street is the preferred location of the front lot line with the intent of locating business entrances off side streets as opposed to sharing the front street with residential entrances.
   (e) Multiple Front Streets. If multiple front streets abut a lot, the front line may be designated by the director, considering the following:
      (1) The configuration of other parcels along the street, including fronts of buildings and locations of vehicular access, are more consistent with street-side lot line requirements; and
      (2) No plans for front street designation in the future exist for the proposed street-side frontage.
2. Open Space Frontage. Where a lot or parcel contains or abuts open space designated as a P1 district, the frontage of a building abutting the open space must comply with front lot line requirements.
3. Main Parking Lots. Where a main parking lot is internal to a site, the facades fronting the main parking lot must be treated as front facades.
4. Through Lots. Where a lot extends between two front streets essentially parallel to each other, both frontages shall be treated as front lot lines.
   (a) Where a commercial and mixed-use district double frontage lot is deeper than 120 feet and shares a front street with an N district, residential development shall be provided consistent with front lot line requirements for any NX district.
   (b) Where a commercial and mixed-use district double frontage lot shares a front street with an N district, the rear of all buildings shall be screened from any front street by another building or landscape screening.
5. Corners. At corners of buildings on streets, front lot line façade treatments, including, but not limited to, ground-story doors and windows must be continued around the corner along the side street for a minimum of 30 feet.

I. TRASH, RECYCLING, REFUSE LOCATIONS

Unless otherwise defined by the site and structure regulations, all trash, recycling, and other refuse areas must be located and treated as follows:

1. Trash, recycling, and other refuse areas must be located in the rear yard of the lot or in the alley with city approval.
2. When no rear yard exists or when the rear yard is less than 10 feet in depth, trash, recycling, and other refuse areas may be located in the rear portion of an interior side yard.
3. Trash, recycling, and other refuse areas may be located inside the building with access doors off the rear or interior side facade. Access doors must be opaque, screening a minimum of 80% of the opening.
4. See Article 27-1200 for required screening of trash, recycling, and other refuse areas.

J. FRONT ENTRANCES

The following applies only when required by the site and structure regulations for the district. Front building entrances shall be emphasized, adding interest to the building façade, through one or more of the following design features:

1. Roof or Canopy. The entrance is covered by a roof or canopy differentiating it from the overall building roof type.
2. Porch. The entrance is through a porch.
3. Sidelights and Transom. Sidelights and/or transom windows are included abutting the entrance door.
4. Recessed or Projecting Bay. The entrance is located in a separate bay of the building that is either recessed or projected from the front façade.
5. Other Design. Other designs adding emphasis and drawing attention to the entrance on the facade may be approved with a design exception.

K. ARTERIAL SETBACKS

Minimum arterial setbacks as follows apply to all commercial and mixed-use districts, except EBURD, CBD and DX districts:

1. No building or structure shall be erected or maintained within 50 feet of the centerline of an arterial street. In addition, no required parking area or portion thereof, including driving aisles, shall be constructed or located within 40 feet of the centerline of an arterial street. 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 these locational standards.
2. Approved signs and public use controls and systems, trees trimmed up eight feet and canopies with at least eight 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.

The designation of a street as an arterial shall be recommended by the city engineer, or in conformity with the most recent urban transportation plan.

SECTION 27-404 CBD DISTRICT REGULATIONS

1. Development in the CBD district is subject to compliance with the regulations of general applicability specified in 27-403.
2. Any parking garage located along a street must contain building space for occupancy along at least 30% of the ground floor of at least one street facade.

SECTION 27-405 DX DISTRICT

The following site and structure regulations apply to any lot in the DX district. Refer to 27-403 for general regulations applicable to all districts and Table 27-400-2, below, for regulations specific to this district, keyed to illustrations in Figure 27-400(1). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-400-2. SITE & STRUCTURE REGULATIONS

			REFERENCES
A. BUILDING SITING			
1	Build to Corner	required	
2	Maximum Building Coverage (%)	85	
3	Minimum Front Lot Line Coverage (%)	85	See 27-405.E for allowed courtyards.
4	Front Build-to Zone (feet)	5 to 15	See 27-403.H for location of front and street-side frontages. See 27-405.E for minimum pedestrian area
5	Street-Side Build-to Zone (feet)	5 to 10	
6	Minimum Side Setback (feet)	5; 10, if abutting N or NX district	
7	Minimum Rear Setback (feet)	10 for parking, 20 for building; 0 if abutting an alley	
B. PARKING SITING			
8	Surface or Accessory Parking Yard Location	Rear; limited side yard	See 27-1300 for explanation of limited side yard parking.
9	Permitted Driveway Access Location Permitted Garage Entry Facade Location	Alley, side street, front street if no alley or side street is available Rear, side, or side street facade	See 27- 1300 for driveway access exceptions
10	Parking Location within Building	Allowed fully in any basement and behind required occupied building space of all other stories	See Occupied Building Space regulation below in See 27-1800 for definition of basement.
11	Occupied Building Space along Front Facade, Minimum Depth (feet)	20 all full-story floors; not required in any basement or half story	See 27-1800 for definition of Occupied Building Space.
C. HEIGHT			
12	Overall: Minimum Height (stories) Maximum Height (stories)	2 5; step-backs required within 50 feet of N or NX district	See 27-405.E for stepped-back stories.
13	All Stories: Minimum Height (feet) Maximum Height (feet)	9 14	Stories are measured floor to floor.
D. WINDOWS, DOORS, ROOF			
14	Window & Door Coverage: All Stories Street Facades (%)	15 minimum per story	Blank wall limitations apply to front facades per 27-1800 27-403.H requires front facade windows to turn corners.
15	Number of Front Entrances	Minimum 1 per every 120 feet of facade	See 27-403.J for Front Entrance regulations.
16	Permitted Roof Types	Parapet, pitched, flat; tower permitted	See 27-1800 for definition of roof types and exception for other allowed roof types.

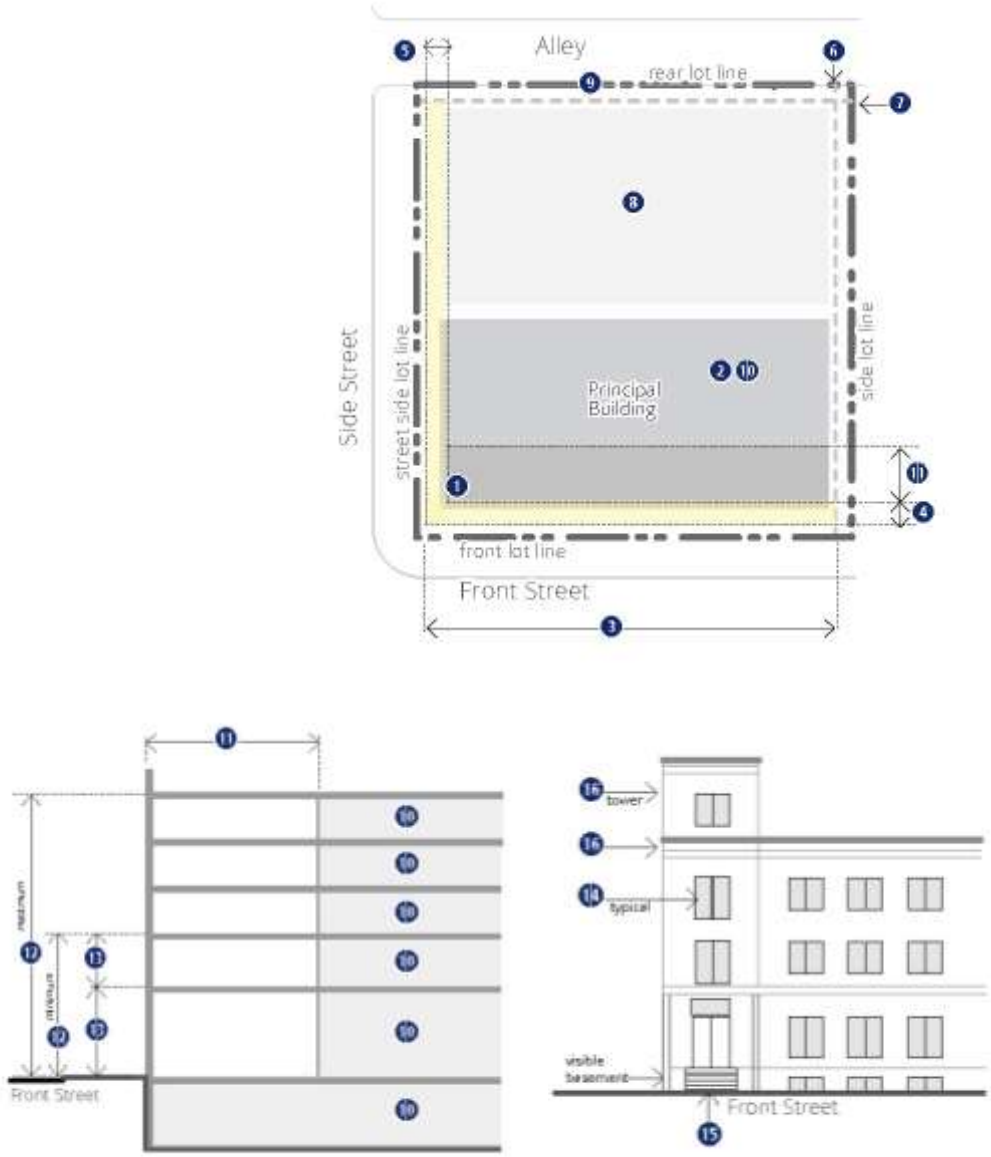


Figure 27-400(1). DX district diagrammatic plans and elevations.

E. **Supplemental Regulations**

1. Courtyards. One courtyard, maximum of 30% of facade width or 50 feet wide, whichever is less, may count towards the minimum primary building frontage.
2. Height Step-Backs at N or NX Districts. Where N or NX zoning districts exist abutting the parcel or are located across an alley from the parcel, any story over the second story or over 35 feet above grade shall be set back from the rear property line a minimum of 50 feet. Frontage landscape buffer is required per Article 27-1200 where more than a 10-foot ground-story rear setback exists.

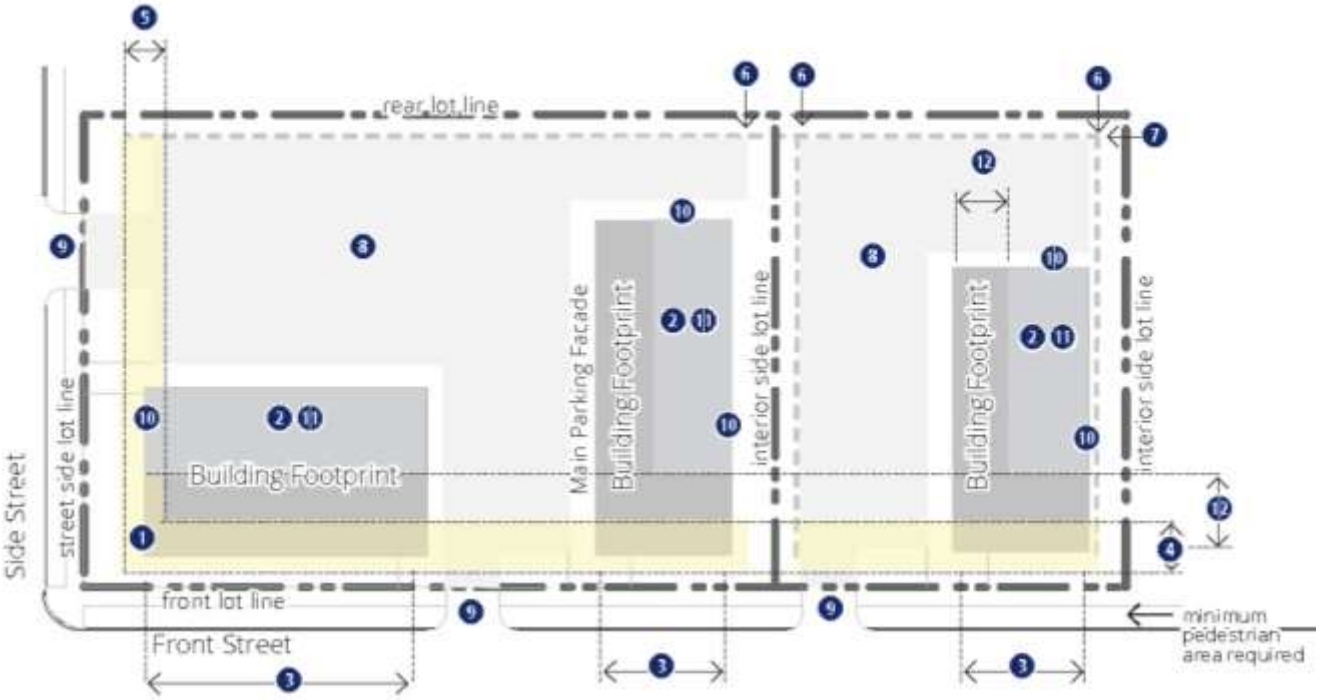
1. Minimum Pedestrian Frontage. When any front or street-side property line is within 8 feet or less of the back of curb, the build-to zone shall be measured from 8 feet off the back of curb to allow adequate pedestrian area.

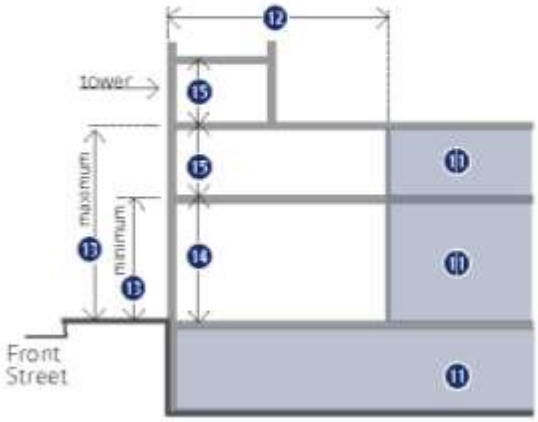
SECTION 27-406 CMU DISTRICTS

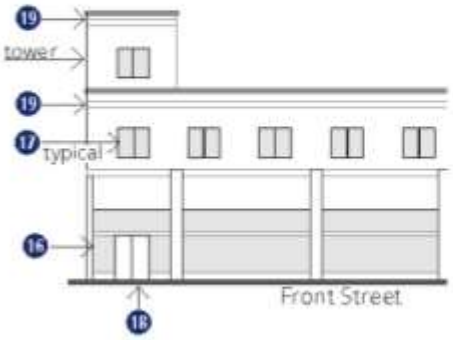
The following site and structure regulations apply to any lot in the CMU districts. Refer to 27-403 for general regulations applicable to all districts and Table 27-400-3, below, for regulations specific to this district, keyed to illustrations in Figure 27-400(2). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-400-3. SITE & STRUCTURE REGULATIONS

	A. BUILDING SITING	CMU1	CMU2	REFERENCES
1	Build to Corner	required		
2	Maximum Building Coverage (%)	65	50	
3	Minimum Front Lot Line Coverage (%)	65	50	See 27-406.E for allowed courtyards.
4	Front Build-to Zone (feet)	5 to 20	10 to 20	See 27-403.H for location of front and street-side frontages. See 27-403.K for arterial setback regulations. See 27-406.E for minimum pedestrian area
5	Street-Side Build-to Zone (feet)	5 to 20	5 to 20	
6	Side Setback (feet)	5 minimum; 10, if abutting N, NX, or RMH district		
7	Rear Setback (feet)	10 minimum; 25 if abutting N, NX, or RMH district		See 27-406.E for through lots.
	B. PARKING SITING			
8	Surface or Accessory Parking Yard Location	Rear, internal, side		See 27-1800 for explanation of yards.
9	Permitted Driveway Access Location	See 27-1305 for driveway access locations.		
10	Permitted Garage Entry Facade Location	Rear, side, or street-side facade		
11	Parking Location within Building	Allowed fully in any basement and behind required occupied building space of all other stories		See Occupied Building Space regulation below in__. See 27-1800 for definition of basement.
12	Occupied Building Space along Front Facade, Minimum Depth (feet)	20 all full-story floors; not required in any basement or half story		See 27-1800 for definition of Occupied Building Space.
	C. HEIGHT			
13	Overall Stories: Maximum Height (stories)	4; step-backs required within 50 feet of N, NX, or RMH district		See 27-406.E for stepped-back stories.
14	Ground-Story: Minimum Height (feet) / Maximum Height (feet)	12 / 18		See 27-406.E for allowable increased ground story height. Stories are measured floor to floor.
15	Upper Stories: Minimum Height (feet) / Maximum Height (feet)	9 / 12		
	D. WINDOWS, DOORS, ROOF			
16	Window & Door Coverage: Ground-Story Front Facades (%)	65 minimum between 2 and 8 feet above sidewalk		Blank wall limitations apply to front facades per 27-1800 27-403.H requires front facade windows to turn corners.
17	Window & Door Coverage: All Stories Front Facades (%)	15 minimum per story		
18	Number of Front Façade Entrances	Principal entrances 1 per every 60 feet of facade		See 27-403.J for Front Entrance regulations.
19	Permitted Roof Types	Parapet, pitched, flat; tower permitted		See 27-1800 for definition of roof types and exception for other roof types.


rear lot line
Side Street
street side lot line
Building Footprint
Main Parking Facade
Building Footprint
interior side lot line
Building Footprint
interior side lot line
front lot line
Front Street
minimum pedestrian area required


tower
maximum
minimum
Front Street


tower
typical
Front Street

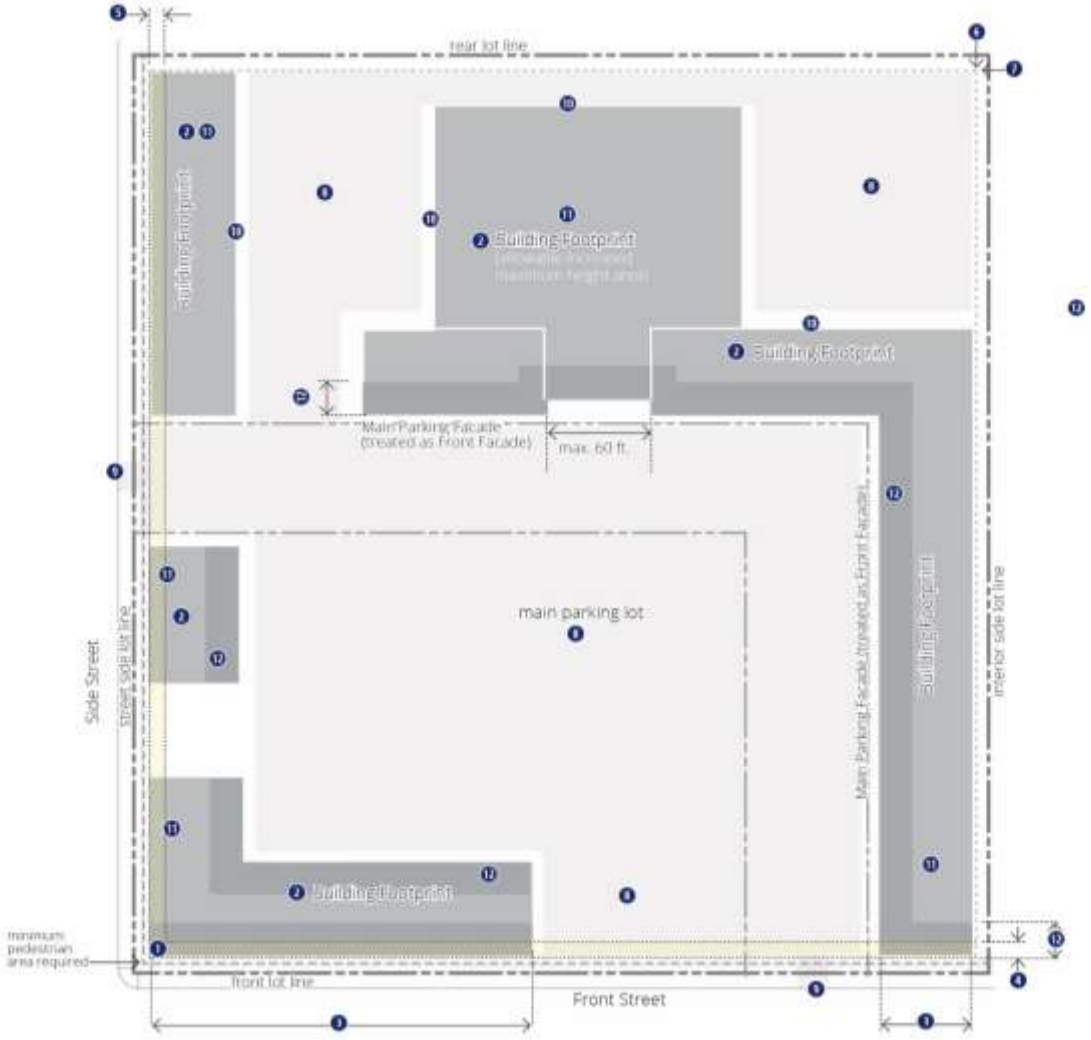


Figure 27-400(2). CMU district diagrammatic plans and elevations.

E. **Supplemental Regulations**

1. Courtyards. One courtyard, maximum of 30% of facade width or 50 feet wide, whichever is less, may count towards the minimum primary building frontage.
2. Minimum Pedestrian Frontage. When any front or corner property line is within 8 feet or less of the back of curb, the build-to zone shall be measured from 8 feet off the back of curb to allow adequate pedestrian area.
3. Height Step-backs at N, NX, RMH Districts. Where N, NX, or RMH zoning districts abut the parcel or are located across an alley from the parcel, any story over the second story or over 35 feet above grade shall be set back from the rear property line a minimum of 50 feet. Where the ground story is setback more than 10 feet from the rear lot line, the frontage landscape buffer is required per Article 27-1200. Refer to Figure 27-400(3).
4. Increased Ground Story Height. Maximum ground story height in CMU2 only may be increased up to 28 feet with a maximum horizontal length along any primary or main parking frontage of 60 feet. The 60-foot increment of increased height may occur once for every 140 feet of building frontage. Lower scaled commercial spaces may front the large-format space to achieve the maximum frontage and number of entrances required along the frontage.

5. Through Lots. Refer to 27-403.H.6.
6. Pedestrian Pathway. In CMU2, direct, continuous separate pedestrian pathways are required connecting the sidewalk along the primary frontage to each shop door on the main parking lot frontage and dividing parking lots into segments no longer than 300 feet in length. The pathway shall include the following:
   (a) Streetscape is required along the pedestrian pathway per Article 27-1200. Pavement shall be small unit pavers, concrete scored in less than 4-foot increments, or other similar material approved by the director.
   (b) Perpendicular crossings of parking drives are permitted, but the pavement shall match the pathway.
   (c) Parallel paths to parking shall be located in a raised median or island or a protected pathway.

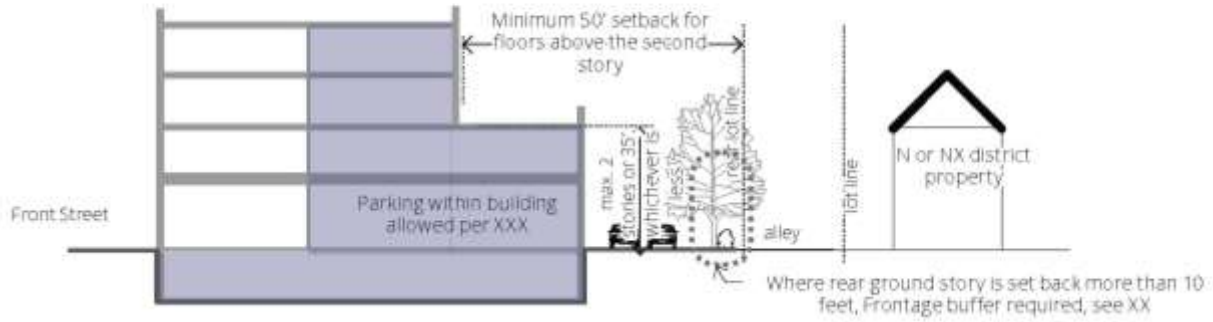


Figure 27-400(3). Height Step-Backs at N, NX, and RMH Districts.

SECTION 27-407 NMU DISTRICT

The following site and structure regulations apply to any lot in the NMU district. Refer to 27-403 for general regulations applicable to all districts and Table 27-407-1, below, for regulations specific to this district, keyed to illustrations in Figure 27-407(1). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-400-4. SITE & STRUCTURE REGULATIONS

	A. BUILDING SITING	NMU	REFERENCES
1	Build to Corner	required	
2	Maximum Building Coverage	75	
3	Front Street Building Width (feet)	None	On corners in residential neighborhoods, the side street may have the front lot line.
4	Minimum Front Lot Line Coverage (%)	90	See 27-407.E for allowed courtyards. On corners in residential neighborhoods, the side street may have the front lot line.
5	Front Build-to Zone (feet)	5 to 20	See 27-403.H for location of front and street-side frontages. See 27-403.K for arterial setback regulations. See 27-407.E for minimum pedestrian area and expanded build-to zone with front yard parking.
6	Street-Side Build-to Zone (feet)	5 to 20	
7	Minimum Side Setback (feet)	5	
8	Minimum Rear Setback (feet)	5	See 27-407.E for through lots.
	B. PARKING SITING		
9	Surface or Accessory Parking Yard Location & Configurations	Rear, limited side yard, limited front yard	See 27-1802.B for explanation of allowed parking configurations.
10	Permitted Driveway Access Location Permitted Garage Entry Facade Location	See 27-1305 for driveway access locations. Rear, side, or street-side facade	
11	Parking Location within Building	Allowed fully in any basement and behind required occupied building space of all other stories	See Occupied Building Space regulation below in __. See 27-1800 for definition of basement.
12	Occupied Building Space along Front Facade, Minimum Depth (feet)	20 all full-story floors; not required in any basement or half story	See 27-1800 for definition of Occupied Building Space.
	C. HEIGHT		
13	Overall Stories: Maximum Height (stories)	2	
14	Ground-Story: Minimum Height (feet) Maximum Height (feet)	10 16	Stories are measured floor to floor.
15	Upper Stories: Minimum Height (feet) Maximum Height (feet)	9 11	
	D. WINDOWS, DOORS, ROOF		
16	Window & Door Coverage: Ground-Story Front Facades (%)	45 minimum between 2 and 8 feet above sidewalk	Blank wall limitations apply to front facades per 27-1800 27-403.H requires front facade windows to turn corners.
17	Window & Door Coverage: All Stories Front Facades (%)	15 minimum per story	
18	Number of Front Façade Entrances	Principal entrances 1 per every 60 feet of façade	See 27-403.J for Front Entrance regulations.
19	Permitted Roof Types	Parapet, pitched, flat; tower permitted	See 27-1800 for definition of roof types and exception for other allowed roof types.

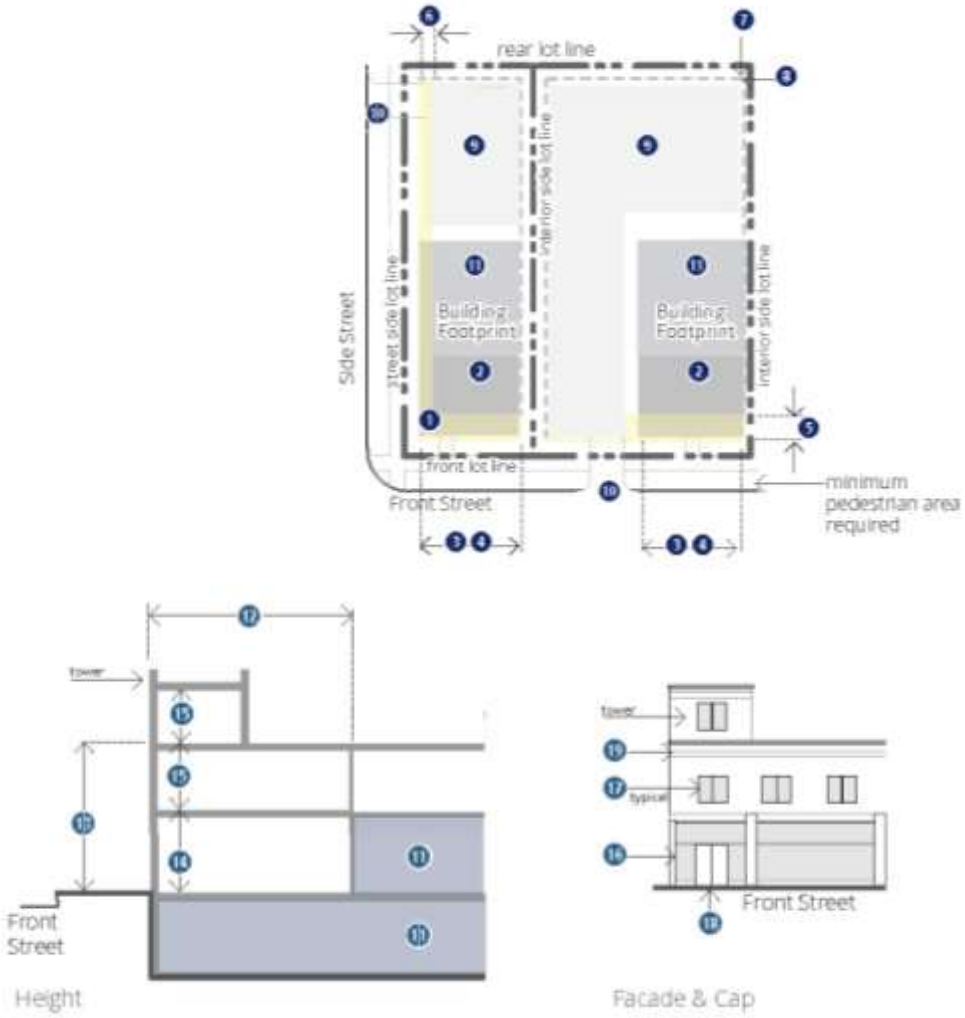


Figure 27-400(4). NMU district diagrammatic plans and elevations.

E. **Supplemental Regulations**

1. Courtyards. One courtyard, maximum of 30% of facade width or 50 feet wide, whichever is less, may count towards the minimum primary building frontage.
2. Minimum Pedestrian Frontage. When any front or corner property line is within 8 feet or less of the back of curb, the build-to zone shall be measured from 8 feet off the back of curb to allow adequate pedestrian area.
3. Front Yard Parking Expanded Build-to Zone. Where limited front yard parking is used, the build-to zone may be expanded to between 5 and 45 feet. Refer to 27-1802.B for explanation of limited front yard parking configuration.
4. Through Lots. Refer to 27-403.H.6.

SECTION 27-408 NO DISTRICT

The following site and structure regulations apply to any lot in the NO district. Refer to 27-403 for general regulations applicable to all districts and Table 27-400-5, below, for regulations specific to this district, keyed to illustrations in Figure 27-400(5). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-400-5. SITE & STRUCTURE REGULATIONS

	A. BUILDING SITING		REFERENCES
1	Build to Corner	required	
2	Maximum Building Coverage	75	
3	Front Street Building Width (feet)	None; 120 maximum in residential neighborhoods with N or NX district zoning adjacent or abutting	On corners in residential neighborhoods the side street may have the front lot line. See 27-403.H for location of front and street-side frontages. See 27-403.K for arterial setback regulations See 27-408.E for minimum pedestrian area
4	Front Setback (feet)	10	
5	Street-Side Setback (feet)	8	
6	Minimum Side Setback (feet)	8	
7	Minimum Rear Setback (feet)	5 for parking and 20 for building; 0 if abutting an alley	See 27-408.E for through lots.
	B. PARKING SITING		
8	Surface or Accessory Parking Yard Location & Configurations	Rear, limited side yard, limited front yard	See 27-1802.B for explanation of allowed parking configurations.
9	Permitted Driveway Access Location Permitted Garage Entry Facade Location	See 27-1305 for driveway access locations. Rear, side, or street-side facade	
10	Parking Location within Building	Allowed fully in any basement and behind required occupied building space of all other stories	See Occupied Building Space regulation below in __.
11	Occupied Building Space along Front Facade, Minimum Depth (feet)	20 all full-story floors; not required in any basement or half story	See 27-1800 for definition of Occupied Building Space.
	C. HEIGHT		
12	Overall Stories: Maximum Height (stories)	2.5	
13	All Stories: Minimum Height (feet) Maximum Height (feet)	9 12	Stories are measured floor to floor.
	D. WINDOWS, DOORS, ROOFs		
14	Window & Door Coverage: All Stories Front Facades (%)	15 minimum per story	Blank wall limitations apply to front facades per 27-1800.
15	Number of Front Façade Entrances	One principal entrance per every 120 feet of front façade	See 27-403.K for Front Entrance regulations.
16	Permitted Roof Types	Parapet, pitched; tower permitted	See 27-1800 for definition of roof types and exception for other allowed roof types.

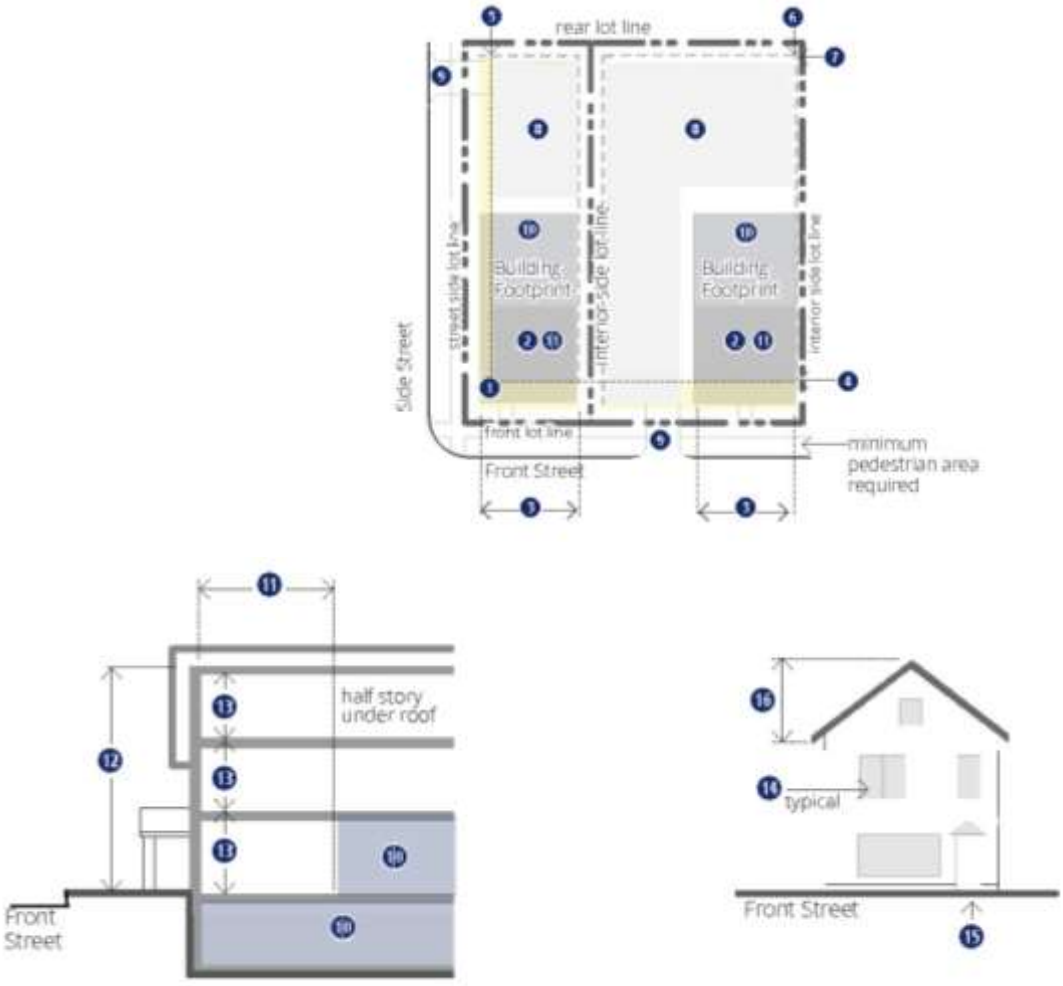


Figure 27-400(5). NO district diagrammatic plans and elevations.

E. **Supplemental Regulations**

1. Minimum Pedestrian Frontage. When any front or corner property line is within 8 feet or less of the back of curb, the build-to zone shall be measured from 8 feet off the back of curb to allow adequate pedestrian area.
2. Through Lots. Refer to 27-403.H.6.

SECTION 27-409 CX DISTRICT

The following site and structure regulations apply to any lot in the CX districts. Refer to 27-403 for general regulations applicable to all districts and Table 27-400-6, below, for regulations specific to this district, keyed to illustrations in Figure 27-400(6). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-400-6. SITE & STRUCTURE REGULATIONS

			REFERENCES
A.	**BUILDING SITING**		
1	Maximum Building Coverage (%)	50	
2	Front Setback (feet)	20 minimum	See 27-403.K for arterial setback regulations
3	Street-Side Setback (feet)	10 minimum	
4	Side Setback (feet)	0; 10 minimum if abutting N, NX or RMH district	
5	Rear Setback (feet)	10 minimum ; 0 if abutting an alley	
B.	**PARKING SITING**		
6	Surface or Accessory Parking Yard Location	Side or Rear	
7	Loading Location	Rear, Interior Side	
8	Permitted Driveway Access Location	See 27-1305 for driveway access locations.	
C.	**HEIGHT**		
	Overall: Maximum Height (feet)	60	

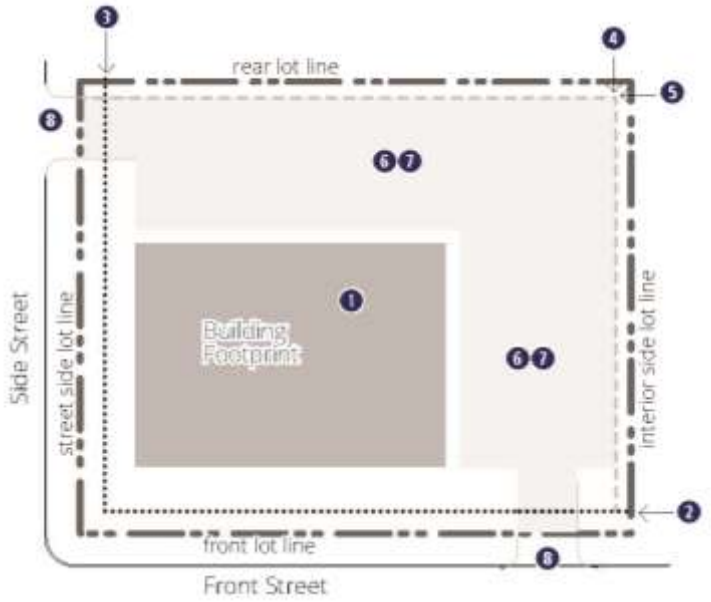


Figure 27-400(5). CX district diagrammatic plan.

D. **Supplemental Regulations**

1. [Reserved].

SECTION 27-501 PUBLIC DISTRICT DESCRIPTIONS

Public districts are intended to identify and allow for the establishment of public, quasi-public, and civic uses in the community.

A. P1: PARKS AND OPEN SPACE

The P1 district is intended to protect and preserve open spaces that are held in either public or private ownership. P1 districts may include parks, open spaces, trails, wetlands, floodplains, environmentally sensitive areas, and unique habitats and landscapes. To preserve access to clean air, pure water, natural recreation areas, and scenic natural beauty, the subdivision and development of land is restricted in P1 districts.

B. P2: PUBLIC, CIVIC, AND INSTITUTIONAL, SMALL

The P2 district is intended to be used for small-scale civic and community service structures and uses, such as religious assembly, public safety facilities, and schools, within either a neighborhood or commercial setting. A maximum of two principal buildings are permitted in a P2 district.

C. P3: CAMPUS

The P3 district is intended to be used for multi-structure and use institutions that are developed in a campus-like environment. P3 zoning is available for medical campuses, educational campuses, and civic campuses with three or more principal buildings.

SECTION 27-502 REGULATIONS APPLICABLE TO ALL PUBLIC DISTRICTS

All buildings must comply with the general regulations and the specific regulations per each district, unless otherwise expressly stated in this code.

A. ALLOWED USES

1. Primary Uses

Permitted primary and accessory uses allowed in Public Districts are designed on the following tables.

(a) Table 27-1000.1: Permitted Primary Uses

(b) Table 27-1000.2: Permitted Accessory Uses

B. PERMANENT STRUCTURES

All buildings constructed in any Public District must be permanent construction without a chassis, hitch, or wheels, or other features that would make the structure mobile, unless otherwise expressly stated in this code.

C. APPLICABLE SITE DEVELOPMENT REGULATIONS

In addition to the district-specific site development standards, development in the Public Districts is required to comply with the site development standards in Articles 27-1200 (Landscaping), 27-1300 (Off-Street Parking) through 27-1400 (Signs) .

SECTION 27-503 P1: PARKS AND OPEN SPACE

A. SITE AND STRUCTURE REGULATIONS

Development shall be reviewed through Section 27-16__, Site Plan Review.

B. DISTRICT-SPECIFIC REGULATIONS

[Reserved]

SECTION 27-504 P2: PUBLIC, CIVIC, AND INSTITUTIONAL; P3 CIVIC CAMPUS, P3 MEDICAL CAMPUS, AND P3 EDUCATIONAL CAMPUS

The following site and structure regulations apply to any lot in a P2 or P3 district.

A. PRIMARY BUILDINGS

1. P2: A maximum of two primary buildings are permitted in a P2 district.
2. P3: A minimum of three primary buildings are required for P3 zoning.

B. SITE DIMENSIONAL STANDARDS

Development along exterior lot lines that face, are adjacent to, or within 150 feet of different zone districts (i.e., not P2 or P3) shall comply with the following exterior dimensional standards, as further described below the table:

Table 27-500.1: P2 and P3 Site Dimensional Standards

Standard	Adjacent Zone Districts		
	Column 1 N1-3, NX1-3, or RMH	**Column 2** NO, NMU, CMU1, CMU2, DX	**Column 3** Mixed Adjacent Districts
Build-to/Setback (feet)			
Front build-to zone	8-20	5-15	Standards from larger-scale district; 27-504.B.1(c).
Street side build-to zone	5-15	5-10	
Side setback	10	10	
Rear setback	10	10	
Maximum Height (feet)			
Primary building(s)	35	50[1]	
Accessory building(s)	27	27	
Permitted Exceptions	27-504.B.2	27-504.B.2	27-504.B.2
Notes	[1] Step-backs required when adjacent to N, NX, or RMH; see 27-506.E		

1. Front Build-To Zone and Setback Standards

The front built-to zone and side and rear setback standards for lots in a P2 or P3 district shall be determined by adjacent zone districts as follows:

(a) Adjacent N1-4 or NX1-3 Districts. Where the primary frontage of a lot zoned P2 or P3 is adjacent to N1-4 or NX1-3 on all sides of the frontage, development on the P2 or P3 lot shall meet the standards of Table 27-500.1, Column 1.

(b) Adjacent NO, NMU, CMU, or DX Districts. Where the primary frontage of a lot zoned P2 or P3 is adjacent to NO, NMU, CMU, or DX districts on all sides of the frontage,

development on the P2 or P3 lot shall meet the standards of Table 27-500.1, Column 2.

(c) Where the primary frontage of a lot zoned P2 or P3 is adjacent to different zone districts on any side of the frontage (as measured on the same side of any public street), development on the primary frontage of the P2 or P3 lot shall comply with the standards for the larger-scale adjacent district. For example, a lot with a west-facing primary frontage that has CMU1 zoned property to the north and NX3 zoned property to the south shall be developed according to the CMU1 site and structure regulations.

2. Maximum Height Exceptions

The height limitations in Table 27-500.1 may be exceeded as follows:

(a) The maximum height limit 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.

(b) Structures permitted in P2 or P3 districts may exceed the height limitations of the district if the minimum depth of the front, side and rear yard setbacks are increased two feet for every one foot by which the structure exceeds the height limitation of the district. This allowed height shall not exceed two times the allowed height in the zoning district in which it is located except by approved variance.

3. Applicable District-Category Regulations

(a) P2 lots developed according to N1-4 or NX1-3 district standards shall also comply with Section 27-303, Regulations Applicable to All Neighborhood Districts, except for Section 27-303.J, Front Entrances.

(b) P2 lots developed according to CBD, DX, CMU1, CMU2, NMU, or NO district standards shall also comply with Section 27-403, Regulations Applicable to All Commercial and Mixed-Use Districts, except for Section 27-403.K, Front Entrances.

4. Parking Location

New surface parking shall be located interior to the campus, defined as at least 150 feet from any required build to or setback line at the exterior boundary of the district.

27-600 Industrial Districts

SECTION 27-601 INDUSTRIAL DISTRICT DESCRIPTIONS

Industrial districts are intended for the location of structures, uses, and activities that produce goods from extracted and raw materials or from recyclable or previously prepared materials, including the design, storage, distribution, and handling of these products and the materials from which they are produced. Research and technology uses and services are appropriate in industrial districts along with support offices and services.

A. I1: LIGHT INDUSTRIAL

The light industrial zone is intended to accommodate a variety of business, warehouse, and light industrial uses related to wholesale plus other business and light industries. Low intensity light industrial development can be compatible with adjacent commercial zones. I1 zoning should provide locations directly accessible to arterial and other transportation systems that can conveniently serve the business and industrial centers of the city and county.

B. I2: HEAVY INDUSTRIAL

This district accommodates larger or more intensive manufacturing and distribution facilities and related support services. Heavy industrial sites will have ready access to necessary utilities and at least two or more major transportation routes. Characteristics of the uses in this district may include outdoor storage areas, truck traffic, production of goods from raw materials, and multiple worker shifts. Some may involve large structures on large parcels.

SECTION 27-602 REGULATIONS APPLICABLE TO ALL INDUSTRIAL DISTRICTS

All buildings must comply with the general regulations and the specific regulations per each district, unless otherwise expressly stated in this code.

A. ALLOWED USES

Allowed uses are provided in Section 27-1000.

B. EXISTING BUILDINGS

Existing buildings are not required to meet these regulations except as defined in Section 27-1100, Proportionate Compliance.

C. SITE ACCESS FOR LOTS

Access to industrial uses must be from any public or approved private street right-of-way.

D. APPLICABLE SITE DEVELOPMENT REGULATIONS

Development in the industrial districts is required to comply with the site development standards in Articles 27-1200 (Landscaping), 27-1300 (Parking) through 27-1400 (Signs).

E. ACCESSORY STRUCTURE AND USE REGULATIONS

Accessory structures are subject to Section 27-1000, except as defined in the district-specific regulations.

F. INDUSTRIAL USES LOCATED ADJACENT TO NEIGHBORHOOD AND RESIDENTIAL USES

All industrial districts and uses located within 50 feet of any neighborhood residential zoning district, including a planned development that allows residential use, shall comply with these site development standards:

1. All buildings in excess of 30 feet in height shall be setback a minimum of 30 feet from a property line that adjoins a residential zone and a minimum of 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 15 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 expected to generate noise in excess of 55 decibels within three 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 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 30 feet of a property line that adjoins a residential zone or within 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 30 feet of a property line that adjoins a residential zone or within 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, will follow the regulations as stipulated in Section 27-1100, Proportionate Compliance.

G. ARTERIAL SETBACKS

1. No building or structure shall be erected or maintained within 50 feet of the centerline of an arterial street. In addition, no required parking area or portion thereof, including driving aisles, shall be constructed or located within 40 feet of the centerline of an arterial street. 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 these locational standards.

2. Approved signs and public use controls and systems, trees trimmed up eight feet and canopies with at least eight 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.

3. The designation of a street as an arterial shall be recommended by the city engineer, or in conformity with the most recent urban transportation plan.

H. OUTDOOR MERCHANDISE DISPLAY

Bufferyards and required landscaping shall not be used for the displaying of merchandise.

SECTION 27-603 INDUSTRIAL SITE AND STRUCTURE REGULATIONS

A. I1: LIGHT INDUSTRIAL DIMENSIONS

Development in Light Industrial district shall comply with the following:

TABLE 27-600.1 SITE AND STRUCTURE REGULATIONS

Minimum Lot Area (square feet)	N/A
Required Setbacks (feet, minimum) [1]	
Front	20
Side	0
Side Adjacent to Street	10
Rear	0
Height (feet, max)	70
Lot Coverage (%, max)	75
Notes:	
[1] Unless otherwise specified in Section 27-602.F.	

B. I1: HEAVY INDUSTRIAL DIMENSIONS

Development in Heavy Industrial district shall comply with the following:

TABLE 27-600.2. SITE AND STRUCTURE REGULATIONS

Minimum Lot Area (square feet)	N/A
Required Setbacks (feet, minimum) [1]	
Front	20
Side	0
Side Adjacent to Street	10
Rear	0
Height (feet, max)	N/A
Lot Coverage (%, max)	75
Notes:	
[1] Unless otherwise specified in Section 27-602.F.	

SECTION 27-701 INTENT

A. The intent of planned development zoning is to provide flexible land use and design regulations through the creation of individualized planned developments (PD) that both meet the City's growth policies and provide a specific benefit to the community.

B. 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.

C. 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 distinct name in reference to the owner or place. For example, Willowbrook or Shiloh Village are distinct PD names.

D. 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 health, safety, and the general welfare, the city council can approve a PD that permits greater or lesser standards in such areas as use, bulk, height, parking, signage, landscaping, lot sizes or other elements. This may also include permitting the development of civic or recreational amenities such as religious centers, schools, 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 a wider range of uses 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.

SECTION 27-702 OBJECTIVES

The planned development shall be designed to meet the following objectives:

A. To permit the development of planned industrial, commercial, or mixed-use development zones, while protecting the character and quality of adjacent uses.

B. 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.

C. Preserve, enhance, and retain the existing natural environmental qualities in the landscape such as topographic variation, views, water areas and native vegetation.

SECTION 27-703 APPLICABILITY

A. PD zoning is applicable to parcels of 10 acres or greater.

B. PD zoning is not applicable as a rezoning option in areas zoned N1-3, NX 1-3, NO, NMU, CMU1, CMU2, DX, or EBURD.

C. PD zoning is separate from and may not be used as a substitution for or in conjunction with PND zoning. Any PD project proposals will be evaluated for the applicability of a PND before starting the PD process.

D. PD zoning may not be used to provide a site-specific solution to a single issue that can be resolved through a more appropriate administrative means.

SECTION 27-704 APPLICATION PROCESS

Generally applicable procedures for review and decision on a planned development application are established in Section 27-1600, Administrative Procedures. They are summarized here for applicant convenience.

A. COMMON PROCEDURES CHECKLIST

Planned developments generally require the following steps:

Table 27-700.1: Planned Development

Common Procedure	Section	Required	Comments
Key: /R/ Required, /O/ Optional, n/a Not Applicable			
Pre-Application Meeting	27-1603	R	
Neighborhood Meeting	27-1604	R	
Application Submission Meeting	27-1605	R	
Staff Review and Report	27-1607	R	
Public Notice	27-1608	R	
Review and Decision	27-1610	R	

B. PRE-APPLICATION

1. The applicant is encouraged to submit a proposed PD project for conceptual review with City staff. This review is intended to receive input from staff and to indicate any potential problem areas before a formal application is submitted.
2. 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.

C. MASTER SITE PLAN

A PD application shall be accompanied by a Section 27-16__, Master Site Plan.

D. NOTIFICATION

Notification shall be provided in the same manner as a Section 27-16__, Zone Change.

SECTION 27-705 DECISION CRITERIA

The city zoning commission and city council shall review the PD proposal against the following criteria to determine whether the development concept demonstrates that the PD has some significant advantages over a standard development allowed under base zoning standards. “Significant advantages” in this context may include, but are not limited to, one or more of the following:

A. The PD is consistent with the provisions of applicable adopted growth policies and any adopted specific plans;

B. The PD protects, preserves, and/or manages areas of significant natural resources beyond the requirements of the base zoning regulations;

C. The general arrangement of proposed uses in the PD better integrates future development into the surrounding neighborhood, either through more compatible street layout,

architectural styles and housing types, or by providing better transitions between the surrounding neighborhood and the PD with compatible development or open space buffers;

D. Areas of open space, their intended levels of use, and their relationship to other proposed uses in the PD provide enhanced opportunities for community gathering areas;

E. The PD features outstanding site design and construction; such as enhanced architectural design and materials; best management practices for on-site storm water management, green building materials, water and energy efficiency, and/or horticultural activities;

F. Site design in the PD will create a diverse neighborhood with a mix of housing choices; and

G. The PD features enhanced opportunities for walkability or transit ridership, including separated parking bays, off street walking paths, shorter pedestrian routes than vehicular routes, linkages to or other provisions for bus stops, etc.

SECTION 27-706 ZONING COMMISSION ACTION

The city zoning commission shall review and hold a public hearing on the PD zone change and make a recommendation to the city council on the zone change, In addition, the city zoning commission shall also make a recommendation to the city council on the master site plan.

SECTION 27-707 CITY COUNCIL ACTION

The city council shall review, hold a public hearing and take action on the PD zone change per Section 27-16__. In addition, the city council shall also take action on the master site plan.

SECTION 27-708 MODIFICATIONS

Any major modification of the approved development plan requested by the applicant shall be processed using the same procedures for a new application. Minor modifications shall be requested through Section 27-16__, Administrative Relief.

SECTION 27-709 PRE-EXISTING PLANNED DEVELOPMENTS

PD zoning that predates the adoption of this Zoning Code (Pre-Existing PD) shall conform to the following requirements:

A. Pre-Existing PDs may not be expanded unless the existing district plus the expansion will meet the 10-acre minimum size requirement.

B. Where the terms of a Pre-Existing PD are silent as to a specific aspect of development, the provisions of this Zoning Code apply. An applicant may seek a zoning code interpretation to determine relevant standards.

C. Modifications to a Pre-Existing Planned Development shall be processed using the same procedure as that for a new PD application unless a specific procedure was agreed to and memorialized as part of the original PD adoption.

Article 27-800 Planned Neighborhood Development (PND)

SECTION 27-801 GENERAL

A. INTENT

These regulations are intended to allow large and medium sized parcels to use a set of design elements and a combination of zone districts that produces a walkable, sociable, and resilient urban design.

B. APPLICABILITY

1. Annexed Land. All undeveloped parcels equal to or greater than 3 acres requesting annexation into the City must meet these PND regulations, submitting the PND application concurrent with the annexation request. City of Billings public services, including, but not limited to, water and sewer, are required. Developed parcels and parcels designated as a P district in their entirety are not subject to this requirement.
2. Optional Applicability. Any parcels equal to or greater than 3 acres within city boundaries and with City of Billings' public services, including, but not limited to, water and sewer, may follow these PND regulations.
3. For the purposes of PND review, in addition to other requirements, the following shall be shown on the site plan:
   (a) All abutting land owned or under contract for purchase by owners of the subject property;
   (b) All abutting undeveloped parcels for which site plans or subdivision plats have been approved or submitted for approval; and
   (c) All actual or planned transportation facilities including without limitation streets, trails, bikeways, pedestrian ways, alleys, half-streets and similar motorized or non-motorized transportation facilities.
   (d) All actual or planned water, wastewater, storm water or public utility facilities, corridors or services.
4. A PND shall be submitted and approved in whole as a zone change on the parcel but subdivision, building siting, and construction may occur as separate and distinct phases and approvals.
5. Refer to section 27-1604 and 27-1609 for approval procedures.

SECTION 27-802 ZONING DISTRICTS

Planned Neighborhood Developments (PNDs) shall include a mix of multiple zoning districts as a neighborhood development plan (site plan). The mix of zoning districts is determined by the type of PND the developer intends to build. The selection of a PND is guided by an adopted growth policy plan, preferred land use plan, neighborhood or area plan, or other city adopted land use, development, transportation or similar plans and policies.

A. DETERMINATION OF PND TYPE

1. Table of PND Types. Refer to Table 27-800-1 for available types of PNDs. The applicant must choose only one type of PND.
2. Multiple PND Types. The applicant must meet the regulation for one type of PND, except as follows:

(a) For all sites up to 10 acres, only one of the PND types will be allowed on the site.

(b) For developments over 10 acres, multiple PND types are allowed as long as at least 10 acres is applied to any one type. The PND plan must show boundaries for each PND type.

Table 27-800-1. Types of Planned Neighborhood Districts

Required Min. Acres	Types of PND	Zoning Districts: CMU1	CMU2	NMU	NO	NX1	NX2	NX3	N1	N2	N3	RMH	P1	P2	P3
3	**Mixed-Use MU PND** (City or County)	**R**	L	P	P	P	P	L	P	P	-	P	**R**	P	P
	Min. % of gross acres	10											5		3 buildings
	Max. % of gross acres	30		15	15			8							
3	**Mixed Residential MR PND** (City or County)	-	-	L	P	**R**	P	P	P	L	-	P	**R**	P	P
	Min. % of gross acres					25							10		
	Max. % of gross acres			10						20					
3	**Neighborhood N PND** (City or County)	-	-	L	L	L	L	-	**R** (mix of all 3 districts)			P	**R**	P	P
	Min. % of gross acres								5	20			10		
	Max. % of gross acres			10	10	20	20				50				

R = *Required.* Refer to specific development type regulations in section 27-802.

P = Allowed or *permitted.* Refer to specific development type regulations in section 27-802.

L = Allowed but *limited* per Table 27-800-1 or specific development type regulations in section 27-802.

- = Not allowed or permitted per specific development type regulations in section 27-802.

Table Notes:

All numeric values are percentages of the actual gross parcel area.

B. GENERAL LAYOUT OF NEW DISTRICTS

1. Location of CMU Districts

   (a) CMU2 districts shall be located within 660 feet of an arterial or collector streets and not adjacent to or sharing a property line with any existing N, RR, RMH, or A district.

   (b) CMU1 districts shall be located within 1,320 feet of an arterial or collector street intersection and must be separated from any existing N, RR or A district by a public street or alley.

   (c) CMU districts areas shall be uninterrupted and continuous.

2. General Layout of PND Districts

(a) The same districts shall face each other across streets, including existing districts. This requirement excludes existing zone districts RR, A, RMH, or N4. Similar districts within the same district category (e.g. NX1 and NX2 districts) may be located adjacent to or across the street from the new districts.

(b) More intense uses located on blocks with less intense uses shall be located on block ends.

(c) Changes in districts shall generally occur at a rear lot line, at an alley, or at corner parcels.

(d) N1, N2, and N3 districts shall not be located along arterial streets.

3. Minimum District Mix Regulations.

(a) Each type of Planned Neighborhood Development has required zoning districts.

(b) Zoning district area minimums and maximums are set as a percentage of the total land area.

(c) Variations from the minimum or maximum of up to two percent are allowed. Deviations greater than two percent will require a Variance approval from the Board of Adjustment.

C. TOWN CENTER PLANNED NEIGHBORHOOD DEVELOPMENT (TC-PND)

Town Center PNDs are required to provide at least three zone districts in addition to the P1 district as shown in Table 27-800-1. Refer to Table 27-800-1 for the allowed zoning districts available for use in the TC-PND.

1. CMU and NMU District. A maximum of 60% of the total TC-PND area may be designated for these zones.
2. CMU2 District. A maximum of 10% of the total TC-PND may be designated as a CMU2 zone.
3. N District. One NX1 district is required for each TC-PND. Additional N districts may be designated.
4. Additional Districts.

(a) A P3 zone must accommodate at least three buildings within the designated area. A P3 zone may not be greater than ten percent of the TC-PND area.

D. MIXED-USE PLANNED NEIGHBORHOOD DEVELOPMENT (MU-PND)

Mixed-Use PNDs are required to designate a minimum amount of CMU1 district with other permitted districts, in addition to the P1 district as shown Table 27-800-1. Refer to Table 27-800-1 for the allowed zoning districts available for use in the MU-PND.

1. CMU, NMU, or NO District. A maximum of 60% of the total MU-PND area may be designated for these zones.
2. CMU2 District. When at least 2 acres of CMU1, NMU, and/or NO district area is designated, a CMU2 district is permitted, so long as all the CMU, NMU and NO area is

less than or equal to 60% of the total MU-PND area. All CMU2 districts must be within 660 feet of an arterial or collector street intersection.

3. Additional Districts.
   (a) Minimum Required Residential Mix. With more than five acres of residential districts, at least one NX districts shall be designated.
   (b) NX3 districts shall be limited to no more than eight percent of the total MU-PND area.
   (c) All P3 zones must accommodate at least three buildings within the designated area.
4. Other Districts. Other districts are allowed per Table 27-800-1.
5. P1 Districts. Public and private open space types required in section 27-803 must be zoned P1.

E. MIXED RESIDENTIAL PLANNED NEIGHBORHOOD MR-PND

Mixed Residential PNDs are required to provide one zone district in addition to the P1 district as shown in the locational requirements of Table 27-800-1. Refer to Table 27-800-1 for the allowed zoning districts available for use in the MR-PND.

1. NX District. A minimum of 25% of the MR-PND area must be zoned NX1.
2. NMU District. The NMU district is limited to nodes at local street intersections up to ten percent of the MR-PND area.
3. N2 districts are limited to no more than 20% of the MR-PND area.
4. P1 Districts. Public and private open space types required in section 27-803 must be zoned P1.
5. Additional Districts.
   (a) With more than five acres of residential districts, at least one of the following districts must be included with a minimum area of at least 1/2 acre of development: NX2, or NX3 districts.

F. NEIGHBORHOOD PLANNED NEIGHBORHOOD (N-PND)

Neighborhood PNDs are required to provide two zone districts in addition to the P1 district as shown in Table 27-800-1. Refer to Table 27-800-1 for the allowed zoning districts available for use in the N-PND.

1. NMU District. The NMU district is limited to nodes at local street intersections and may be up to 10% of the total N-PND land area. No more than four local street intersections shall have an NMU zone district designated on two or more block ends.
2. NO District. The NO district may be designated at local street intersections and may not exceed 10% of the N-PND land area.
3. Additional Districts.
   (a) For all developments, at least two N districts shall be designated.
   (b) For developments over 40 acres, at least one NX district shall be designated and may not exceed 20% of the total N-PND area.

(c) A maximum of 50% of the land area may include land designated as an N3 district with lot sizes over 15,000 square feet.

4. P1 Districts. Public and private open space types required in section 27-803 must be zoned P1.

SECTION 27-803 PRIVATE OPEN SPACE REQUIREMENTS

All PNDs must provide open space to ensure the walkability, sociability, and safety of residents and visitors.

A. NATURAL FEATURES

Where significant tree canopy or natural feature exist on the site, the open space shall be located in order to preserve the maximum amount of the existing trees or natural feature, and maximize buffers from waterways and natural features.

B. TYPES OF OPEN SPACE

The following types of open space are required based on the type of PND selected.

1. The Town Center and Mixed Use PNDs are required to provide one of the following:

   (a) Plaza. A plaza must be at least 10,000 square feet in area and share street frontage with a CMU, NMU or P2 zone district. A plaza may provide areas for seasonal shopping or similar community activities. A plaza may be used to meet the required minimum dedication of open space for a subdivision within the TC-PND or MU-PND zone district. A plaza will be developed with landscaping and pedestrian facilities throughout.

   (b) Square. A square is similar to a plaza except it is surrounded by street frontage on all sides. A square must be at least 10,000 square feet in area and must be developed with landscaping and pedestrian facilities throughout. A square may be used to meet the required minimum dedication of open space for a subdivision within the TC-PND or MU-PND zone district.

2. The Mixed Residential and Neighborhood PNDs are required to provide one or more of the following:

   (a) Parklet. A parklet is a landscaped open space with a minimum 70% living plant material and a minimum of 20,000 square feet in area, with at least 100 feet of street frontage.

   (b) Green. A green is a larger, landscaped space, a minimum of one acre in size, with at least 200 feet of street frontage.

   (c) Natural area. A natural area is a large area, a minimum two acres in size, defined to conserve a natural feature, such as a stream, wetland or woodland. At least 50 feet of street frontage is required for a natural area.

3. All of the above required open space may be counted towards the minimum required dedication of open space for a subdivision within the Mixed Residential or Neighborhood PND zone districts.

C. P1 DISTRICT DESIGNATION

The open space must be zoned with the P1 zoning district.

D. TRAILS

New trails and trail connections shall be provided through and within the site, and any existing trails surrounding the site shall be continued through the PND, in accordance with the city open space and trail plans and master transportation plan, or as otherwise required.

SECTION 27-804 BLOCKS

Each development shall contribute to an interconnected system of streets and blocks as required by the city subdivision regulations in addition to the following requirements. Streets shall be located to result in the following block regulations.

A. MAXIMUM BLOCK FACE LENGTH

1. For CMU districts, the maximum block face length between street intersections shall be no more than 660 feet in length.
2. For all districts other than CMU, maximum block face length shall be no more than 800 feet.

B. MAXIMUM BLOCK PERIMETER

The maximum perimeter of any block shall be 2,200 feet.

C. CONNECTIVITY

1. Streets shall connect and continue existing or planned streets from adjoining areas.
2. Block faces at the maximum length above require pedestrian access at mid-block points to ensure walkability. Pedestrian access or walkways may be incorporated as a dedicated alley or as an easement between lots.

SECTION 27-901 EAST BILLINGS URBAN REVITALIZATION DISTRICT[1]

A. PURPOSE

The purpose of the East Billings Urban Revitalization District (EBURD) zoning districts and requirements is to provide standards for development as called for in the East Billings Urban Revitalization District Master Plan, adopted by the city in July 2009. The zoning districts are intended to allow existing uses to continue while integrating new mixed use and residential development appropriately with form-based regulations.

This code will be reviewed and modified as needed on an annual basis by the Billings Industrial Revitalization District, Inc. and the city.

B. EBURD ZONING DISTRICTS

The areas and boundaries of the districts listed below are hereby established to scale as shown on the map entitled Billings Urban Zoning Jurisdiction, available at the City offices.

1. EBURD RSV: Rail Spur Village District

The Rail Spur Village District is intended to create a walkable neighborhood focused on residential uses with associated green spaces and commercial businesses with the appropriate form.

2. EBURD RSVMS: Rail Spur Village Main Streets District

The Rail Spur Village Main Streets include the extension of the Montana Avenue into the EBURD as well as the North 20th Street corridor from Montana Avenue to 6th Avenue North. This district is intended to create continuous, walkable, shopping and dining corridors with upper floor residential and office uses.

3. EBURD CW: Central Works District

The Central Works District is intended to allow a flexible mix of uses, including commercial and light industrial uses.

4. EBURD 13th: North 13th Street Main Street District

The North 13th Street Main Street is intended to provide a walkable, shopping and dining corridor with upper floor office and residential adjacent to the Central Works and Industrial Sanctuary districts, while allowing appropriate craftsman industrial and commercial businesses.

5. EBURD IS: Industrial Sanctuary District

The Industrial Sanctuary district is intended to allow a wide mix of industrial businesses within the area with limited form requirements.

C. SUSTAINABLE DEVELOPMENT MEASURES

1. Generally

The following sustainable development measures process shall be addressed by all developments in the EBURD districts.

(a) Requirements. The applicant shall achieve no less than five total points from any combination of the following sustainable development measures. No partial points will be accepted.

[1] Current Article 27-1800

(b) Documentation. The applicant shall submit supporting documentation detailing how the development will achieve the measure in practice, on the site where it is proposed.

(c) Review and approval. Documentation on which measures and total number of points the applicant will achieve shall be indicated on the building permit application submitted to the city for review and approval.

2. Certified Green Buildings Measure (3 points)

(a) Action: Certify a new construction building or building undergoing major renovations through a green building rating system requiring review by an independent, third-party certifying body and approved by the zoning coordinator.

(b) Value. This measure earns the applicant three (3) points.

(c) Documentation. Required documentation includes registration of the project with the system, payment of all applicable fees for the rating system, and a draft scorecard showing the achieved credits or points.

3. Building Energy Efficiency Measure (2 points)

(a) Action

(1) New construction buildings. Newly constructed buildings must demonstrate an average 10 percent improvement over the energy code currently in effect in the city.

(2) Major renovation. Building must demonstrate an average five percent improvement over ANSI/ASHRAE/IESNA Standard 90.1- 2007.

(b) Value. This measure earns the applicant two points.

(c) Documentation. Required documentation includes an energy model demonstrating that the building(s) will achieve the proposed improvements.

4. Building Water Efficiency Measure (2 points)

(a) Action: Indoor water use in new buildings and major renovations must be an average 20 percent less than in baseline buildings. Utilize the baseline water usage for fixtures per the Energy Policy Act of 1992 and subsequent rulings by the United States Department of Energy or a similar method approved by the zoning coordinator.

(b) Value. This measure earns the applicant two points.

(c) Documentation. Required documentation includes cut sheets for all water fixtures.

5. Water-Efficient Landscaping Measure (2 points)

(a) Action: Reduce potable water used for landscape by utilizing all xeriscape plant materials and providing no permanent irrigation system or using only captured rainwater with an irrigation system.

(b) Value: This measure earns the applicant two points.

(c) Documentation: Required documentation includes a landscape and irrigation plan, illustrating the system.

6. Renewable Energy Sources Measure (2 points)

(a) Action: Incorporate renewable energy generation on-site with production capacity of at least five percent of the building's annual electric and thermal energy, established through an accepted building energy performance simulation tool.

(1) The following renewable energy generation sources are applicable:

a. Solar thermal or photovoltaics.

b. Wind.

c. Geothermal.

(b) Value. This measure earns the applicant two points.

(c) Documentation. Required documentation includes specifications and construction details for the installation of the system.

7. Green Roof Measure (2 points)

(a) Action: Install a vegetated roof for at least 50 percent of building roof area.

(b) Value: This measure earns the applicant two points.

(c) Documentation. Required documentation includes roof construction plans with drainage and planting details.

8. Heat Island Reduction Measure (2 points)

(a) Action: Use any combination of the following strategies for 35 percent of all on-site, non-roof hardscape areas, including sidewalks, plazas, courtyards, parking lots, parking structures, and driveways.

(1) Tree canopy cover. Coverage of the surface at shade tree maturity in 15 years.

(2) Solar reflective paving and roofing with a SRI (solar reflectance index) of at least 29.

(b) Value: This measure earns the applicant two (2) points.

(c) Documentation: Required documentation includes plans and specifications for installation of the strategy.

9. Pervious Pavement Measure (2 points)

(a) Action: Install an open grid or pervious pavement system that is at least 40 percent pervious on 80 percent of all hardscape surface areas, including sidewalks, plazas, courtyards, parking lots, and driveways.

(b) Value: This measure earns the applicant two points.

(c) Documentation. Required documentation includes plans and specifications for installation of the strategy.

10. Enhanced Bicycle Amenities Measure (1 point).

(a) Action: Inclusion of two of the following:

(1) Lockable enclosed bicycle storage. Provide one secure, enclosed bicycle storage space for 10 percent of planned employee occupancy.

(2) Employee shower facilities. Provide at least one shower facility and one per 150 employees.

(3) Increased bicycle parking spaces. Provide bicycle racks at a rate of one per 5,000 square feet of gross building area, with no fewer than four bicycle spaces per building.

(b) Value: This measure earns the applicant one point.

(c) Documentation: Required documentation includes site and/or building plans locating the measures included.

SECTION 27-902 INTRODUCTION TO FRONTAGE TYPE REQUIREMENTS

The frontage types detailed in section 27-904 outline the required building forms for new construction and renovated structures within the EBURD.

A. APPLICABILITY

The frontage type standards shall be applied to all new construction and exterior renovation of existing structures. Refer to section 27-1100 Proportionate Compliance for more information on the continuation of nonconforming structures.

B. GENERAL REQUIREMENTS

All frontage types must meet the following requirements:

1. **Zoning districts.** Each frontage type shall be constructed only within its designated districts (refer to Table 27-900-1, Permitted Frontage Types by Districts). Permitted frontage types in each zoning district defines which frontage types are permitted in which zoning districts.

2. **Uses.** Each frontage type can house a variety of uses depending on the district in which it is located. Refer to section 27-1000, EBURD uses for general uses permitted per district. Some frontage types have additional limitations on permitted uses.

3. **No other frontage types.** All buildings constructed must meet the requirements of one of the frontage types permitted within the zoning district of the lot.

4. **Permanent structures**. All buildings constructed shall be permanent construction without a chassis, hitch, or wheels, or other features that would make the structure mobile, unless otherwise noted.

5. **Accessory structures.**
   (a) Attached accessory structures are considered part of the principal structure.
   (b) Detached accessory structures are permitted per each frontage type and shall comply with all setbacks except the following:
      (1) Detached accessory structures are not permitted in the front yard.
      (2) Detached accessory structures shall be located behind the principal structure in the street-side yard.
      (3) Detached accessory structures shall not exceed the height of the principal structure and in no case shall be taller than two and one-half (2.5) stories.

Table 27-900-1: Permitted Frontage Types	EBURD Districts Key: P = Permitted, PB = Permitted on Boulevard Street Type Only				
Frontage Types	**RSV MS**	**RSV**	**CW**	**N13th Street**	**IS**
Yard Frontage		P			
General Stoop		P	P		P
Storefront	P	P	P	P	P
Limited Bay		P	P	P	P
Commerce			PB		P
Open Frontage					P
Civic Frontage	P	P	P	P	P
Commercial Outdoor Site		PB	P	P	P

SECTION 27-903 ENTRANCE TYPES

Entrance type standards apply to the ground story and visible basement of front facades of all frontage types as defined in this section. Refer to section 27-904 - Frontage Types.

A. GENERAL PROVISIONS

The following provisions apply to all entrance types:

1. **Intent.** To guide the design of the ground story of all buildings to relate appropriately to pedestrians on the street. Treatment of other portions of the building facades is detailed in each frontage type standard (refer to subsections 27-904.A through 27-904.H).

2. **Applicability.** The entire ground story street-facing facade(s) of all buildings shall meet the requirements of at least one (1) of the permitted entrance types, unless otherwise stated.

3. **Measuring transparency.** Refer to subsection 27-1802.D for information on measuring building transparency.

4. **Visible basements**. Visible basements, permitted by entrance type, are optional. The visible basement shall be a maximum of one-half (½) the height of the tallest story.

5. **Storefront Entrance Type (Refer to Figure 27-903(1))**
The storefront entrance type is a highly transparent ground story treatment designed to serve primarily as the display area and primary entrance for retail or service uses.

   (a) Transparency. Minimum transparency is required per frontage type.

   (b) Elevation. Storefront elevation shall be between zero and one foot above sidewalk.

   (c) Visible basement. A visible basement is not permitted.

   (d) Horizontal facade division. Horizontally define the ground story facade from the upper stories.

   (e) Entrance. All entries shall be recessed from the front facade closest to the street.

      (1) Recess shall be a minimum of three feet and a maximum of eight feet deep, measured from the portion of the front facade closest to the street.

      (2) When the recess falls behind the front build-to zone, the recess shall be no wider than eight feet.

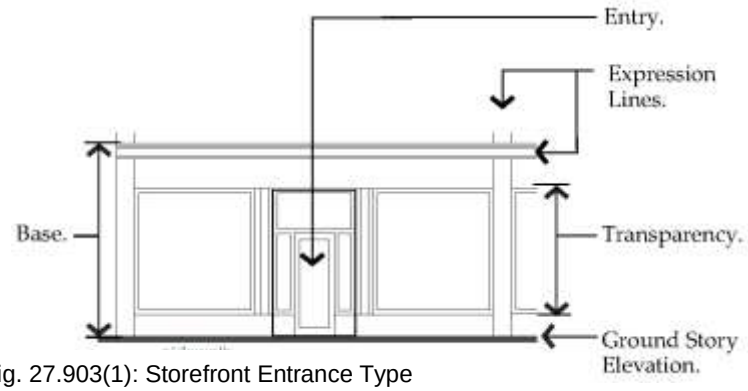


Fig. 27.903(1): Storefront Entrance Type

6. Arcade Entrance Type (Refer to Figure 27-903(2))

An arcade entrance type is a covered pedestrian walkway within the recess of a ground story.

(a) Arcade. An open-air public walkway is required from the face of the building recessed into the building a minimum of eight and a maximum of 15 feet.

(b) Recessed or interior facade. Storefront entrance type is required on the recessed ground story facade.

(c) Column spacing. Columns shall be spaced between 10 feet and 12 feet on center.

(d) Column width. Columns shall be a minimum of 1′-8″ and a maximum 2′-4″ in width.

(e) Arcade opening. Opening shall not be flush with interior arcade ceiling and may be arched or straight.

(f) Horizontal facade division. Horizontally define the ground story facade from the upper stories.

(g) Visible basement. A visible basement is not permitted.

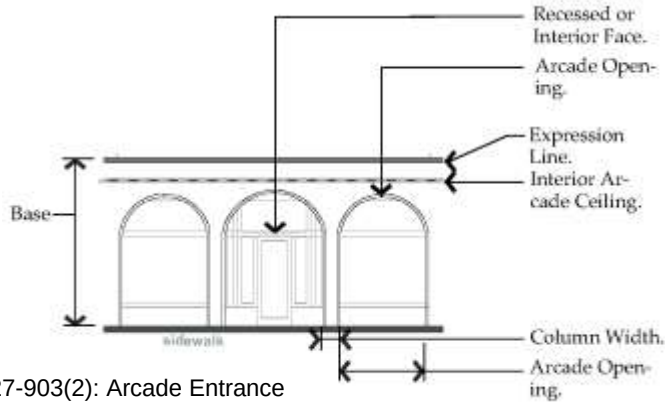


Fig. 27-903(2): Arcade Entrance

7. Stoop Entrance Type (Refer to Figure 27-903(3)).

(a) A stoop is an unroofed, open platform.

(b) Transparency. Minimum transparency is required per frontage type.

(c) Stoop size. Stoops shall be a minimum of three feet deep and six feet wide.

(d) Elevation. Stoop elevation shall be located a maximum of 2′-6″ above the sidewalk without visible basement and a maximum of 4′-6″ above the sidewalk with a visible basement.

(e) Visible basement. A visible basement is permitted and shall be separated from the ground story by an expression line.

(f) Entrance. All entries shall be located off a stoop.

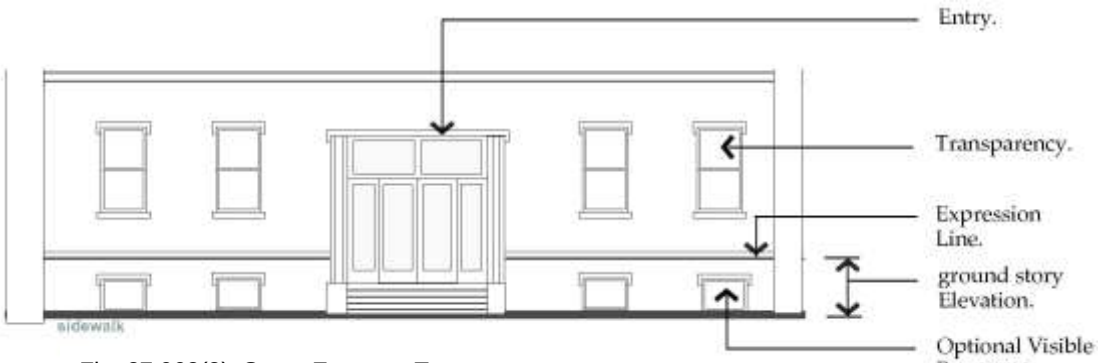


Fig. 27.903(3): Stoop Entrance Type

8. Porch Entrance Type (Refer to Figure 27-903(4))

A porch is a raised, roofed platform that may or may not be enclosed on all sides.

(a) Transparency.

(1) Minimum transparency per frontage type is required.

(2) If enclosed, a minimum of 40 percent of the enclosed porch shall be comprised of highly transparent, low reflectance windows.

(b) Porch size. The porch shall be a minimum of five feet deep and eight feet wide.

(c) Elevation. Porch elevation shall be located a maximum of 2′-6″ above the sidewalk without a visible basement and a maximum of 4′-6″ above the sidewalk with a visible basement.

(d) Visible basement. A visible basement is permitted.

(e) Height. Porch may be two stories to provide a balcony on the second floor.

(f) Entrance. All entries shall be located off a porch.

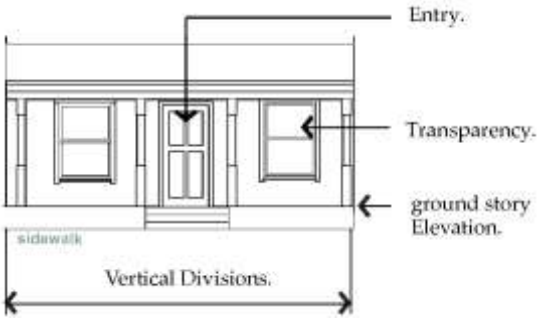


Fig. 27.903(4): Porch Cap

B. STREET FACADE MATERIALS.

The following applies to all facades visible from any street on all frontage types with the exception of the open frontage type.

1. Permitted facade materials. Building materials that are permitted include durable, natural materials such as clay or terracotta tiles, stone, brick, stucco, concrete, and metal. Cast stone is permitted. Painted or stained wood, and burnished and/or split face

colored concrete masonry units are permitted as no more than thirty-five (35) percent of street facing facade.

2. Permitted upper story facade materials. In addition to the permitted facade materials defined in subsection 27-903.B.1, exterior insulation and finishing systems (EIFS) is permitted on upper stories.
3. Materials to avoid. Building materials that are discouraged on any street facing facade include imitation materials intended to look like natural materials; sheet materials intended to look like units; and residential grade windows and doors on all frontage types except the yard frontage.
4. Prohibited materials on street facing facades. Building materials that are not permitted on building facades that are visible from any street include bricks more than three and five-eighths (3 5/8) inch in height, and untreated wood.

SECTION 27-904 FRONTAGE TYPES

A. FRONTAGE TYPE: YARD FRONTAGE

The following regulations apply to **Yard Frontage Type** as allowed in EBURD districts per Table 27-900-1. Refer to 27-902 and 27-903, for general regulations applicable to all frontage types and Table 27-900-2, below, for regulations specific to this frontage type, keyed to illustrations in Figure 27-904(1-3). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-900-2 YARD FRONTAGE REGULATIONS

1. BUILDING SITING		
a. Street Frontage		
Multiple Principal Buildings	Permitted	
Front Lot Line Coverage	65% minimum [1]	**A**
Build to Corner	Required	
Front Build-to Zone	5′ to 15′	**B**
Street-Side Build-to Zone	5′ to 10′	**C**
Right-of-Way Encroachment	None	
b. Buildable Area		
Side Setback	0′, minimum 10′ between buildings or sets of attached units	**D**
Rear Setback	5′; 0′ with Alley	**E**
Minimum Lot Width	25′	**F**
Maximum Lot Width	60′ for single family only; None for attached	
Maximum Building Length	8 attached units	**A**
Maximum Impervious Coverage Additional Semi-Pervious Coverage	80% 15%	
c. Parking Location, Loading & Access		
Parking Location	Rear Yard	**G**
Loading Facility Location	None	
Entry for Parking within Building	Rear Facade	
Vehicular Access	From Alley; If no Alley exists, up to one (1) driveway per building or set of attached units [2]	**H**

Notes:
[1] [1]When townhouses, each attached townhouse unit shall meet all requirements, except one of every five units may front a courtyard with a minimum width of 30′.
[2]For parcels with a street frontage longer than 300′ and no Alley, two (2) driveways are permitted.

2. HEIGHT		
Minimum Overall Height	1 Story; 2 Stories preferred	**I**
Maximum Overall Height	3 Stories	**J**
Stories: Minimum Height Maximum Height	9′ 14′	**K**

3. USES		
All Stories	Residential, General Service, Office only per Art. 27-1000	**L**
Parking within Building	Permitted in the rear of all floors and fully in any basement(s)	**N**
Occupiable Space	30′ depth space on front facade	**O**
Accessory Structures	Permitted per Sec. 27-1000	
4. STREET FAÇADE REQUIREMENTS		
a. Window Coverage		
Minimum Window Coverage	15%, per floor	**P**
Blank Wall Limitations	Required	
b. Building Entrance		
Principal Entrance Location	Front or Corner of Building	**Q**
Entrance Type (refer to Sec. 27-903)	Stoop, Porch	**R**
Street Facades: Number of Entrances	Minimum 1 per building	
Parking Lot Facades: Number of Entrances	Not applicable	
c. Roof Type		
Roof Type (refer to Sec. 27-1802.)	Parapet, Flat, or Pitched	**S**
Tower	One per building allowed	
d. Façade Divisions		
Vertical Increments	No greater than 50′	
Horizontal Expression Line	None required except by Roof Type	
e. Balconies		**U**
Size	Minimum 3′ deep and 5′ wide	
Facade Coverage	Maximum 40% of Front & Street-side Facades, separately	
Access to Balcony	Maximum one (1) dwelling unit	
Structure	Independently secured and unconnected to other balconies; or integral to the Facade	

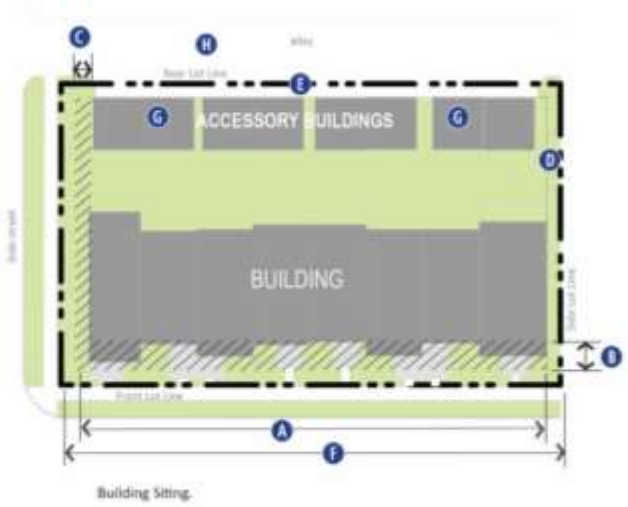


Figure 27-904(1): Building Siting.

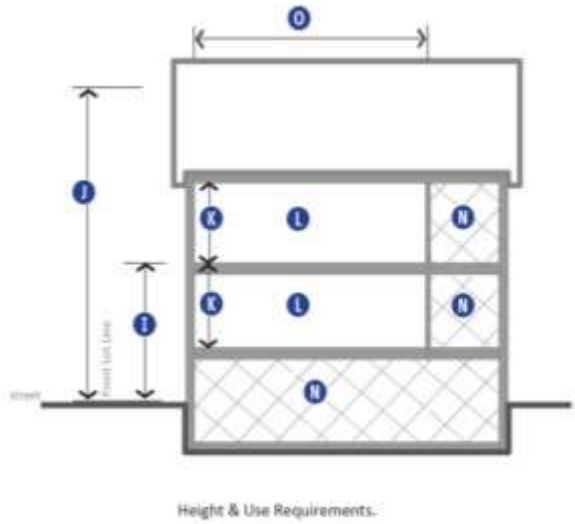


Figure 27-904(2): Height & Use Requirements.

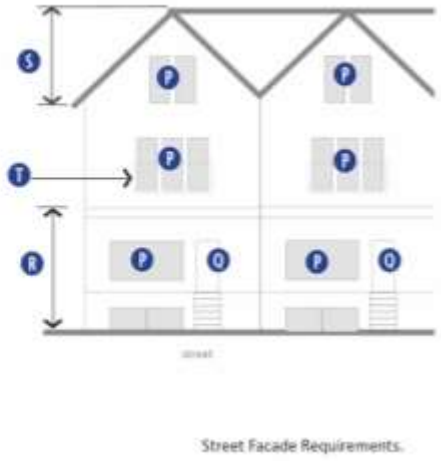


Figure 27-904(3): Street Facade Requirements.

B. FRONTAGE TYPE: GENERAL STOOP FRONTAGE

The following regulations apply to **General Stoop Frontage Type** as allowed in EBURD districts per Table 27-900-1. Refer to 27-902 and 27-903, for general regulations applicable to all frontage types and Table 27-900-3, below, for regulations specific to this frontage type, keyed to illustrations in Figure 27-904(4-6). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-900-3 GENERAL STOOP FRONTAGE REGULATIONS

1. BUILDING SITING		
a. Street Frontage		
Multiple Principal Buildings	Not Permitted	
Front Lot Line Coverage	85% minimum [1]	**A**
Build to Corner	Required	
Front Build-to Zone	0′ to 10′	**B**
Street-Side Build-to Zone	0′ to 10′	**C**
Right-of-Way Encroachment	Eaves, Awnings, Canopies	
b. Buildable Area		
Side Setback	3′	**D**
Rear Setback	5′; 0′ with Alley	**E**
Maximum Impervious Coverage Additional Semi-Pervious Coverage	75% 20%	
c. Parking Location, Loading & Access		
Parking Location	Rear Yard	**F**
Loading Facility Location	Rear Facade	**G**
Entry for Parking within Building	Rear Facade or Side Facade	
Vehicular Access	From Alley; If no Alley exists, one (1) driveway off a side or street-side side yard [2]	**H**

Notes:

[1] A courtyard covering up to 35 percent of the front facade is permitted and may contribute to the front lot line coverage requirement.

[2]For parcels with a street frontage longer than 300′ and no alley, two (2) driveways are permitted.

2. HEIGHT		
Minimum Overall Height	2 Stories	**I**
Maximum Overall Height	6 Stories [3]	**J**
Stories: Minimum Height Maximum Height	9′ 14′	**K**

Notes:

[3] Above the fourth story, the upper stories of any building facade with street frontage shall have a step back from the lower stories that is a minimum of 6′ and a maximum of 12′.

3. USES		
All Stories	All permitted uses by district per Sec. 27-1000	**L**
Parking within Building	Permitted in the Rear of all Floors and fully in any Basement(s)	**M**
Occupiable Space	30′ depth space on front facing facade	**N**
Accessory Structures	Permitted per Sec. 27-1000.	

4. STREET FAÇADE REQUIREMENTS		
a. Window Coverage		
Minimum Window Coverage	15%, per floor	**O**
Blank Wall Limitations	Required	
b. Building Entrance		
Principal Entrance Location	Front, Street-side Side, or Corner of Building	**P**
Entrance Type (refer to Sec. 27-903)	Stoop, minimum 6′ wide and 3′ deep	
Street Facades: Number of Entrances	1 per 75′ of Facade	
c. Roof Type		
Roof Type (refer to Sec. 27-1802.)	Parapet, Flat, or Pitched	**R**
Tower	One per building allowed	**S**
d. Façade Divisions		
Vertical Increments	No greater than 50′	
Horizontal Expression Line	Required within 3′ of top of ground story on buildings taller than 3 stories	**T**
e. Balconies		**U**
Size	Minimum 3′ deep and 5′ wide	
Facade Coverage	Maximum 40% of Front & Street-side Side Facades, separately	
Access to Balcony	Maximum one (1) dwelling unit	
Structure	Independently secured and unconnected to other balconies; or integral to the Facade	

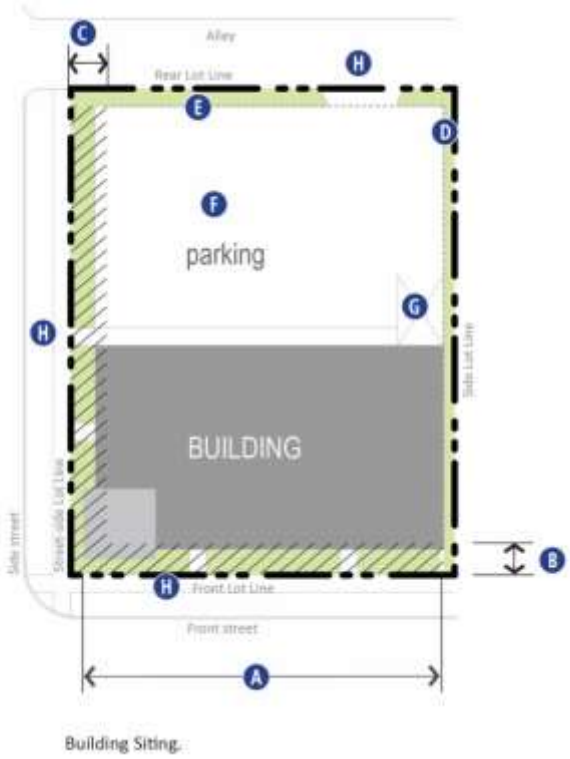
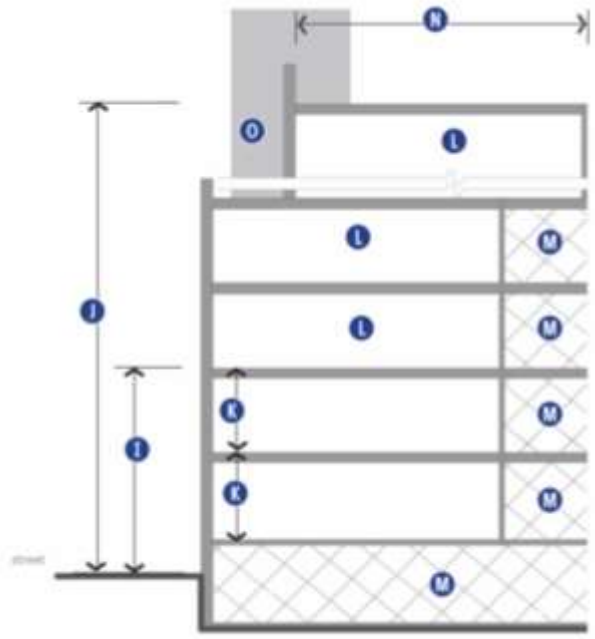
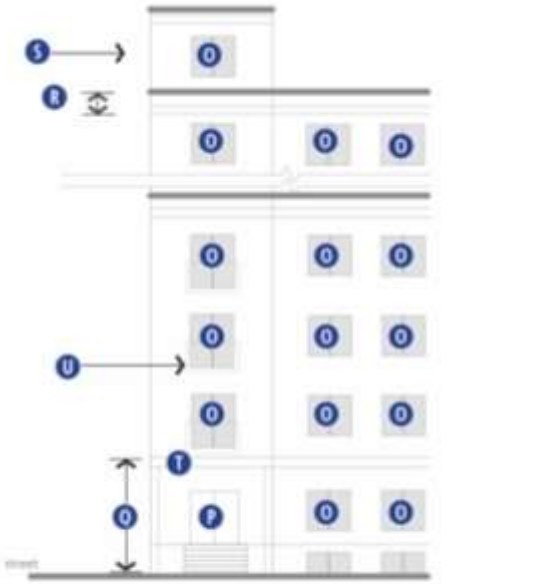


Figure 27-904(4): Building Siting.



Height & Use Requirements.

Figure 27-904(5): Height & Use Requirements.



Street Facade Requirements.

Figure 27-904(6): Street Facade Requirements.

C. FRONTAGE TYPE: STOREFRONT FRONTAGE.

The following regulations apply to **Storefront Frontage Type** as allowed in EBURD districts per Table 27-900-1. Refer to 27-902 and 27-903, for general regulations applicable to all frontage types and Table 27-900-4, below, for regulations specific to this frontage type, keyed to illustrations in Figure 27-904(7-9). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-900-4 STOREFRONT FRONTAGE REGULATIONS

1. BUILDING SITING		
a. Street Frontage		
Multiple Principal Buildings	Not Permitted	
Front Lot Line Coverage	95% minimum	**A**
Build to Corner	Required	
Front Build-to Zone	0′ to 5′ [1]	**B**
Street-Side Build-to Zone	0′ to 5′	**C**
Right-of-Way Encroachment	Eaves, Awnings, Canopies	
b. Buildable Area		
Side Setback	0′	**D**
Rear Setback	5′; 0′ with Alley	**E**
Minimum Lot Width	25′	**F**
Maximum Lot Width	None	
Maximum Impervious Coverage Additional Semi-Pervious Coverage	80% 20%	
c. Parking Location, Loading & Access		
Parking Location	Rear Yard	**G**
Loading Facility Location	Rear Facade	**H**
Entry for Parking within Building	Rear Facade	
Vehicular Access	From Alley; If no Alley exists, one (1) driveway off a side or street-side side yard [2]	**I**

Notes:
[1] Areas within the Front Build-to Zone not occupied by building shall be paved to match adjacent walk.
[2]For parcels with a street frontage longer than 300′ and no alley, two (2) driveways are permitted.

2. HEIGHT		
Minimum Overall Height	2 Stories	**J**
Maximum Overall Height	6 Stories [3]	**K**
Ground Story: Minimum Height Maximum Height	14′ 24′ [4]	**L**
Upper Stories: Minimum Height Maximum Height	9′ 14′	**M**

Notes:
[3] [3]Above the fourth Story, the Upper Stories of any building Facade with Street Frontage shall have a step back from the lower Stories that is a minimum of 6′ and a maximum of 12′. [4] If 18′ or more in height, Ground Story shall count as 2 Stories towards maximum building height.

3. USES		
Ground Story	Library/Museum, Post Office, General Retail, General Service, Office, Craftsman Industrial	**N**
All Stories	All permitted uses by district per Art. 27-1000	**O**
Parking within Building	Permitted in the Rear of all Floors and fully in any Basement(s)	**P**
Occupiable Space	30′ depth space on front facing facade	**Q**
Accessory Structures	Permitted per Sec. 27-1000.	
4. STREET FAÇADE REQUIREMENTS		
a. Window Coverage		
Ground Floor: Minimum Transparency	75%, measured between 2′ and 8′ from sidewalk elevation	**R**
Upper Floor: Minimum Transparency	20%, per floor	**S**
Blank Wall Limitations	Required	
b. Building Entrance		
Principal Entrance Location	Front or Corner of Building	**T**
Entrance Type (refer to Sec. 27-903)	Storefront	**U**
Street Facades: Number of Entrances	1 per 75′ of Facade	**T**
c. Roof Type		
Roof Type (refer to Sec. 27-1802)	Parapet, Flat, Pitched, or Barrel	**V**
Tower	One per building allowed	
d. Façade Divisions		
Vertical Increments	No greater than 30′	
Horizontal Expression Line	Required within 3′ of top of ground story	**W**
e. Balconies		
Size	Minimum 3′ deep and 5′ wide	**X**
Facade Coverage	Maximum 40% of Front & Street-side Side Facades, separately	
Access to Balcony	Maximum one (1) dwelling unit	
Structure	Independently secured and unconnected to other balconies; or integral to the Facade	

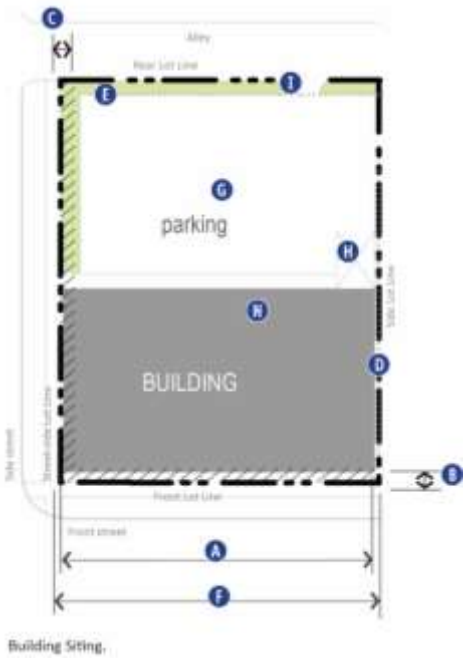


Figure 27-904(7): Building Siting.

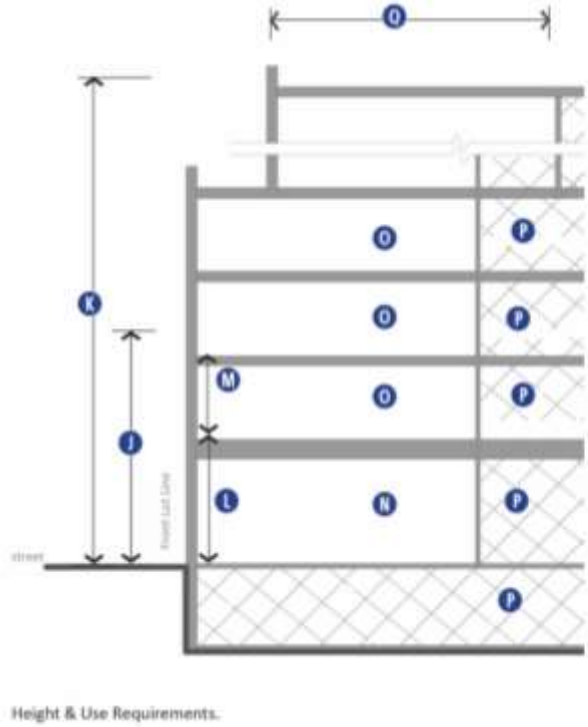


Figure 27-904(8): Height & Use Requirements.

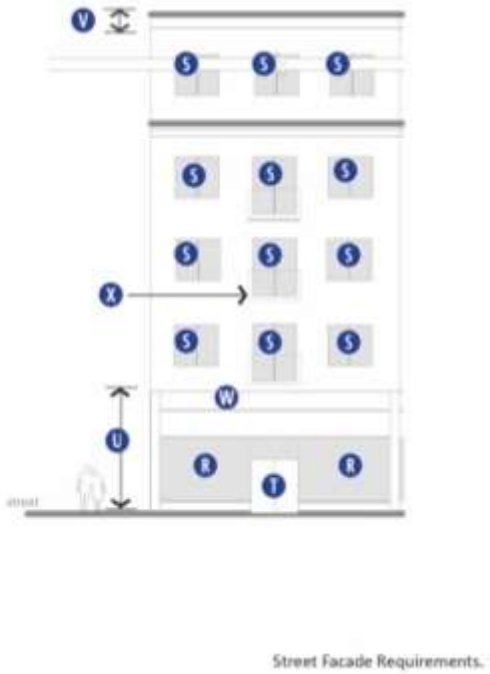


Figure 27-904(9): Street Facade Requirements.

D. FRONTAGE TYPE: LIMITED BAY FRONTAGE.

The following regulations apply to **Limited Bay Frontage Type** as allowed in EBURD districts per Table 27-900-1. Refer to 27-902 and 27-903, for general regulations applicable to all frontage types and Table 27-900-5, below, for regulations specific to this frontage type, keyed to illustrations in Figure 27-904(10-12). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-900-5 LIMITED BAY FRONTAGE REGULATIONS

1. BUILDING SITING		
a. Street Frontage		
Multiple Principal Buildings	Not Permitted	
Front Lot Line Coverage	95% minimum, parking exception [1]	**A**
Build to Corner	Required	
Front Build-to Zone	0′ to 10′	**B**
Street-Side Build-to Zone	0′ to 10′	**C**
Right-of-Way Encroachment	Awnings & canopies	
b. Buildable Area		
Side Setback	0′	**D**
Rear Setback	5′; 0′ with Alley	**E**
Minimum Lot Width	25′	**F**
Maximum Lot Width	None	
Maximum Impervious Coverage Additional Semi-Pervious Coverage	90% 10%	
c. Parking Location, Loading & Access		
Parking Location	Rear Yard; Limited Side Yard [1]	**G**
Loading Facility Location	Rear or Side Facade; Limited Front or Street-side Facade [2]	**H**
Entry for Parking within Building	Rear & Side Facades; Limited Front or Street-side Facade [2]	
Vehicular Access	From Alley; or up to one (1) driveway per street frontage [3]	**I**

Notes:
[1] Lots wider than 140′ are permitted 1 double-loaded aisle of parking (maximum width of 65′), located perpendicular to street, which is exempt from front lot line coverage calculation
[2] One bay is permitted on either the front or street-side facade, maximum width 20′, for either loading or parking entry.
[3]For parcels with a street frontage longer than 300′ and no alley, two (2) driveways are permitted.

2. HEIGHT		
Minimum Overall Height	2 Stories	**J**
Maximum Overall Height	6 Stories [4]	**K**
Ground Story: Minimum Height	15′ 24′ [5]	**L**

Maximum Height		
Upper Stories: Minimum Height Maximum Height	9′ 14′	M

Notes:
[4] Above the fourth story, the upper stories of any building facade with street frontage shall have a step back from the lower stories that is a minimum of 6′ and a maximum of 12′.
[5] I f 18′ or more in height, Ground Story shall count as 2 Stories towards maximum building height.

3. USES		
All Stories	All permitted uses by district per Art. 27-1000	O
Parking within Building	Permitted in the Rear of all Floors and fully in any Basement(s)	P
Occupiable Space	30′ depth space on front facing facade	Q
Accessory Structures	Permitted per Sec. 27-1000.	
4. STREET FAÇADE REQUIREMENTS		
a. Window Coverage		
Ground Floor: Minimum Transparency	50%, measured between 2′ and 8′ from sidewalk elevation	R
Minimum Window Coverage	20% per floor	S
Blank Wall Limitations	Required	
b. Building Entrance		
Principal Entrance Location	Front, Street-side, or Corner of Building	T
Entrance Type (refer to Sec. 27-903)	Storefront	U
Street Facades: Number of Entrances	1 per 75′ of Facade	T
Parking Lot Facades: Number of Entrances	1 per 100′ of Facade	
c. Roof Type		
Roof Type (refer to Sec. 27-1802)	Parapet, Flat, Pitched, or Barrel	V
Tower	One per building allowed	
d. Façade Divisions		
Vertical Increments	No greater than 50′	W
Horizontal Expression Line	Required within 3′ of top of ground story	X
e. Balconies		
Size	Minimum 3′ deep and 5′ wide	
Facade Coverage	Maximum 40% of Front & Street-side Facades, separately	
Access to Balcony	Maximum one (1) dwelling unit	
Structure	Independently secured and unconnected to other balconies; or integral to the Facade	

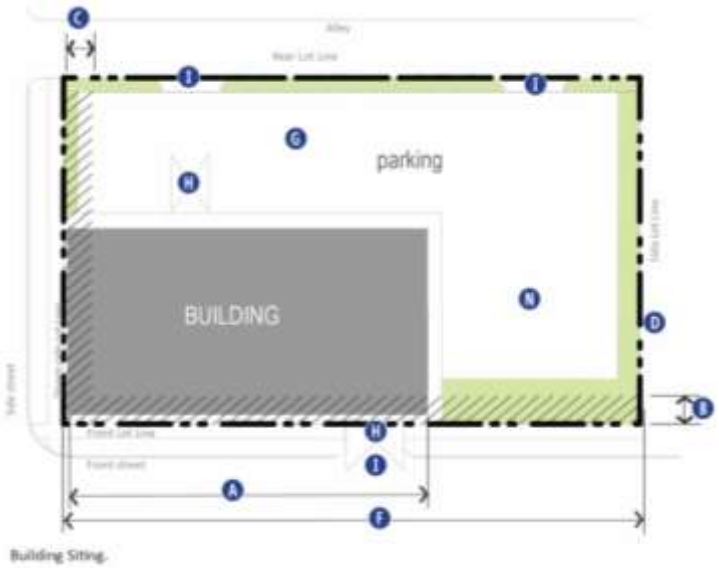


Figure 27-904(10): Building Siting.

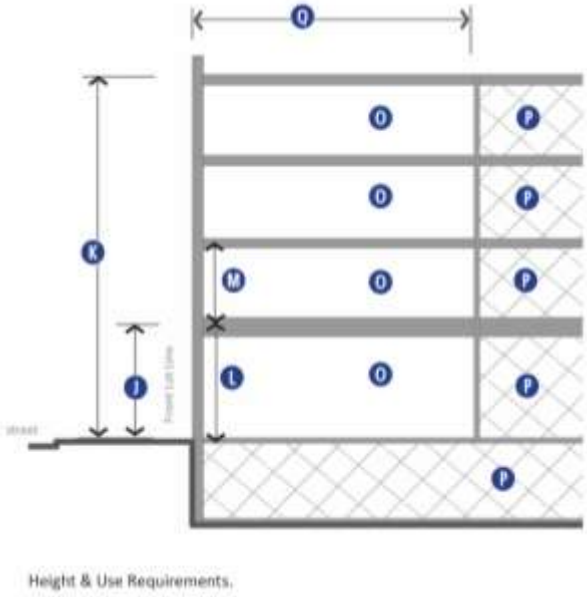


Figure 27-904(11): Height & Use Requirements.

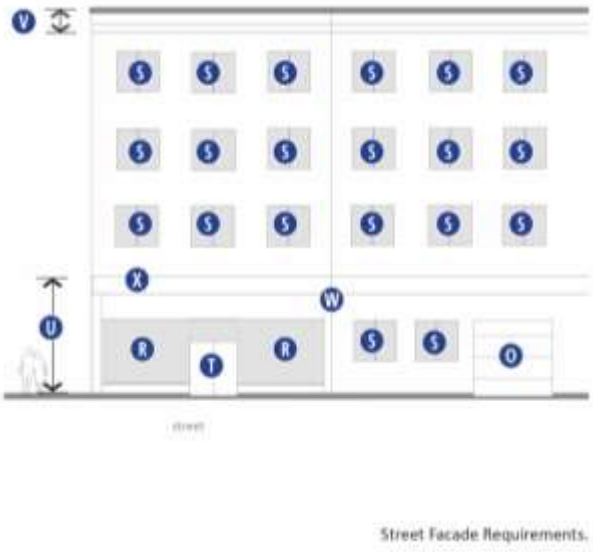


Figure 27-904(12): Street Facade Requirements.

E. FRONTAGE TYPE: COMMERCE FRONTAGE.

The following regulations apply to **Commerce Frontage Type** as allowed in EBURD districts per Table 27-900-1. Refer to 27-902 and 27-903, for general regulations applicable to all frontage types and Table 27-900-6, below, for regulations specific to this frontage type, keyed to illustrations in Figure 27-904(13-15). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-900-6 COMMERCE FRONTAGE REGULATIONS

1. BUILDING SITING		
a. Street Frontage		
Multiple Principal Buildings	Permitted	
Front Lot Line Coverage	45% minimum	**A**
Build to Corner	Required; Fuel stations are exempt	
Front Build-to Zone	5′ to 20′	**B**
Street-Side Build-to Zone	5′ to 20′	**C**
Right-of-Way Encroachment	None	
b. Buildable Area		
Side Setback	5′	**D**
Rear Setback	5′; 0′ with Alley	**E**
Minimum Lot Width	50′	**F**
Maximum Lot Width	None	
Maximum Impervious Coverage Additional Semi-Pervious Coverage	75% 15%	
c. Parking Location, Loading & Access		
Parking Location	Rear & Side Yards	**G**
Loading Facility Location	Rear & Side Facades	**H**
Entry for Parking within Building	Rear & Side Facades	
Vehicular Access	From Alley; or up to one (1) driveway per street frontage [1]	**I**
Notes:		
[1] For parcels with a street frontage longer than 300′ and no alley, two (2) driveways are permitted.		
2. HEIGHT		
Minimum Overall Height	1 Story; 2 Stories preferred	**J**
Maximum Overall Height	6 Stories [2]	**K**
Ground Story: Minimum Height Maximum Height	15′ 20′ [3]	**L**
Upper Stories: Minimum Height Maximum Height	9′ 14′	**M**
Notes:		

[2] Above the fourth story, the upper stories of any building facade with street frontage shall have a step back from the lower stories that is a minimum of 6′ and a maximum of 12′.
[3] I f 18′ or more in height, Ground Story shall count as 2 Stories towards maximum building height.

3. USES		
All Stories	All permitted uses by district per Art. 27-1000	**O**
Parking within Building	Permitted in the Rear of all Floors and fully in any Basement(s)	**P**
Occupiable Space	30′ depth space on front facing facade	**Q**
Accessory Structures	Permitted per Sec. 27-1000.	
4. STREET FAÇADE REQUIREMENTS		
a. Window Coverage		
Ground Floor: Minimum Transparency	35%, measured between 2′ and 8′ from sidewalk elevation	**R**
Minimum Window Coverage	15%, per floor	**S**
Blank Wall Limitations	Required	
b. Building Entrance		
Principal Entrance Location	Front, Street-side, or Corner of Building	**T**
Entrance Type (refer to Sec. 27-903)	Storefront, or Stoop	**U**
Street Facades: Number of Entrances	1 per 75′ of Facade	**T**
Parking Lot Facades: Number of Entrances	1 per 100′ of Facade	
c. Roof Type		
Roof Type (refer to Sec. 27-1802)	Parapet, Flat, Pitched, or Barrel	**V**
Tower	One per building allowed	
d. Façade Divisions		
Vertical Increments	No greater than 50′	**W**
Horizontal Expression Line	Required within 3′ of top of ground story	**X**
e. Balconies		**Y**
Size	Minimum 3′ deep and 5′ wide	
Facade Coverage	Maximum 40% of Front & Street-side Facades, separately	
Access to Balcony	Maximum one (1) dwelling unit	
Structure	Independently secured and unconnected to other balconies; or integral to the Facade	

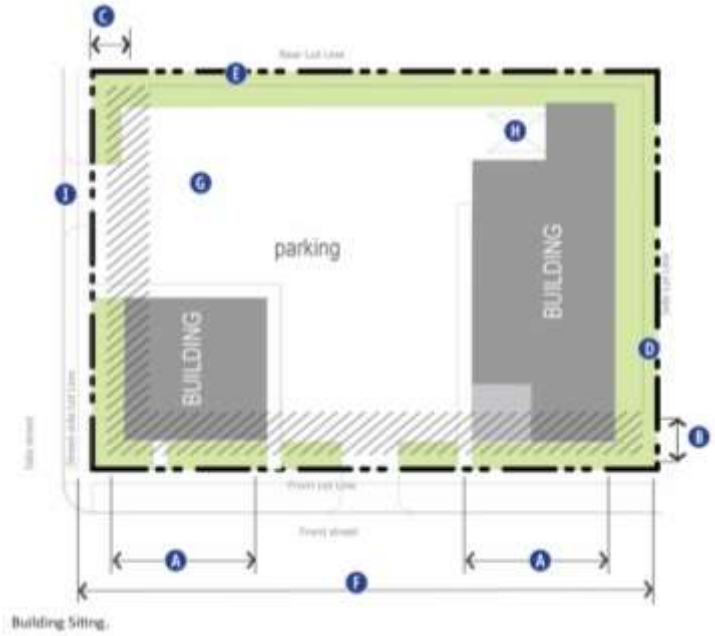


Figure 27-904(13): Building Siting.

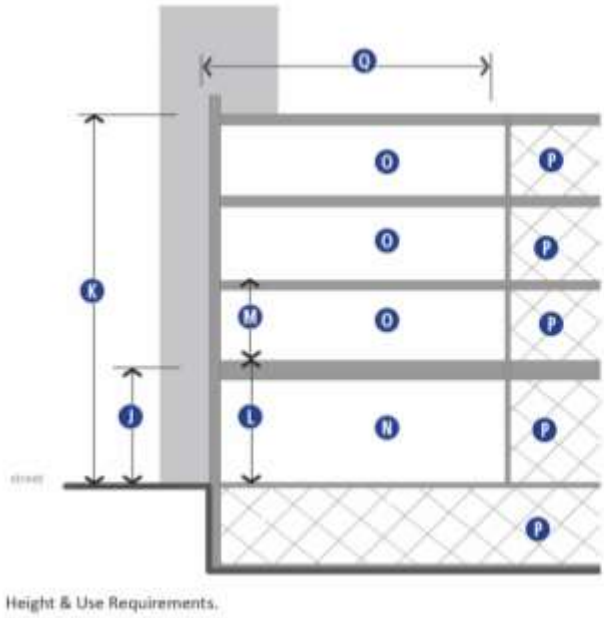


Figure 27-904(14): Height & Use Requirements

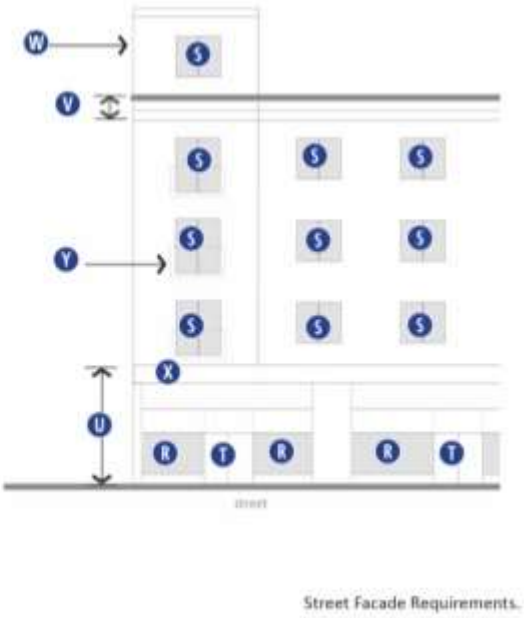


Figure 27-904(15): Street Facade Requirements.

F. FRONTAGE TYPE: OPEN FRONTAGE.

The following regulations apply to **Open Frontage Type** as allowed in EBURD districts per Table 27-900-1. Refer to 27-902 and 27-903, for general regulations applicable to all frontage types and Table 27-900-7, below, for regulations specific to this frontage type, keyed to illustrations in Figure 27-904(16-18). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-900-7 OPEN FRONTAGE REGULATIONS

1. BUILDING SITING		
a. Street Frontage		
Multiple Principal Buildings	Permitted	
Front Lot Line Coverage	N/A	
Build to Corner	Encouraged	
Front Setback	10′	**A**
Street-Side Setback	5′	**B**
Right-of-Way Encroachment	None	
b. Buildable Area		
Side Setback	5′	**C**
Rear Setback	5′; 0′ with Alley	**D**
Minimum Lot Width	50′	**E**
Maximum Lot Width	None	
Maximum Impervious Coverage Additional Semi-Pervious Coverage	85% 15%	
c. Parking Location, Loading & Access		
Parking Location	All Yards; Rear Yard & Side Yard preferred	**F**
Loading Facility Location	Front, Rear & Side Facades	**G**
Entry for Parking within Building	Front, Rear & Side Facades	**H**
Vehicular Access	From Alley; or up to two (2) driveway per street frontages, minimum 50′ apart	**I**
2. HEIGHT		
Minimum Overall Height	1 Story	**J**
Maximum Overall Height	6 Stories [1]	**K**
Ground Story: Minimum Height Maximum Height	9′ 20′ [2]	**L**
Upper Stories: Minimum Height Maximum Height	9′ 15′	**M**
Notes:		

[2] Above the fourth story, the upper stories of any building facade with street frontage shall have a step back from the lower stories that is a minimum of 6′ and a maximum of 12′.
[3] I f 18′ or more in height, Ground Story shall count as 2 Stories towards maximum building height.

3. USES		
All Stories	Only Industrial Uses permitted	**N**
Parking within Building	Permitted in all floors	**O**
Occupiable Space	30′ depth space on front facing facade	**P**
Accessory Structures	Permitted per Sec. 27-1000.	
4. STREET FAÇADE REQUIREMENTS		
a. Window Coverage		
Minimum Window Coverage	5%	**Q**
Blank Wall Limitations	Not Required	
b. Building Entrance		
Principal Entrance Location	Not Required	
Entrance Type (refer to Sec. 27-903)	Not Required	
Street Facades: Number of Entrances	Not Required	
Parking Lot Facades: Number of Entrances	Not Required	
c. Roof Type		
Roof Type (refer to Sec. 27-1802)	Not Required	
Tower	Not Permitted	
d. Façade Divisions		
Vertical Increments	Not Required	
Horizontal Expression Line	Not Required	

Figure 27-904(16): Building Siting.

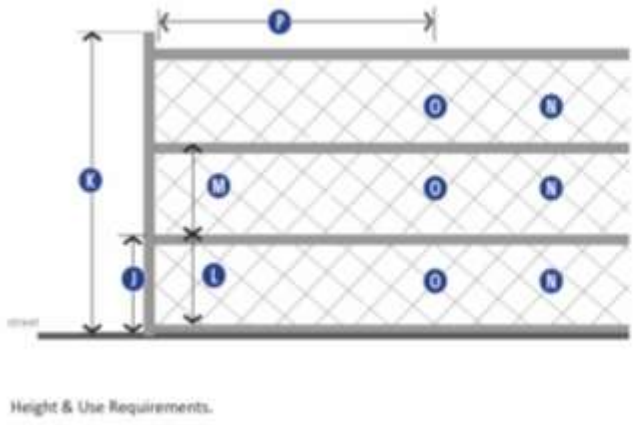


Figure 27-904(17): Height & Use Requirements.

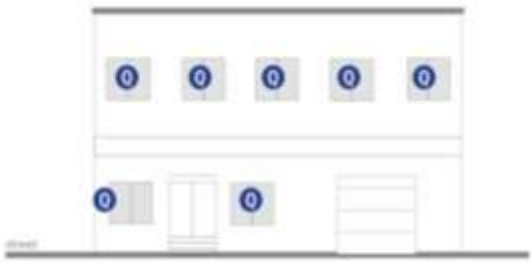


Figure 27-904(18): Street Facade Requirements.

G. FRONTAGE TYPE: CIVIC FRONTAGE.

The following regulations apply to **Civic Frontage Type** as allowed in EBURD districts per Table 27-900-1. Refer to 27-902 and 27-903, for general regulations applicable to all frontage types and Table 27-900-8, below, for regulations specific to this frontage type, keyed to illustrations in Figure 27-904(19-21). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-900-8 CIVIC FRONTAGE REGULATIONS

1. BUILDING SITING		
a. Street Frontage		
Multiple Principal Buildings	Permitted	
Front Lot Line Coverage	N/A	
Build to Corner	Required	
Front Setback	5′	A
Street-Side Setback	5′	B
Right-of-Way Encroachment	None	
b. Buildable Area		
Side Setback	5′	C
Rear Setback	5′; 0′ with Alley	D
Minimum Lot Width Maximum Lot Width	50′ None	E
Maximum Impervious Coverage Additional Semi-Pervious Cover	75% 15%	
c. Parking Location, Loading & Access		
Parking Location	Rear Yard & Side Yard [1]	F
Loading Facility Location	Rear & Side Facades	G
Entry for Parking within Building	Rear & Side Facades	
Vehicular Access	From Alley; or up to one (1) driveway per secondary street frontage [2]	H

Notes:
[1] A courtyard covering up to 35 percent of the front facade is permitted and may contribute to the front lot line coverage requirement.
[2]For parcels with a street frontage longer than 300′ and no alley, two (2) driveways are permitted.

2. HEIGHT		
Minimum Overall Height	1 Story; 2 Stories preferred	I
Maximum Overall Height	6 Stories [3]	J
Ground Story: Minimum Height Maximum Height	9′ 30′ [4]	K
Upper Stories: Minimum Height Maximum Height	9′ 15′	L

Notes:
[3] Above the fourth story, the upper stories of any building facade with street frontage shall have a step back from the lower stories that is a minimum of 6′ and a maximum of 12′.
[4] If 20′ or more in height, Ground Story shall count as 2 to Stories towards maximum overall height.

3. USES		
All Stories	See Section 27-1000 for allowed uses	**M**
Parking within Building	Permitted in the Rear of all Floors and fully in any Basement(s)	**N**
Occupiable Space	30′ depth space on front facing facade	**O**
Accessory Structures	Permitted per Sec. 27-1000	
4. STREET FAÇADE REQUIREMENTS		
a. Window Coverage		
Minimum Window Coverage	15%, per floor	**P**
Blank Wall Limitations	Not Required	
b. Building Entrance		
Principal Entrance Location	Not Required	
Entrance Type (refer to Sec. 27-903)	Stoop	**Q**
Street Facades: Number of Entrances	Not Required	
c. Roof Type		
Roof Type (refer to Sec. 27-1802)	Parapet, Flat, or Pitched	**R**
Tower	Permitted	**S**
d. Façade Divisions		
Vertical Increments	No greater than 30′	
Horizontal Expression Line	Not Required	
e. Balconies		
Size	Minimum 3′ deep and 5′ wide	
Facade Coverage	Maximum 40% of Front & Street-side Facades, separately	
Access to Balcony	Maximum one (1) dwelling unit	
Structure	Independently secured and unconnected to other balconies; or integral to the Facade	

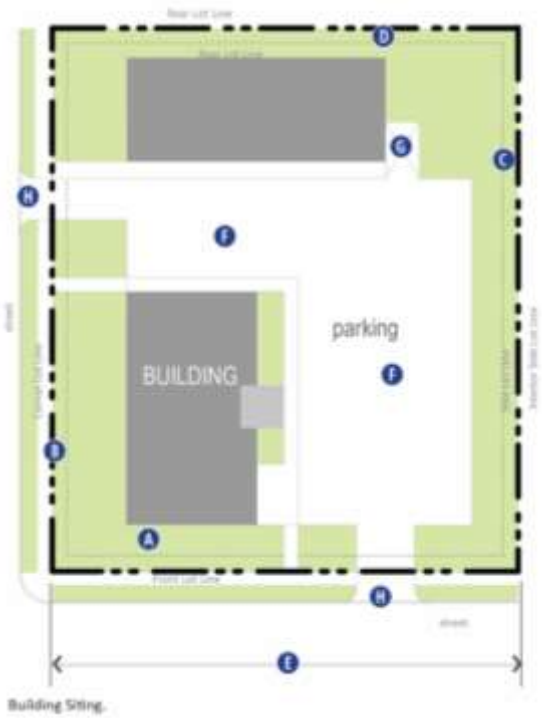


Figure 27-904(19): Building Siting.

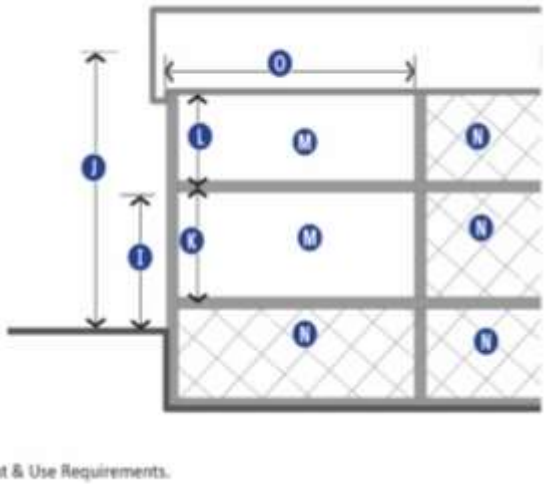


Figure 27-904(20): Height & Use Requirements.

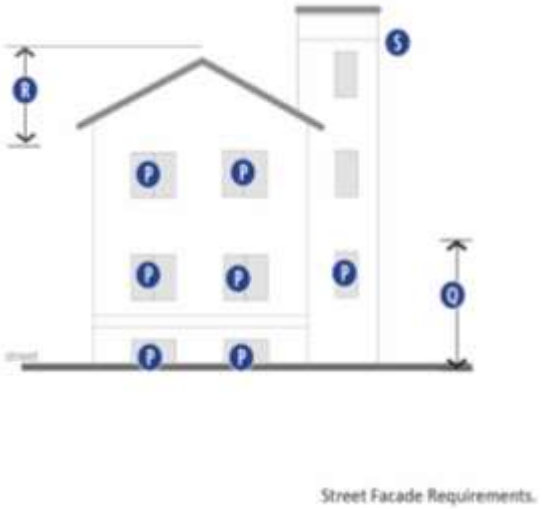


Figure 27-904(21): Street Facade Requirements.

H. FRONTAGE TYPE: COMMERCIAL OUTDOOR SITE

The following regulations apply to **Commercial Outdoor Site Frontage Type** as allowed in EBURD districts per Table 27-900-1. Refer to 27-902 and 27-903 for general regulations applicable to all frontage types and Table 27-900-9, below, for regulations specific to this frontage type, keyed to illustrations in Figure 27-904(22). See Article 27-1800 for definitions and information on how to measure the following regulations.

TABLE 27-900-9 COMMERCIAL OUTDOOR SITE FRONTAGE REGULATIONS

1. SITING		
a. Overall Site. The principal structure is a Patio/Display area.		
Minimum Area of Unenclosed, Fully or Partially Paved Outdoor Activity/Display Area	45% of Parcel	**A**
Minimum Lot Width Maximum Lot Width	none 200′	**B**
Maximum Impervious Coverage	75%	
Required Front & Street-Side Buffer Type	Commercial Patio Buffer (Refer to Sec. 27-905, Landscape Standards) [1]	**C**
b. Parking Location, Loading & Access		
Front Parking Setback Street-side, Side, Rear Parking Setback	75′ 5′	**D**
Parking & Loading Facility Location	Behind the Rear of the Patio/Display and the Rear Facade of any Building [2]	**E**
Vehicular Access	One driveway per street frontage	**F**
Required Buffer between Parking & Activity/Display Area	Frontage Buffer (Refer to Sec. 27-905 [1]	**G**
Notes:		
[1] Exception: Not required for Automobile Sales Use.		
[2] One double loaded aisle of parking (to a maximum width of 82 feet) is permitted in the Side Yard.		
2. ACCESSORY BUILDINGS		
Number of Permitted Accessory Buildings	2	**H**
Maximum Building Coverage	30%	
1. Temporary Building		
Front Yard Setback	75′	**I**
Street-side Setback	30′	**J**
Side Setback	15′	**K**
Rear Setback	15′	**L**
2. Kiosk Building [3]		
Front, Corner, Side, Rear Setback	5′	**M**
Maximum Size	500 square feet	**N**
Maximum Height	15′	

Street Facade Transparency	Minimum 20%	
Roof Type	Pitched	

Notes:
[3] Kiosk is defined as a building with limited space for the proprietor and associated goods and no space for customers to enter the structure with the exception of any bathrooms.

3. USES		
Permitted Uses	See 27-1000 for Allowed Uses	

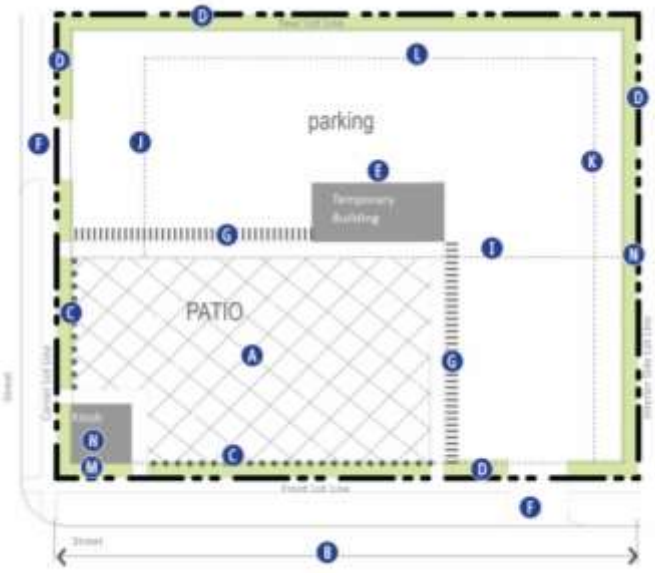


Figure 27-904(22): Building Siting.

SECTION 27-905 LANDSCAPING STANDARDS

A. GENERAL COMPLIANCE.

(a) Application of this section to existing uses shall occur with the following developments.

(1) The expansion of more than thirty (30) percent of the surface area of an existing parking lot or loading facility, including any associated driveways.

(2) Alteration to an existing principal or accessory structure that results in a change of fifteen (15) percent or more in the structure's gross floor area.

(3) When compliance is triggered for existing parking lots, landscape improvements shall take precedence over parking requirements.

B. GENERAL REQUIREMENTS.

Refer to section 27-1200 for all landscape requirements, including but not limited to the approval process, materials, installation, and maintenance. However, the EBURD specific

standards in this section 27-905, supersede the requirements of subsections 27-1204 through 27-1206.

C. LANDSCAPE AREA REQUIREMENTS.

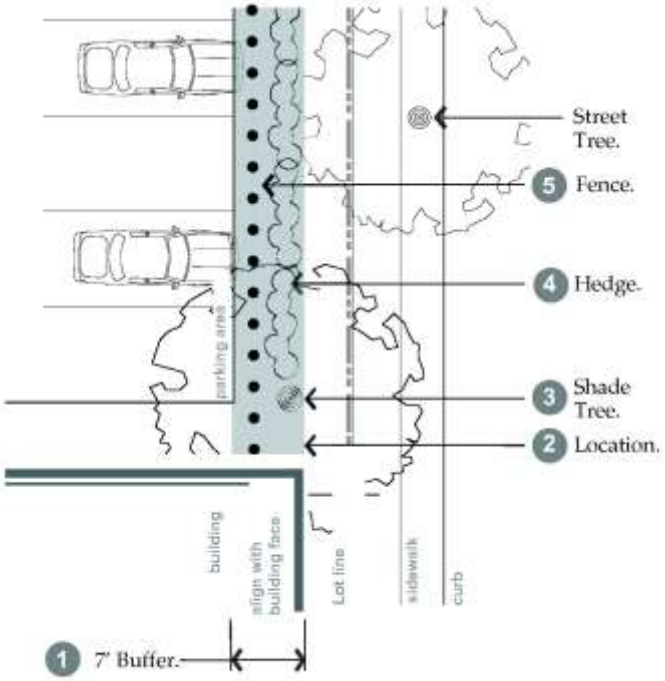
These standards apply to all development except single family residential.

1. **Tree requirements.** One (1) evergreen, ornamental or shade tree is required for every two thousand five hundred (2,500) square feet of landscape area.
   (a) Existing tree canopy may be utilized to meet this requirement.
   (b) If less than two thousand five hundred (2,500) square feet of landscape area exists, tree plantings are not required.
2. **Fences and walls.** These standards apply to all lots in all EBURD Districts. Fences and walls must adhere to the following standards.
   (a) Height. The maximum height of any fence or wall shall be six (6) feet measured from the ground at the base of the fence or wall to the top of the fence boards or wall.
      (1) Posts, decorative columns, light fixtures, or other decorative details are permitted to exceed the height limit by up to two (2) feet.
      (2) Fences over four (4) feet in height are not permitted in the front yard.
      (3) In the Central Works [District], the maximum height of any fence or wall shall be eight (8) feet.
      (4) In the Industrial Sanctuary [District], height limits do not apply.
   (b) Location. All fences and walls must be located within a lot's lot lines.
   (c) Materials.
      (1) *Permitted materials.* Brick; stone; cast stone; wood; painted, matte finish vinyl; wood composites; or steel are permitted fence and wall materials.
      (2) *Prohibited materials.* Barbed wire, chain link, exposed cinder or concrete block, metal mesh, and razor wire and single wire fences and wall are prohibited with the following exceptions:
         a. In the Industrial Sanctuary districts, chain link, razor wire, and barbed wire fencing are permitted. Sharp fencing must be located eight (8) feet above grade.
   (d) Opacity. Fences along the front yard or front lot line shall have a maximum opacity of fifty (50) percent.
3. **Buffers.** Landscape buffers are required according to the provisions in this section with the following exceptions.
      (1) *Shared driveways.* Buffers shall not be required along a lot line where a curb cut or aisle is shared between two (2) adjoining lots.
      (2) *Points of access.* Buffering is not required at driveways or other points of access to a lot.

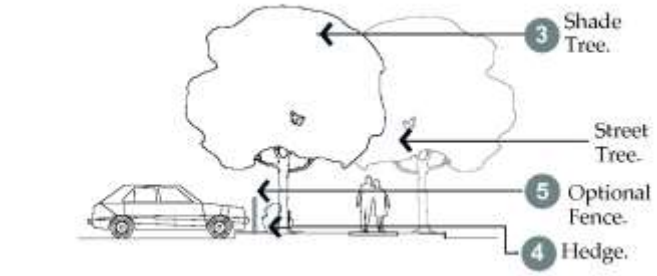
D. FRONTAGE BUFFER REQUIREMENTS (REFER TO FIGURE 27-905(1)).

TABLE 27-900-10 - FRONTAGE BUFFER		
(1) Intent & Applicability		
Intent	To lessen the visual impact of vehicular areas & outdoor storage visible from the street	
General Applicability	Applies to Frontage Types where a vehicular area or outdoor storage is located adjacent to a Right-of-Way	
Exceptions	Vehicular areas along alleys, except when a residential district is located across the alley; Single and two family residences	
(2) Buffer Depth & Location [1]		
Depth	7′	
Location on the Site	Between street facing Lot line and parking area [2]	
(3) Buffer Landscape Requirements		
Uses & Materials	Uses and materials other than those indicated are prohibited in the buffer	
Shade Trees	Medium or large shade tree required at least every 40′; Locate on the street side of the fence; Spacing should alternate with street trees	
Hedge	Required continuous hedge on street side of fence, between shade trees & in front of vehicular areas	
Hedge Composition	Individual shrubs with a minimum width of 24", spaced no more than 36" on center	
Existing Vegetation	May be credited toward buffer area	
(4) Fence		
Location	2′ from back of curb of vehicular area	
Materials	Steel or painted, matte finish PVC; Masonry columns (maximum width 2′6") and base (maximum 18" height) permitted	
Minimum Height	3′	
Maximum Height	4′	
Colors	Black, gray, or dark green	
Opacity	Minimum 20%; Maximum 60%	
Gate/Opening	One gate permitted per street frontage; Opening width maximum 6′	
Notes:		
[1] This screening requirement does not prohibit the installation of or provision for openings necessary for allowable access drives and walkways connecting to the public sidewalk.		

[2] In front, corner, and rear yards on a through lot, when the parking area is located adjacent to any building on the lot, the buffer must be located so that it aligns with or is behind the face of the adjacent building back to the vehicular area. The area between the buffer and the lot line must be landscaped.



Front Buffer Plan.



Front Buffer Section.

Figure 27-905(1).
Frontage Buffer Plan and Section.

E. INTERIOR PARKING LOT LANDSCAPING REQUIREMENTS (REFER TO FIGURE 27-905(2)).

TABLE 27-900-11 - INTERIOR PARKING LOT LANDSCAPING		
(1) Intent & Applicability		
Intent	To provide shade, minimize paving & associated storm water runoff, & improve the aesthetic look of parking lots	
General Applicability	All open-air, off-street parking lots [1]	

Other Internal Parking Lot Areas	Internal areas not dedicated to parking or drives shall be landscaped with a minimum of one medium or large shade tree for the first 150 square feet and one medium or large shade tree for every 650′ thereafter	
Existing Vegetation	Existing vegetation may be credited toward these requirements	
(2) Landscape Island Requirements		
Required Island Locations	Terminal ends [2] of free standing rows or bays of parking; After every ninth parking space for rows of parking greater than 10 spaces in length	
Minimum Width	5′; Islands less than 15′ must utilize structural soil under any paved surface within a tree's recommended permeable surface area requirement; Islands under 9′ must install an aeration system and utilize permeable pavement	
Required Trees Within Islands	Minimum of 1 medium or large shade tree per island	
(3) Tree Requirements		
Requirements per Parking Space [3]	Each parking space must be located within 50′ of a tree planted within parking lot interior; and no more than 8 continuous parking spaces in a row are permitted without a landscape island	
	Minimum of 1 shade tree must be planted within parking lot interior or within 4′ of parking lot's edge for every 3 parking spaces	
Tree Shade	Within 20 years of tree installation, 30% of the interior of the parking lot must be shaded by tree canopy	

Notes:

[1] Parking lot interior is defined as the area dedicated to parking on a given parcel as measured from the farthest edge of pavement to opposing farthest edge of pavement.

[2] Freestanding rows or bays of parking are those not abutting the parking lot perimeter or building face, and may have a single or double row of parking.

[3] Trees within a designated buffer area may not be utilized to meet these requirements. Trees and landscaping located outside of the parking lot interior, including in the side and rear buffer or frontage buffer, may not be applied to this requirement.

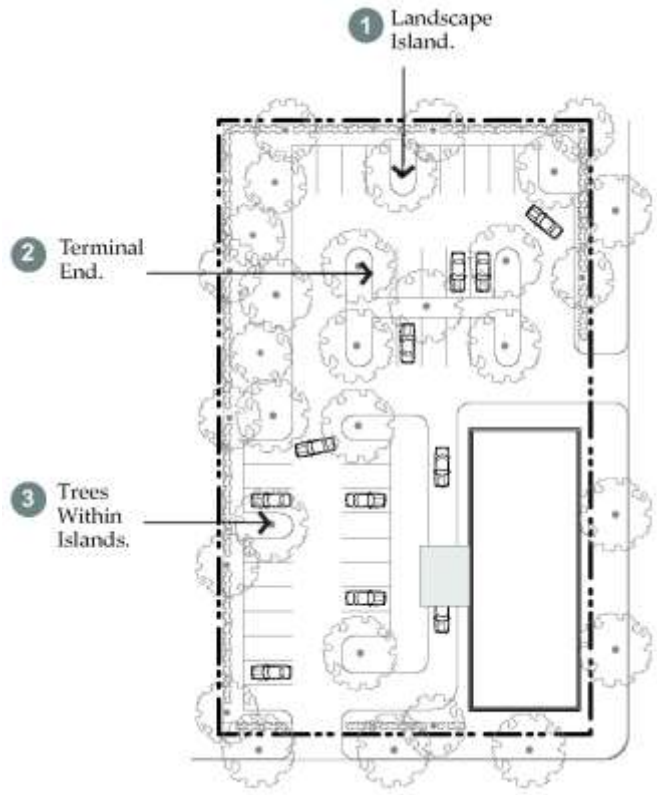


Figure 27-905(2). Interior Parking Lot Landscape.

Table 27-900-12. Estimated Canopy and Height at Maturity.		
Tree Size	**Estimated Canopy at Maturity** (sq ft)	**Estimated Height at** Maturity (ft)
Very Small	150	under 15′
Small	400	15′—25′
Medium	900	25′—40′
Large	1600	40′+

F. SIDE AND REAR BUFFER REQUIREMENTS (REFER TO FIGURE 27-905(3)).

TABLE 27-900-13 - SIDE AND REAR BUFFER		
A. Intent & Applicability		
Intent	To minimize the impact that one building may have on a neighboring district and to provide a transition between districts	
General	Applies to all directly adjoining properties as outlined in Table 27-905.B. [1]	
B. Required Landscape Screen		
Size	5′ landscape screen in addition to any other buffer landscaping	
Location	Directly adjacent to the Rear or Side Lot line per Table 27-905.A	
Hedge	Continuous double row of shrubs required between shade trees	

Hedge Composition	Double row of individual shrubs with a minimum width of 24", spaced no more than 36" on center; Mature height in one year of 24"	
Hedge Frequency	Minimum of 15 shrubs per 100′ of Lot line is required	
Shade Trees	At least 1 medium or large shade tree per every 40′ within the buffer	
Uses and Materials	Uses and materials other than those indicated are prohibited within the buffer	
Existing Vegetation	May be credited toward buffer area	
C. Required Fence		
Permitted Materials	Steel or painted, matte finish PVC for semi-opaque; Wood or masonry for opaque. Chain link not permitted.	
Minimum Height	6′	
Maximum Height	8′	
Colors	If steel: black, gray, or dark green	
Opacity	Option 1: Semi-Opaque 20%-60% opacity, hedge required; Option 2: Opaque fence, no hedge required	

Notes:
[1] Zoning Coordinator may reduce width of buffer, width of landscape screen, or location of landscape screen based on existing landscaping and similarity between uses.

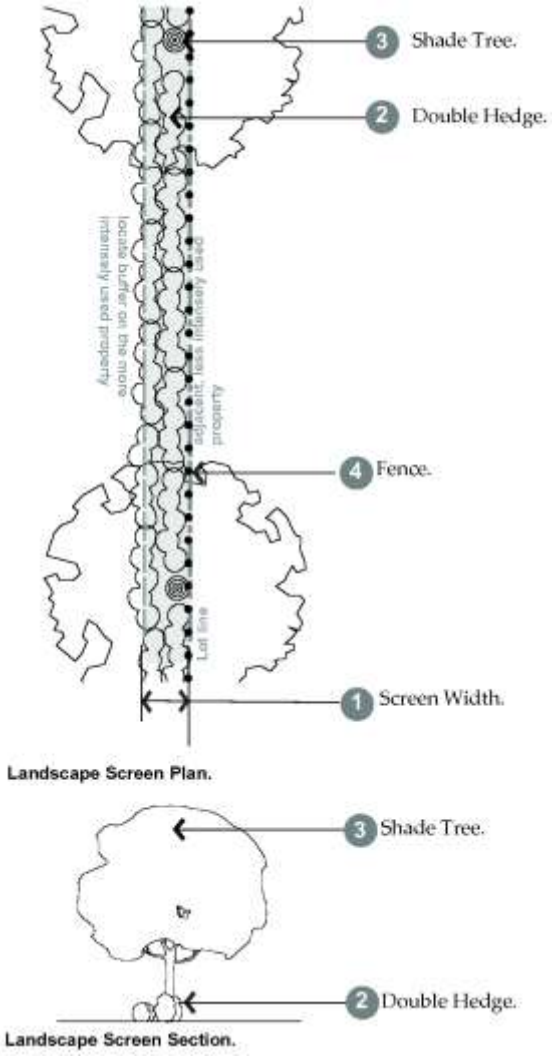


Figure 27-905(3). Landscape Screen within Side & Rear Buffer.

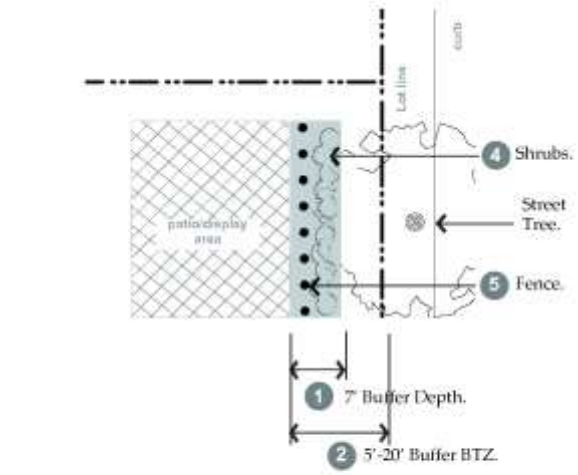
Table 27-900-14. Side & Rear Buffer Requirements by District.			
Frontage Types		**Buffer**	
Buffer Required on Lot	**When Lot Line** is adjacent to:	**Buffer** Required	**Buffer** Width
Open, Commerce, Limited Bay	Yard, General Stoop, Storefront	Side & Rear	5′
General Stoop	Yard	Side Rear	5′

G. COMMERCIAL PATIO FRONTAGE (REFER TO FIGURE 27-905(4)).

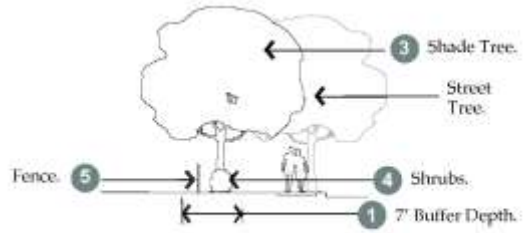
TABLE 27-900-15 - COMMERCIAL PATIO FRONTAGE		
(1) Intent & Applicability		
Intent	To provide a buffer between outdoor sales uses and street activity	

General Applicability	Applies to Commercial Outdoor Site Frontage Type only (refer to Sec. 27-904)	
(2) Frontage Location		
Minimum Depth	7′	1
Location on the Site	Between 5′ and 20′ from Front and Corner Side Lot line adjacent to patio/display area	2
(3) Buffer Landscape Requirements [1]		
Shade Trees	Medium or large shade tree required at least every 40′; Spacing should alternate with street trees [2]	3
Shrubs	Required continuous shrubs on street side of fence	4
Hedge Composition	Individual shrubs with a minimum width and height of 12″, spaced no more than 24″ on center	
Existing Vegetation	May be credited toward buffer area	
(4) Required Fence		5
Materials	Steel or painted, matte finish PVC; Masonry base or columns permitted	
Minimum Height	18″	
Maximum Height	4′	
Colors	Black, gray, or dark green for steel or PVC	
Opacity [3]	Minimum 30 percent; Maximum 60%	
Gate/Opening	Two gates permitted per street frontage; Opening width maximum 6′	

Notes:
[1] This screening requirement does not prohibit the installation of or provision for openings necessary for allowable access drives and walkways connecting to the public sidewalk.
[2] Exception: Trees for Automobile Sales Use may be spaced 90′ on center
[3] Fence may be solid if 30″ or less in height



Commercial Patio Frontage Plan.



Commercial Patio Frontage Section.

Figure 27-905(4). Commercial Patio Frontage Plan and Section.

SECTION 27-906 STREET TYPE STANDARDS

A. GENERAL REQUIREMENTS

1. **Intent.** The standards outlined in this section are intended to:
   (a) Create complete streets that address all modes of travel, including pedestrian traffic, bicycle traffic, transit, and vehicular traffic.
   (b) Address all features of the street right-of-way, including sidewalks, parkways, traffic lanes, bicycle lanes, and medians.
   (c) Continue the existing logical and comprehensible system of streets that result in a simple, consistent and understandable pattern of blocks and lots.
   (d) Provide adequate access to all lots for vehicles and pedestrians.
   (e) Create streets that are appropriate for their contexts in residential, commercial, or mixed-use districts and are designed to encourage travel at appropriate volumes and speeds.
2. **Applicability.** The standards in this section apply to all vehicular rights-of-way within the EBURD.

3. **General requirements.** All proposed streets, landscape or furnishings zones, and sidewalks shall be located in dedicated vehicular rights-of-way as required by this article.
   (a) Street types. All new vehicular rights-of-way shall match one of the street types; refer to subsections 27-906.D.1 through 27-906.D.5, whether publicly dedicated or privately held.
   (b) Public use. All streets shall be available for public use at all times. Gated streets and streets posted as private are not permitted.
   (c) Master plans. Refer to any adopted city master plans for additional information, such as the current bikeway and trail master plan.
   (d) Street construction specifications. All construction in the right-of-way shall follow specifications defined by the department of public works, engineering division.

B. GENERAL STREET TYPE STANDARDS

1. **Street types.** Street types defined in this section outline acceptable street configurations. New streets should be designed using the principles and characteristics defined by each street type. The department of public works, engineering division, or the Montana Department of Transportation, as applicable (refer to Figures 27-906.5a & 5b), may require additional right-of-way, pavement width, or additional street elements depending on specific site characteristics.
2. **Summary street type tables.** Table 27-900-16, summarizes the requirements of each Street type.
3. **Graphics.** The graphics provided, illustrating each street type, are samples of recommendations and illustrate only one (1) possible configuration of that street type. By applying the guidelines outlined and working with the department of public works, engineering division, other configurations can be determined acceptable.
4. **Typical street elements.** Typical elements of a vehicular right-of-way are divided into the vehicular and pedestrian realm. Each street type detailed in this article outlines which facilities are applicable. Refer to Figure 27-906(1), typical right-of-way elements.

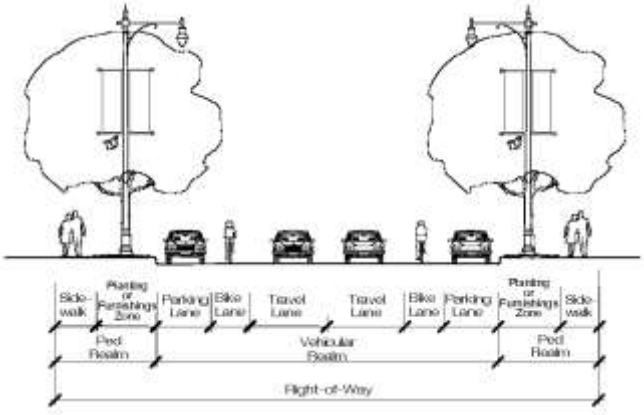


Figure 27-906(1): Typical Right-of-Way Elements.

   (a) *Vehicular realm.* The vehicular realm is comprised of the travel lanes, bicycle lanes, and parking lanes.

(b) *Pedestrian realm.* The pedestrian realm is comprised of pedestrian facilities, such as sidewalk, path/trail, or off-street bicycle path. A buffer area that serves to buffer pedestrians or bicyclists from the movements of higher speed vehicles in the vehicular realm shall consist of one of the following:

(1) *Landscape zone.* A landscape area between the back of curb to the sidewalk in which street trees, storm water swales, lighting, and signage may be located. Typically used adjacent to residential ground floor uses.

(2) *Furnishings zone.* A hardscape area that extends from the sidewalk to the back of curb, in which street trees, street furniture, lighting, and signage may be located. Typically used adjacent to commercial or office ground floor uses.

(c) Bicycle facilities. The following types of bicycle accommodations are permitted in the vehicular realm. Refer to Figure 27-906(2).

(1) *Dedicated bicycle lane.* Dedicated bicycle lanes are striped lanes on the outside of the outermost travel lanes that are designated for only bicycle use. This lane occurs on both sides of the street and shall be four (4) to five (5) feet wide.

(2) *Designated shared lane.* A designated shared lane is a lane that is shared between vehicles and bicycles. This lane is typically wider than a standard vehicular lane, minimum thirteen (13) feet, in order to accommodate both types of users, and includes a painted bicycle marker combined with a double arrow (known as a "sharrow"). This improvement occurs on both directions.

(3) *Shared lane.* A shared lane refers to a street that does not have bicycle lanes or a designated shared lane, but the speed and configuration of the street is such that bicycles could comfortably share lanes with traffic.

(4) *Cycle track.* A cycle track is a separate on-road bike facility that is typically adjacent to, but physically separated from, vehicular traffic and parking by a barrier.

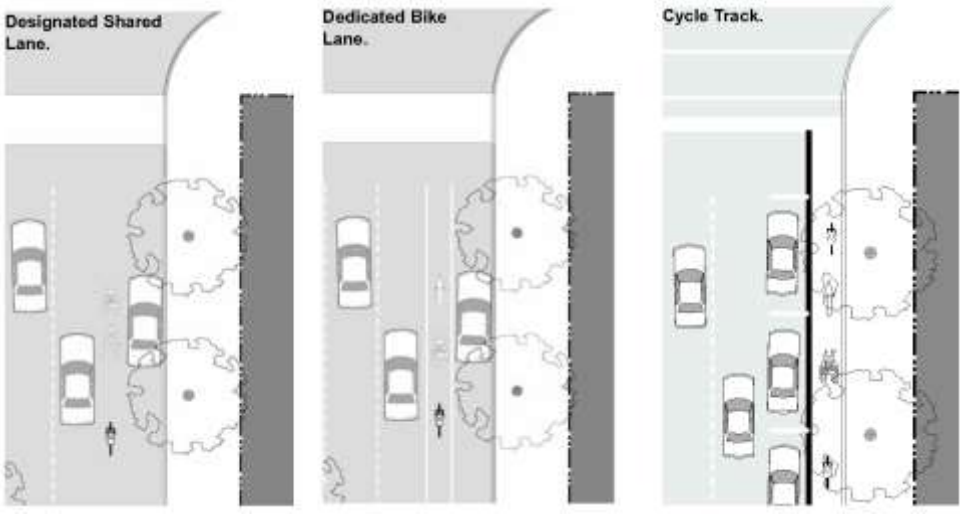


Figure 27-906(2): On-Street Bicycle Facilities.

(d) *Vehicular on-street parking.* On-street parking, as permitted on designated street types, must meet the following requirements.

(1) Parallel and back-in diagonal parking is permitted on designated street types.

(2) Vehicular on-street parking space dimensions.

a. The appropriate stall depth for back-in diagonal on-street parking spaces are defined for each street type (refer to Sections 27-906.D.2 through 27-906.D.5).

b. The width of an on-street parking space shall be measured from the center of a stripe, minimum eight and one-half (8.5) feet, unless otherwise noted.

c. Back-in diagonal on-street parking shall be at sixty (60) degrees.

(e) *Storm water management.* Incorporation of storm water management best practices into the right-of-way design is encouraged, such as incorporating drainage swales into the landscape zone or permeable paving in the parking lane. Refer to Figure 27-906(3) and the city's storm water management manual.

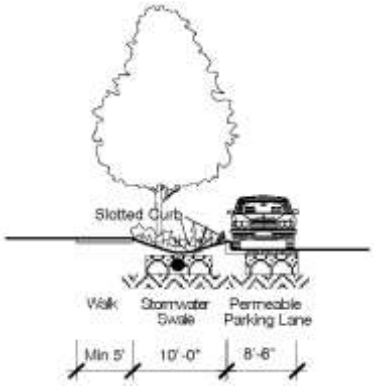


Figure 27-906(3). Storm water Management Best Practices incorporated in the Right-of-Way.

(f) Street trees. Street trees are required along all street frontages; refer to subsection 27-5. Street trees shall be located in either a landscape zone (within a planting bed or lawn) or a furnishings zone (in trees wells with grate as required).

C. GENERAL STREET LAYOUT REQUIREMENTS.

The following standards apply to new streets or newly platted vehicular rights-of-way.

1. Interconnected street pattern. The network of streets shall form an interconnected pattern with multiple intersections with the following features**:**

(a) Street network. The arrangement of streets shall provide for the continuation of existing streets from adjoining areas into new subdivisions or developments.

(b) Block pattern. To the maximum extent possible, the existing block pattern shall be continued and reinforced, and the following encouraged:

(1) Avoid the closure of existing streets so as to maintain the existing network.

(2) As railway tracks are abandoned or larger sites redevelop, new streets should be introduced to extend the existing pattern, incorporating the existing block sizes.

(c) Bulb shaped cul-de-sac streets are not permitted.

(d) New dead ends should be avoided.

2. Intersection design.

The following section outlines the regulations for developing and reconstructing intersections.

(a) *Applicability.* The regulations outlined in this section shall apply to all planned intersections and may serve as guidance for reconfiguration of existing intersections.

(b) *Curb radii.* The following curb radii shall be utilized unless otherwise authorized by the department of public works, engineering division.

(1) Intersections should be designed for actual turning radius of the typical design vehicle as opposed to the maximum design vehicle. Small curb radii at intersections shorten pedestrian crossing distances and reduce vehicle turning speeds, thereby balancing the ease of travel of the vehicles and pedestrians. Refer to Figure 27-906(4).

(2) Alley, neighborhood, and connector streets. At the intersection of any street with an alley, neighborhood, or a connector street, the following curb radii shall be utilized.

a. With on-street parking on both streets and no bulb-out, a five-foot radius is required.

b. Without on-street parking, a 15-foot radius is required.

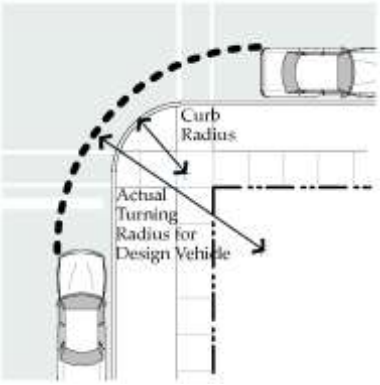


Figure 27-906(4). Actual Right Turn Radius with On-Street Parking.

(3) Avenues and boulevards. At the intersection of avenues with either another avenue or a boulevard, the following curb radii shall be utilized.

a. With on-street parking on both streets and no bulb-out, a 12-foot radius is required.

b. Without on-street parking on either streets, a 25-foot radius is required.

(4) Larger radius. When the design vehicle requires a larger curb radius, a larger radius may be utilized with approval of the public works, engineering division.

(c) *Crosswalks.* Crosswalks shall be required at all intersections involving Montana Avenue, N 20th Street, and N 13th Street.

(1) *Dimensions.* Crosswalks shall be minimum eight (8) feet in width, measured from mid-stripe to mid-stripe, per city standards.

(2) *Markings.* Crosswalks shall be appropriately indicated on the finished street surface with painted markings and/or textured or colored pavement.

(3) *Crossing distances.* To encourage pedestrian activity, typical crosswalks shall not extend over thirty-eight (38) feet without a landscape median, bulbouts, and/or other pedestrian refuge to mitigate the effects of vehicular traffic on crossing and increase pedestrian safety and comfort.

(4) *Bulb-outs.* To shorten pedestrian crossing distances, bulb-outs should be utilized at all intersections, unless otherwise required by the department of public works or the Montana Department of Transportation as applicable (refer to Figure 27-906(5b) for state maintained routes).

a. The depth of the bulb-out shall match the utilized on-street parking, either the width of the parallel space or the depth of the diagonal space.

b. The radius of the bulb-out shall match the requirements for the intersection.

(d) Accessible ramps and warning panels. Accessible ramps and warning panels, per the American Disabilities Act or any more stringent state requirement, are required where all sidewalks or trails terminate at a crosswalk or curb.

(1) *Ramp orientation.* Ramps should be generally oriented perpendicular to traffic, requiring two (2) ramps per corner at intersecting streets.

3. Maps of street types

Refer to the maps on the following pages.

(a) *Street type map.* Refer to Figure 27-906(5a). To provide context for any future platted rights-of-way and guidance for future improvements to existing rights-of-way, existing streets within EBURD are mapped in accordance with the street types outlined in subsections 27-906.F through 27-906.J.

(b) *State maintained routes.* For reference purposes only, a map of routes currently maintained by the state department of transportation is included. Refer to Figure 27-906(5b).

(c) *Primary street map.* Refer to Figure 27-906(5c).

(1) Primary streets are defined as the higher priority street at an intersection, designating the front property line as well as establishing the higher level of pedestrian orientation with limited sidewalk interruptions from driveways.

(2) At the intersection of any two (2) streets, the street with the highest level designation is considered the primary street. For example, at the intersection of 2nd Avenue N and N 19th Street, N 19th Street is designated as Street 1, a higher priority street, and is therefore the primary street. The front property line of a building on this corner would be on N 19th Street.

(3) When a corner is located at the intersection of two (2) streets of the same priority level, either street may be chosen as the primary street.

Figure 27-906.5a: Map of Street Types.

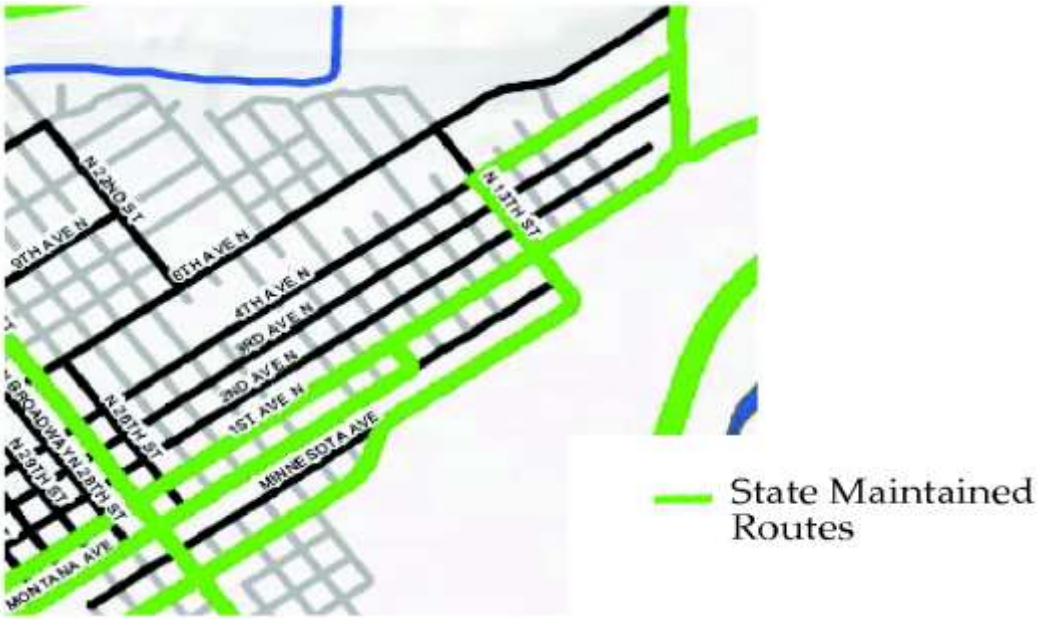


Figure 27-906(5b). Map of State Maintained Routes as of February 2012, for Reference Only.

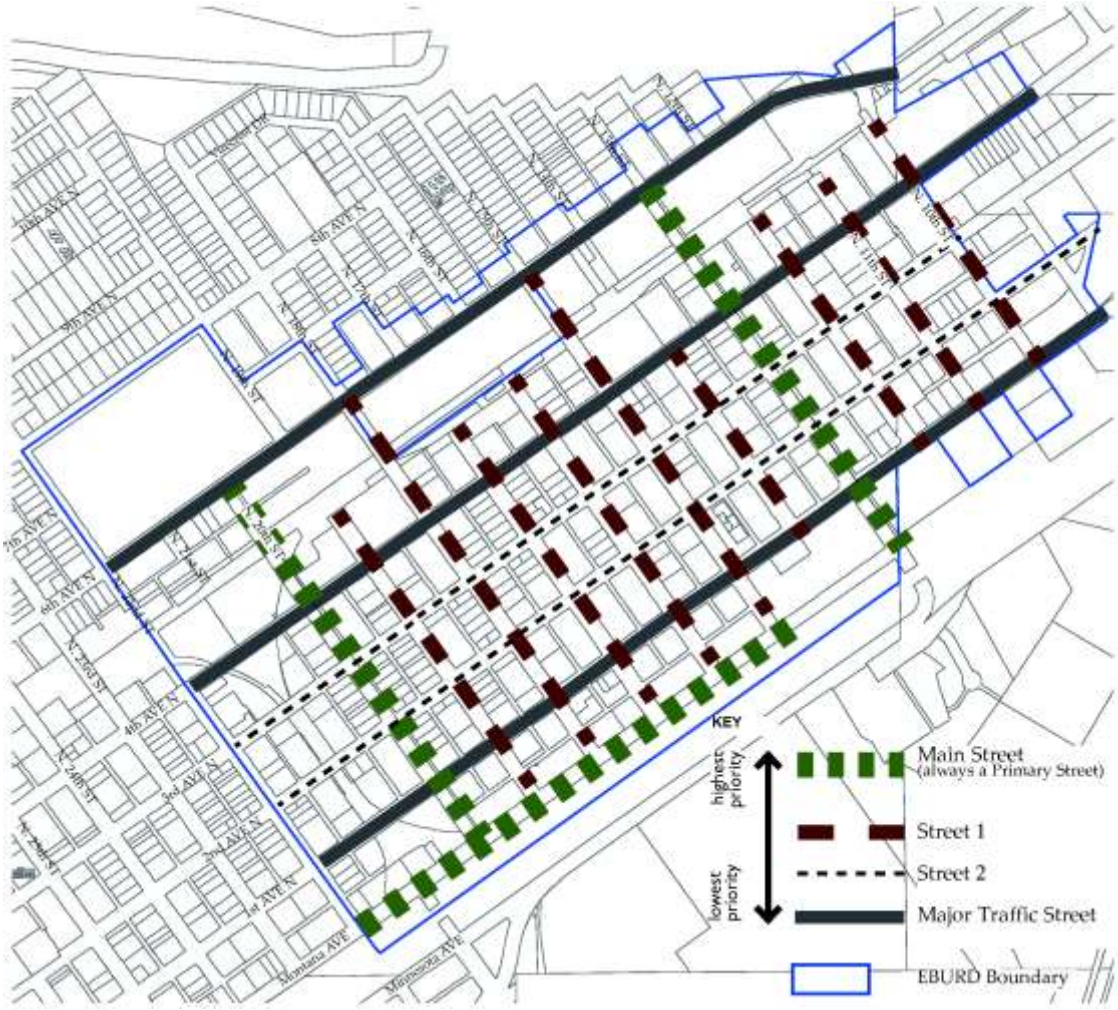


Figure 27-906(5c): Map of Street Priority.

4. Street Type Summary Table

Refer to Table 27-900-16 for a summary table of all street types requirements defined in subsections 27-906.D through 27-906.H

Table 27-900-16: Street Type Summary Table.

	Vehicular Realm									Pedestrian Realm	
	Typical Right-of-Way Width (feet)	Travel Lanes	Lane Width (feet)	Allowable Turn Lanes	Parking Lanes	Pavement Width (feet) Back of Curb to Back of Curb	Curbs	Permitted Median	Bicycle Facilities	Pedestrian Facilities	Buffer
Alley	20′	1 yield lane	16′ (yield)	None	Prohibited	Minimum 16′, Maximum 20′	None, ribbon or vertical	Prohibited	Shared	Shared	None required
Neighborhood Street	80′	1 yield lane	20′ (yield)	None	Parallel or back-in diagonal both sides	37′—48′	Vertical	Prohibited	Shared	Minimum 5′ wide clear sidewalk on both sides	Minimum 11′ wide planting zone or furnishings zone, both sides
Connector	80′	1 lane in each direction	11′	Permitted in place of parking at intersections	Parallel or back-in diagonal both sides	39′—52′	Vertical	Permitted	Shared, Designated Shared, Dedicated, or Cycle Track	Minimum 5′ wide clear sidewalk on both sides	Minimum 9′ wide planting or furnishings zone, both sides
Avenue	80′	Per the Department of Public Works, Engineering Division, or Montana Department of Transportation	12′	Permitted in place of parking at intersections	Parallel or back-in diagonal both sides	41′—54′	Vertical	Permitted	Designated Shared, Dedicated, or Cycle Track	Minimum 5′ wide clear sidewalk on both sides	Minimum 8′ wide planting zone or furnishings zone, both sides
Boulevard	80′	Per the Department of Public Works, Engineering Division, or Montana Department of Transportation	11′	Permitted in place of parking at intersections	Both sides, parallel only	50′—60′	Vertical	Permitted	Designated Shared, Dedicated, or Cycle Track	Minimum 5′ wide clear sidewalk on both sides	Minimum 5′ wide planting zone or furnishings zone, both sides

D. STREET TYPES - SPECIFICATIONS

1. Alley.

(a) *Intent*. The alley is a very low capacity drive located at the rear of parcels. From the alley, access to parking facilities, loading facilities, and service areas, such as refuse and utilities is possible without a curb cut or driveway interrupting a street type. Refer to the typical plan and section in Figure 27-906(6).

(b) *General requirements.* Alleys shall be developed using the guidelines in Table 27-900-17. The department of public works, engineering division, may require additional right-of-way, pavement width, or street elements depending on specific site characteristics.

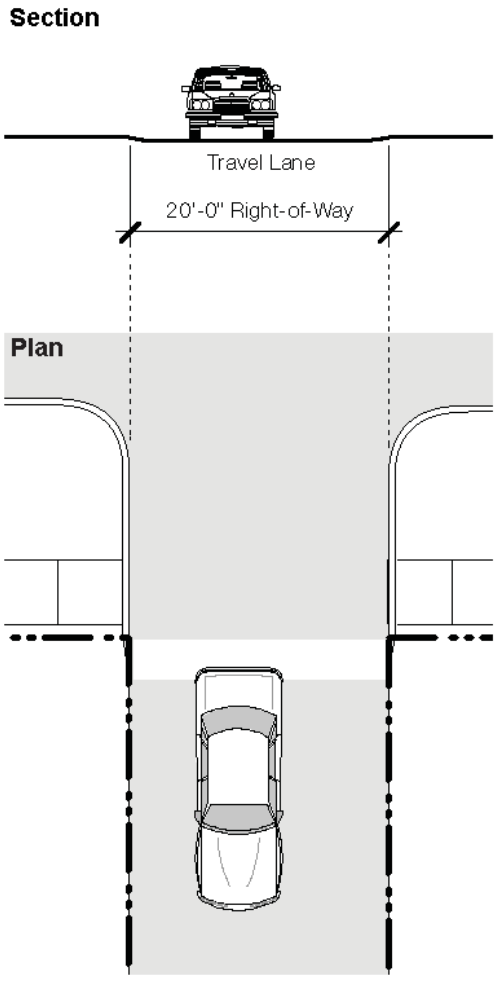


Figure 27-906(6): Typical Sample Alley.

Table 27-900-17: Alley Guidelines.

Alley Guidelines	
Location	Permitted adjacent to all Zoning Districts
Typical Right-of-Way Width	20′

a. Vehicular Realm	
Travel Lanes	1 yield lane
Lane Width	Minimum 16′ (two way yield lane)
Allowable Turn Lanes	Not applicable
Parking Lanes	Not applicable
Pavement Width	Minimum 16′ Maximum 20′
Curbs	None, ribbon, or vertical
Median	Prohibited
Bicycle Facilities [1]	Shared
b. Pedestrian Realm	
Pedestrian Facilities	Shared; travel lanes are shared among drivers, pedestrians and bicyclists
Buffer	None required
[1] Reference Sec. 27-906.B. for bicycle facility types and requirements	

2. Neighborhood Street

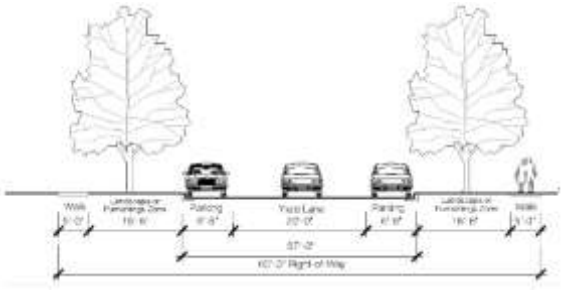


Figure 27-906(7b): Alternative Sample Neighborhood Street

(a) *Intent.* The neighborhood street is a low capacity street designed for slow speeds with a standard right-of-way. It primarily serves those residences or businesses directly adjacent to it. Refer to the typical plan and section, Figure 906(7a).

(b) *General requirements.* The neighborhood street shall be developed using the guidelines in Table 27-900-18. The department of public works, engineering division, may require additional right-of-way, pavement width, or street elements depending on specific site characteristics.

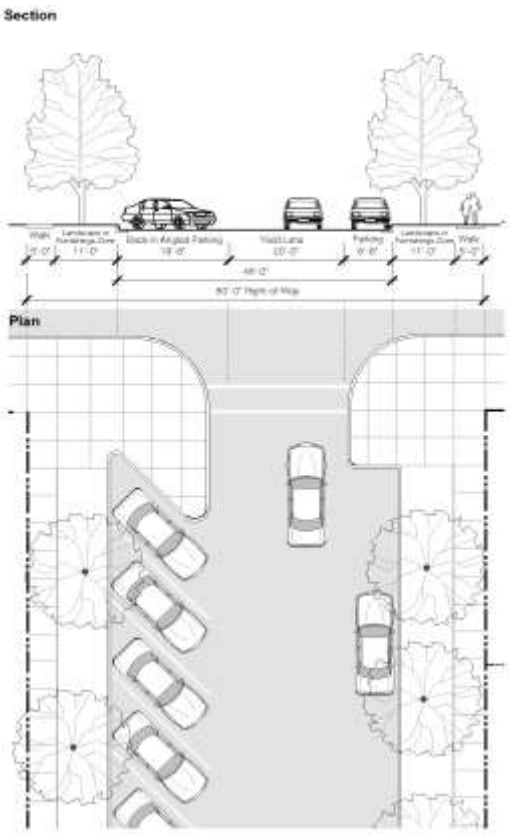


Figure 27-906(7a). Typical Sample Neighborhood Street.

Table 27-900-18.: Neighborhood Street Guidelines.

Neighborhood Street Guidelines	
Location	Permitted adjacent to all districts
Typical Right-of-Way Width	80′
a. Vehicular Realm	
Travel Lanes	1 yield lane
Lane Width	20′ (two way yield)
Allowable Turn Lanes	Permitted in place of parking and bulb out at intersections
Parking Lanes [1]	Parallel or back-in diagonal on both sides

	Pavement Width	37′—48′
	Curbs	Vertical
	Median	Prohibited
	Bicycle Facilities [2]	Shared
b. Pedestrian Realm		
	Pedestrian Facilities	Minimum 5 feet wide clear sidewalk on both sides with bulbouts
	Buffer	Minimum 11′ wide Planting Zone or Furnishings Zone both sides (refer to Sec. 27-905)
[1] Reference Sec. 27-906.B. for on-street parking requirements [2] Reference Sec. 27-906.B. for bicycle facility types and requirements		

3. Connector Street

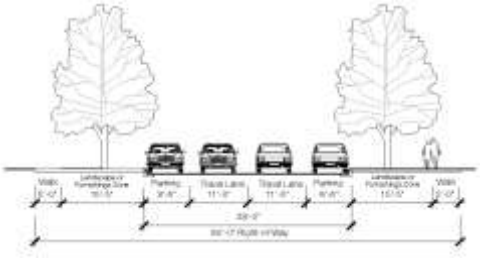


Figure 27-906(8b): Alternative Sample Connector

(a) *Intent.* The connector street is a medium capacity street for slow speeds with a standard right-of-way. It primarily serves as a through street within the neighborhood and connects neighborhood streets to avenues or boulevards. Refer to the typical plan and section, Figure 27-906(8a).

(b) *General requirements.* Connectors shall be developed using the guidelines in Table 27-900-19. The department of public works, engineering division, may require additional right-of-way, pavement width, or street elements depending on specific site characteristics.

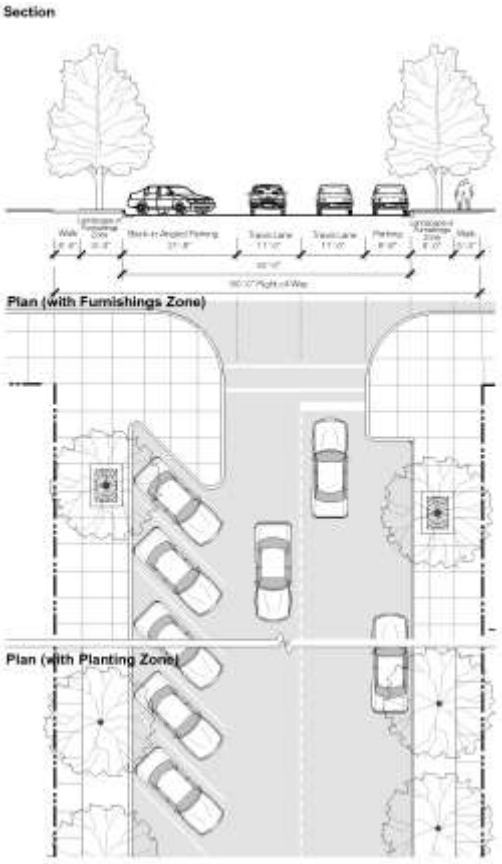


Figure 27-906(8a): Typical Sample Connector.

Table 27-900-19: Connector Guidelines.

	Connector Street Guidelines	
	Location	Permitted adjacent to all districts
	Typical Right-of-Way Width	80′
	a. Vehicular Realm	
	Travel Lanes	1 lane in each direction
	Lane Width	11′
	Allowable Turn Lanes	Permitted in place of parking and bulb out at intersections

	Parking Lanes [1]	Parallel or back-in diagonal both sides
	Pavement Width	39′—52′
	Curbs	Vertical
	Median	Permitted
	Bicycle Facilities [2]	Shared, Designated Shared, Dedicated Lane, or Cycle Track
	b. Pedestrian Realm	
	Pedestrian Facilities	Minimum 5′ wide clear sidewalk on both sides with bulbouts
	Buffer	Minimum 9′ wide landscape zone or furnishings zone, both sides (refer to Sec. 27-905)
	[1] Reference Sec. 27-906.B for on-street parking requirements	
	[2] Reference Sec. 27-906.B for bicycle facility types and requirements	

4. Avenue

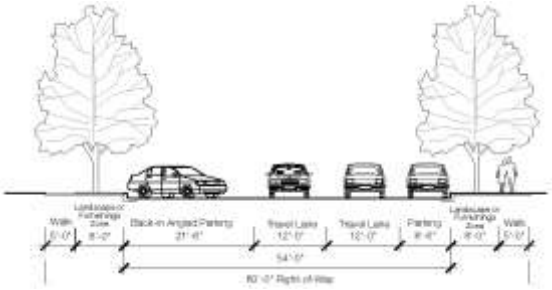


Figure 27-906(9b): Alternative Sample Avenue.

(a) *Intent.* The avenue is a high capacity street for higher speeds with a wider right-of-way. It serves all types of development and provides crosstown connections. Refer to the typical plan and section in Figure 27-906(9a).

(b) *General requirements.* Avenues shall be developed using the guidelines in Table 27-900-20. The department of public works, engineering division, or state department of transportation, may require additional right-of-way, pavement width, or street elements depending on specific site characteristics.

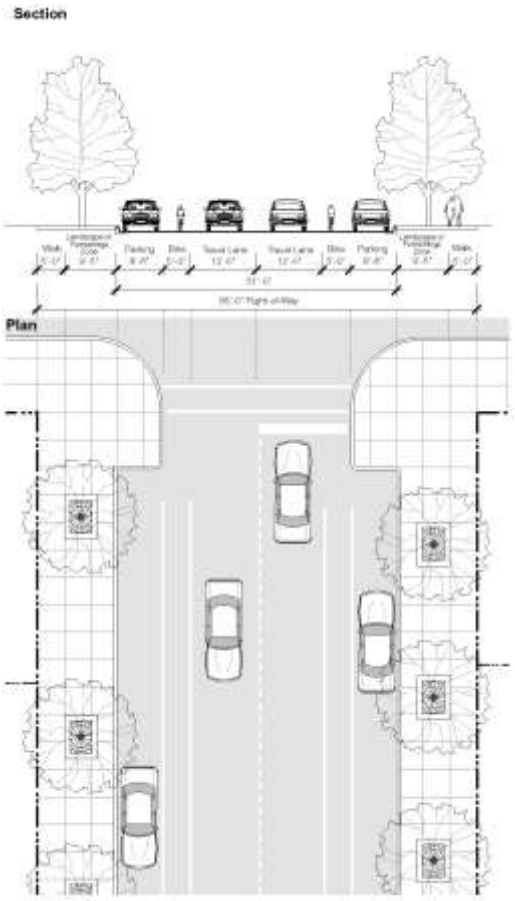


Figure 27-906(9a): Typical Sample Avenue.

Table 27-900-20. Avenue Guidelines.

Avenue Guidelines	
Location	Permitted adjacent to all districts
Typical Right-of-Way Width	80′
a. Vehicular Realm	
Travel Lanes	Per the Department of Public Works, Engineering Division, or Montana Department of Transportation
Lane Width	Maximum 12′
Allowable Turn Lanes	Permitted in place of parking at intersections

	Parking Lanes [1]	Parallel or back-in diagonal both sides
	Pavement Width	41′—54′
	Curbs	Vertical
	Median	Permitted
	Bicycle Facilities [2]	Designated Shared, Dedicated Lane, or Cycle Track
	b. Pedestrian Realm	
	Pedestrian Facilities	Minimum 5′ wide clear sidewalk on both sides with bulbouts
	Street Buffer	Minimum 8′ wide landscape or furnishings zone, both sides (refer to Sec. 27-905)
	[1] Reference Sec. 27-906.B. for on-street parking requirements	
	[2] Reference Sec. 27-906.B. for bicycle facility types and requirements	

5. Boulevard

(a) *Intent.* The boulevard is a high capacity street for higher speeds with a wider right-of-way, one-way only in this case. It serves all types of development and provides crosstown connections. Refer to the typical plan and section, Figure 27-906(10a).

(b) *General requirements.* Boulevards shall be developed using the guidelines in Table 27-900-21. The department of public works, engineering division, or state department of transportation, may require additional right-of-way, pavement width, or street elements depending on specific site characteristics.

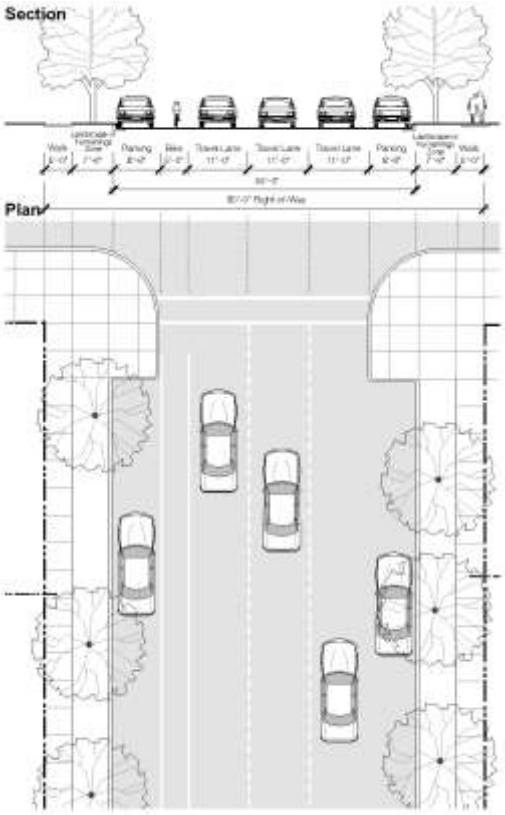


Figure 27-906(10a): Typical Sample One-Way Boulevard - 6th Ave N & Portions of 1st Ave N

Table 27-900-21: Boulevard Guidelines.

	Boulevard Guidelines	
	Location	Permitted adjacent to all districts
	Typical Right-of-Way Width	80′
	a. Vehicular Realm	
	Travel Lanes	Per the Department of Public Works, Engineering Division, or Montana Department of Transportation
	Lane Width	11′
	Allowable Turn Lanes	Permitted in place of parking and bulb out at intersections

	Parking Lanes [1]	Both sides, parallel only
	Pavement Width	50′—60′
	Curbs	Vertical
	Median	Permitted, minimum 5′ wide, preferably 9′ wide
	Bicycle Facilities [2]	Designated Shared, Dedicated Lane, or Cycle Track
	b. Pedestrian Realm	
	Pedestrian Facilities	Minimum 5′ wide clear sidewalk on both sides with bulbouts
	Buffer	Minimum 5′ wide landscape zone or furnishings zone, both sides (refer to Sec. 27-905
	[1] Reference Sec. 27-906.B. for on-street parking requirements	
	[2] Reference Sec. 27-906.B. for bicycle facility types and requirements	

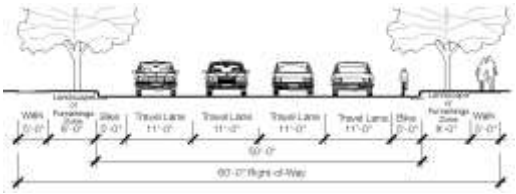


Figure 27-906(10b): Sample Two Way Boulevard

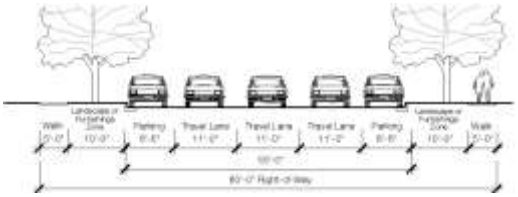


Figure 27-906(10c): Sample One-Way Boulevard

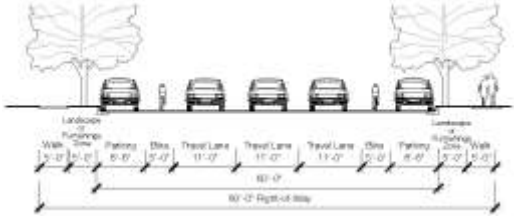


Figure 27-906(10d): Sample One-Way Boulevard - 4th Street

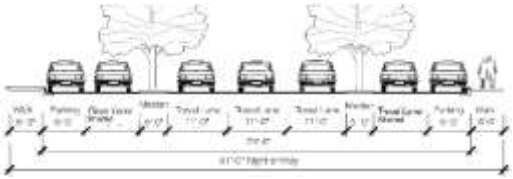


Figure 27-906(10e): Sample One-Way Blvd w/Access Rd

ARTICLE 1000: USE-SPECIFIC STANDARDS

When reference is made to a group of zone districts, the following individual districts shall be included:

District Groupings Used in this Section	
Residential	All N districts, RMH, All NX districts
Mixed-Use	All NX districts, NO, NMU, All CMU districts
Commercial	C3, CX
EBURD	EBURD
Industrial	I1, I2
Public	P2, P3 (P1 is open space only)

SECTION 27-1001 GENERAL PROVISIONS

A. GENERALLY APPLICABLE STANDARDS

The following general standards apply to the uses identified in this article.

1. A lot may contain more than one use.
2. Each of the uses may function as either a principal use or accessory use on a lot, unless otherwise specified.
3. Uses are either: permitted by-right (P) in a district, permitted by-right with with use-specific standards, that may include separation requirements that are applicable across multiple districts as described in this code section (PR) or design parameters defined in specific zone districts (PL), or require special review (SR) in order to be developed.
4. Each use may have both indoor and outdoor facilities, unless otherwise specified.

B. USE TABLE ORGANIZATION

1. This section identified the uses that are permitted on a lot or in a development for three categories of uses:
   (a) Table 27-1000.1 identifies the primary uses permitted in each zone district.
   (b) Table 27-1000.6 identifies the accessory uses permitted in each zone district.
2. Definitions for individual uses are provided in Section 27-1800, Definitions.

C. PRIMARY USE CLASSIFICATION GENERAL DESCRIPTIONS

1. Organization

(a) To organize the uses in the Table 27-1000.1, Permitted Primary Uses, land uses and activities are classified into general "use categories" that are based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. The use categories in Table 27-1000.1 are:

(1) Residential

(2) Public, Civic, and Institutional

(3) Commercial

(4) Industrial, Wholesale, and Storage

(5) Agriculture

(b) Where there are also groups of uses with a use type, the use type may also be organized into "use groups" and "use type subgroups" where there are a number of possible variations of a use type, such as residential dwellings or group living. This classification provides a systematic basis for assigning present and future land uses into appropriate zoning districts.

(c) The use categories and use groups are described below for the purpose of providing a general description of each use category and use group along with examples of primary and some accessory uses that might be permitted within the category or group. Not all of these uses are permitted in every zone district. Accessory uses described in this section may also be allowed as primary uses in some zone districts. To determine which uses are permitted in which district, see Table 27-1000.1.

2. Residential Uses

(a) Use Category Description: This is a category of uses offering habitation on a continuous basis of at least 30 days. The continuous basis is established by tenancy with a minimum term of one month or property ownership. This use category also includes group residential facilities.

(b) Use Types

(1) Household Living: This use type is characterized by residential occupancy of a dwelling unit by one or more persons. Uses where tenancy may be arranged for a shorter period are not considered residential; they are considered to be a form of transient lodging.

(2) Group Living: This use type is characterized by residential occupancy of a structure by a group of people who do not meet the definition of "Household Living". Generally, group living structures have a common eating area for residents. The residents may receive care, training, or treatment, and caregivers may also reside at the site.

3. Public, Civic, and Institutional Uses

(a) Use Category Description: This is a use category for public, quasi-public, and private uses that provide unique services that are of benefit to the public at-large.

(b) Use Types

(1) Assembly: Civic and cultural assembly uses are permanent places where persons regularly assemble for religious worship or secular activities, and which are maintained and controlled by a body organized to sustain the religious or public assembly. Civic assembly uses include civic and social organizations such as private lodges, clubs, fraternities, and similar private membership organizations, as well as places of community assembly such as libraries and museums.

(2) Education: This use type includes institutions of learning that provide educational instruction to students. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care.

(3) Health Care and Social Assistance: This use type is characterized by activities focusing on medical services, particularly licensed public or private institutions that provide primary health services and medical or surgical care to persons suffering from illness, disease, injury, or other physical or mental conditions. Accessory uses may include laboratories, outpatient, or training facilities, and parking, or other amenities primarily for the use of employees in the firm or building.

(4) Parks and Recreation: This use type includes uses that focus on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. These lands tend to have few structures. Accessory uses may include clubhouses, playgrounds, maintenance facilities, concessions, caretaker's quarters, and parking for cars and RVs as permitted by the City.

4. Commercial Uses

(a) Use Category Description: This is a use category for any retail, consumer service, or office use.

(b) Use Types

(1) Amusement and Recreation: This use type includes a broad array of commercial establishments that operate indoor or outdoor facilities or provide services to meet varied artistic, cultural, entertainment, and recreational interests of their patrons. Excluded are restaurants and bars that provide live entertainment in addition to the sale of food and beverages, which this Zoning Code categorizes as "eating and drinking establishments."

(2) Animal Sales and Services: This use category groups uses related to animal care.

(3) Assembly, Entertainment and Trade: These commercial assembly uses include convention centers, theaters, stadiums, arenas, and wedding venues.

(4) Adult and Child Care: This use type includes adult day care and the range of child care services permitted by Montana law.

(5) Commercial Services: This use category includes uses that provide for consumer or business services and for the repair and maintenance of a wide variety of products. Personal services are also included, characterized by establishments that provide individual services related to personal needs such as barber shops or dry cleaners.

(6) Eating and Drinking Establishment: This is a use category for businesses that prepare or serve food or beverages for consumption on or off the premises, such as restaurants and bars, along with specialty food and beverage production such as coffee roasting and craft alcohol. Accessory uses may include outdoor seating, offices and parking.

(7) Financial Services: This use category includes establishments that have a primary purpose of: providing custody, loans, exchange, or issuance of money; extending credit; and transmitting funds, including via drive-in facilities and automatic teller machines.

(8) Lodging: Uses in this use type provide customers with temporary housing for an agreed upon term of less than 30 consecutive days; any use where temporary housing is offered to the public for compensation and is open to transient rather than permanent

guests. This use type includes hotels, motels, short-term rentals, and bed and breakfast inns.

(9) Office: This type includes uses where people are engaged primarily in on-site administrative, business, or professional activities. These uses are characterized by activities in an office setting that focus on the provision of off-site sale of goods or on-site information-based services, usually by professionals. Typical examples include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting, call centers, and similar offices. This category may also include laboratory services that are conducted entirely within an office-type setting. Accessory uses may include cafeterias, health facilities, parking or other amenities primarily for the use of employees in the firm or building.

(10) Parking, Commercial: A use type that distinguishes primary commercial parking facilities from accessory parking.

(11) Retail Sales: This is a use type for businesses involved in the sale, lease, or rental of new or used products to the general public. Such uses may include, but are not limited to: convenience food store, drug store, grocery store, hardware store, general merchandise store, garden supplies, furniture, home furnishings and equipment. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging or repair of goods for in-site sales.

(12) Vehicle and Sales and Services, Personal: This use type includes a broad range of uses for the maintenance, sale, or rental of passenger motor vehicles and related equipment. Accessory uses may include incidental repair and storage and offices.

5. Industrial, Wholesale, and Storage

(a) Use Category Description: This is a use category including uses that produce goods from extracted and raw materials or from recyclable or previously prepared materials, including the design, storage, and handling of these products and the materials from which they are produced.

(b) Use Types

(1) Industrial and Construction Services: This use type is characterized by companies that are engaged in the repair or servicing of heavy machinery, equipment, products, or by-products, or the provision of heavy services including construction or contracting. Accessory activities and uses may include sales, offices, parking, and storage.

(2) Industrial Manufacturing, Assembly, or Processing: A use type including establishments involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, constructed, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished, and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, such activity is a subordinate part of sales. Relatively few customers come to the manufacturing site. Accessory activities may include retail sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, and caretaker's quarters.

(3) Natural Resource Extraction: This use type includes removal of resources from the ground.

(4) Warehousing and Wholesale Sales and Distribution: This use type includes facilities used for the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking, and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on site or delivered to the customer. Warehousing does not include establishments that are retail membership clubs or that are predominately retail uses with associated warehouse storage space.

(5) Waste and Salvage: This is a use category for uses that collect, store, process, or sell waste or salvage materials, or collect and process recyclable material, for the purpose of marketing or reusing the material in the manufacturing of new, reused, or reconstituted products.

6. Transportation, Utilities, and Communication

(a) Use Category Description: This use group includes providers and uses that provide public and quasi-public services to individuals and the community in the following categories.

(b) Use Types

(1) Alternative Energy Production: this is a use category that includes energy produced from resources that are regenerative, such as wind and solar energy.

(2) Transportation: this is a use category that includes uses involving public and private modes of transportation.

(3) Utilities and Public Facilities: This use type includes structures and locations for public or private lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and facilities for the generation of electricity. Utility uses may or may not have regular employees at the site and the services may be public or privately provided.

(4) Wireless Communication Facilities: This use type includes structures, locations, and equipment for the transmission of voice, data, image, or video programming.

7. Agricultural Uses

Use Category Description: This is a category of uses characterized by active and on-going agricultural uses, activities, and related uses. Not all uses listed here are allowed within the city limits. An agricultural use, in general, means the use of land for the growing and production of field crops, livestock, aquatic, and animal products for the production of income. Other agricultural uses might include fruit and vegetable stands, livestock sales, wholesale nurseries, and stables. Lands in agricultural uses and districts may also be held for preservation and conservation purposes. The sale or service of agricultural products and equipment included in similar commercial use categories.

SECTION 27-1002 USES BY DISTRICT

A. USE TABLE

Table 27-1000.1, Permitted Primary Uses, identifies the permitted primary uses in each zoning district. Each use is given one of the following designations for each zoning district in which that use is permitted.

1. Permitted /P/. These uses are permitted by-right in the zone districts in which they are listed. Permitted uses are required to comply with applicable use-specific standards identified in this article.
2. Permitted in a specified location, such as on upper stories or in the back of a structure /PL/. These uses are permitted by-right in the districts in which they are listed, provided that the uses are located in the upper stories of a structure. These uses may also be located in the ground story provided that they are located beyond a depth of at least 30 feet from the front facade.
3. Permitted with use restrictions /PR/. These uses must comply with the use restrictions identified in this Zoning Code, including those restrictions included in this article and any use restrictions identified in the zone district where the uses is proposed to be located.
4. Requires a special review /SR/. These uses require special review by the city zoning commission are not permitted uses in the districts in which they are listed but may be allowed as special exceptions subject to specific conditions. Uses permitted by special review must follow any applicable development standards associated with the use as well as meet the requirements of the special review.
5. Uses that are not permitted are indicated by a blank space.

B. INTERPRETATION

1. Classification of New or Unlisted Uses

Every type of potential use cannot be addressed or foreseen in this Zoning Code. When a use is proposed that is not specifically listed in the applicable use table, the following procedures shall be applied.

2. Uses Not Subject to Use Interpretation

The following categories of uses typically impose substantial impacts on a site, adjacent sites and structures, pedestrians or cyclists, the road network, or public infrastructure. Where a new use is proposed that is not identified in the applicable use table and that can be categorized into one of these categories, the applicant shall file an application for code amendment to determine if the use will be permitted. Through this process, the City will have the opportunity to review and determine the impacts of the proposed use and establish any prescribed conditions that may be appropriate to allowing the use.

(a) Agricultural Uses

(b) Industrial Services

(c) Manufacturing, Processing, and Assembly

(d) Waste and Salvage

3. Request for Use Interpretation

Requests for a use not prohibited in the previous section and not specifically addressed in any zoning district shall be submitted to the Zoning Coordinator for review, based on the following standards.

(a) The Zoning Coordinator shall determine whether the proposed use is listed in the applicable use table as a use permitted by right, with prescribed conditions, or as a special use in any zoning district.

(b) If the use is not addressed in the appropriate use table, the Zoning Coordinator shall select the use listed which most closely approximates the proposed use, using criteria such as:

(1) Appropriate use category in Section 27-1001.C;

(2) Conformance with the currently adopted growth policy and purpose of the zoning district in which the use is proposed;

(3) Types of equipment and/or processes to be used;

(4) Number of employees, visitors, or customers generated;

(5) Parking demands associated with the use; and

(6) Special public utility requirements for serving the proposed use type, including, but not limited to, electricity, water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures or infrastructure and communications towers or facilities;

(c) Once a similar use is determined, the Zoning Coordinator shall issue a zoning determination letter and the proposed use shall comply with any conditions and review procedures that may apply to that use.

(d) If, based on the criteria identified above, the Zoning Coordinator determines that a use can reasonably be determined to be similar to more than one use or category of uses, the Zoning Coordinator shall select the use or category of uses that provides the most exact, narrowest, and appropriate fit.

(e) The determination as to whether a proposed use is similar in nature and class to another use within a district shall be considered an expansion of the use regulations, not a variance applying to a particular situation. The Zoning Coordinator shall keep a log of use interpretations and shall periodically submit zoning code amendments to revise this Zoning Code in keeping with the use interpretations.

4. Determination of Non-Similarity

(a) The Zoning Coordinator may determine that a proposed use is not substantially similar to any use identified in Table 27-1000.1 because either:

(1) The potential impacts of the use, as identified in Section 27-1001.C.3, are significantly more impactful on the site, street, or neighborhood, than other permitted uses in the same use category and that the use would not otherwise be permitted without prescribed conditions or through a public review process; or

(2) There are no similar uses permitted on the site or in the applicable zone district;

(b) When this is the case, the Zoning Coordinator shall provide the applicant with a written determination of non-similarity within 14 business days of the request for interpretation.

5. Post-Decision Actions

The Zoning Coordinator's decision may be appealed to the Board of Adjustment.

C. TABLE 27-1000.1 BILLINGS PRIMARY USE TABLE

Table 27-1000.1: Permitted Primary Uses	Residential							Mixed-Use and Commercial							Indust.		EBURD					Public					
	Key: P = Permitted, PL = Location Limits in Zone District, PR – Applicable Use Restrictions, SR = Special Review																										
Use Table	N3	N2	N1	NX1	NX2	NX3	RMH	NO	NMU	CMU1	CMU2	DX	CBD	CX	I1	I2	RSV MS	RSV	CW	13	IS	P1	P2	P3Civ	P3 Ed	P3 Med	Additional Standards
RESIDENTIAL																											
Households Living (du/structure)																											
1 du	P	P	P	P			P	P	PL	PL	PL	PL	PL				PL	P	P	PL			PR	PR	PR	PR	27-1003
2 dus		P	P	P	P			P	PL	PL	PL	PL	PL				PL	P	P	PL			PR	PR	PR	PR	27-1003
3-4 dus				P	P			P	PL	PL	PL	P	P				PL	P	P	PL			PR	PR	PR	PR	27-1003
5-8 dus					P	P			PL	PL	PL	P	P				PL	P	P	PL			PR	PR	PR	PR	27-1003
9+ dus						P						P	P				PL	P	P	PL			PR	PR	PR	PR	27-1003
Manufactured Home																											
Type 1 (Jan 1, 1990 or newer)							P																				27-1003, RMH: 27-310
Type 2 (all other)							P																				
Group Household Living																											
Groups Recognized by Montana Statute																											
Comm. Res. Facility, Large (> 8 res.)	SR	SR	SR	SR	SR	P	SR	P	PL	PL	PL	P	PL				PL	P	P	PL	PL		P			P	27-1003
Comm. Res. Facility, Small (8 or fewer res.)	P	P	P	P	P	P	P	P	PL	PL	PL	P	PL				PL	P	P	PL	PL		P			P	27-1003
Independent Groups																											
Fraternity/ Sorority House						P			P	P	P	P	P												P		27-1003
Long-Term Care Facility										P	P	P	P	P			P	P								P	27-1003
Retirement Home or Village	SR	SR	SR	SR	SR	P	SR	P	PL	PL	PL	P	P				PL	P	P	PL	PL				P	P	27-1003
PUBLIC, CIVIC, AND INSTITUTIONAL																											
Assembly																											
Civic Assembly	SR	SR	SR	SR	SR	SR	SR	SR	P	P	P	P	P		P	P	P	P	P	P	P	PR	P	PR	PR	PR	27-1004
Religious Assembly	SR	SR	SR	SR	SR	SR	SR	SR	P	P	P	P	P	SR	SR	SR	P	P	P	P	P		P	PR	PR	PR	27-1004
Campus																											
Planned Civic Campus																								P			P3: 27-500
Planned Educational Campus																									P		P3: 27-500
Planned Medical Campus																										P	P3: 27-500

Table 27-1000.1: Permitted Primary Uses	Residential							Mixed-Use and Commercial							Indust.		EBURD					Public					
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Educational																											
School, College or University								SR	SR	P	P	P	P	P			PL	P	P	PL	P		P	P	P		
School, Primary and Secondary	P	P	P	P	P	P	P	P	P	P	P	P	P	P			PL	P	P	PL	P		P	P	P		
School, Trade, Business, Vo/Tech								P	PL	PL	PL	P	P	P	P		PL	P	P	PL	P		P		P	PR	27-1004
Government and Public Safety																											
Correctional Facilities															SR								SR				
Emergency Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Government Buildings and Offices								P	P	P	P	P	P	P	P	P	P	P	P	P	P	PR	P	P		P	27-1004
Government Facilities, Yards, and Storage														P	P	P			P	P	P	PR	P	P			
Health Care and Social Assistance																											
Hospice Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P			PL			PL			P	P		P	
Hospital or Health Care Facility								P	P	P	P	P	P	P			P	P	P	PL	P		P			P	
Office and Clinical Services									P	P	P	P	P	P			P	P	P	P	PL		P		P	P	
Outpatient Surgical Services										P	P	P	P	P												P	
Shelter								SR	P	P	P	P	P	SR	SR	SR	P	P	P	P	P		PR	PR	PR	PR	27-1004
Parks and Recreation																											
Arboretums/Botanic Gardens																						P	P				
Zoo																							PR				27-1004
COMMERCIAL																											
Adult and Child Day Care																											
Adult Day Care Center	SR	SR	SR	SR	SR	SR	SR	P	P	P	P	P	P	P			PL			PL			P	P	P	P	27-1005
Day Care Center	SR	SR	SR	SR	SR	SR	SR	P	P	P	P	P	P	P			P	P	P	P	P		P	P	P	P	27-1005
Family Day Care Home	P	P	P	P	P	P	P	P	PL	PL	PL	PL	PL	PL			P	P	P	P	P			P	P	P	27-1005
Group Day Care Home	P	P	P	P	P	P	P	P	PL	PL	PL	PL	PL	PL			P	P	P	P	P			P	P	P	27-1005

Table 27-1000.1: Permitted Primary Uses	Residential							Mixed-Use and Commercial							Indust.		EBURD				Public					
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Amusement and Recreation																											
Adult Entertainment													PR	PR	PR	PR			SR	SR	SR						27-1005
Amusement & Recreation, Indoor																											
Large (50,000 sf GFA or more)											P	P	P	P	P				P	P	P	P	P				27-1005
Small (less than 50,000 sf GFA)									P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	27-1005
Amusement & Recreation, Outdoor																											
Large (1 acre or more)											P	P	P	P	P				P	P	P	P	P				27-1005
Small (less than 1 acre)									P	P	P	P	P	P			P	P	P	P	P	P	P	P	P	P	27-1005
Casino, Large (10 or more gambling devices)										SR PR	SR PR	PR	P	SR PR	P		P	P	P	P	P						27-1005
Animal Sales and Services																											
Boarding/Kennel									PR	P	P	P	PR	P	P	P	PR	PR	PR	PR	PR						27-1005
General Sales and Services									P	P	P	P	P	P	P	P	P	P	P	P	P						27-1005
Shelter, Animal											P			P	P	P							P	P			27-1005
Small Animal Veterinary								P	P	P	P	P		P	P	P	P	P	P	P	P						27-1005
With boarding										P	P	P		P	P	P	P	P	P	P	P						27-1005
Large Animal Veterinary (with or w/o boarding)														P	P	P				P	P						27-1005
Assembly, Entertainment and Trade																											
Large (125,000 or more sf of exhibit space)											P	P	P	P	P	P	PL	P	P	P	PL	SR	P	P	P	P	27-1005
Small (up to 125,000 sf of exhibit space)									P	P	P	P	P	P	P	P	PL	P	P	P	PL	SR	P	P	P	P	27-1005
Commercial Service																											
Broadcasting Stations and Studios								SR	SR	P	P	P	P	P	P	P	P	P	P	P	P						
Business Service								P	P	P	P	P	P	P			P	P	P	P	P						
Crematory, Funeral Services										P	P	P	P	P	P		P	P	P	P	P		P				
Cemetery																							P				

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Consumer Maintenance and Repair								P	P	P	P	P	P	P	P		P	P	P	P	P						
Personal Service								P	P	P	P	P	P	P			P	P	P	P	P			PR	PR	PR	27-1005
Studio or Instruction Service								P	P	P	P	P	P	P			P	P	P	P	P			PR	PR	PR	27-1005
Eating and Drinking Establishment																											
No Alcohol																											
Restaurant									P	P	P	P	P	P	P		P	P	P	P	P			P	P	P	27-1005
with drive-thru									SR	P	P	SR		P	P			P	P	P	P			P	P	P	27-1009
Beer and Wine License, On-Premises Consumption																											
Bar or Tavern										SR PR	SR PR	P	P	SR PR	P		P	P	P	P	P						27-1005
Craft Alcohol										P	P	P	P	P	P		P	P	P	P	P			P	P	P	27-1005
Restaurant									P	P	P	P	P	P	P		P	P	P	P	P			P	P	P	27-1005
All-Beverage License, On-Premises Consumption																											
Bar or Tavern										SR PR	SR PR	P	P	SR PR	P		P	P	P	P	P						27-1005
Craft Alcohol										P	P	P	P	P			P	P	P	P	P			P	P	P	27-1005
Restaurant									P	P	P	P	P	P	P		P	P	P	P	P			P	P	P	27-1005
Financial Services																											
Financial Institution								P	P	P	P	P	P	P			P	P	P	P	P			P	P	P	27-1005
with drive-thru									P	P	P	P	P	P				P	P	P	P						27-1005
Alternative Financial Services										P	P	P	P	P			P	P	P	P	P						
Lodging																											
Boarding House	SR	SR	SR	SR	SR	SR			PL	PL	PL	PL	PL	PL			P	P	P	P	P						
Bed and Breakfast Inn	SR	SR	SR	SR	SR	SR	SR	P	P	P		P	P				P	P	P	P	P			P	P	P	27-1005
Campground/RV Park														P					P			SR	SR				27-1005
Hotel/Motel									SR	P	P	P	P	P			P	P	P	P	P			P	P	P	

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Short-Term Rental (Tourist Home)	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR			PR	PR	PR	PR	PR		PR	PR	PR	PR	27-1005
Office																											
Business or Professional								P	P	P	P	P	P	P			P	P	P	P	P			P	P	P	
Research and Testing Laboratories											SR	P	P	P	P	P			P		P			P	P	P	
Parking, Commercial																											
Structured Parking, primary use												PR	PR														
Surface Parking, primary use								SR	SR	SR	SR	SR	SR	P	P	P		P	P	P	P						
Retail Sales																											
Agricultural														P	P				P	P	P						
Commercial Greenhouse/Nursery									SR	P	P			P	P		P	P	P	P	P						
Liquor Sales									P	P	P	P	P	P	P		P	P	P	P	P						
Retail, Limited with drive-thru									SR	P	P			P				P	P	P	P						27-1009
without drive-thru									P	P	P	P	P	P			P	P	P	P	P			P	P	P	
Retail, General with drive-thru									SR	P	P			P				P	P	P	P						27-1009
without drive-thru										PR	P	P	P	P			P	P	P	P							
Retail, Large-Format											SR			P				P	P	P	P						
Vehicle Sales and Service, Personal																											
Car Wash										SR	P			P	P				P	P	P						27-1005
Vehicle Sales and Rental											P	P	SR	P	P	P		P	P	P	P						
Outdoor Sales Lot											PR	SR	SR	P	P	P		PR	P	P	P						27-1009
Vehicle Maintenance and Repair, Minor (5,000 SF or less)										P	P	P	SR	P	P	P		P	P	P	P						
Vehicle Maintenance and Repair, Major (>5,000 SF)											SR			P	P	P			P	P	P						

Table 27-1000.1: Permitted Primary Uses	Residential							Mixed-Use and Commercial							Indust.		EBURD					Public					
	Key: P = Permitted, PL = Location Limits in Zone District, PR – Applicable Use Restrictions, SR = Special Review																										
Use Table	**N3**	**N2**	**N1**	**NX1**	**NX2**	**NX3**	**RMH**	**NO**	**NMU**	**CMU1**	**CMU2**	**DX**	**CBD**	**CX**	**I1**	**I2**	**RSV MS**	**RSV**	**CW**	**I3**	**IS**	**P1**	**P2**	**P3Civ**	**P3 Ed**	**P3 Med**	**Additional Standards**
Vehicle Service Station										PR	PR	PR	PR	P	P	P		PR	PR	PR	PR			P	P	P	27-1005
with Convenience Store									SR	PR	PR	PR	PR	P				PR	PR	PR	PR			P	P	P	27-1005
INDUSTRIAL, WHOLESALE, AND STORAGE																											
Industrial and Construction Services																											
Auction House														P	P	P											
Contractor Yard, General/Trade														P	P	P			P	P	P						
Heavy															P	P			P		P						
Grain Elevator															P	P											
Industrial Sales and Services														P	P	P											
Manufactured Home Sales and Service														P	P	P											
RV and Trailer Rental, Sales and Service											P	P		P	P	P			P	P	P						
Truck and Heavy Equip Rental, Sales, and Service														P	P	P			P	P	P						
Truck Stop/Wash														P	P	P											
Manufacturing, Assembly, or Processing																											
Artisan/Craft									PL	PL	PL	P	P	P	P	P	PR PL	PR PL	PR PL	PR PL	PR PL						27-1006
Limited - Special Order												P	P	P	P	P			P	P	P						
General														P	P	P			P	P	P						
Heavy															SR	P					PR						27-1006
Natural Resource Extraction																											
Mining; Oil and Gas Field Services															P	P					P						
Construction Sand and Gravel Mining														SR	P	P											
Warehouse and Storage Services																											
Outdoor Storage														PR	P	P		P	P	P	P						27-1006

Table 27-1000.1: Permitted Primary Uses	Residential							Mixed-Use and Commercial							Indust.		EBURD				Public					
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Personal Self-Service Storage										PRPL	PRPL	PR		P	P	P		PR	PR	PR	PR						27-1006
Trucking and Transportation Service														P	P	P			P		P						
Warehouse														P	P	P		PL	PL	PL	PL						27-1006
Wholesale and Distribution (general)														P	P	P		P	P	P	P						
Agricultural Products														P	P	P		P	P	P	P						
Chemical Products															SR	P											
Petroleum Products																P											
Waste and Salvage																											
Junk or Salvage Yard															SR	SR											
Household Hazardous Waste Collection Facility																							P				27-1006
Recycling Processing Facility															P	P			P	P	P		P				
Refuse/Waste Transfer Facility															SR	SR							P				
Solid Waste Facility/Landfill																SR							P				
TRANSPORTATION, UTILITIES, AND COMMUNICATIONS																											
Transportation																											
Bus or Taxi Maintenance and Parking Shed											P			P	P	P											
Airport Passenger Terminal																							P				
Bus/Public Transit Terminal										P	P	P	P	P	P	P							P				
Train Passenger Terminal										P	P	P	P	P	P	P							P				
Train/Railroad Freight Terminal, Switching Yard															P	P											
Utilities and Public Facilities																											
Major															SR	SR		SR	P	SR	P		P				
Minor (e.g., lift stations, substations)	SR	SR	SR	SR	SR	SR	SR	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				

Table 27-1000.1: Permitted Primary Uses	Residential							Mixed-Use and Commercial							Indust.		EBURD				Public					
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Use Table	**N3**	**N2**	**N1**	**NX1**	**NX2**	**NX3**	**RMH**	**NO**	**NMU**	**CMU1**	**CMU2**	**DX**	**CBD**	**CX**	**I1**	**I2**	**RSV MS**	**RSV**	**CW**	**I3**	**IS**	**P1**	**P2**	**P3Civ**	**P3 Ed**	**P3 Med**	**Additional Standards**
Offices, Buildings, Yards, and Land														P	P	P		SR	P	SR	P		P				
Solar Energy Facilities (SEFs)																											
Tier 2														P	P	P						P					27-1007
Tier 3														P	P	P											27-1007
Transmission and Distribution Lines	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P				
Wind Energy Conversion Facilities (WECs)																											
Tier 2														P	P	P											27-1007
Tier 3														P	P	P											27-1007
Wireless Communication Facilities																											
Land Mobile Radio and Broadcast Antennae	PR	PR	PR	PR	PR	PR	PR	PR SR	PR SR	PRS R	PRS R	PR SR	PR SR	PRS R	PRS R	PRS R	PR SR	PRS R	PR SR	PR SR	PR SR				SR		27-1007
Wireless Communication Facilities	PL PR	PL PR	PL PR	PL PR	PL PR	PL PR	PL PR	PR	PR	PR	PR	PR	PR	PR	PR	P	PR	PR	PR	PR	PR	PL PR	PL PR	P	P	P	27-1007
AGRICULTURE																											
Agriculture																											
Auction Yard, Livestock														P	P	P											
Commercial Feeding Yard, Livestock															SR	SR											No dairy or poultry
Farm Stand									P	P	P	P	P	P	P		P	P	P	P	P						
Greenhouse, Non-Commercial	P	P	P	P	P	P	P																				
Milling: Lumber, Plywood, and Shingles															P	P											

SECTION 27-1003 STANDARDS FOR RESIDENTIAL USES

A. COMMUNITY RESIDENTIAL FACILITIES

1. Community residential facilities shall comply with all applicable Montana statutory requirements.
2. In Mixed Use and Commercial districts, the use will follow the guidelines for site development within those zone districts and shall be located either above the ground floor or on the ground floor at least 20 feet from the front façade.

B. FRATERNITY/SORORITY HOUSE

In Mixed Use and Commercial districts, the use will follow the guidelines for site development within those zone districts and is exempt from the requirement that residential uses shall be located either above the ground floor or on the ground floor at least 20 feet from the front façade.

C. HOUSEHOLD LIVING

1. In Mixed-Use and Commercial and EBURD districts, dwelling units shall be located either above the ground floor or on the ground floor at least 20 feet from the front façade,
2. Where permitted in any P2 or P3 district, dwelling unit availability, regardless of ownership, is limited to residents associated with the district's primary institution. For example, a medical campus could provide dwelling units for patient families, visiting medical staff, and hospital employees.
3. Residential dwellings in a P3 district that are located within 150 feet of the campus perimeter shall meet the site design standards for the appropriate NX zone based on the number of units.

D. MANUFACTURED HOMES

1. Type 1 or Type 2 manufactured homes shall not be used for any commercial use.
2. Type 1 and Type 2 manufactured homes may be used as an on-premise office in connection with a manufactured home sales area.

E. RETIREMENT HOME OR VILLAGE

In Mixed Use and Commercial districts, the use will follow the guidelines for site development within those zone districts and shall be located either above the ground floor or on the ground floor at least 20 feet from the front façade.

SECTION 27-1004 STANDARDS FOR PUBLIC, CIVIC, AND INSTITUTIONAL USES

A. CIVIC ASSEMBLY

In P2 and P3 districts the following standards apply:

1. The use shall be either secondary to or accessory to the primary use on the site or campus.
2. The civic assembly facility may be leased or loaned to off-site users or for activities that are not directly supportive of the site or campus function.

B. GOVERNMENT BUILDINGS AND OFFICES; GOVERNMENT FACILITIES, YARDS, AND STORAGE

In P1 districts, the government building, office, facility, yard, or storage shall be either secondary to or accessory to the primary open space and recreation uses.

C. RELIGIOUS ASSEMBLY

1. Supplemental Special Review Standards:

(a) Religious assembly uses shall be reviewed as a special review use in all residential zones.

(b) Access shall be provided as follows: 1-200 seats shall have access from local or residential streets; 201-1000 seats shall have access from a collector street or higher; 1001 seats and over shall have access from an arterial street.

2. The following exemptions from the special review requirements shall only apply to those religious assembly uses that have previously been approved pursuant to a special review or that existed prior to November 3, 1972:

(a) A religious assembly shall be allowed to remodel or expand without an additional special review provided that:

(1) The number of potential occupants is not increased by more than 10 percent, than the number that is currently allowed as measured by building occupancy rating;

(2) The gross floor area of the facility after such remodeling or expansion is not over 10 percent greater than the gross floor area originally occupied by the facility;

(3) The number of new parking stalls is not more than 10 percent greater than the original number of spaces; and

(4) All other applicable code requirements are met.

(b) 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 where the improvements comply with the requirements of this Zoning Code. 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 subsection (a).

3. Site Standards

(a) Uses accessory to the religious assembly shall meet the standards applicable to the use as if the use is a principal use. Uses accessory to a religious assembly use in a residential district, other than shelter facilities, may only operate between 7:00 AM and 10:00 PM by right.

(b) Parking for the religious assembly use, and any accessory use, shall be for the use that has the greatest parking requirement.

4. Shelter

Religious institutions may provide temporary shelter as an accessory use that does not exceed 50% of the gross floor area of the primary structure.

D. SCHOOL: TRADE, BUSINESS, VOCATIONAL/TECHNICAL

In the P3-Med districts, trade, business, vocational/technical schools shall offer instruction related to medical careers and professions.

E. SHELTER

In all P3 zone districts, a temporary or permanent shelter may be established within the campus. If the shelter is located within 150 feet of the campus perimeter, the shelter site and buildings will conform to the CMU site design requirements.

F. ZOO

1. Minimum parcel size: 60 acres
2. Minimum buffer between adjacent uses: 100 feet

SECTION 27-1005 STANDARDS FOR COMMERCIAL USES

A. ADULT AND CHILD DAY CARE

Day care facilities, including day care centers, family day care homes, and group day care homes both for adults and children, shall comply with all applicable Montana statutory requirements. Site development shall comply with the design requirements in the zone districts.

B. ADULT ENTERTAINMENT

1. 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.

2. Findings and Determinations

The City Council hereby finds and determines that:

(a) The establishment of adult uses in commercial districts that 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.

(b) The establishment of more than two adult uses within 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.

(c) 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.

(d) 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.

3. Classification

Sexually oriented businesses are classified as follows:

(a) Adult arcades;

(b) Adult book stores or adult video stores;

(c) Adult cabarets;

(d) Adult motels; and

(e) Adult motion picture theaters.

4. Location of Sexually-Oriented Businesses

(a) A sexually oriented business shall not be operated within 1,000 feet of any of the following:

(1) A neighborhood, residential, or mixed-use zone.

(2) 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.

(3) Land uses:

(i) Public library;

(ii) Public playground or park (for purposes of this section, publicly owned multiuse trails shall be deemed to be a park);

(iii) Public or private school and its grounds, from pre-school through twelfth grade;

(iv) A state licensed community residential facility, family day care home, group day care home, day care center, religious assembly, or

(v) A cemetery.

(b) A sexually oriented business shall not be located within 600 feet of another sexually oriented business.

5. Measurement of Distances

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.

6. Permitted Zones

(a) In addition to the preceding requirements, sexually oriented businesses are permitted in the following zones only:

(1) Central business district (CBD),

(2) Heavy commercial (CX),

(3) Controlled industrial (I1), or

(4) Heavy industrial (I2).

(b) Sexually-oriented businesses may be proposed for approval in some EBURD districts, as shown in Table 27-1000.1, through the special review process.

C. AMUSEMENT AND RECREATION

1. Size

Amusement and recreation facilities shall be regulated by size as follows:

Indoor	Large	50,000 sf GFA or more
	Small	Less than 50,000 sf GFA
Outdoor	Large	1 acre or more
	Small	Less than 1 acre

2. P1 District

(a) Amusement and recreation facilities located in P1 districts may be in either public or private ownership and may charge appropriate fees.

(b) P1 district uses are limited to:

(1) Golf courses and driving ranges

(2) Sports fields

(3) Aquatic facilities

3. P2 and P3 District

Amusement and recreation facilities and uses shall meet the following standards:

(a) The use shall be either secondary to or accessory to the primary use on the site or campus.

(b) The amusement or recreation use may be leased or loaned to off-site users or activities that are not directly supportive of the site or campus function.

D. ANIMAL SALES AND SERVICES WITH OUTDOOR FACILITIES

Any outdoor activity areas such as kennels, runs, or exercise areas shall be subject to the following:

1. General Requirements

The facilities shall:

(a) Only be used between the hours of 7:00 AM and 10:00 PM, and

(b) Be located at least 25 feet from any residential district.

2. Kennel

(a) All facilities, including pens, kennels, cages and exercise runs in NMU, CBD, and EBURD districts shall be maintained within a completely enclosed, soundproof building so that, to the maximum extent feasible, noise and odor are not detectable off-premises.

(b) Facilities in the CMU1, CMU2, DX, CX, I1, and I2 districts may have outdoor facilities, including runs and exercise areas, but such facilities shall meet the standards of Subsection C.2.a if they are located within 25 feet of any residential district.

3. Veterinary Services (with Boarding)

Small Animal Veterinary clinics or hospitals in the CMU1, CMU2, DX, CX, EBURD, I1, and I2 districts may have outdoor facilities, including runs and exercise areas, but such outdoor facilities must be completely screened with a sight-obscuring fence. Boarded animals and animals under veterinary care must be accompanied at all times by staff while in the outdoor facility.

E. ASSEMBLY, ENTERTAINMENT AND TRADE

1. Size

(a) Large entertainment and trade assembly facilities shall have 125,000 or more square feet of exhibit space.

(b) Small entertainment and trade assembly facilities shall have no more than 124,999 square feet of exhibit space.

2. P1 District

Entertainment and trade assembly facilities located in P1 districts may be in either public or private ownership and may charge appropriate fees. These facilities require special review approval.

3. P2 and P3 District

Entertainment and trade assembly facilities shall meet the following standards:

(1) The facility and use of the facility shall be either secondary to or accessory to the primary use on the site or campus.

(2) The entertainment and trade assembly facility may be leased or loaned to off-site users or activities that are not directly supportive of the site or campus function.

F. BANK OR FINANCIAL INSTITUTION

Banks or financial institutions that are located within 100 feet of a residential zoning district and have drive-through services shall meet the following requirements:

1. The drive-through area shall be screened either by site perimeter landscaping or a landscape buffer, whichever is applicable pursuant to Section 27-1200, Landscaping.

2. Access to or across an alley shared by a mixed-use or commercial district and a residential district shall comply with the zone district site development requirements.

G. BAR AND TAVERN

1. Separation

(a) Bars and taverns shall be separated from religious institutions, primary and secondary educational facilities, and public parks that contain a children's playground or playfield ("protected use") as follows:

(1) There are no separation requirements in the CBD, DX, EBURD, and I1 districts.

(2) In all other districts, there shall be a separation of at least 600 feet, measured from the exterior of the occupied building space of the bar or tavern to the property line of the lot that contains the protected use.

(b) Bars or taverns shall also be separated from any residential neighborhood zone (N1, N2, N3, N4, NX1, NX2, NX3, and RMH) by at least 150 feet, measured from the exterior of the occupied building space of the bar or tavern to the property line of the lot in the residential neighborhood zone.

(c) Required separations are not subject to reduction, adjustment, or variance, and bars or taverns shall not be approved within the distances specified.

2. Outdoor Seating

Outdoor seating may be permitted as an accessory use regulated by Section 27-1009,O.

3. Maximum Floor Area

The maximum floor area for a bar or tavern in a CMU1 district is 1,500 sf. This is the maximum size for a stand-alone structure or the maximum floor area for the bar or tavern use when located within a mixed-use structure. Floor area does not include outdoor seating unless the outdoor seating area is larger than 375 square feet.

H. BED AND BREAKFAST INN

1. The owner-operator shall reside on the premises.

2. The bed and breakfast shall be located within a structure that was originally permitted within the district.
3. There shall be no more than 18 guests at any one time.
4. The individual guest rooms shall have no cooking implements, including, but not limited to, stoves, grills, or ovens.
5. Parking shall not be allowed in any front yard.

I. CAMPGROUND/RV PARK

1. The intent of these standards is to enable the orderly, safe, and nuisance-free development and use of campgrounds and RV parks.
2. The overall campground/RV park lot or parcel shall be not less than two acres, inclusive of rights-of-way, easements or dedications, and shall observe the minimum area standards set forth herein.
3. Site Layout
   (a) The minimum distance between recreational vehicles in the same park shall be 15 feet.
   (b) The campground/RV park shall be screened from adjoining lots or parcels, not in a campground/RV park use, by a solid fence or wall of not less than four feet in height nor more than six feet in height. The screening fence or wall shall be constructed within six months from date of approval of the campground/RV park plans.
   (c) RV sites shall be designed to be interchangeable with campsites.
4. Operation
   (a) Commercial service and retail service uses may be permitted as accessory uses. These uses shall not occupy more than five percent of the total gross area of the campground/RV park.
   (b) A responsible caretaker, owner, or manager shall be placed in charge of any campground/RV park to keep all grounds, facilities and equipment in a clean, orderly, and sanitary condition, and shall be answerable to the owner for any violation of the provisions of this or any other applicable code or ordinance.

J. CASINO

1. Determination of Casino Use

(a) An establishment will be considered to either be a casino or have an accessory casino for the purpose of these regulations if any of the following characteristics apply:
   (1) The establishment is referenced as a casino by signage, advertisement, or by name;
   (2) A live card table is on the premises; and/or
   (3) A gambling machine is on the premises.
(b) Uses with specialty liquor licenses, such as fraternal organizations, golf courses, and non-profit arts organizations are not casinos pursuant to this category.

2. Casino Classification

(a) Casinos shall be classified based on the total number of gaming machines, as follows:

(1) Accessory Limited: 1 to 3 gaming machines located in the structure or on the site.

(2) Accessory Small: 4 to 9 gaming machines located in the structure or on the site.

(3) Primary/Large: 10 or more gaming machines located in the structure or on the site.

(b) Accessory Limited or Accessory Small casinos may have or add one table game without changing the classification. Primary/Large casinos may include any number of table games.

3. Separation Distances

(a) Primary/Large casinos shall be separated from religious institutions, primary and secondary educational facilities, and public parks that contain a children's playground or playfield ("protected use") as follows:

(1) There are no separation requirements in the CBD, EBURD, and I1 districts.

(2) In all other districts, there shall be a separation of at least 600 feet, measured from the exterior of the occupied building space of the casino to the property line of the protected use.

(b) Primary use casinos shall also be separated from any residential neighborhood zone (N1, N2, N3, N4, NX1, NX2, NX3, and RMH) by at least 350 feet, measured from the exterior of the occupied building space of the casino to the property line of the residential neighborhood district.

(c) Required separations are not subject to reduction, adjustment, or variance and casinos shall not be approved within the distances specified.

(d) A primary use casino may not be added to a site with other primary uses, such as a bar or restaurant where the casino separation requirements cannot be met.

4. Landscaping

A B3 bufferyard, identified in Section 27-1200, shall be provided along all internal property lines where a casino is the primary use on the site.

K. CRAFT ALCOHOL (MICROBREWERY, MICRODISTILLERY, WINERY, CIDERY)

1. A craft alcohol establishment may not add another primary use, such as a casino, where the additional use's separation requirements cannot be met.

2. Outdoor seating may be permitted as an accessory use regulated by Section 27-1009.O.

L. PERSONAL SERVICE

In a P3 Campus district, personal services shall be limited to those provided in support of the primary campus use and offered for the benefit of campus users.

M. OUTDOOR SALES LOT

An outdoor sales lot as a primary use shall be designed and used in compliance with Section 27-1009.N, Outdoor Display and Sales.

N. RESTAURANT

1. Drive-Thru Service. Any persons desiring to use any premises or to erect, construct, or alter any new or existing building or structure for a restaurant drive-thru service shall satisfy the following criteria, based upon the adjoining zoning district(s).

(a) A drive-thru establishment that adjoins, including any location across an alley, residentially zoned property, is subject to special review.

(b) All other drive-thru establishments, including those which are located across a public street from residentially-zoned property, shall meet the following criteria:

(1) A traffic accessibility study shall be completed and approved by the City engineer; and

(2) The use shall comply with all other sections of this Zoning Code.

2. Outdoor Seating

(a) Accessory outdoor seating is regulated in Section 27-1009.O.

(b) An eating or drinking establishment that was approved by special review that seeks to remodel or expand to add outdoor seating shall be required to meet the standards of Section 27-1009.O and obtain a separate special review approval.

O. SHORT-TERM RENTALS

[draft provided in separate document]

P. STUDIO OR INSTRUCTION SERVICE

In a P3 Campus district, studio or instruction services shall be limited to those provided in support of the primary campus use and offered for the benefit of campus users.

Q. VEHICLE SERVICE STATION

The following standards apply in the CMU1, CMU2, DX, CBD, and EBURD districts:

1. Service bays. Vehicular service bays, including garages and car wash bays, shall not be located on the front facade, unless otherwise permitted by the frontage type.

2. Outdoor storage. Disabled or inoperable vehicles and those awaiting pick-up may be stored outdoors if:

(a) The vehicles are not stored for more than two days.

(b) The storage area is located in the rear yard screened from view of the front lot line.

(c) The storage area is screened using the side and rear yard buffer outlined in Section 27-1200.

3. Outdoor activities

(a) All repairs or washing activities must occur inside a structure.

(b) Vacuuming activities may occur in open air but must be located in the side or rear yards, screened from the front lot line.

(c) Temporary outdoor display of seasonal items, such as windshield wiper fluid or salt, is permitted during business hours under the canopy and adjacent to the principal structure.

SECTION 27-1006 STANDARDS FOR INDUSTRIAL, WHOLESALE, AND STORAGE USES

A. ARTISAN MANUFACTURING

In the EBURD districts where an artisan industrial use is permitted with development standards, the following apply:

1. 20,000 square feet is the maximum permitted overall gross floor area.

2. A minimum 20 percent of gross floor area shall be dedicated to a showroom located at the front of the space.

3. Outdoor activities and storage of goods are not permitted.

B. HEAVY MANUFACTURING

In the EBURD where a heavy manufacturing use is permitted with development standards, the following apply:

1. Noise, odor, and other noxious by-products shall not be measurable on adjacent properties.

2. Waste products shall be disposed of off-site, without entering the sanitary sewer system.

C. PERSONAL SELF-SERVICE STORAGE

1. Generally Applicable Standards

(a) No business activity other than rental of storage units shall be conducted within a self-service storage unit.

(b) In CMU1, CMU2, and EBURD-CW, individual self-storage units, unit doors, loading areas or other service areas shall be screened from a public right-of-way and any adjacent non-industrial districts.

(c) Security fencing or gates shall be located behind any required landscaping area.

(d) Security gates shall be located so that two vehicles awaiting entry do not stack into the public right of way or any pedestrian path. This may be reduced to one vehicle for facilities with fewer than 25 units or where security gates are only locked outside of normal business hours.

(e) Exterior doors serving individual units shall not be oriented towards a public right of way unless located behind other structures.

(f) Individual units accessed from outdoors shall be located at least 100 feet from a front or street side property line.

(g) No self-service storage facility shall exceed 3 acres in size.

2. DX Standards

In DX districts this use is limited to existing structures that have been converted to personal storage.

3. EBURD Standards

These standards are applicable in addition to the general standards:

(a) Individual storage units or areas shall be located completely within an enclosed structure and shall not be individually accessed from the outside.

(b) No more than 2 garage or overhead doors providing access to the individual storage areas shall be permitted. The intent is to permit a secure interior area for the loading and unloading of material to be stored.

(c) Individual structures shall not exceed 250 feet on any side.

(d) All facade elevations for self-service storage facilities shall comply with the design requirements for the district.

D. OUTDOOR STORAGE

1. All outside storage areas, whether permitted as a principal or accessory use, shall comply with the following standards. Outdoor storage does not include outdoor display and sales, which are addressed in Section 27-1009.

   (a) Type of Materials: Storage shall be limited to goods and materials customarily stored outside and resistant to damage and deterioration from exposure to the elements. Outside storage shall include the parking/storage of vehicles to be serviced at a collision service or towing/wrecker service use and all parking/storage of vehicular equipment, such as farm or construction machinery or equipment and commercial delivery vehicles. The placement of storage vaults or shipping containers shall be regarded as outside storage, except as may be otherwise permitted by this Zoning Code.

   (b) Location: When permitted as a principal or accessory use, outside storage shall comply with the following locational standards:

      (1) Outside storage shall not be located in a front yard or street side yard between a primary structure and the street.

      (2) Outside storage shall not obstruct or eliminate any required parking or loading space, access drive or fire lane; nor occupy any street right-of-way.

      (3) Outside storage shall not be located within any required or established landscape area.

   (c) Secured Storage: All outside storage, except for the storage of operable vehicles, shall be located within a secured area.

   (d) Screening: Screening of all outdoor storage areas from right of way and adjacent properties shall be provided according to Section 27-1207, Utility and Service Area Screening.

   (e) Height: Storage of stacked materials shall not exceed the height of the screening fence or eight feet, whichever is less. Individual items of greater height may be stored but may not exceed one-half the height of the principal building.

   (f) Surfacing: Storage areas shall be surfaced as follows:

      (1) Storage of goods and materials shall be conducted only on a paved surface or a city-approved all-weather surface that is maintained in a dust-free condition.

      (2) The storage of vehicles, trailers, and equipment, which is normally intended to be mobile, whether self-propelled or towed, shall be conducted only on a surface that is provided in accordance with the requirements for parking areas.

2. Shipping Containers Permanent Off-Chassis and On-Site

   (a) Permanent use, defined as placement for more than one year, is restricted to the following zoning districts: CX, I1, I2, C3 and EBURD.

   (b) Use

      (1) Permanent shipping containers shall be used for storage purposes only.

      (2) Permanent shipping containers shall not be permitted as a principal building.

      (3) Permanent shipping containers shall not be permitted to be rented or leased to a use not located on the same lot.

(c) Quantity

(1) A maximum of one permanent shipping container per site shall be permitted on lots of one acre or less.

(2) One additional permanent shipping container per acre may be permitted for lots greater than one acre.

(d) Dimensions: Permanent shipping containers shall not exceed the dimensions of 40 feet in length, eight feet in width, and 10 feet in height.

(e) Exterior Appearance

(1) Permanent shipping containers shall be maintained in good condition free from structural damage, rust, and deterioration.

(2) Permanent shipping containers shall not be stacked vertically.

(f) Signs: No signs or lettering shall be permitted on permanent shipping containers.

(g) Location

(1) Permanent shipping containers shall meet all building setback requirements and shall be located on the rear half of the lot.

(2) Permanent shipping containers shall not be permitted in any parking areas, required buffers or setbacks.

(3) No permanent off-chassis shipping containers shall be permitted in loading areas.

(h) Screening: All permanent shipping containers shall be screened from view from any public right-of-way or private street, and any residential use or residential zoning district according to Section 27-1207, Utility and Service Area Screening.

(i) Site Plan: Businesses shall submit a site plan showing any permanent container and its relationship to the overall site. The plan shall indicate how the container meets all permanent requirements, including stormwater, traffic circulation, screening requirements, other development codes and technical standards, and inspection requirements.

E. WAREHOUSING

Where warehousing is permitted in the EBURD with development standards, the following apply:

1. Truck access is permitted only off a boulevard street type (refer to BMCC Section 27-906, Street Types).

2. Loading bays, if permitted by frontage type, shall be located directly off a boulevard street type.

SECTION 27-1007 STANDARDS FOR TRANSPORTATION, UTILITIES, AND COMMUNICATIONS

A. LAND MOBILE RADIO AND BROADCAST ANTENNAS AND ANTENNA SUPPORT STRUCTURES

1. 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 antennas, 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, are to:

(a) Encourage the location of broadcast facilities in non-residential areas and minimize the total number of antenna support structures throughout the community;

(b) Strongly encourage the joint use of new and existing broadcast antenna support structures;

(c) Require broadcast facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal;

(d) Require broadcast facilities to be configured in a way that minimizes the adverse visual impact of antenna support structures and antennas; and

(e) 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.

2. Applicability

(a) All land mobile radio service and radio and television broadcast antenna and antenna support structures located within the city 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 jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise.

(b) Pre-existing land mobile radio and radio and television broadcast antenna support structures and antennas shall not be required to meet the requirements of this section, except as provided under Subsection 27-1007.A.5, Nonconforming Broadcast Facilities.

3. Broadcast Antenna Support Structures and Antennas Located in Residential Zoning Districts

Land mobile radio and radio and television broadcast antenna support structures and antennas 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 Zoning Code and roof-mounted antennas that do not add more than 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.

(b) Proposed antennas or antenna support structures that are contrary to this section are considered a land use contrary to zoning and are subject to the special review process, 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 forward comments and recommendations to the affected government agency for their consideration.

(c) Antennas 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.

4. Broadcast Antenna Support Structures and Antennas Located in Mixed-Use, Commercial, EBURD, and Industrial Zoning Districts

(a) Broadcast antenna support structures 50 feet in height or less shall be permitted as an allowed use.

(b) Broadcast antenna support structures that exceed 50 feet in height or the maximum height limitations in the underlying zoning district, whichever is greater, may be permitted through special review.

(c) Broadcast antenna or tower farms may be permitted by special review as shown in Table 27-1000.1, Permitted Uses.

(d) All broadcast antenna support structures located in heavy industrial (I2) districts shall be permitted as an allowed use, including broadcast antenna or tower farms.

(e) All broadcast facilities located within the boundaries of an approved or preexisting broadcast antenna or tower farm shall be permitted as an allowed use.

5. 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.

(a) 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.

(b) 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.

(c) Setbacks

(1) Broadcast antenna support structures adjacent to residential uses or zoning. Broadcast antenna support structures must be set back, from all property lines, a distance equal to one-half (½) the height of the structure from any off-site residential structure or residentially zoned lot. Accessory structures, such as equipment enclosures or transmitter buildings, must maintain a minimum of a 15-foot setback from any lot line adjacent to a residential structure or residentially zoned lot, or the required setback of the zoning district where the antenna support structure is located, whichever is greater.

(2) Mixed-Use, commercial, EBURD 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.

(3) 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.

(d) 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.

(e) Fencing and Buffering

(1) Fencing. A solid wood fence or masonry wall at least six feet in height (eight 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 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.

(2) Landscaping adjacent to residential uses and/or residential zoning.

(i) 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 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.

(ii) A performance bond or letter of credit for 150 percent of the landscaping and fencing materials and labor costs shall be posted with the planning division to ensure the placement of required landscaping and fencing in accordance with section 27-1200.

(3) Commercial landscaping. Landscaping requirements shall not apply to broadcast antenna support structures located in commercial or industrial zoning districts or approved broadcast antenna or tower farms.

(4) 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(e)(1) and 5(e)(2) will not apply. Documentation of these standards must be submitted with the building permit or special review applications.

(f) 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 20 feet above ground. Cut-off security lights must be used in or adjacent to residential areas to prevent light spillage onto adjacent property.

(g) Signage: Signage shall be limited to non-illuminated warning and equipment identification signs unless otherwise required by the FAA and/or FCC.

(h) Maintenance

(1) 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.

(2) All property used for the siting of a broadcast antenna support structure or antenna shall be maintained, without expense to the City, so as to be safe, orderly, attractive,

and in conformity with City codes including those regarding the removal of weeds and trash and landscape maintenance.

(i) Visual impact/aesthetics

(1) 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.

(2) 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 antennas and antenna support structures may be mounted on existing buildings that are 30 feet or more in height above the street grade.

(3) Roof-mounted antennas and antenna support structures shall not add more than 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 antenna arrays are prohibited on rooftop structures.

(4) Broadcast antennas 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.

6. 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:

(a) 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.

(b) Nonconforming broadcast antenna support structures which are hereafter damaged and destroyed, by less than 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 50 percent or more of its replacement the broadcast antenna support structure must be brought into compliance with these regulations.

(c) The owner of any nonconforming broadcast antenna support structure may make minor modifications, as described in Subsection 7, in order to improve the structural integrity of the structure, to allow the structure to accommodate co-located antennas, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of these regulations.

7. Classification of Modifications

Modifications of existing or broadcast facilities that meet the requirements of these regulations.

(a) Minor modifications. Minor modifications to facilities permitted under these regulations shall be approved by the planning division so long as they comply with the original approved design. Minor modifications are as follows:

(1) The addition of one or more antenna arrays to any existing antenna support structure, so long as the addition of the antenna arrays add no more than 20 feet in height to the facility and the increase in height of the support structure is no greater than 10 percent.

(2) Placement of additional antennas, up to the number the antenna support structure was originally designed to accommodate, shall be considered a minor modification.

(3) Repairs to or replacement of existing antennas or feedlines or support members (such as guy wires) are not considered modifications under this part.

(b) 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.

8. Abandonment

Broadcast facilities will be considered abandoned if they are unused by all providers at the facility for a period of 6 months. Determination of abandonment shall be made by the planning division which shall have the right to request documentation from the facility owner regarding support or antenna usage. Upon abandonment, the facility owner shall have 90 days to:

(a) Re-use the facility or transfer the facility to another owner who will re-use it; or

(b) Dismantle the facility. If the facility is not removed within 90 days of abandonment, the City may remove the facility at the facility at the property owner's expense. If the facility is removed, City approval of the facility will expire. If the facility owner is unable to remove the facility within the 90 days due to unusual circumstances, the planning division may grant the facility owner an additional 90 days in which to comply with the requirements of this section.

9. Nuisances

Broadcast facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the City 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.

B. SOLAR ENERGY FACILITIES

1. Applicability

(a) These standards apply to the establishment of any new photovoltaic or solar thermal SEF within the City. Concentrated solar power systems are prohibited.

(b) An SEF established prior to the effective date of this Zoning Code shall not be required to meet the requirements of this Zoning Code, however:

(1) Physical modification or alteration to an existing SEF that materially alters the size, type or components of the SEF shall be subject to this Zoning Code. Only the modification or alteration is subject to this Zoning Code;

(2) Substantial conformance review determinations are not major amendments to a project's existing permits; and

(3) Routine operation and maintenance or like-kind replacements do not require a zoning compliance permit.

2. Tier Descriptions

Solar energy facilities are divided into three tiers that describe the intensity and impact of the use on the property and adjacent properties.

(a) Tier 1: Accessory Solar Energy Facilities meet the following criteria:

(1) Is an accessory use on the site that provides energy primarily for on-site use; and

(2) Can be building-mounted or ground-mounted, which may include: rooftop systems, building-integrated solar (e.g., shingle, hanging solar, canopy, new technology), or covered permanent parking or other hardscape areas.

(b) Tier 2: Intermediate Solar Energy Facilities meet the following criteria:

(1) Is the primary use on the site or a secondary use that exceeds the size criteria for a Tier 1 SEF.

(2) Provides energy for on-site or off-site use, and

(3) Can be building-mounted or ground-mounted and may include rooftop systems, building-integrated solar, and covered permanent parking or other hardscape areas.

(c) Tier 3: Large-Scale Solar Energy Facilities are large-scale, primary or secondary SEFs that provide energy for on-site or off-site use.

3. Standards for Ground-Mounted SEFS

(a) Size: The maximum footprint for a ground-mounted SEF shall be as follows:

(1) Tier 1:

(i) Residential and mixed-use districts: 2,000 sf or 25% of the lot size, whichever is less.

(ii) Agricultural, commercial, industrial, and public districts: 4,000 sf or 25% of the lot size, whichever is less.

(2) Tier 2:

(i) I1 district: up to 10 acres.

(ii) I2 district: up to 20 acres.

(3) Tier 3: Maximum size determined through special review process.

(b) Height: The maximum height for a ground-mounted SEF shall be as follows:

(1) Residential districts: 10 feet

(2) All other districts: 20 feet

(c) Setbacks: Ground-mounted SEFs shall comply with the following setback standards:

(1) All SEFs shall meet the setback requirements of the individual zone district where located.

(2) Tier 2 SEFs in commercial and industrial districts shall provide 100-foot minimum setback between the edge of the SEF installation boundary and any residential district.

(3) Tier 1 and Tier 2 SEFs may not be located between the front building line and the street.

4. Standards for Building-Mounted SEFS

(a) Height

(1) Tier 1 SEFs shall be subject to the maximum height for zone district or a maximum of five feet above the height of the roofline, whichever is less. Additional height may be requested through the special review process.

(2) Tier 2 SEFS shall be subject to the maximum height for the zone district or a maximum of 10 feet above the height of the building, whichever is greater. Additional height may be requested through the special review process.

5. Permit Required

(a) The following permit requirements are applicable to SEF systems. Complete permit submission requirements and processes are provided in Section 27-1600.

(1) /P/ Permitted Use

(2) /SR/ Special Review

(3) /X/ Prohibited

Table 27-1000.2: SEF Permit Requirements

Zone District	Tier 1 Accessory	Tier 2 Intermediate	Tier 3 Large-Scale
N1-4, NX1-3	P	X	X
RMH	P	X	X
NO, NMU	P	X	X
CMU1, CMU2	P	X	X
CX	P	X	X
I1-2	P	P	SR
P1	P	X	X
P2, P3	P	X	X

(b) Submission Requirements for Tier 2 and Tier 3 SEFs: Tier 2 zoning compliance permit and Tier 3 special review SEF applications shall include the following information:

(1) A landscape plan showing that all areas occupied by the facility that are not utilized for access to operate and maintain the installation shall be planted and maintained with a naturalized grass or other vegetation for the purpose of soil stabilization or other methods approved by the zoning coordinator.

(2) A storm water management plan showing existing and proposed grading and drainage demonstrating no net increase in runoff.

(3) A maintenance plan for the continuing maintenance of the SEF, which may include, but not be limited to, planned maintenance of vegetation or ground cover, equipment maintenance, and plans for cleaning of solar panels if required.

(4) A decommissioning plan with the information required in Section 27-1007.B.8.

(c) Following approval, all permit holders are required to submit an annual compliance statement that confirms that the system is still active and compliant with the permit and that provides current owner and emergency contact information. This requirement shall not preclude the City from undertaking a separate compliance report, where confirmation of data provided by the facility's operator is desired.

6. Generally Applicable Standards

(a) Off-Site Facilities: When the SEF is located on more than one parcel, there shall be proper easement agreement or other approved methods for the notification of all impacted parties.

(b) Septic System Avoidance: The SEF shall not be located over a septic system, leach field area or identified reserve area unless approved by the Department of Environmental Quality;

(c) Conform to Development Standards for Underlying Zone: The SEF shall be ground mounted, or when located on structures, the SEF shall conform to the development standards for a principal structure in the zone in which such facilities and structures are to be located, except as otherwise provided herein.

(d) If lighting is required, it shall be activated by motion sensors, fully shielded and downcast type where the light does not spill onto the adjacent parcel or the night sky.

(e) The site shall comply with Section 27-1200, Landscaping.

(f) The facility shall be enclosed by a six-foot tall fence (eight feet if razor or barbed wire is to be used), barrier, or other appropriate means designed to prevent or restrict unauthorized persons or vehicles from entering the parcel(s). Fences or barriers shall incorporate wildlife friendly design. No barrier shall be required where projects employ full-time security guards or video surveillance.

(g) Signs: Signs on SEFs are prohibited. Permanent or temporary commercial signs (including flags, streamers, or decorative items), are prohibited from being displayed on any SEF equipment. As appropriate and for emergency and safety purposes, SEF equipment shall display identification of the manufacturer, facility owner and/or operator, and an emergency contact number.

7. Abandonment

(a) Applicability

(1) An SEF, other than a Tier 1 system, that ceases to produce electricity on a continuous basis for 12 months shall be considered abandoned unless the property owner or facility operator demonstrates by substantial evidence satisfactory to the City that there is no intent to abandon the facility.

(2) A property owner or facility operator with an abandoned system shall follow the decommissioning plan to remove the system. If the system was approved without a decommissioning plan, the property owner or facility operator shall remove all equipment and facilities and restore the site to original condition upon abandonment.

(3) Facilities deemed by the City to be unsafe and facilities erected in violation of this section shall also be subject to this section.

(b) Determination of Abandonment

(1) Based on the information provided in an annual compliance statement or verified zoning complaint, the zoning coordinator shall have the right to request documentation and/or affidavits from the property owner regarding the system's usage and shall make a determination as to the date of abandonment or the date on which other violation(s) occurred. The zoning coordinator shall submit the documentation and coordinator's findings to the city council, property owner, and facility operator and schedule a public hearing for a determination of abandonment.

(2) Upon a determination of abandonment or other violation(s), the City shall send a notice to the property owner and facility operator, indicating that the responsible party shall remove the SEF and all associated facilities, and remediate the site to its approximate original condition within a reasonable timeframe established by the City, unless the City determines that the facilities must be removed in a shorter period to protect public safety. Alternatively, if the violation(s) can be addressed by means short of removing the SEF and restoration of the site, the City may advise the property owner and facility operator of such alternative means of resolving the violation(s).

(3) If the property owner or facility operator does not comply, the City may remove the SEF and restore the site and may thereafter:

(i) Draw funds from the bond, security, or financial assurance that was established during permitting, and

(ii) Initiate judicial proceedings or take other steps authorized by law against the responsible parties to recover only those costs associated with the removal of structures deemed a public hazard.

8. Decommissioning

(a) A decommissioning plan, compliant with MCA 75-26-301 where applicable, shall be prepared for Tier 2 and Tier 3 applications and submitted with zoning compliance permit or special review application. The plan shall address the following:

(1) Defined conditions upon which decommissioning will be initiated (e.g., end of land lease, no power production for 12 months, etc.)

(2) Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations, and restoration of property to condition prior to development of the SEF. This shall include a revegetation plan. The applicant may propose retaining some site improvements, such as roads and infrastructure, subject to landowner consent and City approval.

(3) Timeframe for completion of decommissioning activities, not to exceed one year.

(4) Description and copy of any lease or any other agreement with landowner regarding decommissioning.

(5) Name and address of person or party responsible for decommissioning.

(6) Plans and schedule for updating this decommissioning plan.

(7) A professional engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the escrow agent with which the

resources shall be deposited. The decommissioning plan shall also include an agreement between the applicant and the City that:

(i) The financial resources for decommissioning shall be in the form of a surety bond or letter of credit and shall be deposited in an escrow account with an escrow agent acceptable to the City.

(ii) The City shall have access to the escrow account funds for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within one year of the end of project life, inoperability of individual WECS turbine, or facility abandonment. Escrow funds may be used for administrative fees and costs associated with decommissioning.

(iii) The City is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.

(iv) The City is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the City's right to seek reimbursement from applicant, operator, or their successor(s) for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by applicant, operator, or their successor(s), or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce the lien.

(8) Before final electrical inspection, provide evidence that the decommissioning plan was recorded with the Billings City Clerk

C. WIRELESS COMMUNICATION FACILITIES

1. Purpose

The purpose of this section is to establish regulations for the siting of antenna support structures and antennas on public and private property. The goals of this section are to:

(a) Provide for the managed development and installation, maintenance modification, and removal of wireless communications infrastructure with the fewest number of wireless communications facilities (WCFs) to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;

(b) Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including but not limited to camouflage design techniques and undergrounding of the equipment associated with WCFs;

(c) Encourage the deployment of smaller, less intrusive WCFs to supplement existing larger WCFs;

(d) Encourage the use of wall-mounted panel antennas;

(e) Encourage roof-mounted antennas only when wall-mounted antennas will not provide adequate service or are not otherwise feasible;

(f) Encourage the location of antennas and towers in non-residential areas and minimize the total number of antenna support structures throughout the community;

(g) Strongly encourage the co-location of WCFs on new and existing antenna support structures;

(h) Require wireless communication facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal;

(i) Require wireless communication facilities to be configured in a way that minimizes the adverse visual impact of the towers and antennas; and

(j) Enhance the ability of the providers of wireless communication services to provide such services to the community, as quickly, effectively, and efficiently as possible.

2. Applicability

All wireless communication facilities located on private land within the city zoning jurisdiction 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 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.

(a) Amateur radio stations and antenna support structures that are owned and operated by a federally licensed amateur radio station operator or are exclusively receive-only antennas, provided that the requirements that the height be no more than the distance from the base of the antenna to the property lines is met.

(b) Antennas and antenna support structures for land mobile radio and radio and television, regulated in Section 27-1007.A.

(c) Pre-existing WCFs:

(1) Any WCF for which a permit has been properly issued prior to the adoption of this Zoning Code (____,__, 2020) and for which no changes will be made shall not be required to meet the requirements of this section.

(2) Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of Section 27-1007.C.5, General Requirements.

3. Criteria for Major and Minor Modifications and Substantial Change

(a) Major WCF Modification:

(1) An alteration of an existing WCF for any purpose that meets the criteria for substantial change.

(2) The calculation for modifications shall be cumulative over time following the initial approval of the WCF. No such modification shall be permitted if the support structure will exceed 50 feet or the zoning district height, whichever is applicable.

(b) Minor WCF Modification:

(1) An alteration of an existing exterior telecommunications facility or co-location of additional facilities with an existing exterior telecommunications facility in any zone that does not meet or exceeds the thresholds for a major modification, the calculation for which shall be cumulative over time, following the initial approval of the telecommunications facility.

(2) No such modification shall be permitted if the modification to the structure will cause the structure to exceed the height limit for the zoning district by more than 10 percent.

(c) Substantially Change: a modification that changes the physical dimensions of an eligible support structure so that after the modification the structure meets any of the following criteria:

(1) For towers:

(i) Other than alternative tower structures, the modification increases the height of the tower by more than 10 percent; for other eligible support structures, it increases the height of the structure by more than 10 percent or more than 10 feet, whichever is greater;

(ii) The modification involves adding an appurtenance to the body of the tower that would protrude from the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance to the body of the structure that would protrude from the side of the structure by more than six feet;

(2) For any eligible support structure:

(i) The modification involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;

(ii) The modification entails any excavation or deployment outside the current site;

(iii) The modification would defeat the concealment elements of the eligible support structure. A change that would undermine the concealment elements of this structure will be considered to defeat the concealment elements of the structure;

(iv) The modification does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs (I), (II), and (III) of this definition.

(3) For base stations that are not surrounded by a screening wall, the modification involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10 percent larger in height or overall volume than any other existing, individual ground cabinet associated with the structure;

(4) For purposes of determining whether a substantial change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.

4. General Requirements

The requirements set forth in this section shall govern the location and construction of all wireless communications facilities governed by this section.

(a) 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. If upon inspection, the City concludes that a WCF fails to comply with such codes and constitutes

a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have 30 days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner, the zoning coordinator may extend such compliance period not to exceed 90 days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the City may remove such WCF at the owner's expense.

(b) 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. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF at the WCF owner's expense.

(c) Setbacks

(1) Antenna support structures adjacent to residential uses or zoning. Antenna support structures must be set back, from all property lines, a distance equal to one-half (½) the height of the structure from any off-site residential structure or residentially zoned lot. Accessory structures must maintain a minimum of a 15-foot setback from any lot line adjacent to a residential structure or residentially zoned lot, or the required setback of the zoning district where the antenna support structure is located, whichever is greater.

(2) Mixed Use, commercial, EBURD 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.

(d) 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.

(e) Fencing and buffering.

(1) Fencing. A chain link or solid wood fence, or masonry wall at least six feet in height (eight 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 feet in height are required adjacent to residential uses and residentially zoned property.

(2) Landscaping. For all facilities the following will be required: a continuous evergreen hedge at least four 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. This requirement may be waived through Section 27-16xx, Administrative Relief, where the site does not have access to water.

A performance bond or letter of credit for 150 percent of the landscaping and fencing materials and labor costs shall be posted with the planning division, prior to building

permit approval, to ensure the placement of required landscaping and fencing in accordance with Section 27-1200.

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

(4) 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, Subsections 4(e)(1) and 4(e)2 will not apply. Documentation of these standards must be submitted with the building permit or special review applications.

(f) 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 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.

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

(h) Co-location

(1) Antenna support structures should be designed in all respects to accommodate multiple antennas. If the antenna support structure is over 100 feet in height, it should be designed to include both the applicant's antenna(s) and at least two additional comparable antennas. If the tower is between 50 and 100 feet tall it should be designed for at least one additional comparable antenna.

(2) All new antennas must co-locate on existing or approved antenna support structures or stealth communication facilities. Applicants may request a waiver from the co-location requirement through the special review process. Applicants must demonstrate that co-location is not feasible because there is 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.

(i) Maintenance

(1) 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.

(2) All property used for the siting of an antenna support structure or antenna shall be maintained, without expense to the city, so as to be safe, orderly, attractive, and in conformity with city codes including those regarding the removal of weeds, trash and landscape maintenance.

(j) Visual impact/aesthetics

(1) 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.

(2) 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. Antennas and antenna support structures may be mounted on existing buildings that are 30 feet or more in height above the street grade.

(3) Roof-mounted antennas and antenna support structures shall not add more than 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 antenna 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 antenna arrays are prohibited on roof-top structures.

(4) 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.

(5) 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 by any state or federal law or agency.

(k) Antenna support structure separation: All antenna support structures over 50 feet in height, regardless of the zoning district in which the structure is located, shall be located at least one mile from any other antenna support structure that is over 50 feet. Up to three antenna support structures located within an approved wireless communication facility tower farm shall be located at least one mile from any other tower farm.

(l) Abandonment and Removal: If a WCF has not been in use for a period of three months, the owner of the WCF shall notify the City of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is not operated for a continuous period of six months shall be considered abandoned. The City, in its sole discretion, may require an abandoned WCF to be removed. The owner of the WCF shall remove the same within 30 days of receipt of written notice from the City. If the WCF is not removed within 30 days, the City may remove it at the owner’s expense and any approved permits for the WCF shall be deemed to have expired. Additionally, the City, in its sole discretion, shall not approve any new WCF application until the applicant who is also the owner or operator of any such abandoned WCF has removed such WCF or payment for such removal has been made to the City.

(m) Hazardous Materials

No hazardous materials shall be permitted in association with WCFs, except those necessary for the operation of the WCF and only in accordance with all applicable law governing such materials.

5. Commercial Antenna Support Structures and Antennas Located in Residential Zoning Districts

(a) Minor modifications: Antennas co-located on existing or approved stealth communication facilities or existing or approved antenna support structures which have previously received all required approvals and permits shall be permitted as an allowed use.

(b) New support structures and major modifications: antenna support structures and antennas shall be permitted as an allowed use in all residential zoning districts provided they meet all of the following criteria:

(1) Stealth communication facilities conforming to all applicable provisions of this Zoning Code and roof-mounted antennas that do not add more than 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 antennas or antenna support structures that are contrary to this section must be requested as a land use contrary to zoning through the special review process or may be submitted to the board of adjustment for a hearing, whichever is the preference of the owner/agency.

6. Commercial Antenna Support Structures and Antennas Located in Commercial Zoning Districts.

(a) Minor modifications: Antennas co-located on existing stealth communication facilities 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.

(b) New support structures and major modifications shall be considered as follows:

(1) Stealth communication facilities 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 and mixed-use zoning districts when located on school, government-owned utility, and other government sites. Proposed antennas or antenna support structures that are contrary to this section must be requested through the special review process.

(3) Antenna support structures and antennas located in NO, NC, and DX that do not meet the requirements of subsections 7(b)(1) or 7(b)(2) shall be required to obtain special review approval. Wireless communication facility tower farms are not allowed in these zoning districts.

(4) Antenna support structures and antennas located in CMU1, CMU2, CX, I1, EBURD, CBD, and P zoning districts shall be permitted as an allowed use provided that the towers meet the requirements subsections 6(b)(1) or 6(b)(2) or the following:

(i) Roof-mounted antenna that do not add more than 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 4(j)(2).

(ii) Antenna support structures 50 feet in height or less shall be permitted as an allowed use.

(iii) Antenna support structures that are greater than 50 feet in height shall be required to obtain special review approval.

(iv) Wireless communication facility tower farms are permitted with special review approval, except in the CBD and P3 zoning districts.

(5) All antenna support structures located in I2 shall be permitted as an allowed use, including tower farms.

7. Antenna Support Structures Located in Parks

The presence of certain wireless communication facilities may conflict with the purpose of some city owned parks. Wireless communication facilities will be considered only following a recommendation by the city planning division; the city parks, recreation, and cemetery advisory board, and approved by the city council. Factors that will be considered include:

(a) Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use;

(b) Commercial recreation areas and major playfields; and,

(c) Park maintenance facilities.

8. Small Cell WCF

The following standards apply in those zones where small cell telecommunications facilities are allowed as a permitted use.

(a) An antenna may be installed on existing exterior support structures, but the installation of taller poles or new overhead wiring to accommodate the antennas will not be permitted without a special review approval.

(1) An antenna may be installed at least 20 feet from the ground in a residential zone or on an existing residential support structure or support structure on privately owned land, or 15 feet from the ground in a commercial or mixed-use zone or on an existing commercial structure or support structure on privately owned land.

(2) An antenna may be mounted on the wall of a building facing the rear lot line at a height of at least 20 feet in a residential zone or when mounted on a residential building, or 15 feet in a commercial or mixed-use zone or when mounted to a commercial building.

(b) An antenna must not be installed on or within 60 feet of a single-family or two-family dwelling unit and must not be installed on the front façade of any residence.

(c) Cable connecting the antennas to the equipment box shall be contained inside the pole or Support Structure or shall be flush mounted and covered with a metal, plastic or similar material cap matching the color of the pole or structure on which it is installed, properly secured and maintained by the applicant.

(d) Related unstaffed equipment cabinets may be located within a building, an equipment cabinet outside a building, an equipment cabinet on a rooftop, or an equipment room within a building.

(1) Such related equipment shall have a maximum square footage of 10 square feet with a maximum height of two feet and must be so located and installed in accordance with the applicable setback and other requirements of the zone in which the property is classified.

(2) A related unstaffed equipment cabinet may be installed on a rooftop of a building on privately owned land which is at least 15 feet in height, provided it and all other roof structures do not occupy more than 25 percent of the roof area.

(e) The applicant shall provide proof that it is a licensed provider and will comply with all applicable federal, state and City laws and regulations, including those regarding wireless communications services.

(f) An antenna and equipment box must be installed as a Stealth Telecommunications Facilities on a property within a Historic District or that has been designated by the City as a Historic Resource, and the Historic District Commission must review such an application.

(g) Public property. A private small cell telecommunications antenna may be located on the exterior of public property or attached to an existing support structure owned or operated by the City and shall be a permitted use in all zones.

(h) All such small cell telecommunications antennas shall be located and designed so as to minimize visual impact on surrounding properties and from public streets.

(i) No signs are permitted in connection with any small cell telecommunications antenna.

(j) No lights are permitted on any monopole or antenna unless required by the FCC, the FAA, or the City.

(k) No more than one building, pole or other support structure containing a small cell telecommunications facility or co-located facility is permitted on a lot or parcel of land, or for parcels larger than a half-acre, per half-acre of land.

9. 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:

(a) 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.

(b) Nonconforming antenna support structures which are hereafter damaged and destroyed, by less than 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 , but without otherwise complying with these regulations. If an antenna support structure is destroyed or damaged by more than 50 percent of its replacement the antenna support structure must be brought into compliance with these regulations.

(c) 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 antennas or facilities, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of these regulations.

10. Abandonment

Wireless communications facilities will be considered abandoned if they are unused by all providers at the facility for a period of six months. Determination of abandonment shall be made

by the planning division, which shall have the right to request documentation from the facility owner regarding support or antenna usage. Upon abandonment, the facility owner shall have 90 days to:

(a) Re-use the facility, or transfer the facility to another owner who will re-use it; or

(b) Dismantle the facility. If the facility is not removed within 90 days of abandonment, the city may remove the facility at the facility and/or property owner's expense. If the facility is removed, city approval of the facility expires.

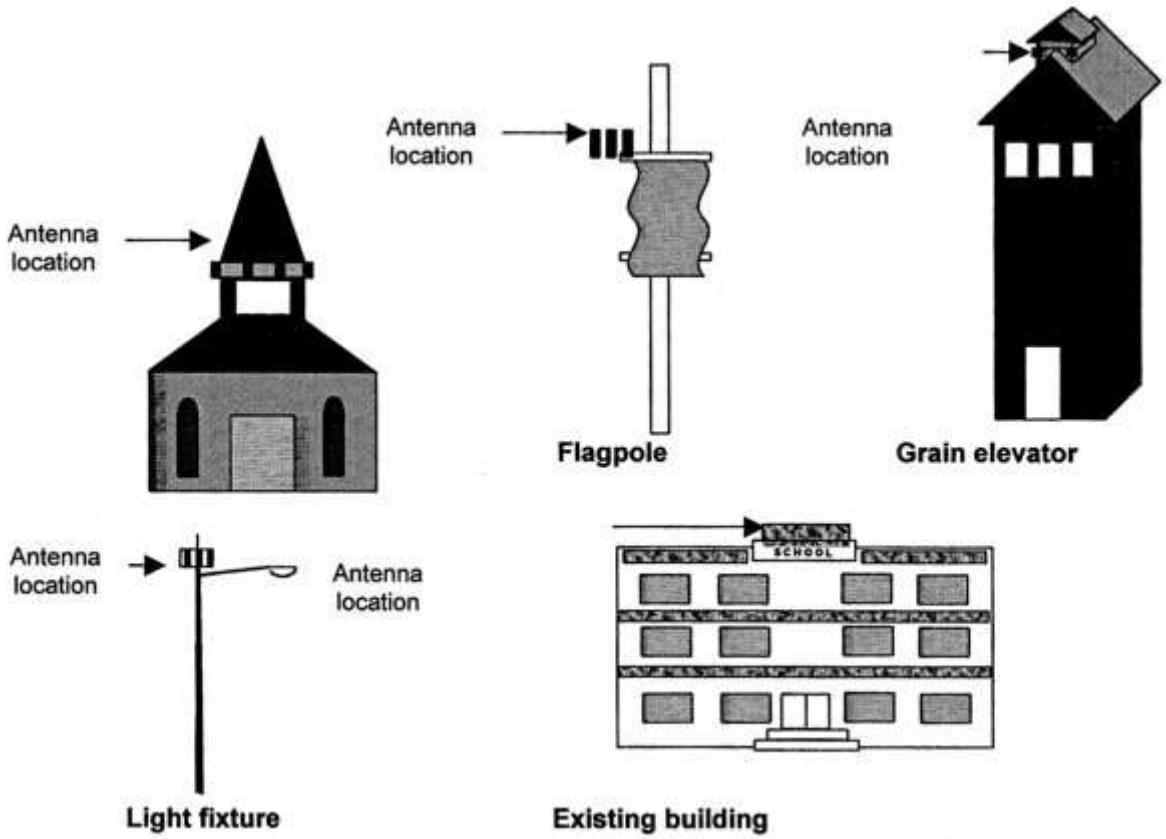
(c) If the facility owner is unable to remove the facility within the 90 days due to unusual circumstances, the planning division may grant the facility owner an additional 90 days in which to comply with the requirements of this section.

11. Nuisances

Wireless communication facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the City 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.

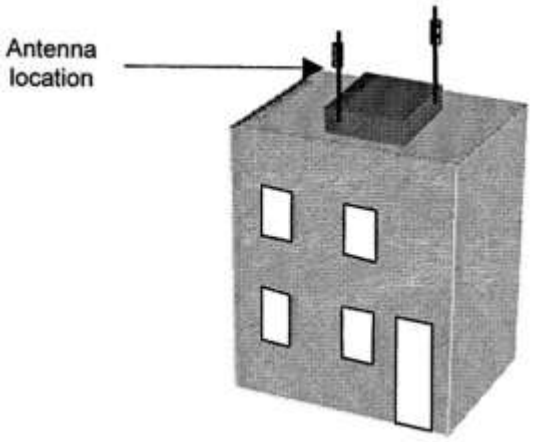
12. Wireless Communication Facilities, Illustrated Examples

(a) Stealth communication facilities:



(b) Antenna support structures:

(c) Roof-mounted antenna support structures and antennas:



13. Minor Modification Procedures

(a) Minor modifications to facilities permitted under these regulations shall be approved by the planning division so long as they comply with the original approved design.

(b) Timeframe for Review. Subject to the tolling provisions of subparagraph (c). below, within 60 days of the date on which an applicant submits an application seeking approval under this section, the City shall approve the application unless it determines that the application is not covered by this subsection, or otherwise in non-conformance with applicable codes.

(c) Tolling of the Timeframe for Review. The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the City and the applicant, or in cases where the zoning coordinator determines that the application is incomplete:

(1) To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application;

(2) The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the City's notice of incompleteness; and

(3) Following a supplemental submission, the City will notify the applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in Subsection 14.(c)(1). In the case of a second or subsequent notice of incompleteness, the City may not specify missing information or documents that were not delineated in the original notice of incompleteness.

(4) Failure to Act. In the event the City fails to act on a request for minor modification, within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The request becomes effective when the applicant notifies the City in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

(5) Interaction with Telecommunications Act Section 332(c)(7). If the City determines that the applicant's request is not a request for minor modification, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC's Shot Clock order, will begin to run from the issuance of the City's decision that the application is not a request for minor modification. To the extent such information is necessary, the City may request additional information from the applicant to evaluate the application under Section 332(c)(7) reviews.

(d) In the event that after submittal of the application, or as a result of any subsequent submittals, applicant modifies the proposed facilities modification described in the initial application, the application as modified will be considered a new application subject to commencement of a new application review period; provided that, applicant and the approval authority may, in the alternative, enter into a mutually agreeable tolling agreement allowing the City to request additional submittals and additional time that may be reasonably necessary for review of the modified application.

(e) Decision

The approval authority shall review a minor modification application to determine if the proposed facilities modification is subject to this section, and if so, if the proposed facilities modification will result in a substantial change to the physical dimensions of an eligible support structure.

(1) Within 60 days of the date on which the City receives a minor modification application, less any time period that may be excluded under the tolling provisions of this section or a tolling agreement between the applicant and the approval authority, the approval authority shall approve the application and contemporaneously issue a minor modification permit unless the approval authority determines that the application is not subject to this section, or the proposed facilities modification will substantially change the physical dimension of an eligible support structure.

(2) Denial. A minor modification application shall be denied upon determination by the approval authority that the proposed facilities modification is not subject to this section or will substantially change the physical dimensions of an eligible support structure. A proposed facilities modification will substantially change the physical dimensions of an eligible support structure if it meets any of the substantial change criteria. A denial of a minor modification application shall set forth in writing the reasons for the denial and shall be provided to the applicant.

(3) Deemed Approved Application. An application that has been deemed approved shall be and constitute the equivalent of a minor modification permit, except as may be otherwise determined by a court of competent jurisdiction, and shall be subject to generally applicable enforcement and compliance requirements in the same manner as a minor modification permit issued pursuant to this section.

(f) Term of Minor Modification Permit. A minor modification permit issued pursuant to this section, and any deemed approve application, shall be valid for a term of 180 days from the date of issuance, or the date the application is deemed approved.

14. New Support Structure and Major Modification Procedures

Applications for new support structures and major modifications to existing antenna support structures permitted under these regulations shall be approved through a special review. Major

modifications are any modifications that exceed the definition of minor modifications and constitute a substantial change per Section 27-1007.C.3.

D. WIND ENERGY CONVERSION SYSTEMS (WECS)

1. Applicability

(a) These standards apply to the construction of any new WECS within the City.

(b) A WECS legally established or permitted prior to the effective date of this Zoning Code shall not be required to meet the requirements of this Zoning Code, however:

(1) Physical modification or alteration to an existing WECS that materially alters the size, type or components of the WECS shall be subject to this Zoning Code. Only the modification or alteration is subject to this Zoning Code;

(2) Substantial conformance review determinations are not major amendments to a project's existing permits; and

(3) Routine operation and maintenance or like-kind replacements do not require a permit.

2. Wind Energy Conversion System Tier Descriptions

(a) Tier 1: Accessory Wind Energy Conversion Systems meet the following criteria:

(1) Is designed to supplement other electricity sources as an accessory use to existing facilities, wherein the power generated is used primarily for on-site consumption, and

(2) Consists of one or more wind turbines, which may be roof-mounted;

(b) Tier 2: Intermediate Wind Energy Conversion Systems meet the following criteria:

(1) Is the primary use on the site or is a secondary use that exceeds the criteria for a Tier 1 WECS,

(2) Consists of one or more wind turbines, all of which are ground-mounted, and

(3) Is designed primarily to serve a local load.

(c) Tier 3: Large-Scale Wind Energy Conversion Systems for Commercial Generation meet the following criteria:

(1) Consists of one or more wind turbines, and

(2) Has a total facility rated capacity of greater than 1 MW.

3. Standards for Ground-Mounted WECS

(a) Size: The maximum footprint for a ground-mounted WECS shall be as follows:

(1) Tier 1:

(i) Residential and mixed-use districts: 2,000 sf or 25% of the lot, whichever is less

(ii) Agricultural, commercial, industrial, and public districts: 4,000 sf or 25% of the lot, whichever is less.

(2) Tier 2:

(i) I1 district: up to 10 acres

(ii) I2 district: up to 20 acres

(3) Tier 3: Maximum size determined through special review process.

(b) Height

(1) Towers: The following height standards are applicable to WECS towers:

Table 27-1000.4: WECS Tower Height, Maximum

Zone District	Lot Size	Tier 1	Tier 2	Tier 3
N1-3, NX1-3, RMH, P2, P3	Up to 20,000 sf	Height determined by available setback	Not permitted	Not permitted
	20,000 to 43,560 sf	80 feet	80 feet	Not permitted
	Over 1 acre	100 feet	100 feet	Not permitted
NO, NMU, CMU1, CMU2, C3, CX	All	80 feet	Not permitted	Not permitted
I1, I2, EBURD	Up to 20,000 sf	Height determined by available setback	Not permitted	Not permitted
	20,000 to 43,560 sf	80 feet	200 feet	Not permitted
	1 to 4.99 acres	200 feet	200 feet	Not permitted
	5 acres or more	200 feet	No limit [1]	No limit [1]

(c) Setbacks

(1) Tower locations shall comply with zone district setbacks and any of the additional setback standards identified in this section. Ground-mounted Tier 1 and Tier 2 WECS may not be located between the front building line and the street.

(i) Towers shall be setback a minimum of 0.5 x total height from any primary structure.

(ii) The owner of a primary structure on the same lot as a Tier 1 or Tier 2 tower may waive this setback as applied to that lot and apply a reduced setback of 0.25 x total height.

(iii) The setback may not be waived for primary structures on an adjacent lot.

(iv) All new primary structures shall be located at least 0.5 x total height from an existing tower.

(v) No further setback waivers are permitted, nor may this requirement be waived or varied by the zoning coordinator or board of adjustment.

(2) Towers shall be setback a minimum distance equal to 500 feet or 0.5 x the total height (tower plus extended blade), whichever is higher, from:

(i) All property lines,

(ii) Any overhead utility lines, and

(iii) Any public roadway right-of-way.

(3) Guy cables and other support devices shall be setback at least 10 feet from all property lines and occupied buildings. Guy cables must be marked and clearly visible to a height of six feet above the guy cable anchors.

(4) The setback shall be measured from the centerline of the turbine and applied in a diameter around the tower.

(d) Tower Separation: At a minimum, there shall be a separation between towers of not less than 3 times the rotor diameter.

(e) Clearance: The minimum height of the lowest position of the rotor blade shall be at least 30 feet above the ground and 30 feet above the highest existing structure or tree within a 250 foot radius.

4. Standards for Building-Mounted WECS

(a) A Tier 1 building-mounted WECS shall be subject to the maximum building height specified for the district or a maximum of 30 feet above the height of the building to which it is attached, whichever is greater. Additional height may be requested through the special review process.

(b) The maximum number of Tier 1 building-mounted WECS permitted by district type is:

(1) Residential, mixed-use, commercial, EBURD, and public districts: Two per primary structure, one per accessory structure

(2) Industrial districts: no limit, may be mounted on primary or accessory structures.

5. Permit Required

(a) Applicable Permit Types: The following permit requirements are applicable to WEC systems. Complete permit submission requirements and processes are provided in Section 27-1600.

(1) /P/ Permitted Use

(2) /SR/ Special Review

(3) /X/ Prohibited

Table 27-1000.5: WECS Permit Requirements

Zone District	Tier 1 (Accessory)	Tier 2 (Primary Use)	Tier 3 (Large Commercial)
N1-3, NX1-3	P	X	X
RMH	P	X	X
NO, NMU	P	X	X
CMU1, CMU2	P	X	X
CBD, DX	P	X	X
CX	P	X	X
I1-2	P	P	SR
EBURD	P	X	X
P1	P	X	X
P2, P3	P	X	X

(b) Submission Requirements for Tier 2 and Tier 3 WECS

(1) Tier 2 zoning compliance permit and Tier 3 special review WECS applications shall include the following information:

(2) Approved net metering agreement(s) and copies of applications to or approved permit from applicable state and federal agencies.

(3) A landscape plan showing that all areas occupied by the facility that are not utilized for access to operate and maintain the installation shall be planted and maintained with a native shade tolerant grass or other vegetation for the purpose of soil stabilization or other methods approved by the zoning coordinator.

(4) A storm water management plan showing existing and proposed grading and drainage demonstrating no net increase in runoff.

(5) A preliminary transportation plan describing ingress and egress to the proposed project site to deliver equipment and provide access during and after construction. Such plan shall describe any anticipated improvements to existing roads, bridges, or other infrastructure, as well as measures which will be taken to restore damaged or disturbed access routes following construction.

(6) An environmental assessment that analyzes the impact of the proposed project regarding on-site and site-adjacent floodways, riparian corridors, open water, wildlife

migration routes, protected habitat, protected plant species, and other environmentally sensitive areas as identified by the County, City, State, or federal government, along with proposed mitigation recommendations.

(7) A decommissioning plan per Section 27-1007.D.11.

(c) Following approval, all permit holders are required to submit an annual activity statement that confirms that the system is still active and compliant with the permit and that provides current owner and emergency contact information. This requirement shall not preclude the City from undertaking a separate compliance report where confirmation of data provided by the facility's operator is desired.

6. Safety and Installation

WECS facilities shall be developed in a manner that utilizes sound engineering practices and considers public safety in regard to the potential hazards that may be created to adjacent properties, public infrastructure, communities, aviation, etc. The following lists public safety matters that shall be addressed and implemented in the development of the WECS facility:

(a) WECS facilities shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI") and the Institute of Electrical and Electronics Engineers ("IEEE") and the National Electrical Code (NEC). Concurrently with permits for construction, the Applicant(s) shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL"), Det Norske Veritas ("DNV"), Germanischer Lloyd Wind Energie ("GL"), or an equivalent third party.

(b) WECS facilities shall comply with applicable FAA regulations and comply with conditions regarding WECS facility installation established by affected airports. If approved by the FAA, all WECS facilities shall implement a FAA approved Aircraft Visual Warning System (AVWS) that allows for the use of aircraft warning lights to be minimized.

(c) Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind turbine structure. No WECS shall be permitted which lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

(d) All WECS structures must be unclimbable by design or protected by anti-climbing devices. All climbing apparatus shall be removed from the lower 10 feet of the tower, or ladder access shall be restricted.

(e) Appropriate warning signage (e.g., "Danger, High Voltage") shall be placed where it is clearly visible by persons standing near the tower base or other ground-mounted electrical equipment.

(f) All electrical and control equipment shall be safely and appropriately enclosed from unintentional access by means such as lockable equipment cabinetry, enclosed tower with lockable access door, or similar.

(g) All access doors on towers shall be locked or fenced.

7. Design

(a) Color: When not conflicting with colors required by the Federal Aviation Administration or other federal agencies, the WECS facility shall remain painted or finished in the color that was originally applied by the manufacturer. Bright, luminescent, or neon colors are prohibited.

(b) Signal Interference

(1) No WECS facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antennas for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.

(2) No WECS facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

(c) Location and Views: WECS Facility structures shall be located to make maximum use of existing terrain, vegetation and structures for the purposes of maintaining the viewshed. The site shall comply with Section 27-1200, Landscaping.

(d) Lighting: WECS Facilities, including buildings and structures, shall not be artificially lighted except to the extent requires by FAA regulations. Minimal ground level security lighting is permitted.

(e) Shadow Flicker: WECS facilities shall be designed so that there is no significant shadow flicker at an adjacent property, measured at the nearest wall of inhabited structures, unless waived in writing and recorded against the property by the landowner in the Yellowstone County Clerk's office.

(f) Sound:

(1) Sound produced by the turbine under normal operating conditions, as measured at the property line of any adjacent property improved with a dwelling unit at the time of the issuance of the zoning certificate, shall not exceed 55 dBA for any period of time.

(2) The 55 dBA sound level may be exceeded during short-term events out of the owner's control such as utility outages and/or severe wind storms.

(3) The noise level generated by a WECS must also not increase ambient sound levels by more than 3 dBA at any sensitive noise receptors, including residences, hospitals, libraries, schools, and places of worship, within 2,500 feet of the site property line.

(g) Signs: WECS facilities shall not display commercial permanent or temporary signs (including flags, streamers, or decorative items) on any WECs equipment. As appropriate for emergency and safety purposes, WECs equipment shall display identification of the turbine (or other equipment) manufacturer, facility owner and/or operator, and an emergency contact number.

(h) Outdoor Storage: Except during construction, re-construction or decommissioning, outdoor storage is not permitted within the project boundary.

(i) Underground Lines: Intra-project power lines having a voltage of 34,500 volts or less shall be buried unless the applicant can sufficiently demonstrate that burying the lines will violate other guidelines, standards or applicable law. The actual installed burial depth of

underground wiring shall be verified by the developer of the WECS facility. The developer shall provide certification from the installing contractor of the actual installed burial depth of all underground wiring. Such certification shall be under the penalty of perjury. The collection system may be placed overhead adjacent to County roadways, near substations or points of interconnection to the electric grid or in other areas as necessary.

8. Maintenance and Inspections

(a) All WECS must be maintained in operational condition meeting all of the requirements of this section and other permit conditions at all times, subject to reasonable maintenance and repair outages.

(b) The City may elect to have a WECS inspected for structural and operational integrity by a Montana licensed professional engineer. The City has the right to enter the premises of the wind energy facility at any reasonable time to inspect the WECS. The City will give at least 24 hours' notice of its intent to inspect the WECS.

9. Transfer and Replacement

(a) If ownership or operation of a WECS changes, the new owner or facility operator must present full contact information and proof to the City that all required bonds and insurance policies remain in full force a minimum of 30 days prior to the transfer of ownership.

(b) Any replacement of or modification or alteration to a WECS, excluding regular maintenance and repair, requires an amendment to the original approval, which amendment shall not be unreasonably withheld.

(c) Replacement of a WECS may occur without City approval when there will be:

(1) No increase in the total height of the WECS,

(2) No change in the location of the WECS,

(3) No additional lighting on the WECS, except to the extent required by the FAA, and

(4) No increase in noise produced by the WECS.

10. Abandonment

(a) Applicability

(1) A WECS, other than a Tier 1 system, that ceases to produce electricity on a continuous basis for 12 months shall be considered abandoned unless the property owner or facility operator demonstrates by substantial evidence satisfactory to the City that there is no intent to abandon the facility.

(2) A property owner or facility operator with an abandoned system shall follow the decommissioning plan to remove the system. If the system was approved without a decommissioning plan, the property owner or facility operator shall remove all equipment and facilities and restore the site to original condition upon abandonment.

(3) Facilities deemed by the City to be unsafe and facilities erected in violation of this section shall also be subject to this section.

(b) Determination of Abandonment

(1) Based on the information provided in an annual compliance statement or verified zoning complaint, the zoning coordinator shall have the right to request documentation and/or affidavits from the property owner or facility operator regarding the system's usage and shall make a determination as to the date of abandonment or the date on which other violation(s) occurred. The zoning coordinator shall submit the documentation and coordinator's findings to the property owner, facility operator, and county commission and schedule a public hearing for a determination of abandonment.

(2) Upon a determination of abandonment or other violation(s), the City shall send a notice hereof to the property owner and facility operator, indicating that the responsible party shall remove the WECS and all associated facilities, and remediate the site to its approximate original condition within a reasonable timeframe established by the City, unless the City determines that the facilities must be removed in a shorter period to protect public safety. Alternatively, if the violation(s) can be addressed by means short of removing the WECS and restoration of the site, the City may advise the property owner and facility operator of such alternative means of resolving the violation(s).

(c) If the property owner or facility operator does not comply, the City may remove the WECS and restore the site and may thereafter:

(1) Draw funds from any bond, security or financial assurance established as part of the permitting process, or

(2) Initiate judicial proceedings or take other steps authorized by law against the responsible parties to recover only those costs associated with the removal of structures deemed a public hazard.

11. Decommissioning

(a) A decommissioning plan, compliant with MCA 75-26-301 where applicable, shall be prepared and submitted with zoning compliance permit or special review application. The plan shall address the following:

(1) Defined conditions upon which decommissioning will be initiated (e.g., end of land lease, no power production for 12 months, etc.)

(2) Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations and restoration of property to condition prior to development of the WECS. This shall include a revegetation plan. The applicant may propose retaining some site improvements, such as roads and infrastructure, subject to landowner consent and City approval.

(3) Timeframe for completion of decommissioning activities, not to exceed one year.

(4) Description and copy of any lease or any other agreement with landowner regarding decommissioning.

(5) Name and address of person or party responsible for decommissioning.

(6) Plans and schedule for updating this decommissioning plan.

(7) A professional engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the escrow agent with which the

resources shall be deposited. The decommissioning plan shall also include an agreement between the applicant and the City that:

(i) The financial resources for decommissioning shall be in the form of a surety bond or letter of credit to be deposited in an escrow account with an escrow agent acceptable to the City.

(ii) The City shall have access to the escrow account funds for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within one year of the end of project life, inoperability of individual WECS turbine, or facility abandonment. Escrow funds may be used for administrative fees and costs associated with decommissioning.

(iii) The City is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.

(iv) The City is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the City's right to seek reimbursement from applicant, operator, or their successor(s) for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by applicant, operator, or their successor(s), or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce the lien.

(b) Before final electrical inspection, provide evidence that the decommissioning plan was recorded with the Billings City Clerk.

SECTION 27-1008 ACCESSORY USES

A. GENERAL PROVISIONS

1. Time of Construction or Establishment

No accessory structure or use shall be constructed or established more than 180 days prior to the time of completion of the construction or establishment of the principal structure or use to which it is accessory.

2. Interpretation of Unidentified Accessory Uses and Structures

The zoning coordinator shall evaluate applications for accessory uses that are not identified in this section on a case-by-case basis. If the request meets the criteria identified below, the zoning coordinator is authorized to determine the most similar, and thus most appropriate accessory use category and apply the regulations for the similar accessory use to the application.

(a) The definition of "accessory use" in this section, and the general accessory use standards and limitations established in this section;

(b) The purpose and intent of the district in which the accessory use is located;

(c) Potential adverse impacts the accessory use or structure may have on other lots, compared with other accessory uses permitted in the district; and

(d) The compatibility of the accessory use with other principal and accessory uses permitted in the district.

B. COMPLIANCE WITH THIS ZONING CODE

1. All accessory uses and structures shall be subject to the dimensional requirements of the zone district in which they are located except as specifically provided in this section. In the case of any conflict between the accessory use/structure standards of this section and any other requirement of this Zoning Code, the more restrictive standards shall control.

2. Accessory uses shall comply with all standards of this Zoning Code applicable to the principal use with which they are associated. Parking requirements shall be met for both the principal use and any accessory use when operating at the same time.

C. LOCATION

1. The accessory use or structure shall be conducted or located on the same lot(s) as the principal use.

2. No accessory building shall be erected in any required setback nor within five feet of any other building except as specified in this section.

D. DETACHED ACCESSORY RESIDENTIAL STRUCTURES

1. Detached buildings for accessory residential uses (see 27-1008.G for Accessory Dwelling Unit requirements) greater than 200 square feet in size shall not exceed the principal building first story gross floor area on the lot or 1,500 square feet, whichever is less.

2. The maximum total square footage in detached accessory structures in the N1, N2, N3 and RMH zone districts shall not exceed 2,000 square feet or the total principal building first story gross floor area on the lot, whichever is less.

3. These limitations do not apply in the NX districts or MU districts except where those lots are developed with one or two-family dwellings.

E. ACCESSORY USE TABLE

Table 27-1000.6, Accessory Uses, identifies the accessory uses that may be permitted in each district subject to applicable standards.

1. Permitted /P/. These accessory uses are permitted by-right in the zone districts in which they are listed. Permitted accessory uses are required to comply with applicable use-specific standards identified in this article.
2. Permitted in upper stories/back of structure /PL/. These accessory uses are permitted by-right in the districts in which they are listed, provided that the accessory uses are located in the upper stories of a structure. These accessory uses may also be located in the ground story provided that they are located beyond a depth of at least 20 feet from the front facade.
3. Permitted with use restrictions /PR/. These accessory uses must comply with the use restrictions identified in this Zoning Code, including those restrictions included in this article and any use restrictions identified in the zone district where the uses is proposed to be located.
4. Requires a special review /SR/. These accessory uses are not allowed in the district but may be allowed through the special review process. Special review uses must follow any applicable development standards associated with the accessory use as well as meet the requirements of the special review.
5. Accessory uses that are not permitted are indicated by a blank space.

Table 27-1000.6: Accessory Uses

	Residential							Mixed-Use and Commercial							Ind.		EBURD					Public					
	Key: P = Permitted, PL = Location Limits in Zone District, PR –Use Restrictions, SR – Special Review																										
Use Table	N_3	N_2	N_1	NX_1	NX_2	NX_3	RMH	NO	NMU	CMU_1	CMU_2	DX	CBD	CX	I_1	I_2	RSV MS	RSV	CW	13	IS	P_1	P_2	P_3 Civ	P_3 Ed	P_3 Med	Additional Standards
Residential																											
Accessory Dwelling Unit	SR	PR PL	PR PL	PR PL			PR PL																				27-1008
Employee/Caretaker Unit														PR	PR	PR					PR		P	P	P	P	27-1008
Home Occupation	P	P	P	P	P	P	P	P	P	P	P	P	P	P													27-1008
Short-Term Rental (Guest Home)	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR			PR	PR	PR				PR	PR	PR	PR	27-1005
Shelter (accessory to religious institution)												PR	PR				PR	PR	PR	PR	PR						27-1004
Casino																											
Limited (1-3 gambling devices)									P	P	P	P	P	P	P	P	P	P	P	P	P						27-1005
Small (4-9 gambling devices)									P	P	P	P	P	P	P	P	P	P	P	P	P						27-1005
Communication and Satellite Facilities																											
Amateur Radio Support Towers	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PL	PL	P											27-1008
Satellite Antenna and Dishes	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	27-1008
Day Care Facilities																											
Day Care Center								P	P	P	P	P	P	P			P	P	P			P	P	P	P	P	27-1008
Family Day Care Home	P	P	P	P	P	P	P																				

Table 27-1000.6: Accessory Uses	Residential							Mixed-Use and Commercial							Ind.		EBURD					Public					
	Key: P = Permitted, PL = Location Limits in Zone District, PR –Use Restrictions, SR – Special Review																										
Use Table	N_3	N_2	N_1	NX_1	NX_2	NX_3	RMH	NO	NMU	CMU_1	CMU_2	DX	CBD	CX	I_1	I_2	RSV MS	RSV	CW	I_3	IS	P_1	P_2	P_3 Civ	P_3 Ed	P_3 Med	Additional Standards
Group Day Care Home	P	P	P	P	P	P	P																				
Drive-Through (Thru) Facility									SR	P	P	SR		P	P								P	P	P	P	27-1008
Electric Vehicle Charging Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	27-1008
Eating and Drinking Establishment																											
No Alcohol																											
Restaurant, no drive thru									P	P	P	P	P	P	P		P	P	P			P	P	P	P	P	
With drive-thru									SR	P	P	SR		P	P								P	P	P	P	
Beer and Wine, On-Premises Consumption																											
Bar or Tavern										SRPR	SRPR	PR	P	P	P		P	P	P	P	P						27-1005
Craft Alcohol										P	P	P	P	P	P		P	P	P	P	P		P	P	P	P	27-1005
Restaurant									P	P	P	P	P	P	P		P	P	P	P	P		P	P	P	P	27-1005
All Beverage, On-Premises Consumption																											
Bar or Tavern										SRPR	SRPR	P	P	SRPR	P		P	P	P	P	P						27-1005
Craft Alcohol										P	P	P	P	P	P		P	P	P	P	P		P	P	P	P	27-1005
Restaurant									P	P	P	P	P	P	P		P	P	P	P	P		P	P	P	P	27-1005
Kennel, Private	P	P	P	PR	PR	PR	PR																				27-1008
Outdoor Sales Lot												SR	SR	PR	PR												27-1008

Table 27-1000.6: Accessory Uses	Residential							Mixed-Use and Commercial							Ind.		EBURD					Public					
	Key: P = Permitted, PL = Location Limits in Zone District, PR –Use Restrictions, SR – Special Review																										
Use Table	N_3	N_2	N_1	NX_1	NX_2	NX_3	RMH	NO	NMU	CMU_1	CMU_2	DX	CBD	CX	I_1	I_2	RSV MS	RSV	CW	I_3	IS	P_1	P_2	P_3 Civ	P_3 Ed	P_3 Med	Additional Standards
Outdoor and Sidewalk Seating									PR	PR	PR	PR	PR	PR			PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	27-1008
Outdoor Storage														PR	PR	PR			PR	PR							27-1008
Park/Playground	P	P	P	P	P	P	P	P	P	P	P	P	P	P			P	P				P	P	P	P	P	
Parking, Structured											P	P															
Shipping Container									PR	PR	PR	PR		PR	PR	PR	PR	PR	PR	PR	PR						27-1008
Solar Energy Facility, Tier 1	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	27-1007
Wind Energy Conversion System, Tier 1	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	27-1007
Urban Agriculture																											
Beekeeping																											
Community Gardens	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	PR	PR	PR	PR	PR	27-1008
Crops	P	P	P	P	P	P	P																				
Fowl (chicken hens)	PR	PR	PR	PR	PR	PR	PR									SR											27-1008

F. ACCESSORY DAY CARE FACILITY

A child or adult day care facility, including nursery and preschool, may be permitted as an accessory use to a Public, Civic, and Institutional Use, subject to compliance with applicable state and city regulations.

G. ACCESSORY DWELLING UNITS

1. Applicability

(a) Accessory dwelling units (ADUs) are permitted by right in the N1 and N2 zone districts and are allowed by special review in the N3 zone district.

(b) Accessory dwelling units in applicable zones are permitted on any parcel where a single dwelling unit is permitted or currently exists.

(c) The minimum lot size for a lot that has both a primary dwelling unit and an accessory dwelling unit is 3,000 sq. ft.

2. Ownership and Occupancy

(a) The property owner shall live in either the primary or accessory dwelling unit, with one of the units serving as their principal residency for at least six months in a year. No third-party rentals shall occur in the owner-occupied unit.

(b) The property owner shall record a deed restriction with the Yellowstone County Recorder requiring owner-occupancy of the property. Evidence of recordation of the deed restriction shall be provided to the City of Billings Planning & Community Services Department.

(c) Conditions of approval, as determined by the Director, shall be filed for record with the County Recorder as deed restrictions within 30 days of approval of the accessory dwelling unit. Evidence of such filing shall be submitted to the Director within 30 days of approval.

(d) The accessory dwelling unit shall not be sold separately or subdivided from the primary dwelling unit or lot.

3. Dimensional Standards and Location

(a) One accessory dwelling unit is permitted per residential lot. The ADU shall be located on the same lot as the primary unit.

(b) Unless specifically addressed in this section, accessory dwelling units are subject to the dimensional regulations for a principal building of the underlying zone district; e.g., setback/yard requirements and building coverage.

(1) A detached accessory dwelling unit shall not cover more than 30 percent of the available rear yard between the primary structure building line and the rear yard setback line.

(2) These standards do not apply to legally established detached garages that contain an accessory dwelling unit. Any expansion of a detached garage for conversion into an ADU shall comply with the appropriate setback and yard requirements for the detached garage.

(3) Maximum height for a new, detached accessory dwelling unit shall not exceed the height of the principal dwelling unit.

(4) The footprint of a detached accessory dwelling unit shall not exceed the footprint of the principal dwelling unit.

(c) An existing accessory structure whose height or setback(s) does not meet the requirements for a dwelling in the zone district may be converted into an accessory dwelling unit, but the structure may not be altered in any manner that would increase the degree of non-conformity.

4. Size

(a) The gross floor area of an accessory dwelling unit attached or internal to the primary dwelling unit shall not exceed the gross floor area of the primary dwelling unit.

(b) The maximum gross floor area of a detached accessory dwelling unit shall be no more than 80 percent of the gross floor area of the principal dwelling unit or 750 square feet, whichever is less.

5. Construction

(a) Accessory dwelling units must contain a kitchen or a food prep area, bathroom, and sleeping area for the sole use of the unit.

(b) Water and sewer service shall be provided. The principal unit and accessory unit may share utilities.

(c) Mobile homes, manufactured housing, recreational vehicles, travel trailers, and any other wheeled or transportable structure shall not be used as accessory dwelling units.

(d) A new street address for a new ADU is required to assist in emergency response.

6. Design

(a) Accessory dwelling units may be incorporated within or added onto a principal dwelling unit, garage, or other accessory structure, or may be built as a separate, detached structure on a lot where a single-family dwelling exists or will exist.

(b) An ADU, either detached or an extension of an existing structure, shall be designed to maintain the architectural design, style, appearance, and character of the primary structure, including compatibility with the neighborhood.

(c) Accessory dwelling units shall have a separate entrance with a clearly labeled street address. Houses with an incorporated accessory dwelling unit may not create additional entrances facing the same street.

7. Parking

The accessory dwelling unit shall have at least one dedicated off-street parking space in addition to the parking required for the primary dwelling unit. An exception to the parking requirement may be granted if it is demonstrated to planning staff that the additional parking space for the ADU is not feasible and/or on-street parking is available.

8. Home Occupations

Home occupations are permitted in an accessory dwelling unit.

H. AMATEUR RADIO SUPPORT TOWERS

1. Applicability

(a) All amateur radio antenna support structures and antennas located within the city 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 antennas upon state and federal lands to the extent of the city'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.

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

2. Standards

(a) Amateur radio antenna support structures and antennas 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.

(b) Amateur radio antenna support structures and antennas exceeding six 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.

(c) It is recommended that amateur radio antenna support structures be designed, installed, and maintained to blend into the surrounding environment through the use of color and alternative designs, except in instances where the color is dictated by the FAA.

(d) 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 antennas may exceed the height limitations of the underlying zoning as indicated in Table 27-1000.1, Primary Uses.

(e) Attachments to amateur radio antenna support structures, such as guy wires and antenna wires, shall not cross any property line or any existing or proposed easement.

(f) No lighting shall be permitted on any amateur radio antenna support structures except as mandated by the FAA.

(g) No signage, other than required warning signs, or displays of any type shall be permitted on any amateur radio antenna support structure.

I. COMMUNITY GARDENS

1. Locations

(a) Community gardening is permitted on rooftops that are structurally capable of supporting the garden.

(b) Community gardening is permitted in public parks and P districts.

2. Use Standards

(a) The site shall be designed and maintained so that water and fertilizer will not drain to adjacent property.

(b) A minimum three-foot wide, clearly marked entrance path shall be provided from a public right-of-way to the garden.

(c) The on-site sale of community garden products is prohibited except when permitted as an approved temporary use.

(d) The use of motorized equipment is restricted to hours beginning at 7:00 AM and ending at 9:00 PM.

(e) An on-site trash storage container must be provided and located as close as practicable to the rear lot line or, when located on a lot with other uses, the rear side of the community garden. Compost bins or piles must also be located in the same location. Trash must be removed from the site at least once a week.

(f) The keeping of animals is prohibited unless the community garden is located in a zone district that permits animals.

(g) Within a residential zoning district, operating hours for community garden activities are restricted to between 5:00 AM and 11:00 PM daily.

(h) Customary accessory uses are regulated in the accessory use section.

3. Signs

Community gardens in residential zones shall be restricted to one, non-illuminated identification sign not exceeding eight square feet and eight feet in height, and set back a minimum of five feet from the front and side property lines. In all other zoning districts, signs shall comply with the permanent sign standards for the applicable zoning district.

J. DRIVE-THROUGH (THRU) FACILITY

The following standards shall apply to businesses that contain a drive-through establishment, regardless if the drive-through is part of another use (e.g., restaurant or financial institution) or if it is a stand-alone use (e.g., automatic teller machine).

1. Location of Services Areas and Use of Audible Electronic Devices

(a) Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments located within 50 feet of any residential zone district shall not be audible beyond the subject property line.

(b) All drive-through areas, including but not limited to menu boards, stacking lanes, trash receptacles, loudspeakers, drive up windows, and other objects associated with the drive-through area shall be located in the side or rear yard of a property to the maximum extent feasible, and shall not cross, interfere with, or impede any public right-of-way.

K. ELECTRIC VEHICLE CHARGING STATION

1. This section is not intended to regulate the charging of electronic vehicles within a personal garage associated with a dwelling unit or charging stations that may be placed within the public right of way by the City.

2. An electric vehicle charging station shall comply with the following use-specific standards:

(a) The charging station shall be associated with an approved off-street parking space.

(b) Equipment associated with a charging station shall be located to not impede pedestrian movement or create trip hazards within the right of way or any pedestrian pathway.

L. EMPLOYEE/CARETAKER UNIT

Employee/caretaker units in CX, I1, I2, and EBURD shall be limited to no more than two residential units per 10,000 square feet of gross building floor area.

M. HOME OCCUPATIONS

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

1. Standards of Operation

(a) The home occupation should not generate traffic before 7:30 a.m. or after 8:00 p.m.

(b) The occupation should not generate, on average, more than four vehicle trips to the residence during any hour.

(c) Uses not listed may be allowed with written approval from the Zoning Coordinator if they meet the intent of this section and will conform to all of the restrictions of this section.

(d) No person shall be employed other than the residents of the dwelling.

(e) The occupation shall be conducted entirely within the dwelling or an accessory building.

(f) The floor area devoted to the occupation shall not exceed 500 square feet or 25 percent of the total ground area occupied by the buildings, whichever is less.

(g) The occupation shall not produce light, noise, vibration, glare, fumes, odors, electrical interference, etc., which is inconsistent with the character of the residential area.

(h) There shall be no sign advertising or calling attention to the home occupation on the premises.

(i) 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.

(j) There shall be no group instruction, assembly or activity for greater than five persons.

(k) One business vehicle that is associated with the home occupation may be parked or stored on the premises. Vehicles rated at more than 12,000 GVW must be stored in a different location.

(l) There shall be no outside storage of materials or equipment related to the home occupation, except the one allowed business vehicle.

2. Uses Permitted with Business License

(a) Home Office

(1) Administrative or professional offices

(2) Internet or direct sales distribution

(b) Home Instruction

Individual tutoring or lessons in art, dance, music, swimming, or similar activities are permitted, provided that a maximum of six students per day shall be permitted at the premises.

3. Uses Permitted with Planning Administrative Review

The preparation of items for off-site display and sale, including, for example, ceramics dressmaking/sewing, jewelry, food products, printmaking, and other types of individual, small-scale craft or artisan manufacturing.

4. Prohibited Uses

The following types of uses will not be approved as home occupations:

(a) Uses involving large or oversized goods or materials;

(b) Automobile, lawn mower, or other engine repair, welding, or machine shops unless the service is offered only at the customer's location (mobile service);

(c) Uses where other employees visit the site, such as operating/dispatch offices for contractors, offices for businesses having employees who are not occupants;

(d) Uses involving more than household quantities of volatile liquids or materials; or

(e) Uses involving the grooming, breeding, or boarding of animals.

N. KENNEL, OUTDOOR (PRIVATE)

1. Accessory Use

(a) All outdoor kennels must be established as an accessory use to a single-family residential use.

(b) In multifamily and RMH districts, outdoor kennels shall only be allowed when accessory to a single or two-unit development that is permitted within the district.

2. Location

Accessory structures or enclosures used for the kennel must be located only in the rear yard of the site.

3. Setback

The setback of any accessory structure or enclosure associated with the kennel shall be no closer than 5 feet to any side or rear property line.

4. Maximum Area

The area of the outdoor kennel site shall be limited to 10 percent of the total area of the lot.

O. LIVESTOCK AND FOWL

1. Livestock shall not be maintained in any zoning district located within the limits of the City except as provided in Table 27-1000.2 Accessory Uses.

2. Horses may be permitted in the City when located within a planned development that was specifically designed and approved to accommodate horses and/or equestrian centers.

3. Fowl, except chicken hens, shall not be maintained in any zoning district located within the City limits. Chicken hens may be kept within the limits of the City in residential zoning districts or on property used for single family residential purposes as provided in Table 27-1000.6, Accessory Uses, subject to limitations and permitting requirements in BMCC Section 4-303, Rabbitry and Chickens.

P. OUTDOOR DISPLAY AND SALES

1. General Provisions

(a) Outside display and sale of merchandise is permitted only if the merchandise is related to the principal use of the property. Merchandise shall be removed each night into an enclosed structure except that the continuous outside display of merchandise is permitted when the principal use of property is:

(1) Lumber and construction materials,

(2) Vehicle and heavy equipment sales and rentals,

(3) RV and manufactured home sales and service,

(4) Wholesale and retail nurseries,

(5) Lawn and garden supply,

(6) Fueling stations,

(7) Retail or wholesale open 24 hours, or

(8) Temporary uses and structures regulated by Section 27-1008.

(b) Display areas shall be located outside of drive aisles; required parking areas, including access; required landscape areas; and pedestrian ways.

(c) In addition to the outdoor display and sales area, store front sidewalks excluding any public sidewalks, shall be allowed for outdoor display and sales provided these outdoor display and sales areas comply with all provisions of applicable zoning ordinances, building codes, and other city codes and regulations.

(d) All outdoor display and sales areas shall be maintained in a neat, clean, orderly fashion to avoid pedestrian hazards and ensure personal safety.

(e) Display areas shall not exceed eight feet in height unless a single unit of the merchandise exceeds eight feet (e.g., RVs, manufactured homes, or trucks).

2. EBURD

Outdoor sales are limited to lots fronting on Boulevard Street Types (1st Avenue N, 4th Avenue N, and 6th Avenue N).

Q. OUTDOOR AND SIDEWALK SEATING

1. Eating and drinking establishments may provide accessory outdoor seating areas, including rooftop seating, that meet the following generally applicable criteria:

(a) Outdoor seating areas outside of the CBD may not occupy required landscape area, required parking spaces, or required parking area access aisles.

(b) An outdoor seating area exceeding 25% of the indoor building floor area is counted as floor area for purposes of determining off-street parking and loading requirements.

(c) The use of mechanically produced sound, amplified sound, or live music shall only be permitted in conformity with the City's noise standards. Waivers or variances to the City's noise standards are not allowed for property within 50 feet of any residential zone.

(d) All outdoor uses shall be maintained free of garbage and other debris.

(e) The hours of operation for the outside seating shall be consistent with the hours of operation of the inside use.

(f) The outdoor seating area shall not obstruct any fire exit, fire escape, or other required ingress or egress.

2. Public sidewalk seating may be permitted by City Engineering in compliance with the following conditions:

(a) The area of occupancy must be abutting and contiguous to the restaurant in which food preparation, sanitation and related services for the sidewalk cafe will be performed.

(b) Sidewalk seating may not be enclosed by fixed walls, unless such walls are necessary to comply with requirements to serve alcohol, and shall be open to the air, except that it may have a canopy.

(c) There shall be a minimum width of four feet of clear, unimpeded sidewalk remaining for pedestrians between the curb and the area of sidewalk seating.

(d) The sidewalk seating shall be located a minimum of five feet from driveway and alleys, and ten feet from intersections.

(e) All curbs, alleys, sidewalks and public rights-of-way adjacent to the sidewalk seating shall be kept in a clean and orderly condition.

(f) All outdoor seating shall be maintained free of garbage and other debris.

(g) An encroachment permit may be required, as provided for in BMCC 22-400.

R. OUTSIDE STORAGE

1. Intent

Any use requiring accessory outside storage of material, equipment, or business-related supplies shall comply with the following standards. . Outdoor storage does not include outdoor sales lots as regulated in Section 27-1009.O.

2. Generally Applicable Standards

(a) Any permitted outside storage shall be within an area enclosed with a sight obscuring fence at least six feet in height that is architecturally compatible in color and design with the building.

(b) Storage areas shall be located outside of drive aisles; fire lanes; required parking areas, including access; required landscape areas; and pedestrian ways.

(c) Chain link or other type of wire fencing is prohibited unless durable sight-obscuring inserts are installed. Fabric or cloth inserts are not permitted.

3. Junk Storage

Junk, partially or completely dismantled vehicles, or salvaged materials shall not be stored in any commercial zone outside a building; except that automobile repair shops may store such materials either enclosed within a building or an area having a sight obscuring fence at least six feet in height. Chain link or other type of wire fencing is prohibited unless durable sight-obscuring inserts are installed. Fabric or cloth inserts are not permitted.

4. EBURD

(a) Within the Central Works and 13th Street Main Street Districts:

(1) Outdoor storage areas shall be located in the rear or side yard of the lot.

(2) Loose materials shall not be stacked higher than six feet.

(3) Loose materials shall at a minimum be stored in a three-sided shelter and shall be covered.

(4) Materials shall be set back a minimum of five feet from any lot line.

(5) All outdoor storage areas shall be screened from view of adjacent parcels and vehicular rights-of-way using the side or rear buffer.

S. SATELLITE ANTENNAS AND DISHES

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 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.

T. SHIPPING CONTAINER STORAGE

1. Site Requirements

All accessory shipping container storage shall meet the following site standards:

(a) There shall be a principal structure on the property.

(b) The shipping containers are stored either:

(1) Behind the principal structure, or

(2) Shielded from view by a permanent enclosure that is at least eight feet in height and sight-obscuring.

2. Permanent Accessory Use

In the CX, I1, I2, and EBURD districts, shipping containers may be used for permanent accessory storage for a period of more than one year.

3. Temporary Accessory Use

(a) In the NMU, CMU1, CMU2, and DX districts, shipping containers may be used for temporary accessory storage for a period of time not to exceed one year.

(b) Shipping containers may be used for accessory storage for a period not to exceed three months for business relocations and new business stocking.

(c) Shipping containers may be used for accessory storage for a period of time not to exceed nine months following a fire or other disaster,

U. SOLID WASTE

1. Solid waste storage facilities in mixed use, commercial, EBURD and industrial zone districts 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. Solid waste storage in public alleys is not subject to this requirement.
2. Chain link or other type of wire fencing is prohibited unless durable sight-obscuring inserts are installed. Fabric or cloth inserts are not permitted.
3. The city 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.

SECTION 27-1009 TEMPORARY USES

A. 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 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 feet behind all property lines;

(c) No part of the temporary use or temporary structure shall block any defined clear vision area (Section 27-1802.H) for driving aisles, drive approaches from streets, or at the intersection of streets or alleys;

2. Group 2 Temporary Uses

This group shall be defined as temporary uses of property continuing for longer than 72 hours but less than 91 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: carvinal, circus, seasonal sales, or other similar uses.

(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 feet behind all property lines;

(3) No part of the temporary use or temporary structure shall block any defined clear vision area per Section 27-1802.H for driving aisles, drive approaches from streets, or at the intersection of streets or alleys;

(4) New access drives to public right-of-ways must be approved by the City Engineering division.

(5) A business license for temporary uses located within the City limits must be obtained if required by 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 90 days but less than one 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 Table 27-1000.1, Primary Uses:

(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 site development regulations, shall comply with such standards within one 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 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 as of _____ [insert date], 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:

(i) Maximum size of the structure shall be 10 x 12 feet or 120 square feet;

(ii) Site circulation shall be approved by the city traffic engineer, 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;

(iii) 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;

(iv) Utilities to serve the temporary use shall be located underground or suspended overhead, in compliance with all applicable codes; and

(v) All structures are subject to local, 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:

(i) Existing site plan, including parking stalls and buildings;

(ii) 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;

(iii) Location of drive-in service, if applicable;

(iv) Setbacks from property lines and arterial streets;

(v) Size of temporary structure; and

(vi) Proposed use of the temporary structure.

(2) The temporary use must provide sufficient space to accommodate the structure and paved off-street parking for customer and use-related vehicles;

(3) Clear vision standards set forth in section 27-615 shall be followed;

(4) Access to any public right-of-way must be approved by the city engineering division;

(5) It shall be the responsibility of the owner of the temporary structure to ensure that the structure is secured to withstand an 80 miles per hour (m.p.h.) wind load and to meet all applicable Americans with Disabilities Act (A.D.A.) and accessibility standards;

(6) 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 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 year. An annual renewal may be given by the zoning coordinator, provided that the use complies with the above requirements..

B. TEMPORARY USES IN RESIDENTIAL ZONING DISTRICTS

In any residential district, the temporary use of land for uses listed below may be allowed for a period not to exceed 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 the premises of a religious institution, school, or other tax exempt organization; and

(b) The site shall provide sufficient space to accommodate the seasonal sales and off-street parking for customer and other sale related vehicles.

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.

(c) The use must provide sufficient space to accommodate the stand and off-street parking for customer and other sale related vehicles;

(d) 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 27-1802.H;

(e) New access to any public right-of-way must be approved by the city engineering division; and

(f) All signage and temporary structures must be removed at the time the temporary use has ceased on the property.

C. 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-XXX;

(b) The structure shall meet the clear vision standards set forth in section 27-1802.H;

(c) No such structure shall be used for living or sleeping purposes; and

(d) The use of the structure shall comply with subsections 27-1010.A.3(b) and 27-1010.A.3(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 27-1010.A.3(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 27-1010.B.

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.

D. TEMPORARY USE/STRUCTURE PERMIT REQUIRED

1. 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.
2. For group 3 temporary uses, the temporary use permit holder shall post a $1,500.00 bond for each location with the planning and community services department to ensure timely removal of the use and/or structure.

Definitions:

Dwelling, multiple-unit: A building constructed and designed for three 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, townhouse: A series of two or more attached dwelling units held in individual ownership.

Dwelling, single-unit: A building constructed and designed for one dwelling unit that is detached from any other dwelling unit.

Dwelling, two-unit (duplex): A building constructed and designed for two 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.

Guest: A person or persons using a short-term rental for only a short period of time or a brief stay, such as the traveling public.

Guest home, owner-occupied: For the purposes of this section, a residence that is lived in by the owner or a long-term tenant for the majority of a calendar year (180 days or more), that is also used for part-time short-term rentals.

Long-Term Tenant: A person who occupies land or property rented from a property owner for 30 days or longer.

Short-Term Rental: the renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of less than 30 consecutive days to a guest or guests.

Short-Term Rental Unit: A residential dwelling unit, or portion of such a unit, that is rented for compensation or consideration for less than 30 days at a time; does not include dwelling units owned by the federal government, state, City, or any of their agencies, or facilities licensed by the state as health care facilities.

Tourist home: A private home or condominium that is not occupied by an owner or manager and that is rented, leased, or furnished in its entirety to guests on a daily or weekly basis.

A. Purpose

The purpose of the short-term rental permit program is to facilitate the permitting of short-term rental units to allow for varied accommodations and experiences for visitors when short-term rentals can be provided in a manner that retains the character of the neighborhoods in which they are located.

B. Applicability; Permit and Business License Required

1. The short-term rental regulations adopted in 2020 are intended to be preliminary in nature to allow the City of Billings to both introduce the concept of legal short-term rentals to the community and understand the potential scope and impacts of short-term rentals as a legal use. The City anticipates refining these regulations over time to develop a set of standards with longer-term applicability.

2. It shall be unlawful for any person to operate any guest home or tourist home without a valid short-term rental permit, as approved pursuant to Section 27-1621, [application process included below, will be moved to 27-1600, Administrative Procedures] and a business license.
3. The short-term rental permit is issued to the property owner and does not run with the property. The permit shall not be transferred or assigned to another individual, person, entity, or address but may be managed by a third party on behalf of the owner.
4. A short-term rental permit shall only be issued to:
   a. A natural person whose name appears on the deed of the dwelling unit or property;
   b. A trust, if the beneficiary of the trust is a natural person; or
   c. A corporation registered with the State of Montana.
5. Nothing in this section shall limit the ability of a property owner, CC&Rs, homeowners' association or similar association from prohibiting or further limiting the short-term rental of property where the authority to do so exists.
6. Nothing in this section shall prohibit the operation of a hotel, motel, boarding house, or bed and breakfast inn where such use is permitted.
7. The issuance of a short-term rental permit allows the property to be rented to either a single guest or multiple guests with a maximum limit of two guests per bedroom.

C. Where Permitted

Short term rentals may be permitted pursuant to the following standards:

1. Habitable Structure Required

Sleeping quarters for short-term tenants shall be located in a habitable structure and shall not be located in:

a. Non-residential areas within buildings or accessory structures (e.g., shed, garage) that do not contain finished living space;
b. Commercial (office/retail) or industrial (warehouse) spaces; or
c. Outdoors in a temporary structure (e.g., tent) or in a recreational vehicle or travel trailer.

2. N1, N2, N3, and RMH Districts:

a. Type of Permits: Both guest homes and tourist homes are permitted.
b. Maximum number of short-term rental permits: One short-term rental permit per dwelling unit with a maximum of two short-term rental permits located on a property.
   i. If a property contains both a principal single-unit dwelling unit and an accessory dwelling unit, only one unit may be permitted for use as a short-term rental.
   ii. If a property contains multiple single-unit or two-unit dwellings all in single ownership, the two permit per property limit shall apply per property.
   iii. If a property contains multiple detached dwelling units, or townhomes all in separate ownership (e.g. condominium, patio home, townhome), one permit per dwelling unit may be issued.

3. NX1, NX2, NX3, NO, NMU, CMU, DX, CBD, CX, EBURD, P2, and P3 Districts:

a. Type of Permits: Both guest homes and tourist homes are permitted.

b. Maximum number of short-term rental permits:

i. Single-unit and two-unit dwellings shall comply with section C.2.

ii. Townhouses: One permit per dwelling unit.

iii. Multiple unit dwelling all in single ownership: Permits may be issued for up to 20% of the units. Properties that contain five or more stacked units in one building must be compliant with applicable building code requirements.

4. Affordable Units

A short-term rental permit may not be issued for a permanently (e.g., deed restricted) affordable dwelling unit.

D. Generally Applicable Requirements

1. Use

Short-term rentals shall be used for lodging purposes only and may not be used for commercial purposes or large social events such as weddings or family reunions. These events may be held where permitted by special review. Note: Wedding or social event guests may be lodged in a short-term rental but the event itself must be held in a permitted location or structure.

2. Other Licensing

In addition to the short-term rental permit, the owner shall obtain a business license from the Finance office.

3. Contact Information

a. The short-term rental permit with all local contact information and emergency safety information shall be prominently displayed within the short-term rental unit.

b. During the term that a short-term rental unit is occupied by a guest(s), the owner and/or a local contact person designated by the owner, as identified in the short-term rental permit application, shall be available 24 hours per day, seven days per week, for the purpose of responding to complaints regarding the condition or operation of the short-term rental unit or the conduct of short-term tenants. If the local contact person designated by the owner changes, then the owner shall update the permit on file.

4. Advertising

All short-term rental advertising shall include the Billings' Short-Term Rental Permit number.

5. Health, Safety, and Code Compliance

a. Short-term rental units must contain smoke detectors, fire extinguishers and CO2 detectors; and shall remain compliant with all zoning, building, fire, noise, and other applicable city and state codes.

b. Guests shall be instructed to park in private driveways first, with overflow parking on the street where permitted. Parking on-site in non-driveway areas (e.g., setbacks or yards) shall be prohibited.

c. No meals shall be prepared for or be served to the short-term tenants by the owner or the owner's agents. Note: Preparation or service of meals by the owner or owner's agent may

constitute the creation of a boardinghouse or bed and breakfast. These uses are allowed only within certain zone districts either by right or by special review approval of the City.

d. The owner shall maintain weekly residential trash collection services. Garbage/refuse containers shall not be left out at the collection point 24 hours after collection and property shall be free of trash and debris.

E. Short-Term Rental Permit

1. Application Contents

In addition to any other information prescribed by the Zoning Coordinator, an application for a short-term rental permit shall include the following information:

a. Contact information for the owner (person, trust, or corporation) of the property.

b. Contact information for the owner's local contact person, who has authority to fix any problems or violations of this chapter, who is available 24 hours a day, seven days a week, at a phone number provided to both the City and any person staying at the property.

c. Attestation and agreement to comply with the requirements of this section.

d. Identification of all dwelling units that will be rented on a short-term basis.

e. The URL (i.e., the website address) for any and all advertisements of the short-term rental of the property.

f. Proof of building code compliance for single family attached and detached units. If seeking a short-term rental permit in a multifamily structure that is not a multi-unit attached single family structure that complies with building code standards for townhomes, proof of ownership of entire building must be provided with the application.

2. Duration and Renewal

a. Short-term rental permits shall be issued for one year and must be renewed annually.

b. An application to renew a short-term rental permit should be received by the Zoning Coordinator not less than thirty days prior to the expiration of the short-term rental permit.

3. Review Criteria

The Zoning Coordinator shall review a new or renewal application for a short-term rental permit for compliance against the criteria listed below. The Zoning Coordinator may deny a short-term rental application or renewal application if any of the following issues are found:

a. The property has any unresolved code enforcement violations, including issues unrelated to the short-term rental.

b. The property is not in compliance with all applicable Zoning Code requirements, any permit requirements, or where applicable, any fire, building and safety, or other relevant laws and ordinances.

c. The applicant has knowingly made any false, misleading, or fraudulent statements of material fact in the application, or in any report or statement required to be filed that is related to the application.

d. The property that is the subject of the application is not available for immediate rental on a short-term basis consistent with the requirements of these regulations.

e. The property owner's business license is not current.

4. Effect of Denial

a. If an application for a new or renewal short-term rental permit is denied, the Zoning Coordinator may not approve a new application for that applicant and location for a 30-day period after the denial unless the Zoning Coordinator determines that the reason for the denial has been cured or no longer exists.

b. An applicant who has requested review based on cured circumstances but is again denied, may appeal the administrative denial to the Board of Adjustment. Please see Section 27-1616, Appeal of an Administrative Decision.

5. Revocation

a. The Zoning Coordinator may revoke a short-term rental permit if any of the issues identified in the Section E.3 review criteria are substantiated during the term of permit.

b. The Zoning Coordinator shall give written notice of the pending revocation to the permit holder and any named local manager or long-term tenant listed on the permit. The permit holder will have 30 days to bring the property into compliance.

c. A permit holder who is in violation is prohibited from taking any further or future reservations.

d. If a short-term rental permit is revoked, the short-term rental of the property must cease immediately and the unit shall not be rented for a period of 30 days from the date of revocation unless the Zoning Coordinator determines that the reason for the revocation has been cured or no longer exists.

SECTION 27-1101 PURPOSE AND APPLICABILITY

A. PURPOSE

To encourage redevelopment, continuing property investment, and infill development, it may be necessary to determine site appropriate adjustments to applicable development standards that will allow the development to take place while applying proportional development standards. This section identifies the process for determining specific site compliance with a proportionate standard.

B. APPLICABILITY

1. New Development
   New development shall comply fully with all site development and zone district standards.
2. Existing Development
   Applicants for some types of redevelopment may qualify for the proportionate application of site or zone district standards as described in this section.
3. No New or Increased Noncompliance
   Any redevelopment of a structure or site shall be designed to either increase compliance with this Zoning Code or, at a minimum, not increase existing noncompliance. Redevelopment shall not establish new noncompliance with this Zoning Code, regardless of the applicability of this section.

C. FIVE-YEAR TIMEFRAME

1. Any application by a property owner to expand or replace part of an existing structure shall remain on record for five years from the date of work completion.
2. Any subsequent application by the same property owner(s) to expand or replace part of an existing structure shall be cumulative to any requests made within the previous five years.
3. The total shall be used by the City to determine the property owner's necessary level of compliance.

D. SITE DEVELOPMENT STANDARDS

An applicant may request the application of proportionate compliance with the following site development standards pursuant to Section 27-1102:

1. Section 27-1200, Landscaping
   (a) 27-1204, Street Frontage Landscaping
   (b) 27-1205, Bufferyard Standards
   (c) 27-1205, Off-Street Parking Lot Standards
2. Section 27-1300, Parking and Loading
   (a) Table 27-1300.1, Off-Street Parking Standards
   (b) 27-1203 Loading Spaces

E. ZONE DISTRICT STANDARDS

An applicant may request the application of proportionate compliance with eligible zone district standards pursuant to Section 27-1103.

SECTION 27-1102 SITE DEVELOPMENT STANDARDS ELIGIBILITY AND MEASUREMENT

A. ELIGIBILITY FOR PROPORTIONATE COMPLIANCE

Proportionate compliance with eligible site development standards as applicable to a specific development or structure type may be requested for development types in Table 27-1100.1 according to the calculations described in Section 27-1102.B.

Table 27-1100.1: Applicability of Development Standards

	Res. Multi-Unit	Mixed-Use and Public	Comm.	Ind.
New Development	**Percent compliance with development standards**			
New Development	100	100	100	100
Existing Development				
Interior Change(s),		Apply Sec. 27-1102.B.2		
Redevelopment:				
Less than 10% GFA	n/a	n/a	n/a	n/a
Between 10% and 75% GFA		Apply Sec. 27-1102.B.2		
Greater than 75% GFA	100	100	100	100
Use Change with Increased Parking		Apply Sec. 27-1102.B.3		
Nonconformities				
See Section 27-1500 for applicability of nonconformity standards				

B. MEASURING REQUIRED COMPLIANCE

1. Interior Changes
   In the CBD, DX, CMU1, CMU2, NO, NMU, and EBURD districts, Section 27-1204, Street Frontage Landscaping requirements shall be applicable when a building is remodeled by 10% or more. This shall be calculated based on the value of the remodel permit as a percentage of the building's most recent assessed valuation. For example, a property owner with a building assessed at $1,500,000 who submits an application for a remodel permit valued at $300,000 shall be responsible for 20% compliance with the applicable street frontage landscaping requirements.

2. Gross Floor Area (GFA) Changes

   (a) Site development standards shall be proportionately applied to all increases in GFA as follows:

   (1) Minimal Change. Square footage changes that increase the total gross floor area of a structure by less than 10 percent, as determined by the building permit application, shall not be required to comply with these development standards.

   (2) Proportionate Change. Square footage changes that increase the total gross floor area of a structure by more than 10 percent but less than 75 percent, as determined by the building permit application, shall require a corresponding

percent increase in compliance with these development standards or until the site reaches compliance, whichever is less.

(3) Full Compliance. Square footage changes that increase total gross floor area of a structure by 75 percent or greater, as determined by the building permit application, shall be required to fully comply with these standards.

(b) Measurement is based on changes to an individual structure that is subject to improvements, regardless of the total number of structures on the site.

3. Increased Parking Requirement
Where a change of use triggers a requirement for increased parking on a lot, the calculations of Section 27-1102.B.2 shall be applied to calculate required landscaping improvements from Section 27-1205, Off-Street Parking Lot Standards.

SECTION 27-1103 ZONE DISTRICT STANDARDS ELIGIBILITY AND MEASUREMENT

The following proportionate compliance standards apply to redevelopment in the N1, N2, NX, NMU, NO, CMU1, CMU2, and DX districts.

A. GENERAL SITE DESIGN REQUIREMENTS

For any site renovations, the applicable neighborhood or mixed-use general site design requirements shall be met.

B. GENERAL RENOVATIONS

Where any renovation includes an addition of more than 50 percent in gross building square footage within a 5-year period, all site and structure regulations shall be met.

C. FACADE RENOVATIONS

If the building's façade exists or will exist within the required build-to zone of the district regulations, the facade regulations shall be met, if the renovation includes any one of the following:

1. Expansion or change in location of 50 percent or more of the windows on any street façade of the building. Refer to Section 27-1800 for the definition of street facade.
2. Replacement of 50 percent or more of facade materials on any street facade of the building with a different facade material.

D. ROOF RENOVATIONS

If the renovation of the shape or style of more than 50 percent of the roof occurs, the roof regulations shall be met.

SECTION 27-1201 PURPOSE

The purpose of this section is to provide landscaping and performance standards that:

A. Enhance and promote a unique image for the City of Billings.

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 naturalized plantings; and
2. Promoting the utilization of storm water detention as an irrigation source.

D. Ensure that landscaping is an integral part of the site design and development process.

SECTION 27-1202 APPLICABILITY

A. GENERAL APPLICABILITY

1. The provisions of this article are applicable to all new development as identified in Table 27-1200.1.
2. A property or development site may have more than one type of required landscaping. Each type of landscaping is calculated separately. One type of required landscaping may not be calculated toward nor substituted for the provision of a different type of required landscaping. For example, street frontage landscaping may not be calculated toward off-street parking lot landscaping.

Table 27-1200.1: Landscaping Applicability

Landscape Type	Section	Res (N1-3, NX1-3 and RMH)	NO, NMU	CMU1, CMU2	DX, CBD	CX, I1, I2	P2, P3	EBURD
Key: ✔ = Applicable, ⦸ = Not Applicable								
Street Frontage/ Trees	27-1203	✔ All districts and uses located on a public street						Located in Sec.27-900
Bufferyards	27-1204	⦸	✔	✔	✔	✔	✔	
Parking Lot Landscaping	27-1205	⦸	✔ Any parking lot with 10 or more spaces					

Table 27-1200.1: Landscaping Applicability								
Landscape Type	Section	Res (N1-3, NX1-3 and RMH)	NO, NMU	CMU1, CMU2	DX, CBD	CX, I1, I2	P2, P3	EBURD
Key: ✔ = Applicable, ⦸ = Not Applicable								
Tree Preservation Options	27-1206	⦸	✔	✔	✔	✔	✔	

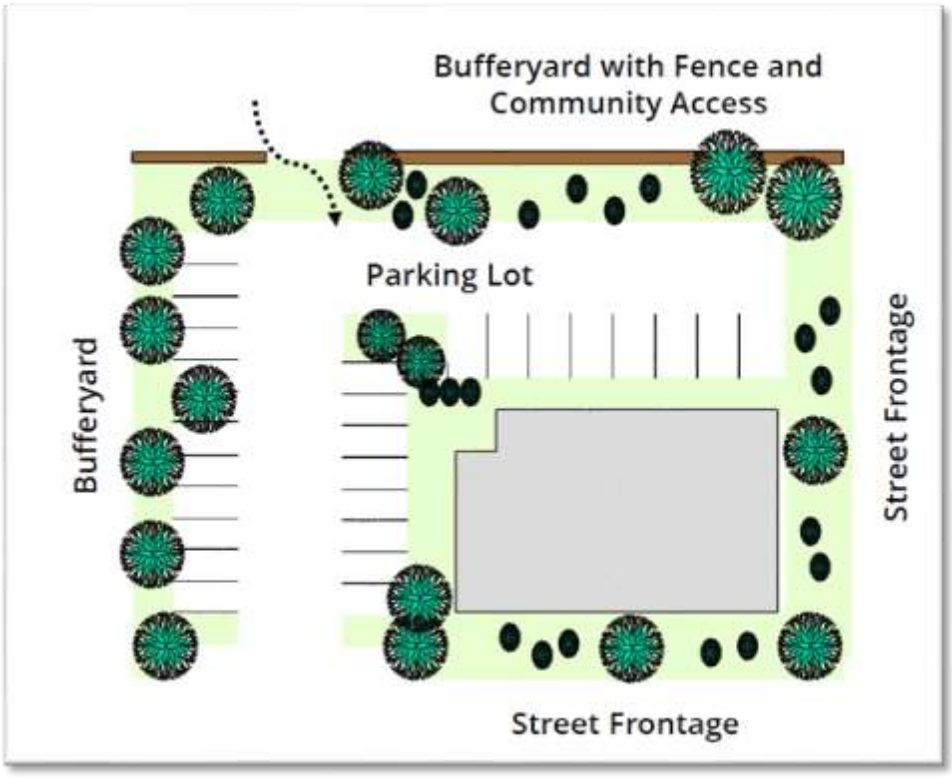


Fig. 27-1200.A: Illustrated location of different required landscape types

B. PROPORTIONATE COMPLIANCE

Article 27-1100, Proportionate Compliance, may be applicable to adjust landscape standards for redevelopment projects.

SECTION 27-1203 LANDSCAPE PLAN

A. APPLICABILITY

1. Landscaping in compliance with this article shall be required for any new construction, and expansion of existing structures. All plans submitted in support of a building permit shall include a landscape plan where appropriate.
2. A landscaping plan must be approved by the Zoning Coordinator or designee before the issuance of a building permit.

B. LANDSCAPE PLAN PREPARATION

1. Landscape plans shall be prepared with materials that meet the requirements of Section 27-1207 and that:
   (a) Are appropriate to the conditions in which they are planted;

(b) Have noninvasive growth habits;

(c) Encourage low maintenance, high quality design; and

(d) Are otherwise consistent with the intent of this article.

2. Landscape plans shall be prepared as follows:

(a) Lots of 1 acre or larger: the plan shall be prepared by a licensed landscape architect.

(b) Lots smaller than 1 acre: the applicant is encouraged to work with a nurseryman or landscape design professional to meet the requirements of this article.

A list of appropriate plant species for Billings can be obtained from the Planning Division.

C. INFORMATION REQUIRED

The landscaping plan shall contain the following elements:

(a) Scale: no smaller scale than 1″=40′

(b) Property lines, easements, and public rights-of-way, including clear vision areas as identified in Section 27-1803.H.

(c) Topographic information and final grading adequate to identify and properly specify planting for areas needing slope protection

(d) Existing and proposed buildings or structures

(e) Existing and proposed signs

(f) An estimated count and approximate location of all existing trees, four inches in diameter or larger, measured at four and a half feet above grade, and identification of all trees within that group that are identified for removal and the required characteristics of all trees for tree preservation credit. A tree count is not required for areas of the site that will not be disturbed during construction.

(g) Drive approaches, parking spaces, light standards, circulation and pedestrian walkways.

(h) 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.

(i) Location of walls, fences, screening, and refuse storage areas.

(j) Location of any proposed retaining walls, indicating size and material to be used in the construction of the wall.

(k) Methods of protecting the landscaped areas.

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

D. PROCEDURE FOR LANDSCAPE PLAN REVIEW

1. Landscape Plan Review

The Zoning Coordinator shall consider the approval criteria in Section 27-1203.D.2 below when reviewing the landscape plan.

2. Approval Criteria

The Zoning Coordinator may approve a landscape plan upon a finding that the application meets all of the following criteria, as applicable:

(a) The landscape plan conforms to all requirements of this article and is consistent with the currently adopted growth policies and any other applicable plans.

(b) The landscape design includes the installation of a diversity of species and sizes of vegetation with preference given to locally naturalized vegetation.

(c) If required, preservation of existing, locally naturalized vegetation is incorporated into the landscape design.

(d) No plant materials or landscape features are situated in such a manner so as to inhibit vehicle sight distances established in Section 27-1803.H, or otherwise create a traffic hazard.

(e) No woody plant materials are situated within any utility easement unless shrubs or other limited height materials are of a size that has been approved by the utility provider.

(f) The facilities for watering and drainage are adequate to ensure the landscape area is maintained and that no soil, bark, mulch, gravel, stone, or similar materials are allowed to wash off the landscape area into parking areas, driveways, public streets, sidewalks, gutters, or storm drainage facilities.

(g) The design, selection, and layout of such landscaping is such so as to minimize maintenance requirements.

E. POST APPROVAL

1. Site Specific and Binding

Approved landscape plans shall be binding upon the applicants and their successors and assigns. No certificate of occupancy shall be issued for any building or structure where landscaping has not been provided in accordance with the required and approved landscape plan, or any approved modifications thereto.

2. Expiration of Unbuilt Landscape Plans

Approved landscape plans shall expire one year after approval if a certificate of occupancy has not been issued. In the event that the landscape plan expires due to the passage of this time period, a new landscape plan application must be submitted for approval in the same manner as an original application. An extension not to exceed one year may be granted by the Zoning Coordinator prior to expiration.

3. Modifications to Landscape Plans

The holder of an approved landscape plan may request a modification to the document, or the conditions of approval, by submitting amended documents to the Zoning Coordinator or designee.

F. PERMIT AND SECURITY

1. Landscaping Installed Within One Year of Issuance of Building Permit

(a) All landscaping and screening material, organic and inorganic, shall meet the standards of Section 27-1210 and be in place prior to the issuance of a certificate of occupancy. Irrigation systems shall be fully functional at the same time as the completion of the landscape planting. This requirement shall be verified by the submission of a final, as-installed landscaping plan by the party responsible for the creation of the landscape plan that is submitted with the certificate of occupancy application.

(b) If the timing of the project and seasonal limitations prevent planting prior to issuance of the certificate of occupancy, security as described in this section may be provided and the planting period may be extended accordingly.

2. Security Required

(a) When the timing of a project delays the installation of the landscaping beyond the 1-year time period, a performance bond or letter of credit for 150 percent of the landscaping materials and labor costs shall be posted with the planning division to ensure the placement of the required landscaping.

(b) The property shall be inspected by the Zoning Coordinator to make sure that the required landscaping has been planted before release of the security bond or letter of credit.

(c) The installation of the required landscaping may be delayed until the next suitable planting season with written approval from the Zoning Coordinator.

G. MAINTENANCE AND INSPECTION

1. Trees, shrubs, irrigation improvements, and other landscape features depicted on plans approved by the City shall be considered elements of the project in the same manner as parking, building materials, and other details are elements of the plan. The landowner, successors in interest or agent, if any, shall be jointly and severally responsible for the following:

   (a) Regular maintenance of all landscaping and irrigation improvements in good condition and in a way that presents a healthy, neat, and orderly appearance.

   (b) All landscaping shall be maintained free from disease, pests, weeds, and litter. This maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching or other maintenance, as needed and in accordance with acceptable horticultural practices.

   (c) The repair or replacement of required landscape structures (e.g., walls and fences) to a structurally sound condition.

   (d) The regular repair or replacement, where necessary, of any landscaping required by this section.

2. Landscaped areas shall be irrigated as necessary to maintain required plant materials in good and healthy condition. Irrigation plans shall be submitted with development plans and shall contain all construction details for an automatic system.

3. All landscaping and irrigation may be subject to periodic inspection for compliance to approved plans.

SECTION 27-1204 STREET FRONTAGE LANDSCAPING

A. PURPOSE

Street frontage landscaping trees helps maintain and enhance the appearance of the City, contribute to pedestrian safety and comfort, and offer environmental benefits by allowing the infiltration of storm water, reducing urban heating, and improving air quality

B. REQUIRED STREET FRONTAGE LANDSCAPING

The area along any property line that abuts a public and private street right-of-way shall be provided a street frontage landscaped area planted with street trees. Property owners shall plant and maintain street trees as follows and as further required by this section:

1. All Districts Except CBD

(a) The street frontage landscape area shall be at least 10 feet wide. The width of the landscape area may be reduced to six feet with the provision of drip irrigation per Section 27-1210.F.

(b) The required total number of street trees shall be calculated at one tree per 40 lineal feet of frontage. Fractions shall be rounded up to the next whole number.

(c) Street trees do not need to be spaced at 40-foot intervals; the maximum interval shall be 60 feet with decisions about landscaping design within that interval left to the discretion of the property developer in consultation with their landscape designer or landscape architect.

(d) Additional required plant materials are specified in Section 27-1204.D.

2. CBD

(a) The required total number of trees is one tree per 25 feet of frontage. In the CBD trees shall be spaced an average of 25 feet and may not be grouped. Tree spacing may be varied by up to five feet to avoid planting a tree directly in front of a building entrance. Overall spacing shall be designed to avoid placing trees side-by-side at street corners.

(b) Street trees shall be planted in pervious landscape areas, tree strips, or tree wells that are located adjacent to the back-of-curb. The dimensions of the tree planting area for a single tree shall be no less than five-feet square.

Fig. 27-1200.B: Street tree landscaping examples (left: mixed use, right: multifamily)

C. LOCATION AND CALCULATIONS

1. Measurement
   (a) Generally: The street frontage landscape area depth is measured from the property line inward.
   (b) Boulevard: Street frontage yards located along a boulevard shall be measured from the curb inward. Trees may be located within a boulevard where permitted by City Engineering.
2. Street frontage landscape areas may overlap required yards and be located within required setbacks.
3. Access driveways shall not be subtracted from the linear frontage in calculations of the amount of landscaping required. If there are driveways along the frontage or property line, required landscaping shall be condensed into the remaining landscaping area.

D. PLANT MATERIALS

1. Street tree species shall be chosen from the Billings Plant List.
2. The ground plane of the street front landscape yard shall be planted in 75 percent organic materials that will remain in place through typical local weather and may not include turf grass or other material that requires regular mowing. The remaining 25 percent of the ground plane may be covered in inorganic materials.
3. Generally applicable plant materials standards are located in Section 27-1210.
4. The use of coniferous trees is not permitted in street frontage landscaping.

SECTION 27-1205 BUFFERYARDS

A. REQUIRED BUFFERYARDS

1. Applicability

(a) The exterior boundary of a lot that adjoins or is located across an alley from a different zone district, structure, or use, and that does not adjoin a public street right-of-way, shall meet the bufferyard requirements shown in Table 27-1200.3 below.
(b) A lot may require a combination of street frontage yards and bufferyards depending upon the types of surrounding development.

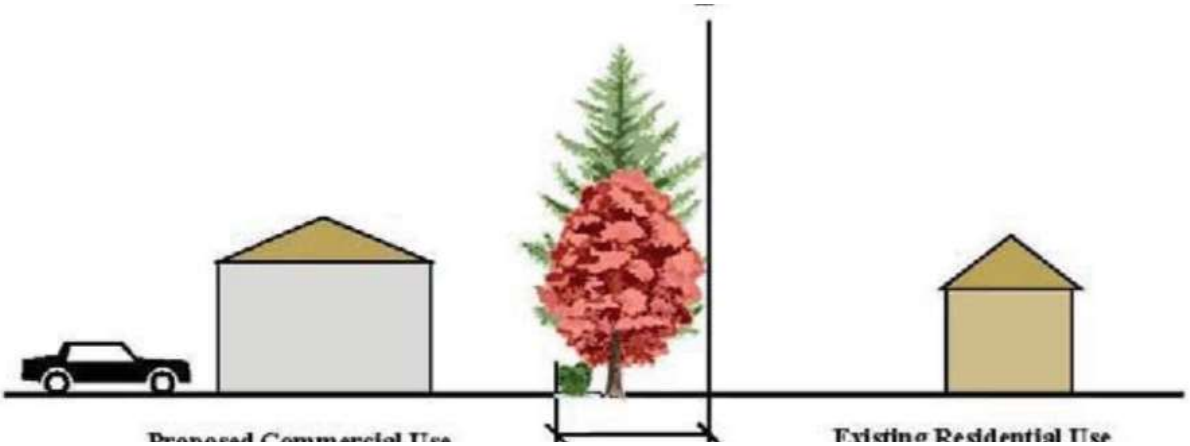


Fig. 27-1200.C: Bufferyards are located between different types of development

(c) In the CBD, the requirements of this section shall be accommodated to the maximum extent feasible. The bufferyard design may be adjusted by the Zoning Coordinator to accommodate the space available on the lot.

2. Types of Bufferyards

(a) There are three types of landscaping bufferyards defined in this section that are intended to accomplish the following:

(1) B1: Visual Enhancement is intended to create a partial visual separation between uses or districts.

(2) B2: Filtered Screen is intended to create a semi-opaque visual separation between uses or districts.

(3) B3: Screened Separation is intended to provide both space and a partial visual separation between uses or districts. This bufferyard is intended for use where a new development is located adjacent to a district or use that is significantly different in intensity, such as a residential district next to an industrial district.

(b) The dimensions and planting requirements for each type of bufferyard is specified in Table 27-1200.4.

3. Additional Standards and Instruction

(a) If a use or district does not conform to the categories identified in Table 27-1200.3, the Zoning Coordinator shall determine which category best matches the use.

(b) A six-foot high sight-obscuring fence or wall shall be provided on the property line where a commercial or industrial use or structure is adjacent to or across an alley from any residential uses, including residential as part of a mixed-use development.

(1) A continuous hedge may be substituted for the required fence or wall, as long as it has a minimum height at installation of three feet and reaches six feet or more at maturity.

(2) Vinyl or powder-coated, colored chain link fencing is allowed within a bufferyard where a sight obscuring fence is required so long as the chain link fence has sight-obscuring slats installed.

Table 27-1200.3 Required Bufferyards

Key: B1, B2, or B3 = required bufferyard (see Table 27-1205.2 for requirements) x = no bufferyard required

Read DOWN columns for proposed uses

Proposed New Development

Existing Adjacent Development Categories		Structure/ Use	Category 1: Neighborhood Residential and Mixed-Use (N1-3, NX1-3, RMH, NO, NMU)				Category 2: Commercial Mixed-Use (CMU1, CMU2)				Category 3: Downtown (DX, CBD)				Category 4: Heavy Commercial and Industrial (CX, I1, I2)				Category 5: Public (P1, P2, P3)		
			SFR	MFR	Mixed Use	Non-Res.	SFR	MFR	Mixed Use	Non-Res	SFR	MFR	Mixed Use	Non-Res	CX	I1	I2	EBURD	P1	P2	P3
Cat. 1 (N1-3, NX1-3, RMH, NO, NMU)		Single Family	X	B1	B2	B2	NA	NA	B2	B3	NA	B1	B2	B3	B3	B3	B3		X	B2	B2
		Multi Family	B1	X	B2	B2	NA	NA	B2	B3	NA	X	B2	B3	B3	B3	B3		X	B2	B2
		Mixed-Use	B2	B2	B	B1	NA	NA	B	B1	NA	B2	B	B1	B2	B3	B3		X	B1	B1
		Non-Residential	B2	B2	B1	B	NA	NA	B1	B	NA	B2	B1	B	B1	B2	B3		X	B1	B1
Cat. 2 (CMU1 CMU2)		Single Family	X	B1	B2	B2	NA	NA	B2	B3	NA	B1	B2	B3	B3	B3	B3		X	B2	B2
		Multi Family	B1	X	B2	B2	NA	NA	B2	B3	NA	X	B2	B3	B3	B3	B3		X	B2	B2
		Mixed Use	B2	B2	B	B1	NA	NA	B	B1	NA	B2	B	B1	B2	B3	B3		X	B1	B1
		Non-Residential	B2	B2	B1	B	NA	NA	B1	B	NA	B2	B1	B	B1	B2	B3		X	B1	B1
Cat. 3 (DX, CBD)		Single Family	X	B1	B2	B2	NA	NA	B2	B3	NA	B1	B2	B3	B3	B3	B3		X	B2	B2
		Multi Family	B1	X	B2	B2	NA	NA	B2	B3	NA	X	B2	B3	B3	B3	B3		X	B2	B2
		Mixed Use	B2	B2	B	B1	NA	NA	B	B1	NA	B2	B	B2	B2	B3	B3		X	B1	B1
		Non-Residential	B2	B2	B1	B	NA	NA	B1	B	NA	B2	B2	B	B1	B2	B3		X	B1	B1
Cat. 4 (CX, I1, I2, EBURD		CX	B3	B3	B2	B1	NA	NA	B3	B3	NA	B3	B3	B2	B	B	B		X	B3	B3
		I1	B3	B3	B3	B2	NA	NA	B3	B3	NA	B3	B3	B2	B	B	B		X	B3	B3
		I2	B3	B3	B3	B3	NA	NA	B3	B3	NA	B3	B3	B2	B	B	B		X	B3	B3
		EBURD	B3	B3	B3	B2	NA	NA	B1	B	NA	B1	B1	B	B	B	B		X	B2	B2
Cat. 5 (Public)		P1	X	X	X	X	X	X	X	X	X	X	X	X	B1	B1	B1		X	X	X
		P2	B2	B2	B1	B1	NA	NA	B2	B2	NA	B1	B1	B1	B3	B3	B3		X	B	B
		P3	B2	B2	B1	B1	NA	NA	B2	B2	NA	B1	B1	B1	B3	B3	B3		X	B	B

For Proposed Development in EBURD, please see Section 27-905, for landscaping standards.

B. STANDARD BUFFERYARD TYPES

The bufferyard dimensional and planting requirements are established in Table 27-1200.4, and a menu of landscape points is established in Table 27-1200.5. Landscape point allocations may be enhanced through the use or conservation of bonus materials as identified in Table 27-1200.6.

1. Standard Types of Bufferyards

Different buffer widths and planting requirements may be specified in this section according to the following standard landscape buffering types:

Table 27-1200.4: Standard Bufferyard Types

Requirement	BI	B2	B3
Planting Area Width (min. avg., ft)	6	10	10
Total Points Required (per linear foot of property line)	0.30 points per lin. ft.	0.50 points per lin. ft.	1.1 points per lin. ft.
Min. Tree Points	none required	0.35 points per linear ft.	0.60 points per linear ft.
Min. Shrubs/Plant Points	0.10 points per linear ft.	0.05 points per linear ft.	0.05 points per linear ft.
Max. % Non-organic Landscape Materials	25	25	25
Max. Organic Groundcover in Turf Grass	Not permitted	N/A	N/A
Opaque Screen Fence	Optional	Optional	Required
Open Fence	Optional	Optional	N/A

Bufferyard type B - Requires 1 tree every 70 feet along shared property line, with drip irrigation to each tree.

2. Design

Placement and landscaping design shall be at the discretion of the developer, in consultation with the landscape architect or landscape designer, including the placement of the required trees within the required bufferyard.

3. Location and Calculations

(a) Bufferyard depth is measured from the property line inward. Where a buffer area overlaps another buffer area, the area of overlap of one bufferyard shall be subtracted from the total required landscape point calculation to avoid double counting.

(b) Bufferyards may be located within required yards and setbacks.

(c) Access driveways shall not be subtracted from the linear frontage in calculations of the amount of landscaping required. If there are driveways along the frontage or property line, required landscaping shall be condensed into the remaining site perimeter landscaping area.

4. Landscape Points

(a) Required bufferyard landscaping is calculated in landscape points. The following table identifies the landscape points awarded for various planted or preserved landscape materials. Plant material standards are provided in Section 27-1210.

Table 27-1200.5: Landscape Points

Landscape Material	Landscape Points		
	Newly Installed (caliper)	Newly Installed Naturalized (caliper)	Existing Retained (diameter)
Deciduous Trees:			
Greater than 8”	n/a	n/a	27
From 4” to 8”	n/a	n/a	17
From 2.5” to 4”	21	27	n/a
From 1.5” to 2.5” or multi-stem	13	17	n/a
Coniferous Trees, Height:			
Greater than 10’	21	25	27
From 8’ to 10’	13	15	17
From 6’ to 8’	9	9	12
Shrubs, Plants & Ground Cover:	**Points per square feet**		**Points per square feet: naturalized**
Perennials/ground cover	17 per 500		27 per 500
Annual flower bed	17 per 500		22 per 500
Lawn grass	13 per 1000		n/a
Hardscape Materials:	**Points**		
Split rail fence	0.20 per lineal foot		
Screening fence (opaque)	0.40 per lineal foot		
Organic mulch	13 per 500 sq. ft.		
Ornamental pavers, decorative rock mulch	6 per 250 sq. ft.		
Landscape boulders, 3 feet or greater in height	10 per boulder		
Seating	0.40 per linear foot		
Public amenities (See Sec. B.4(b))	10 per amenity		

(b) Public amenities may be included in a bufferyard that is generally accessible by the public or by adjacent residential development. Public amenities shall meet the following standards:

(1) Outdoor seating plaza or sheltering structure with a minimum useable area of 180 square feet.

(2) Public art, including but not limited to sculptures, fountains, clocks, or murals with an installed value equal to or greater than ½ of one percent of the construction value of the structure.

(3) Sidewalk planters between the sidewalk and the building.

(4) Pedestrian paths that connect residential development to the adjacent development or to an existing or proposed public walkway system.

5. Bonus Calculation

(a) Bonus landscape points may be awarded for landscaping that meets the following standards:

Table 27-1200.6 Bonus Landscape Points

Retained Existing Trees and Plant Materials	Bonus Landscape Points (% increase)
Trees of exceptional quality[1] due to size, large canopy cover, trunk diameter, rareness, age, or species	25
300+ square feet with a minimum of 1 tree of 4" caliper or greater or 10 feet in height or greater	15
500+ square feet with a minimum of 2 trees 4" caliper or greater or 15 feet in height or greater	20
800+ square feet with a minimum of 3 trees 4" caliper or greater or 18 feet in height or greater	25
Use of Local, Naturalized Vegetation in New Planting	
Use of 50 – 75% local, naturalized plant materials	10
Use of 75 – 99% local, naturalized plant materials	15
Use of 100% local, naturalized plant materials	20
Low Impact Development (LID) (Parking lot only)	
Incorporation of City-approved low impact development BMP in a required landscape area	20
Notes:	
1 – Populus, Elm, and Ash species do not qualify for this bonus	

(b) Landscape and Bonus Point Standards

(1) Points awarded for retained vegetation in perimeter buffers may only be applied in the buffer area along the same lot line where the vegetation is found.

(2) Any trees preserved on a site in required landscaping areas that meet the specifications in this section and are not identified on the Billings Plant List may, at the discretion of the Zoning Coordinator, be credited toward meeting the tree requirements of any landscaping provision of this article.

(3) Any tree for which landscape points or bonus points are given shall be in a condition that encourages long-term survival and in a location that conforms to the intent and standards of this section.

(4) Existing trees that are preserved and receive landscape points or bonus points shall be marked on the landscape plan and the amount of bonus points shall be indicated. Any trees which receive points and are later removed shall be replaced with the number of trees for which landscape points was received.

SECTION 27-1206 OFF-STREET PARKING LOT LANDSCAPING

A. APPLICABILITY

The following requirements shall be applicable to all new off-street surface parking lots with 10 or more spaces.

B. REQUIRED LANDSCAPE AREA

1. All surface parking lots shall incorporate the following interior landscaping:

(a) All parking stalls shall be within 132 lineal feet of a required parking lot landscape area. For purposes of determining tree spacing, parking spaces may be counted in any rational sequence.

(b) Landscape terminal islands that are a minimum of nine feet wide and four feet shorter than the adjacent parking stalls in the parking row shall be provided at the ends of each parking row.

(c) Parking lots with 100 or more spaces shall also be divided into subsections of no more than 50 spaces with landscape divider strips shall be placed between the sections.

Fig. 27-1200.D Sample parking lot landscape area layout

Fig. 27-1200.E Left: Landscape islands with storm water infiltration.
Fig. 27-1200.F Right: Landscape divider with bio-swale

C. LANDSCAPE AREA DESIGN

1. A sidewalk located within a landscape divider strip that separates either parking rows or parking lots shall be allowed to count 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:

   (a) The sidewalk has a five-foot wide walking path and shall add two feet for vehicle overhang, if the sidewalk abuts a parking stall.

   (b) The sidewalks extends the entire length of the divider strip. The ends of the sidewalk shall be ADA compliant.

(c) The sidewalk is bordered on at least one side by landscaping, of which the sidewalk cannot account for more than 50 percent of the area of the divider strip.

2. Landscaped areas within parking lots or along the perimeter of the property must be protected from vehicular traffic through the use of concrete curbs, extruded asphalt or other approved permanent barriers.

3. No paving shall be permitted within four feet of the center of a tree.

D. PLANT MATERIALS

1. The ground plane of all of the required parking lot landscaped areas shall be planted in a minimum of 75 percent organic landscaping material that will remain in place through typical local weather, with a maximum of 25 percent of the ground plane covered in inorganic landscaping material. Approved sidewalks are not counted toward the percentage of inorganic material unless specifically provided for in this section.

   (a) A landscape divider strip shall be planted with one tree every forty feet.

   (b) Islands shall be planted with one tree in addition to the required ground plane coverage. Turf grass is prohibited in or on parking lot landscape islands. Deciduous canopy trees are encouraged within the parking lot.

2. Clear vision areas where the parking lot access drive enters from a public right-of-way must be maintained as required in Section 27-1803.H. Plant materials within these clear vision areas must be trimmed down to no more than 30 inches above grade, or in the case of trees, the lowest branch height trimmed up to 8 feet above grade.

E. WATER CONSERVATION DESIGN

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

2. Parking lots shall be designed so as not to drain into or across public sidewalks, adjacent property, or directly into natural watercourses. Curbs used to protect landscape islands should have 18 to 24-inch-wide curb cuts at frequent intervals to allow storm water infiltration. The surface of landscape islands and divider strips shall be concave to help channel surface water runoff. The following drainage structures are permitted within parking lot landscape areas:

   (a) Rain gardens,

   (b) Bio-swales,

   (c) Drainage easements, and

   (d) Drainage inlets.

Fig. 27-1200.G: Curb cut to allow drainage

F. SNOW STORAGE

1. A portion of the site equal to five percent of the surface areas to be plowed shall be provided as one or more snow storage areas that:

   (a) Are adjacent to and within 20 feet of the edge of the pavement to be plowed;

   (b) Are located so as not to interfere with the safe movement of pedestrians and traffic, including outside of any required clear vision areas as identified in Section 27-18xx;

   (c) Are provided with appropriate drainage and where refreezing of any sheet drainage will not pose safety issues; and

   (d) Remain accessible, useable, and clear of obstructions.

2. Plowed snow may be placed in a required bufferyard or parking lot interior landscape area that has been designed as follows:

   (a) Snow storage areas shall be planted with plant materials that are salt-tolerant and that can withstand the weight and compaction of the snow. Mulch shall cover less than 30 percent of the landscape area within three years of installation.

   (b) Trees, shrubs and other woody plants shall be protected from adjacent snow storage areas by separation by a minimum at grade separation from tree trunks or shrubs of four horizontal feet, or planters, elevated landscaping elements, walls or other approved mechanisms.

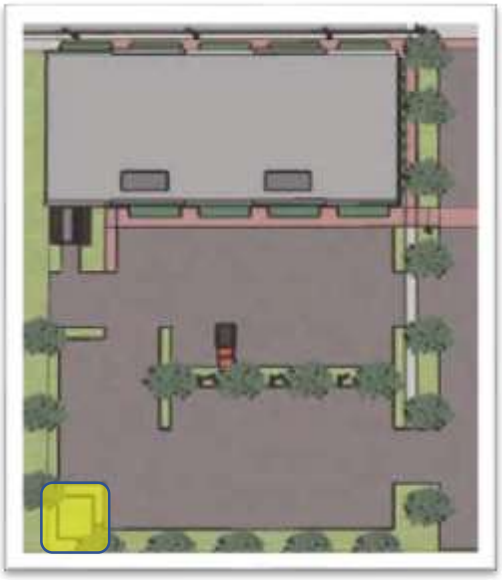


Fig. 27-1200.H Snow storage area

SECTION 27-1207 UTILITY AND SERVICE AREA SCREENING

A. SINGLE FAMILY RESIDENTIAL

To the maximum extent practicable, utility equipment on residential lots shall be located behind the front building line of the house and screened from public view by an opaque wall, fence, or landscaping screen. Alternative locations may be approved by the planning and community services director to allow for the retention of existing trees on wooded sites.

B. MULTIFAMILY AND NON-RESIDENTIAL

1. Screening Generally

(a) Site Screening

All multiple-family residential projects, manufactured and mobile home parks, and all mixed-use and non-residential projects shall include on the landscape plan, a detailed drawing of enclosure and screening methods to be used in connection with trash bins, recycle bins, storage yards, service areas, loading docks, and equipment areas on the property.

(b) Visual Screening

Structures shall be designed and screened so that windows and decks do not overlook neighboring residential properties in a manner that intrudes on privacy.

2. Mechanical Equipment

(a) Applicability

(1) The standards of this section shall apply to all of the following:

(i) Electrical and gas-powered mechanical equipment;

(ii) Ductwork and major plumbing lines used to heat, cool, or ventilate; and

(iii) Power systems for the building or site upon which the equipment is located.

(2) Roof or wall-mounted antennas and vent openings shall not be considered mechanical equipment for purposes of these screening standards. The standards of this section are not intended to apply to solar arrays, solar energy collection systems, or small wind energy systems, if such systems are otherwise in compliance with applicable building codes and development standards requirements.

(b) Screening Standards

(1) Roof-Mounted Mechanical Equipment: Roof-mounted mechanical equipment shall be screened by a parapet wall or similar feature that is an integral part of the building's architectural design. The parapet wall or similar feature shall be of a height equal to, or greater than the height of the mechanical equipment being screened. Roof-mounted mechanical equipment, except solar energy collection systems, is prohibited on single-family residential dwellings.

(2) Wall-Mounted Mechanical Equipment: Wall-mounted mechanical equipment, except air conditioning equipment (e.g., window AC units), that protrudes more than six inches from the outer building wall shall be screened from view by structural features that are compatible with the architecture of the subject building. Wall-mounted mechanical equipment that protrudes six inches or less from the outer building wall shall be designed to blend with the color and architectural design of the subject building.

(3) Ground-Mounted Mechanical Equipment: Ground-mounted mechanical equipment shall be screened from view by landscaping, a fence, or a decorative wall that is integrated into the architecture of the structure. The fence or wall shall be of a height equal to, or greater than the height of the mechanical equipment being screened.

(4) Alternate Screening: Alternate screening methods that meet the intent of this section may be approved by the Planning and Community Services Director. Alternative screening might include, but shall not be limited to, increased setbacks, increased landscaping, grouping the equipment on specific portions of a site, architectural elements, and painting or otherwise causing the equipment to blend with the site or structure.

3. Service, Loading, and Storage Areas

(a) Applicability

These screening requirements are applicable to all service, loading, and storage areas. Applicants are encouraged to locate the types of features listed in this

subsection where they are not visible from off-site, or from public areas of a site, so that screening is unnecessary.

(b) Placement

(1) All service areas shall be placed at the rear, on the side of, or inside buildings.

(2) No service area shall be visible from a public right-of-way, or from adjacent residential areas.

(3) Service areas and access drives shall be located so they do not interfere with the normal activities of building occupants or visitors on driveways, walkways, in parking areas, or at entries.

(c) Outside Storage Areas and Loading Docks

(1) All storage areas, service areas, and loading docks visible from any public street right-of-way must be screened according to one or more of the screening options provided in these standards. Property zoned industrial must also screen from view, all outside storage areas that are adjacent to, or can be seen from non-industrial zoned property.

(2) Screening shall be a minimum height of eight feet to screen truck berths, loading docks, areas designated for permanent parking, or storage of heavy vehicles, equipment, or materials.

(3) Screening shall be long enough to screen the maximum size trailer that can be accommodated on site. Sites that can accommodate a full-size tractor-trailer shall provide a 48-foot wing wall, where wing walls are used.

(d) Shopping Cart Storage

(1) All shopping carts shall be stored either inside the building they serve or adjacent to the building in an area that is screened from public view.

(2) Shopping cart corrals shall be made of a material suitable for withstanding weathering and rusting.

(3) Shopping cart storage shall not be located in required off-street parking spaces.

SECTION 27-1208 TREE PROTECTION DURING CONSTRUCTION

A. GENERAL REQUIREMENTS

If the developer and designer intend to acquire landscape or bonus points for retained trees and landscaping, then tree protection during construction shall conform to the requirements of this section and the requirements relevant to construction in the American National Standards Institute (ANSI) publication A300 standards.

B. PROTECTIVE FENCING REQUIRED

Tree protection requirements shall apply to existing trees that are to receive credit for preservation. Such trees shall be surrounded by a temporary fluorescent colored fence that shall be constructed around the drip line of each tree, or group of trees to be preserved, prior to any grading or construction on the property.

1. The fencing shall be rigidly supported and maintained during all construction periods at a minimum height of four feet above grade.
2. All trees required to be fenced shall be clearly marked in a method approved by the Zoning Coordinator to notify inspectors the subject tree, or trees, are to be fenced at all times during construction.
3. Fencing may only be removed with the Zoning Coordinator's written permission, or upon approval of the final landscaping inspection.

C. OWNER'S RESPONSIBILITY

The owner or developer shall be responsible for the erection of any and all fences necessary to protect any existing or installed trees from damage both during, and after construction.

D. SHOWN ON SITE OR LANDSCAPING PLAN

The tree protection fencing shall be clearly shown on the site plan or landscape plan.

E. INSPECTION PRIOR TO LAND DISTURBANCE

All tree protection measures shall be inspected and approved by the applicant or landscape design professional responsible for the final landscape plan prior to start of any land disturbing activities.

F. PROHIBITED ACTIVITIES

The following activities are restricted or prohibited within the area contained by the tree protection fence:

1. Storage is prohibited within the fenced areas, including storage of heavy equipment, building materials, or soil.
2. Installation of underground utilities should be avoided within the area enclosed by the temporary fence. If installation of underground utilities is necessary, tunneling shall be used under the entire tree protection area. Tunneling must occur below the main lateral level of roots, or at least two feet below the surface, whichever is greater. Tunneling shall be done from both directions. Soil shall be backfilled in the tunnels.
3. Road and grade cuts (for basements and foundations) shall be outside the area enclosed by the temporary fence.
4. Minimal grading within 20 feet of the tree protection area may be allowed provided it does not impound water during wet periods or increase the drainage rate so that water tables are lowered.

G. TIME LIMIT FOR COMMENCING CONSTRUCTION AFTER CLEARING LAND

Where land is cleared and construction does not begin within 9 months from the date of the building permit issuance, the owner shall be required to replant or re-seed the cleared property to its original vegetative cover based on tree counts and other information originally submitted to the City. A six-month extension of this limit may be issued at the discretion of the Zoning Coordinator.

SECTION 27-1209 LANDSCAPING MATERIAL STANDARDS

A. COMPLIANCE WITH LANDSCAPE PLAN

1. Plants shall conform to the measurements specified in the plant schedule submitted with the landscaping plan.

2. Homeowner associations and other similar organizations may not establish landscaping standards that conflict with the naturalized plant or water conservation provisions of this article as approved in an individual building permit landscape plan.

3. 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 and plant success will be maximized.

B. PLANT SELECTION

1. Tree and plant materials shall be selected for: energy efficiency and water efficiency; adaptability and relationship to the native environment; color, form and pattern; ability to provide shade; soil retention; and resistance to fire. The overall landscape plan shall be integrated with all elements of the project, such as buildings, parking lots, and streets, and to achieve a desirable microclimate and minimize energy demand.

2. The Billings Plant List shall identify appropriate tree and plant species for use in required landscaping areas. Alternate appropriate trees and plants may be used on a site as recommended by a Landscape Architect or Landscape Designer.

3. Naturalized vegetation within sensitive land and resource areas shall be preserved unless the City approves an alternative naturalized landscaping plan that preserves significant desirable naturalized vegetation.

4. If turf areas are included in landscaping, they must use a sod or seed mix specifically cultivated to thrive in the conditions present at the particular site.

   (a) The use of non-naturalized, high water consumptive turf or other monoculture seeding is discouraged.

   (b) The applicant must provide information regarding the composition of a sod or seed mix as part of the detailed plant list as required.

   (c) No person or organization shall impose private covenants, conditions, deed clauses, or other agreements that require the installation of turf or prevent the utilization of water efficient landscaping, provided such landscaping receives appropriate approval. No person shall prohibit landscaping materials and designs solely on the basis that they make use of water-efficient landscaping.

C. MEASUREMENT

1. Caliper

(a) Caliper measurement shall be taken six inches above the ground level for field grown stock and from the soil line for container grown stock, which should be at or near the top of the root flare, and six inches above the root flare for bare root plants, up to and including the four-inch caliper size interval (i.e., from four inches up to, but not including, 4½ inches). If the caliper measured at six inches is four and one-half inches or more, the caliper shall be measured at 12 inches above the ground level, soil line, or root flare, as appropriate.

Note: Seldom are tree trunks perfectly round. The most accurate measurement will result from the use of a diameter tape. Caliper measurements taken with manual or electronic “slot” or “pincer” type caliper tools should be the average of the smallest and largest measurements.

(b) Trees with multiple stems: When a caliper measurement is included in the specifications, the specifications shall also include the method used to determine the caliper measurement, shown below:

(1) The number of required trunks and the minimum caliper of each required trunk.

(2) The caliper of only the largest trunk, with all other required trunks within a certain caliper range of the largest trunk (e.g., by percent or within two smaller caliper sizes).

(3) The caliper specified is one-half (1⁄2) of the caliper of the three largest required trunks.

(4) The caliper specified is the average of all required trunks.

2. Height and Spread (Coverage)

(a) Height measurement shall be taken from ground level for field grown stock and from the soil line for container grown stock, which should be at or near the top of the root flare, and from the root flare for bare root plants.

(b) Spread measurement shall be the average spread of the branches of the plant, without leaves for deciduous shrubs, including leaves for evergreens.

(c) For deciduous shrubs, height measurement shall extend to the top of all canes meeting the height specification, as appropriate to the plant type.

(d) For evergreens, height measurement shall not be taken at the tip of the leader but should be taken at the midpoint between the uppermost whorl(s) and the tip of the leader.

D. GENERAL STANDARDS

The following criteria and standards shall apply to landscape materials and installation:

1. Plant Materials List

The planning division shall maintain a suggested and prohibited plant list as necessary to identify plant material requirements or prohibitions within the City. Where a species is chosen for a landscape plan that is not identified on a City plant list, the applicant shall provide information about growth and spacing characteristics on the landscape plan. Plant information shall be taken from objective sources, including professional landscape organization websites or nursery cut sheets. Plant materials identified in any prohibited plant list may not be used in landscaping.

2. Quality

All trees and shrubs used for landscaping shall have well-developed leaders, tops, and roots characteristic of the species, cultivar, or variety per American National Standards Institute (ANSI) Z60.1, a copy of which is on file in the planning office, and shall show evidence of proper nursery pruning per the same standard. All plant materials must be free of insects, diseases, mechanical injuries, and other objectionable features at the time of planting.

3. Coverage

(a) Grass, ground cover, shrubs, organic mulch, and other organic landscape materials shall be used to cover at least 75 percent of open ground. Shade provided by trees, shrubs, or structures, or anything not on the horizontal plane of the site does not qualify as ground cover.

(1) Open ground includes all fill slopes and hillsides, regardless of the angle of the slope.

(2) Open ground also includes all fill rock and shot rock slopes that must be covered with an appropriate depth of soil to allow for the healthy growth of the coverage.

(3) Inorganic material can be incorporated into a landscape plan where appropriate and can be used to cover up to 25 percent of open ground.

(b) No area required to be landscaped shall include any artificial trees, plants, or turf; impervious surfacing other than sidewalks, decorative pathways or other public amenities; or any carpeting designed as a visual substitute for lawn or other groundcover.

(c) Areas devoted to pasture, farm crops, or undeveloped areas of a parcel shall not be considered landscaped for the purpose of fulfilling any landscape requirements.

4. Trees

Trees used for landscaping shall be a species common to, or adapted to this area of the state, and not identified as prohibited on any City plant list. Trees shall have the following characteristics:

(a) Size

(1) Canopy trees shall be deciduous trees that have a minimum height of 30 feet at maturity. All canopy trees shall have a caliper width of at least two (2) inches at time of planting.

(2) Understory trees shall be deciduous trees that have a maximum height of less than 30 feet at maturity. All understory trees shall have a caliper width of at least one and one half (1.5) inches at time of planting.

(3) Coniferous trees shall have a minimum height of 20 feet at maturity. All coniferous trees shall be at least four feet in height at time of planting.

(4) Street trees shall be canopy trees.

(b) All trees shall conform to the American National Standards Institute (ANSI) Z60.1, a copy of which is on file in the planning office.

5. Shrubs, Hedges, and Ornamental Grasses

(a) Shrubs shall have the following characteristics:

(1) Small or dwarf deciduous shrubs that typically do not grow to a mature height or spread exceeding three feet shall have a minimum height of twelve inches with a minimum of four canes.

(2) Intermediate deciduous shrubs with a mature height or spread of three to seven feet shall have a minimum height of 18 inches with a minimum of four canes.

(3) Large or tall deciduous shrubs with a mature height exceeding seven feet shall have a minimum height of 24 inches and a minimum of five canes. Where these shrubs have a narrow habit the minimum number of canes may be reduced to one.

(b) Ornamental grasses shall have a minimum two-gallon pot size at time of planting.

(c) Hedges, where installed as a bufferyard screen, shall be planted and maintained so as to form a continuous, unbroken, solid, visual screen which will be at least

three feet in height at the time of planting and achieve a minimum height of six feet within five years.

6. **Ground Cover, Perennials, and Annual Planting Areas**
   Ground covers, perennials, and annual planting areas used in lieu of grass in whole, and in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage at maturity.

7. **Lawn Grass**
   Grass areas may be sodded, plugged, sprigged, or seeded, except that sod or other erosion control products shall be used in swales, berms, or other areas subject to erosion.

8. **Naturalized Plants and Grasses**
   Naturalized plants and grasses shall not be considered weeds that are subject to BMCC 25-302; however, the area planted in naturalized plants and grasses shall be kept weed-free to maintain this exemption. The owner shall provide documentation to show the seed mix used for naturalized plants and grasses.

9. **Fractions in the calculation of number of trees and shrubs.**
   In the calculation of trees and shrubs for any required landscaping, all fractions shall be rounded to the nearest whole number.

E. INTERFERENCE AND VISIBILITY

1. All landscaping shall be sized and located so that it does not interfere with utilities, easements or fire hydrants.
2. All landscaped areas must comply with the clear vision area standards for intersections as established in Section 27-1803.H.

F. IRRIGATION SYSTEMS

1. **Required and Optional Systems**
   (a) Automatic irrigation systems are not required for single unit or two-unit residential dwellings on single lots or in the CBD.
   (b) Automatic irrigation systems shall be installed in required landscape areas in all other zone districts.

2. **General Standards**
   The following standards shall apply to all in-ground permanent irrigation systems:
   (a) The landscape plan shall identify the area of approximate installation of an automatic irrigation system, its maintenance, and intended uses. The landscape plan must note and delineate all irrigated and sod areas.
   (b) Irrigation systems installed with new development must be installed prior to plant materials.
   (c) Irrigation systems with a precipitation rate exceeding 0.75 inches per hour shall be prohibited on areas exceeding 1,000 square feet with a slope greater than 30 percent unless:
      (1) Infiltration trenches, vegetated swales, bio detention areas, and similar facilities as approved by the City are employed to reduce runoff, or
      (2) The landscape designer specifies an alternative design or technology that clearly demonstrates to the City's satisfaction no runoff or erosion will occur.

Prevention of runoff and erosion must be confirmed during the final landscape inspection.

3. Low-Flow Irrigation Systems

Low-flow irrigation devices shall be used in all landscape areas that are less than eight feet wide in any direction to avoid overspray and runoff.

(a) System design shall be either surface drip system, subterranean drip system, micro-spray, or a combination of these systems.

(b) A hose bib system may be used for irrigation when a landscape area is less than 1,000 square feet in size and when all portions of the area are within 100 feet of a hose attachment.

4. Automatic Operation

(a) All systems shall be equipped with timers and scheduled to operate during evening or early morning hours to minimize evaporation rates.

(b) All automatic underground sprinkler systems shall be equipped with rain and freeze sensors.

SECTION 27-1210 FENCES, WALLS AND HEDGES

A. APPLICABILITY

1. 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.
2. "Fence" for the purposes of this section means any fence, wall or hedge.
3. No fence shall be erected or maintained in a public right-of-way.
4. All fences shall require a permit from the planning division.

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

1. Front Yard

The maximum height for fences, walls, or hedges in a required front yard setback is four feet. Front yard setbacks are defined in the applicable zone district.

2. Side and Rear Yards

(a) Fences, walls, or hedges between a height of four and six feet may be erected or maintained in any side or rear yard setback. Fences may not block a clear vision area pursuant to Section 27-1803.H.

(b) Any fence, wall, or hedge in excess of six feet shall meet all of the yard setback requirements for structures as defined in the applicable zone district and will require a building permit.

3. Exceptions

The setback requirements described above shall not apply in the heavy commercial (CX), EBURD-CW, EBURD-IS, light industrial (I1), or heavy industrial (I2) zones.

D. SETBACKS FOR CLEAR VISION AREAS

No fence, wall, or hedge greater than 30 inches in height may be erected or maintained within a clear vision area in any zone district, pursuant to Section 27-1803.H.

E. MATERIALS

1. Residential and Commercial Zones

(a) Generally: All fences in residential, and commercial zoning districts shall be constructed from materials which are commonly used for fencing.

(1) Commonly used fence materials include wood, brick, stone, split railing, chain-link, wire, vinyl, ornamental iron work.

(2) Prohibited materials: Railroad ties, intact wood pallets, tires, or rubble.

(3) Salvaged material that do not meet one of the commonly used fence materials identified above are generally prohibited except as provided in this section. Salvaged material may be used for fencing where:

(i) The appearance of the completed fence is substantially similar to and consistent with the design of a fence constructed of commonly-used materials,

(ii) The salvaged material fence is constructed according to generally applicable fence construction standards, and

(iii) The salvaged material is in good repair and capable of long-term maintenance by the property owner.

(4) Materials not listed are subject to special review.

(b) Bufferyard Fencing: Required bufferyard fencing may be constructed of any of the materials identified in Section E.1(a) along with powder-coated or vinyl coated chain link fence.

(1) Where an opaque screening fence is required between uses – such as residential next to heavy commercial or industrial – solid vinyl, wood or similar solid fencing, or powder-coated or vinyl-coated chain link fence with opaque (solid) inserts shall be installed.

(2) An existing fence of the proper height and materials that is located on the property line where a bufferyard fence is required may be retained. Where an existing fence is not compliant with this section, the property owner who is required to install the bufferyard fence shall replace the existing fence with a compliant fence.

2. 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, intact wood pallets, rubble, or salvaged material.

(a) 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.

(b) Barbed wire is only permitted where an eight-foot tall fence is permitted. The barbed wire must be placed on top of the fence and must be located a minimum of eight feet from the ground. Electric fencing is not permitted.

(c) Materials not listed are subject to special review.

SECTION 27-1211 ADMINISTRATIVE RELIEF

A. PURPOSE

Administrative relief is provided to add flexibility in the application of a specific landscaping regulation when a standard is inapplicable or inappropriate to a specific use or design proposal. Administrative relief may be applied up to a total of 10 individual landscape standards for any site.

B. POLICIES

1. The planning division recognizes that the specific landscape requirements in this section cannot and do not anticipate all possible landscape situations. In addition, the planning division 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 division may grant administrative relief in the event of these situations and proposals.

2. 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 division generally assigns the following priorities for compliance with the landscape requirements:

   (a) First, adjacent residential uses should be buffered,

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

   (c) 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.

3. 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.

4. 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.

C. APPLICATION

1. A written request for administrative relief shall be submitted to the Zoning Coordinator 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 division's use which will include a block for the decision of approval/denial, the Zoning Coordinator signature, and decision date. The written request with decision shall be attached to the plan or retained in the applicable file, as appropriate.

2. The Zoning Coordinator 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.
   (d) Proportional compliance as outlined in this section is not appropriate for the location and development planned.
3. The Zoning Coordinator shall render a decision on the request within 30 calendar days of receipt of the request and all required information. An appeal of the Zoning Coordinator's decision may be made to the board of adjustment with jurisdiction over the property, within 30 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.

SECTION 27-1301 GENERAL APPLICABILITY

A. OFF-STREET PARKING REQUIRED

1. Minimum off-street parking in any district other than CBD or EBURD shall be provided pursuant to this section at the time of erection of any building or structure or at the time of any change in occupancy of any building or structure.
2. No minimum off-street parking is required in the CBD or EBURD zone districts except as specifically provided in this section. Where off-street parking is provided, it shall meet the standards of this section.
3. Required off-street parking areas must be used for parking only. Automobile sales, storage, and other uses are prohibited unless specifically permitted by another section of this Zoning Code.

B. EXPANSION, ENLARGEMENT, AND NONCONFORMITIES

1. 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 Section 27-1100, Proportionate Compliance.
2. Changes to the size or location of existing off-street parking areas in NX, NO, NMU, and CMU districts shall be done in a manner that brings the parking area into greater compliance with the zone district site standards. See Section 27-1500, Nonconformities.
3. Nothing in this section 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 those uses or buildings are nonconforming, provided that the new parking can be provided in compliance with this section and the requirements of the zone district.

C. ZONE DISTRICT GROUPINGS

When reference is made to a group of zone districts, the following individual districts shall be included:

District Groupings Used in this Section	
Residential	All N districts, RMH
Mixed-Use	All NX districts, NO, NMU, All CMU districts
Commercial	C3, CX
Industrial	I1, I2
Public	All P districts
EBURD	All EBURD districts

SECTION 27-1302 CALCULATION OF REQUIRED PARKING

A. REQUIRED PARKING

1. Required off-street parking spaces shall be provided in conformance with Table 27-1300.1, Off-Street Parking Standards, unless modified by Article 27-1100, Proportionate Compliance.
2. In the case of mixed uses, the total requirements for the various uses shall be computed separately unless the joint use provisions of Section 27-1304 apply.

B. CALCULATION OF REQUIRED PARKING

1. When determination of the number of parking or loading spaces results in a requirement of a fractional space, any fraction shall be rounded up and counted as one parking space.
2. When there are multiple structures on a lot or multiple uses in a structure, parking shall be calculated separately for each different use area in a building or on a site, including all accessory uses.
3. Parking spaces required on a per-employee basis shall be based on the maximum number of employees on duty and/or residing on the premises at any one time.
4. Parking spaces required based on the number of beds in a facility shall be calculated based on the number of beds accommodated in the design capacity of the facility.
5. When the standards use seating as a unit of measurement, all calculations shall be based on the number of fixed seats. If fixed seats are not provided, then parking shall be determined at a rate of one space per four occupants unless otherwise specified in Table 27-1300.1, Off-Street Parking Standards.
6. When the standards use the number of occupants as a unit of measurement, all calculations shall be based on the maximum occupant load, as determined by the adopted building code.
7. Surface parking spaces provided for multiple-unit structures shall not be assigned and shall be available to all residents unless approved through Section 27-1600, Site Development Plan. Where surface parking is assigned, the minimum number of spaces provided shall be increased by 20%.

Table 27-1300.1: Off-Street Parking Standards

Use	Required Parking
RESIDENTIAL	
Households Living (dwelling unit/structure)	
Dwelling, single unit, detached and attached	2 per du
Dwelling, multiple unit structure	1.5 per du + 1 guest space per 10 units; 27-1302.C.8 also applies
Dwelling unit in a mixed-use structure	2 per du
Accessory dwelling unit	Sec. 27-1009 (ADU standards)
Manufactured Home (Class A, B, C)	2 per du
Group Household Living	
Comm. Res. Facility, Large	2 + 1 per 5 beds
Comm. Res. Facility, Small	Dwelling, single unit
Fraternity/Sorority House	1 per 2 sleeping rooms or 1 per 3 beds, whichever is greater
Group Living Facility	2 + 1 per 5 beds
Retirement Home or Village	1 to 6 units: 0.5 space/du 7 to 18 units: 0.33 space/du Over 18 units: 0.25 spaces/du Minimum of 5 spaces
Travel Trailer Park/ Campground	1 space per campsite/RV site

Table 27-1300.1: Off-Street Parking Standards

Use	Required Parking
PUBLIC, CIVIC, AND INSTITUTIONAL	
Assembly	
General Assembly	1 per 4 seats in assembly area or 1 per 100 SF GFA in assembly area without seats
Libraries and Museums	1 per 1,000 SF GFA for museum and art gallery; 1 per 333 SF GFA for library
Education	
School, College or University	1 per 400 SF GFA
School, Primary and Secondary	Elementary School: 2 per classroom Middle School: 2 per classroom High School: 6 per classroom and 1 per 300 SF GFA additional enclosed floor space
School, Trade, Business, Vo/Tech	1 per 300 SF indoor GFA
Government and Public Safety	
All	1 per 300 SF GFA of space used by the public + 1 per 600 SF GFA of space not used by the public
Health Care and Social Assistance	
Adult Day Care	1 per 400 SF GFA plus 2 stacking spaces at drop-off area for adult day care in mixed-use or non-residential districts
All Healthcare, unless otherwise specified	1 per 2 beds based on maximum capacity + 1 per 350 SF GFA for areas that are not patient rooms. Healthcare facilities without patient rooms apply the 1 per 350 SF GFA standard.
Parks and Recreation	
Arboretums/Botanic Gardens/Zoos	1 per 4 occupants at capacity
Golf Course/Swimming Pool (Public)	Golf: 4 per hole plus 2.5 per 1,000 sf GFA in clubhouse; Pool: Sec. 27-1302.D
Public Parks and Playgrounds	Sec. 27-1302.D
Public Recreation Facilities	Sec. 27-1302.D; Playfields (soccer, baseball, etc.) shall have minimum of 20 spaces per field
COMMERCIAL	
Amusement and Recreation	
Amusement & Recreation, Indoor	6 per 1,000 SF GFA
Amusement & Recreation, Outdoor	1 per 4 occupants at capacity
Adult Entertainment	1 per 200 SF GFA
Casino, Large	1 per 150 SF GFA
Animal Sales and Services	
Boarding/Kennel	1 per 400 SF GFA
General Sales and Services	1 per 400 SF GFA

Table 27-1300.1: Off-Street Parking Standards

Use	Required Parking
Shelter	1 per 800 SF GFA
Veterinary, all	1 per 400 SF GFA (indoor only)
Assembly, Entertainment and Trade	
All assembly	1 per 4 seats in assembly area or 1 per 100 SF GFA in assembly area without seats
Child Care	
All child care	1 per 400 sf GFA + 2 stacking spaces at drop-off area for child care in mixed-use or non-residential districts
Commercial Service	
Broadcasting Stations and Studios	1 per 400 SF GFA
Business Service	1 per 400 SF GFA
Crematory, Funeral Services	1 per 50 SF chapel area, minimum 2
Cemetery	1 per 50 SF chapel area, minimum 2
Consumer Maintenance and Repair	1 per 400 SF GFA
Personal Service	1 per 400 SF GFA
Studio or Instruction Service	1 per 400 SF GFA
Eating and Drinking Establishment	
Restaurant	1 per 150 SF GFA
with drive-thru	1 per 100 SF GFA
Bar or Tavern	1 per 150 SF GFA
Craft Alcohol	1 per 150 SF GFA
Financial Services	
Financial and Alternative Financial	1 per 300 SF GFA
Lodging	
Boarding	1 per guest room
Bed and Breakfast Inn	2 + 1 space for each guest room
Campground/RV Park	1 per campsite/RV site
Hotel/Motel	1 per room + 1 per 300 SF meeting or restaurant and bar area
Short-Term Rental	Parking assigned to dwelling unit
Office	
Business or Professional	1 per 350 SF GFA
Medical doctor or dental clinics	Medical, dental or optical: 1 per 222 SF GFA; Professional therapy (mental health, physical, occupational, or similar): 1 per 250 SF GFA
Research and Testing Laboratories	1 per 400 SF GFA
Parking, Commercial	
Commercial, primary use	n/a
Retail Sales	

Table 27-1300.1: Off-Street Parking Standards

Use	Required Parking
Retail (all unless otherwise specified)	1 per 200 SF GFA for the first 2,000 SF + 1 per 300 SF GFA over 2,000 sq. ft. up to 100,000 SF total GFA
Retail, large format	Retail standard up to 50,000 SF GFA then 1 per 1,000 SF GFA. If part of the structure is warehouse, apply the retail standard and Table 27-1300.2 to the areas in each use.
Retail, Extended Display Floor	1 per 1,000 SF GFA
Commercial Greenhouse/Nursery	1 per 1,000 SF GFA
Outdoor Sales Lot	1 per 1,000 SF GFA sales area
Vehicle Sales and Service, Personal	
Car Wash	
Fueling Station, with or without convenience store	1 per 200 SF GFA for the first 2,000 SF + 1 per 300 SF GFA over 2,000 sq. ft.
Vehicle Sales and Rental	Sales: 1 per 1,000 SF GFA used by general public plus storage of cars for sale Rental: 1 per 250 SF GFA used by general public plus storage of cars for rent
Vehicle Maintenance and Repair,	1 per 250 SF GFA
INDUSTRIAL, WHOLESALE, AND STORAGE	
Industrial and Construction Services	
All	Table 27-1300.2
Manufacturing, Assembly, or Processing	
All	Table 27-1300.2
Natural Resource Extraction	
All	1 per site
Warehouse and Storage Services	
All	Table 27-1300.2
Waste and Salvage	
All	Table 27-1300.2
TRANSPORTATION, UTILITIES, AND COMMUNICATIONS	
Alternative Energy Production	
Solar Power Array, large/commercial	1 per site
Wind Energy Conversion Systems, large/commercial	1 per site
BioMass Conversion Systems, large/commercial	1 per site
Transportation	
Bus or Taxi Maintenance and Parking Shed	Sec. 27-1302.D

Table 27-1300.1: Off-Street Parking Standards

Use	Required Parking
Airport Passenger Terminal	Sec. 27-1302.D
Bus/Public Transit Terminal	Sec. 27-1302.D
Train Passenger Terminal	Sec. 27-1302.D
Train/Railroad Freight Terminal, Switching Yard	Sec. 27-1302.D
Utilities and Public Facilities	
Major	Table 27-1300.2
Minor (e.g., lift stations, substations, pump stations)	Table 27-1300.2
Offices, Buildings, Yards, and Land	Table 27-1300.2
Pipelines (except natural gas)	n/a
Transmission and Distribution Lines	n/a
Wireless Communication Facilities	
Amateur Radio, greater than 100' high	1 per site
Land Mobile Radio and Broadcast Antennae	1 per site
Wireless Communication Facilities	Sec. 27-1302.D

C. PARKING FOR INDUSTRIAL AND WAREHOUSE USES

Uses that reference this subsection in Table 27-1300.1, shall provide the minimum number of parking spaces identified in Table 27-1300.2. The total number of required spaces is cumulative based on the variety of different functions present in a single structure or lot.

Table 27-1300.2: Parking for Industrial, Wholesale, and Storage Uses

Use or Activity		Minimum Required
Office or administrative area		1 per 300 GFA
Indoor sales area		1 per 200 GFA
Retail		Table 27-1300.1
Assembly, vehicular service, or manufacturing area:	First 1-3,000 sf of floor area:	1 per 200 GFA
	Additional SF over 3,000 calculated as follows:	
	3,001-5,000 sf of floor area	1 per 500 GFA
	5,001-10,000 sf of floor area	1 per 750 GFA
	10,001or more sf of floor area	1 per 1,250 GFA
Indoor storage or warehousing area		1 per 1,000 GFA or 1 per employee on largest shift
Outdoor sales, display, or storage area (3,000 sf or less)		1 per 750 GFA
Outdoor sales, display, or storage area (more than 3,000 sf)		1 per 1,000 GFA

D. USES WITH VARIABLE PARKING DEMAND

Uses that reference this subsection in Table 27-1300.1 have widely varying parking demand characteristics, making it difficult to establish a single parking standard. Upon receiving a development application for a use subject to this subsection, the Planning & Community Services Director, with input from the Engineering Division, shall apply the parking standard specified for the listed use that is deemed most similar to the proposed use or establish

minimum parking standards on the basis of a parking study prepared by the applicant. Such a study shall include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE) Parking Generation, or other acceptable estimates as approved by the zoning administrator, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study shall document the source of data used to develop the recommendations.

E. ADA ACCESSIBLE PARKING

All parking lots shall provide the minimum number of accessible parking spaces required by the federal Americans with Disabilities Act (ADA). All accessible parking spaces shall meet the design and location requirements of the Americans with Disabilities Act (ADA). Accessible parking spaces shall be counted toward the minimum number of spaces required in Tables 27-1300.1. and 1300.2

F. MAXIMUM NUMBER OF PARKING SPACES

1. **Calculation**

   The maximum permitted number of parking spaces shall be determined as follows:

Table 27-1300.3: Maximum Parking

Number of spaces required	Parking May not Exceed the Minimum Number of Spaces Permitted by More than:
1 to 50	20%
51-500	10%
501 or more	50 spaces

2. **Maximum Surface Parking Calculation Exceptions**

   For the purpose of calculating parking requirements, the following types of parking spaces shall not count against the maximum surface parking requirement:

   (a) Accessible parking;

   (b) Vanpool and carpool parking;

   (c) Spaces with electrical vehicle charging stations, up to a maximum of two per 50 parking spaces;

   (d) Parking spaces which are used seasonally (March 1-Novermber 1) to provide bicycle parking;

   (e) On-street parking adjacent to the lot or lots on which the parking is located; and

   (f) Structured parking, underground parking, and parking within, above, or beneath the building(s) it serves.

3. **Site Specific Standards**

   (a) There is no limitation on the number of parking spaces provided when the spaces exceeding the minimum are located in a parking garage or similar structure.

   (b) Any paved areas adjacent to parking lots, excluding drive aisles, access points, and permanent loading, storage, sales, rental or service areas, shall be considered to provide parking even if no parking spaces are delineated by pavement marking.

4. **Maximum Surface Parking Waiver Request**

   (a) Requests to exceed the maximum surface parking requirement shall be accompanied by a written justification demonstrating how the maximum number of

parking spaces specified in Table 27-1300.3 is insufficient for the proposed development. The written justification must include an analysis of current parking supply and conditions, an assessment of the ability of existing supply to meet existing peak demand, a projection of future demand, and must demonstrate consideration and evaluation of alternative parking management practices (e.g., shared parking, shuttle, valet, etc.).

(b) A waiver to the maximum surface parking requirement may be allowed by the Planning & Community Services Director in situations that meet all of the following criteria:

(1) The proposed development has unique or unusual characteristics such as high sales volume per floor area or low turnover, that create a parking demand that exceeds the maximum ratio and that typically does not apply to comparable uses;

(2) The parking demand beyond the maximum parking standard cannot be accommodated by on-street parking, shared parking with nearby uses, or by increasing the supply of spaces that are exempt from the maximum ratio;

(3) The request is the minimum necessary increase from the standards; and

(4) The applicant can provide all of the design requirements for excess parking.

5. **Design Requirements for Excess Surface Parking**

An applicant that receives a parking waiver to provide parking that exceeds the maximum number of permitted parking spaces permitted in Table 27-1300.3 shall be required to include additional internal landscaping as described below.

(a) Parking lot landscaping shall comply with the internal landscaping standards in Section 27-1200, Landscaping.

(b) In addition to the landscaping standards in Section 27-1200, deciduous trees and shrubs shall be provided in the quantities outlined in Table 27-1300.4 for parking that exceeds the maximum limit. Any required additional landscaping shall be distributed throughout the site.

Table 27-1300.4: Additional Landscaping Requirement for Excess Surface Parking

Number of Spaces Over Maximum Parking Limit	Number of Deciduous Trees (2-inch Caliper)	Number of Deciduous Shrubs (5-Gallon)
0-5	0	4
6-10	1	8
11-15	2	12
16-20	3	16
21+	1 per 4 spaces over maximum	1 per space over maximum

(c) Where the maximum number of parking spaces in the DX or CMU1 districts is exceeded, the applicant may provide, as an alternative to the additional landscaping standards in a lump sum payment of $500.00 per space for each space over the maximum to the Boulevard Tree Cost Share Program in lieu of installation.

G. BICYCLE PARKING

1. **Applicable Design Standards**

(a) When required, bicycle parking must comply with the City of Billings Bicycle Parking Guidelines (referred to APBP: Association of Pedestrian and Bicycle

Professionals), available at the Planning Division offices or on-line at the City of Billings Webpages on Transportation Planning.

(b) In mixed-use, commercial, and public districts all short-term racks shall be located within 50 feet of the primary entrance of the building served by the rack(s) and shall be visible when facing that primary entrance.

2. **When Required**

(a) Bicycle parking shall be provided in Table 27-1300.5. Where the amount of required parking is not specified in Table 27-1300.5, the requirements of the Billings Bicycle Parking Guidelines shall apply.:

Table 27-1300.5: Bicycle Parking

Zone District	Required Bicycle Parking
Residential Districts	
N1, N2, N3, NX1	None
NX2	None required, long-term parking recommended
NX3	Short-term parking required per APBP. Long-term parking recommended.
Mixed-Use and Commercial Districts	
CBD	Pay into bike parking fund for number of short-term racks required by APBP.
DX	Short-term parking required per APBP. Long-term parking recommended.
CMU1	Min. 1 short-term rack per building
CMU2	Min. 1 short-term rack per building
NMU	Short-term parking required per APBP. Long-term parking recommended.
NO	Short-term parking required per APBP. Long-term parking recommended.
CX	Min. 1 short-term rack per building
EBURD	Min. 1 short-term rack per building
Public Districts	
P1	Short-term parking required per APBP. Long-term parking recommended when park is expected to be main work place for one or more employees. Sec. 27-1302.G.1(b) is not applicable when primary use is outdoor space.
P2	Short-term parking required per APBP. Long-term parking recommended.
P3	Short-term parking required per APBP. Long-term parking recommended.

SECTION 27-1303 LOADING SPACES

A. RETAIL AND COMMERCIAL

1. **Required**
   Any building or part thereof having a gross floor area of 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 off-street loading space, plus one additional loading space for each 20,000 feet or major fraction thereof of gross floor area. Loading spaces are not required in CBD, CMU1, and NMU zones.

2. **Design**
   (a) Each loading space shall be not less than 20 feet in width, 25 feet in length, and 14 feet in height.

   (b) Loading space shall be located so as to preclude backing maneuvers on the public right-of-way.

B. WAREHOUSE AND WHOLESALE

Off-street loading space for warehouse, wholesale shipping and similar facilities will be determined by the city engineer. Such loading space shall be located so as to preclude backing maneuvers on the public right-of-way.

SECTION 27-1304 PARKING EXCEPTIONS AND REDUCTIONS

A. CBD AND EBURD EXCEPTION

Off-street parking is not required within the boundaries of the Central Business District (CBD) or East Billings Urban Redevelopment District (EBURD) in order to minimize disruptive curb cuts and driveways, encourage the consolidation of parking space in appropriate locations, and maximize the use of property for buildings and structures.

B. ON-STREET PARKING

On-street parking spaces on residential local streets that are directly adjacent to the property served may be counted towards the number of required spaces subject to the following:

1. Marked spaces shall be counted if:

   (a) 50 percent or more of the stall length of a parallel space is adjacent to the property served; or

   (b) 50 percent or more of the stall width of perpendicular or angled parking is adjacent to the property served.

2. Unmarked parallel spaces shall be determined by dividing the total curb length adjacent to the property served where parking is permitted by 20 feet.

C. JOINT USE

1. **Authority and Calculation**
   The Planning & Community Services Director may authorize the joint use or lease of parking facilities for the following uses or activities under conditions specified:

   (a) Up to 50 percent of the parking facilities required by this section for primarily "night time" uses such as theaters, bowling alleys, bars, restaurants and related uses, may be supplied by certain other types of buildings, or uses herein referred to as

"day time" uses such as banks, offices, retail, personal service shops, clothing, food, furniture, manufacturing or wholesale and related uses.

(b) Up to 100 percent of the parking facilities required by this section for a religious institution or for an auditorium incidental to a school, may be supplied by the off-street parking facilities provided by uses primarily of a "day time" nature.

2. **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 500 feet of such parking facilities, in addition to which:

(a) The application shall show that there is no substantial conflict in the principal operating hours at the two buildings or uses for which a joint use of off-street parking facilities is proposed.

(b) The applicant shall present to the Planning & Community Services Director 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 10 years and contain a notification requirement whereby the city will be informed in writing of any termination or complication experienced during the term of the lease.

D. TRANSIT OFFSET

The number of required parking spaces may be reduced for developments within 1,320 feet of a regular route served by intra-city fixed route transit service.

1. To be eligible for a transit reduction the business owner must provide documentation of contracting for and securing a minimum of three years of employee transit passes. The reduction in required parking spaces shall be one space for each transit pass purchased meeting these requirements.

2. Uses eligible for a transit offset in the number of required parking spaces are:

(a) Rented or leased residential multi-family living units or manufactured home park with eight or more living units where a transit pass is included in the rental or lease of selected individual units: The maximum transit offset shall not exceed 20% of the number of living units in the complex.

(b) Hospitals; professional offices, including medical and dental clinics or offices; and financial institutions: the maximum transit offset shall not exceed 20% of the total required parking for such uses.

E. REDUCED NEED POPULATIONS

The required minimum number of parking spaces may be reduced by:

1. 33 percent for any group living use or multi-unit use in which occupancy of at least 80 percent of the units is restricted for use by those 55 years of age or older.

2. 50 percent for any group living use or multi-unit use in which occupancy of more than 80 percent of the units is restricted for use by those meeting the definition of “handicapped” individuals under the federal Fair Housing Act.

SECTION 27-1305 ACCESS AND CIRCULATION

A. STREET ACCESS

1. Street access to the parking lot will be governed by the curb cut policy in BMCC Section 6-1200.
2. Limited access through the alley. Customer access via an alley to any commercial use on a lot which is adjacent to an alley which abuts an "N" zone shall not be permitted over that alley except in the CBD, EBURD, and DX zones.

B. PEDESTRIAN ACCESS

1. Walkways with a minimum unobstructed width of five feet shall be provided between any building and an adjacent parking lot.
2. Pedestrian pathways shall be provided through all parking areas larger than 40 parking spaces to create a safe and convenient connection to building entryways,
3. Pedestrian pathways in and through parking areas must be designed and constructed to meet the following criteria:
   (a) Americans with Disabilities Act (ADA) guidelines
   (b) Limit conflict between pedestrians and vehicular traffic;
   (c) Be clearly delineated and directional using techniques such as contrasting textured or colored material, segregation of pathway from vehicle travel lanes, and raised pathway surfaces;
   (d) Be located a reasonable walking distance from all parking spaces to minimize conflict with moving vehicles;
   (e) Provide functional connection between the parking area, the building served by the parking area, and adjacent public sidewalks and rights of way; and
   (f) Provide safe, convenient pedestrian access to all building entryways open to the public.

SECTION 27-1306 LOCATION OF OFF-STREET PARKING

A. DISTANCE

Off-street parking facilities shall be located as follows:

1. One-and two-unit dwellings: on the same lot with the building they are required to serve.
2. Dwellings with more than two units, group household living, and lodging uses: within the walking distance of 100 feet.
3. Group living primarily for aging populations and health care: within 600 feet for employees and 300 feet for visitors.
4. Uses other than those specified above, off-street parking within 500 feet is required.

B. MEASUREMENT

Where Section 27-1306.A requires that parking spaces be located within a defined distance of a lot, building entrance, or similar, the following shall apply:

1. At least 50 percent of the spaces in any contiguous parking lot must entirely be within the required distance.

2. Where a distance is specified, such distance shall be in walking distance measured from the nearest point of the parking facility to the nearest point of the lot that such facility is required to serve.

3. The off-street parking shall not be located across an arterial or collector street except when both properties abut an intersection with traffic-control lights.

4. In addition, adequate and safe pedestrian access must be provided from and to the parking areas.

SECTION 27-1307 OFF-STREET VEHICLE PARKING AND STORAGE RESTRICTIONS

A. RESIDENTIAL DISTRICTS

1. **Purpose and Applicability**
   (a) The following standards for off-street parking and vehicle storage shall apply in all residential zoning districts and on property that is developed for residential use.
   (b) This section is intended to ensure that:
      (1) Parking is not the primary use of the property, and
      (2) Where accessory parking is permitted, it is provided in accordance with this Zoning Code.

2. **Licensed and Operable Motor Vehicles**
   The following standards apply to the open storage and off-street parking of licensed and operable motor vehicles is an allowed accessory use subject to the following standards:
   (a) This is an allowed accessory use for non-commercial vehicles. Parking and open storage of one licensed and operable motor vehicle used for commercial or business purposes is an allowed accessory use provided it does not exceed 12,000 pounds in G.V.W. (gross vehicle weight).
   (b) Front or side yard parking shall be on a surface prepared with asphalt or concrete.
   (c) Rear yard parking or open storage may be provided on any type of surface. (See also BMCC Sections 6-1203)

3. **Licensed and Operable Recreational Vehicles**
   Open storage and off-street parking of licensed and operable recreational vehicles (for the purposes of this section, including but not limited to snowmobiles, boats, and campers, all-terrain vehicles, off-road motorcycles, and sport/utility trailers) is an allowed accessory subject to the following standards:
   (a) The use is allowed in any rear yard and may be provided on any type of surface.
   (b) The use is allowed in a front or side yard only if there is no access to a rear yard. Where permitted in a front or side yard, the use shall be provided on a surface prepared with asphalt or concrete.
   (c) When provided in any yard:
      (1) There shall be 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.
      (2) There shall be setbacks to property lines at a minimum of three feet to a side or rear property line and eight 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.

(d) The use of any recreational vehicle for living or sleeping purposes for more than five consecutive days is prohibited when parked off-street or stored in any residential zoning district or in an area developed for residential use.

B. MIXED-USE, COMMERCIAL, AND INDUSTRIAL DISTRICTS

The following standards for off-street parking and storage shall apply in all mixed-use, commercial, and industrial zoning districts.

1. Outdoor storage for the off-street parking of inoperable motor vehicles for more than five consecutive days as a primary use is a special review use of property as designated in Table 27-1000.1.

2. Accessory outdoor storage for the off-street parking of inoperable motor vehicles for more than five consecutive days is regulated in Section 27-1009, Accessory Uses.

SECTION 27-1401 GENERAL PROVISIONS

A. PURPOSE AND INTERESTS

The City has a legitimate, important, substantial, or compelling interest in:

1. Avoiding the proliferation of signs of generally increasing size, dimensions, and visual intrusiveness that tends to result from property owners competing for the attention of passing motorists and pedestrians because this approach to signage:
   (a) Creates visual distraction and obstructs views, potentially creating safety hazards for motorists, bicyclists, and pedestrians;
   (b) May involve physical obstruction of streets, sidewalks, or trails, creating public safety hazards;
   (c) Degrades the aesthetic quality of the City, making the City a less attractive place for residents, business owners, visitors, and private investment; and
   (d) Dilutes or obscures messages on individual signs due to the increasing competition for attention.
2. Maintaining and enhancing the character of the central business district and commercial corridors, both of which are resources of exceptional quality and vibrancy to the community as a whole.
3. Coordinating the location and type of signage with existing and proposed street frontage landscaping in a manner that that contributes to the character, environmental quality, and economic health of the City and the region.
4. Maintaining a high-quality aesthetic environment to protect and enhance property values, leverage public investments in streets, sidewalks, trails, plazas, parks, open space, civic buildings, and landscaping, and enhance community pride.
5. Protecting minors from speech that is harmful to them according to state or federal law, by preventing such speech in places that are accessible to and used by minors.

B. FINDINGS

The City finds that:

1. Content-neutrality, viewpoint neutrality, and fundamental fairness in regulation and review are essential to ensuring an appropriate balance between the important, substantial, and compelling interests set out in this article and the constitutionally protected right to free expression.
2. The regulations set out in this article are unrelated to the suppression of constitutionally protected free expression, do not relate to the content of protected messages that may be displayed on signs, and do not relate to the viewpoint of individual speakers.
3. The incidental restriction on the freedom of speech that may result from the regulation of signs pursuant to this article is no greater than is essential to the furtherance of the important, substantial, and compelling interests that are set out in this article.
4. Regulation of the location, number, materials, height, sign area, form, and duration of display of temporary signs is essential to preventing sign clutter.
5. Temporary signs may be degraded, damaged, moved, or destroyed by wind, rain, snow, ice, and sun, and after such degradation, damage, movement, or destruction, such

signs harm the safety and aesthetics of the public on City's streets or sidewalks if they are not removed.

6. Certain classifications of speech are not constitutionally protected due to the harm that they cause to individuals or the community.

C. SAVINGS AND SEVERABILITY

1. Signs containing noncommercial speech are permitted anywhere that commercial speech signs are permitted, subject to the same regulations applicable to such signs. Any sign that can be displayed under the provisions of this article may contain a noncommercial message.

2. If any clause, section, or other part of the application of these sign regulations shall be held by a court of competent jurisdiction to be unconstitutional or invalid, it is the intent of the City that such clause, section, or specific regulation be considered eliminated and not affecting the validity of the remaining clauses, sections, or specific regulations that shall remain in full force and effect.

D. CONFLICTS WITH OTHER PROVISIONS

Nothing in this article shall be deemed a waiver of the provisions of any other ordinance or regulation applicable to signs. Signs located in areas governed by several ordinances or applicable regulations shall comply with all such ordinances and regulations. If there is a conflict between this article and any other ordinance or regulation, the more stringent shall apply.

SECTION 27-1402 APPLICABILITY

A. APPLICABILITY

1. The regulations contained in this article shall apply to, and regulate the display, construction, installation, erection, alteration, use, location, maintenance, and removal of all signs and support structures in all districts unless the sign, item, or activity is expressly exempted from these regulations.

2. No new sign shall be located, erected, modified, or maintained except in compliance with the regulations contained in this article.

3. Existing signs that were legally installed are not required to come into compliance with this article unless changes to the sign are made in a manner regulated in Section 27-1404, Nonconformities. Existing signs are required to comply with maintenance requirements and are subject to abandonment per Section 27-1410, Installation and Maintenance.

B. SIGN PERMIT REQUIRED

1. New Signs

A sign permit shall be required to erect, place, modify the size or shape, allow the continued placement, or convert any portion of a sign, including a conversion from temporary to permanent or from non-EMD to EMD unless otherwise provided in this article.

2. Existing Signs

Changes to existing signs that are made nonconforming by the 2020 Zoning Code update require a sign permit and are subject to Section 27-1403, Nonconformities.

3. Sign Permit Exemptions

The following activities 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 Zoning Code or any other law or ordinance, including the City's adopted building code(s):

(a) 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 display or non-illuminated painted message which are all specifically designed for the use of replaceable copy;

(b) Painting, repainting, cleaning or other normal maintenance and repair of a sign not involving structural changes. Replacement of or a change of a plastic sign face will be included as an exempt operation;

(c) Changes in the content of show window displays and permitted temporary signs;

C. EXEMPTIONS

The following signs, items, and operations shall not require a sign permit, but shall be undertaken in conformance with this article, and all adopted building code(s):

1. Internal and Integral Signs

(a) Signs not intended for view or readily legible from the public right-of-way or adjacent residential, public, or civic districts or uses.

(b) Integral signs that are carved into stone or similar material that are integral to the building or plaques that are placed flat against a building. Integral signs shall not exceed four square feet in area

(c) Signs that are less than one square foot in area that are affixed to machines, equipment, fences, gates, walls, gasoline pumps, or utility cabinets.

(d) Signs or banners on fences and structures within an arena, park, recreational complex, or athletic field, provided such signs or banners face inward to the arena, park, recreational complex, or athletic field.

2. Flags and Insignia

(a) Flags that are affixed to a permanent flagpole or structure.

(b) Up to two flutter flags affixed to a permanent flag pole.

3. Neighborhood Watch Area

(a) All developed properties within a neighborhood watch area may post one sign provided by the neighborhood watch organization. Neighborhood watch signs shall be posted on private property.

(b) Wall signs, not exceeding four square feet in sign area, shall be placed flat against the wall of a building.

(c) Freestanding signs shall not exceed four square feet in sign area and six feet in height and shall be placed at least one foot behind all property lines. The maximum height for a freestanding sign located within a clear vision area, defined in Section 27-1802.H, is 30 inches.

4. Public Signs

(a) Official public signs approved by a governmental body with jurisdiction over issues such as traffic safety, pedestrian safety, schools, railroads, or public notice, as well as signs required by the Manual of Uniform Traffic Controls.

(b) Signs and notices required to be displayed, maintained, or posted by law or by any court or governmental order, rule, or regulation.

(c) Government signs and notices provided for the convenience and safety of the community.

(d) Bench signs. Bench signs on benches located on active, fixed bus routes, controlled or authorized by the Billings MET. The benches must be located on active, fixed routes. Signs shall be removed from or prohibited on benches located in prohibited sign locations or where the bench is not associated with an active, fixed route.

5. Seasonal Displays

(a) Seasonal displays that might include incidental signage provided both the sign and the display meet the clear vision area requirements of Section 27-1802.H.

6. Vehicle Signs

Lettering or symbols applied directly onto or flush-mounted magnetically to a motor vehicle operating in the normal course of business.

D. PROHIBITED SIGNS

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

1. Distracting, Interfering, or Confusing Signs

(a) Non-electronic message displays signs that are animated by means of flashing, scintillating, blinking, traveling lights, displaying video, or any other means not providing constant illumination. Electronic message displays may be allowed provided they comply with the standards in Section 27-1405.C.

(b) Signs that contain or are an imitation of an official traffic or emergency sign or signal or which, by reason of their size, 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.

(c) Signs with a lighting or control mechanism that causes radio, radar, cellular, wireless, or other electronic signal interference.

(d) Wind-driven signs; additionally, 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.

2. External Movement and Light Projecting Signs

(a) Signs that operate or employ visible moving parts or any portion of which moves, or give the illusion of motion;

(b) Signs that emit audible sound, odor or visible matter; or

(c) Signs that are light projecting or operate or employ any motion picture projection or video projection in conjunction with any advertisements.

E. PROHIBITED LOCATIONS

Signs and sign structures, including exempt signs, are prohibited in the following locations:

1. Improper Location

(a) In the right-of-way or on other public property without approval of the City.

(b) Placed on private property without the consent of the owner or authorized agent of the owner of such property.

(c) Within a clear vision triangle (See Section 27-1802.H).

(d) Attached to utility poles, other utility or public infrastructure structures or equipment, or wireless communication facilities.

2. Creation of Hazardous Condition

(a) Signs that create conflict with traffic control signs, signals, or various private signs resulting in vehicular or pedestrian safety hazards, including any sign placed at any location where it may, by reason of its size, shape, design, location, content, coloring, or manner of illumination, constitute a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, by obscuring or otherwise physically interfering with any official traffic control device, or that may be confused with an official traffic control device.

(b) Signs that creates a danger to the public during periods of inclement weather or high winds due to their location or the manner in which they are placed.

(c) Signs that create a hazard due to collapse, fire, collision, decay, abandonment, or other safety considerations.

(d) Signs that obstruct firefighting, police, or emergency activities.

(e) Signs that are improperly mounted or installed, such as signs attached to a standpipe, gutter drain, unbraced parapet wall, or fire escape, unless the safety of such sign and such mounting have been verified in writing by a structural engineered licensed to practice in the state.

3. Parking of Advertising Vehicles:

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 sole 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. Fence or Wall Signs

Non-exempt signs that are painted on or attached to any fence or any wall which is not structurally a part of a building.

F. PROHIBITED CONTENT

No sign shall be approved or disapproved based on the content or message it displays, except that the following content, without reference to the viewpoint of the speaker, shall not be displayed on signs:

1. Text or graphics that is harmful to minors as defined by state or federal law;

2. Text or graphics that are obscene, fighting words, defamation, incitement to imminent lawless action, or true threats, as such words and phrases are defined by controlling law;
3. Text or graphics that present a danger or risk due to their potential confusion with traffic control signs;
4. Signs that provide false information related to public safety (e.g., signs that use the words ”stop” or “caution” or comparable words, phrases, symbols, or characters) that are presented in a manner as to confuse or imply a safety hazard that doesn’t exist; or
5. Text or graphics that provide false or misleading information.

SECTION 27-1403 NON-CONFORMING SIGNS

A. NONCONFORMING SIGNS

Where a lawful sign exists at the effective date of this article, or amendment of this article, that would be illegal under the terms of this article, the use of such sign may be continued so long as it remains otherwise lawful, subject to the provisions of this section.

B. CLASSIFICATION OF NONCONFORMITIES

There are two types of legal, nonconforming signs: major and minor. Signs with multiple nonconforming elements are classified in the category of the most significant nonconformity.

1. Major Nonconforming Signs

Major nonconforming signs are those signs for which the nonconformity generates a nuisance per se, violates City sign policy, or is incompatible with adjacent signs and/or the adopted guiding principles such that public policy favors their elimination from the zone if they are discontinued, abandoned, or destroyed. Major nonconforming signs include:

(a) Off-premises signs;

(b) Dangerous signs;

(c) Signs that exceed the maximum height or size permitted in the zone district by more than 20%;

(d) Nonconforming setback that encroaches on or over a public right-of-way, clear vision area, or public access easement;

(e) Signs with nonconforming illumination;

(f) Nonconforming sign types; and

(g) Signs approved with a variance that permits any issue included in this major nonconformity list,

2. Minor Nonconforming Signs

Minor nonconforming signs are any nonconforming signs that are not classified as major nonconforming signs. Minor nonconforming signs include but are not limited to:

(a) Signs that exceed the maximum height or size permitted in the zone district by 20% or less;

(b) Nonconforming setback that does not encroach on or over a right-of-way, and

(c) Nonconforming separation.

C. MAJOR NONCONFORMITIES

1. Alterations

(a) A major nonconforming sign or sign structure may not be altered in any way that increases any nonconformity. A proposed change to any nonconforming aspect of a major nonconforming sign shall require the entire sign to be brought into conformance with this article.

(b) General repairs, maintenance, and change to advertising copy that does not include replacing a static sign with an EMD are not considered alterations.

2. Replacement

(a) A major nonconforming sign that is voluntarily replaced shall be replaced with a conforming sign.

(b) A major nonconforming sign that loses its nonconforming status per Section 27-1403.F shall be replaced with a conforming sign.

D. MINOR NONCONFORMITIES

1. Alterations

(a) A minor nonconforming sign may be altered in a manner that conforms to this Zoning Code while still maintaining the nonconforming elements. For example, a sign that is two feet over the height limit for the zone district may be altered provided the height is not increased.

(b) General repairs, maintenance, and change to advertising copy that does not include replacing a static sign with an EMD are not considered alterations.

2. Replacement

(a) A minor nonconforming sign that is voluntarily replaced shall be replaced with a conforming sign.

(b) A minor nonconforming sign that loses its nonconforming status per Section 27-1403.F shall be replaced with a conforming sign.

E. SIGN REMOVAL FOR PUBLIC PURPOSES

Any nonconforming sign temporarily removed by a public utility company, the City, or any governmental agency to accommodate repair, maintenance, or expansion operations may be replaced, provided that there is no change in size, height, or location of the sign. If any sign is moved as a direct result of a governmental or utility project, it may be relocated to a position determined by the City engineer to be appropriate in relation to the project, and such a sign shall not be considered nonconforming for the reason of applicable separation standards. No permit shall be required for such replacement.

F. LOSS OF NONCONFORMING STATUS

A nonconforming sign shall lose its nonconforming designation and be required to come into compliance with this article if any of the following apply:

1. Any portion of the primary sign structure is replaced.
2. The primary structure on the site is replaced, renovated in a manner that expands the building footprint by more than 50%, or when the sign is required to be moved to accommodate building replacement or expansion in compliance with the zone district regulations.
3. A major nonconforming sign is removed, relocated, or replaced for any reason except towards compliance with this article.

4. If more than 50 percent of a nonconforming sign is damaged by any means, as measured by total replacement cost of both the sign and structure prior to such destruction, and the sign type is no longer permitted in the zone district, it shall be considered destroyed and shall not be brought back into service or use except in conformity with the provisions of this article.
5. The sign is voluntarily replaced in compliance with this article.
6. The sign is abandoned pursuant to Section 27-1410.C.

G. MAINTENANCE AND REPAIR

1. A nonconforming sign is subject to all requirements of this article regarding safety, maintenance, and repair.
2. Temporary removal of any portion of a sign for repairs or general maintenance shall not be considered to be in violation of this section, provided that no alterations are made to the sign or sign structure. Should such sign or sign structure be moved permanently for any reason and over any distance whatsoever, it shall thereafter conform to all regulations for the district in which it is located after it has been moved or relocated.
3. Maintenance shall not include the conversion of a nonconforming sign to an electronic message display sign. Any such conversions may only be made to a conforming sign and shall be subject to the permitting and fee requirements set forth in this article.

H. RECORDS

In addition to initial and construction inspections, signs may be inspected periodically by the Planning and Community Services Department to ensure continued compliance with this article.

SECTION 27-1404 MEASUREMENT AND CALCULATION

A. APPLICABILITY

This section applies to all sign types and classifications, including permanent signs, temporary signs, and off-premises signs.

B. SIGN AREA

1. Maximum

The permitted maximum area for all individual signs is determined by the sign type and the zoning district in which the sign is located.

2. Building and Street Frontage

(a) Building frontage is the wall of the principal building that faces the street abutting the property.

(1) If the principal building is located on a corner lot, the frontage shall be the wall of the principal building which faces the street with the highest average daily traffic count.

(2) Accessory structures shall not be included in the calculation of maximum signage. Wall signs may be affixed to accessory structures; where this is done the amount of signage used on the accessory structure shall be deducted from the total amount of wall signage permitted on the property.

(3) 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. "False fronts" and mansard roofs shall not be included when calculating the total area of a wall.

(b) Street frontage is the linear footage of a lot adjacent to a street or right-of-way. Street frontage calculation includes driveways.

(c) If the principal building is located on a corner lot, both frontages on a public street or right-of-way shall be allowed to apply principal signage standards. When a site has multiple frontages with permitted signage, the permitted signage may only be used on the frontage for which it has been calculated; permitted sign area may not be transferred from one frontage to another unless specifically stated in this article.

3. Method of Measuring Sign Area

(a) Freestanding Signs

(1) The sign area of a freestanding sign shall be measured from the outside edge of the sign face.

a. The sign area of a freestanding sign consisting of more than one single-sided sign shall be computed by adding together the total area(s) of all signs.

b. Area calculation does not include decorative rocks or landscaping adjacent to a monument sign.

(2) The sign area for multiple-sided signs shall be calculated as follows:

a. 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.

b. 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.

(b) Three-Dimensional Signs

The sign area of three-dimensional free-form or sculptural (non-planar) signs is calculated as 50 percent of the sum of the area of the four vertical sides of the smallest cube that will encompass the sign.

Identification of the vertical sides of a three-dimensional sign

(c) Wall Signs

(1) Wall Sign with Border: The sign area is entire area within any type of perimeter or border which may enclose the outer limits of the sign face.

(2) Wall Sign without Border: The area of the sign that does not have a 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.

(d) Window Signs

Sign area percentage is measured for each architecturally distinct window by dividing the sign area by the window area.

C. HEIGHT AND CLEARANCE

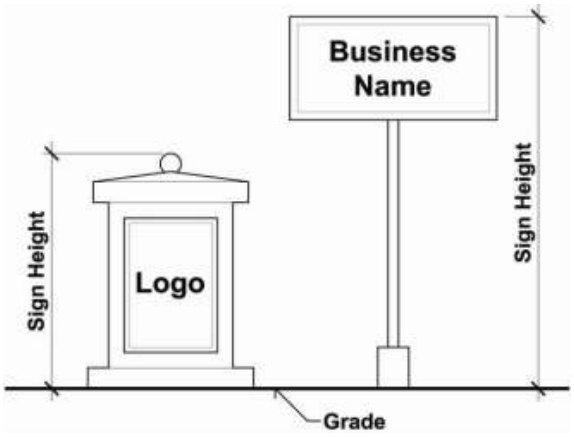
The permitted maximum height for all signs is determined by the sign type and the zoning district in which the sign is located. Sign height and clearance is measured as follows:

1. Freestanding Sign Height

(a) The vertical distance measured from the highest point of the sign to the crown of the adjacent street, not including the interstate highway.

(b) Height shall include the sign face, base, cabinet, and ornamental cap.

(c) When the existing finished grade at the point of measurement is lower than the average elevation of the adjacent street finished grade parallel to the location where the sign will be installed, that portion of the sign below the street shall not be included in determining the sign's overall height.



2. Sign Clearance

(a) Clearance for freestanding and projecting signs shall be measured as the smallest vertical distance between finished grade directly underneath the sign at the lowest

point of the sign structure, including any framework or other structural elements.

(b) Signs that project over a roof shall maintain a four foot clearance over the average roof height.

D. SEPARATION

1. On-premises sign separation shall be measured along the property lines from the center of the sign.
2. Off-premises sign separation shall be measured either by linear feet or radius and diameter, as specified in Section 27-1409.

E. SETBACK

1. Required setbacks are measured from the property line inward.
2. Clear vision areas, defined in Section 27-1802.H, may be required in addition to specified setbacks.

SECTION 27-1405 GENERAL REGULATIONS FOR PERMANENT, ON-PREMISES SIGNS

The purpose of this section is to provide generally applicable sign regulations by sign type. The section is organized by sign category – freestanding, attached, and electronic message displays (EMDs). The amount of signage permitted by zone district is identified in Section 27-1406.

A. FREESTANDING SIGNS

1. Number of Signs Permitted and Required Separation for Multiple Signs

(a) Where a developed property abuts more than the total lineal feet of street frontage applicable to a specific district, one additional free-standing may be erected for each additional 300 feet of street frontage as described in Table 27-1400.1.

(b) For properties where more than one freestanding sign is permitted, the distance between freestanding signs on that parcel shall meet the distance specified in Table 27-1400.1.

(c) Where a developed parcel has frontage on more than one public right-of-way or street, excluding alleys, driveways, and service ways the provisions of this subsection shall apply to each street frontage.

Table 27-1400.1: Permitted Number of Permanent Freestanding Signs

Number of Permanent Freestanding Signs	Street Frontage Length	
	Frontage (linear feet)	Separation (ft)
1	0-600	150
2	601-900	150
3 (max)	901-1200	150

2. Access Point Signs

(a) Access point signage shall be located at public access points where a driveway or other public entryway intersects with a public street. Access point signs are for vehicular access, not pedestrian access.

(b) Access point signs that are visible from the public right-of-way shall be permanently anchored or fastened.

(c) Each vehicular access point may have one access point sign.

Figure 1: Sample Access Point Sign

(d) Access point signs are exempt from the total freestanding sign calculation in Table 27-1400.1 and are not included in freestanding sign separation measurements.

3. Monument Signs

Monument signs shall have zero clearance above the existing finish grade level and shall be supported in or on the ground.

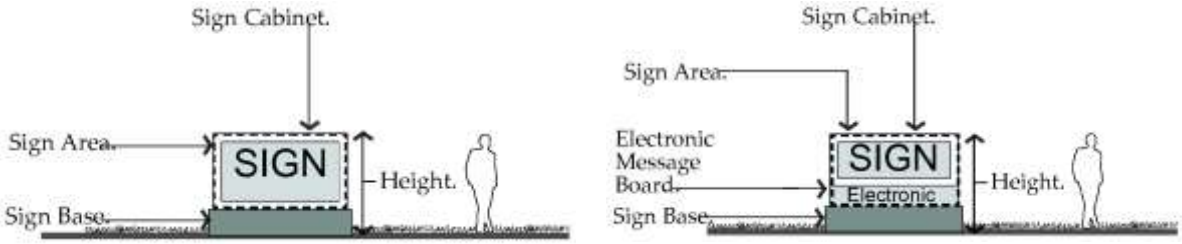


Figure 2: Monument Sign Elements

Figure 3: Monument Sign Examples

4. Pole Signs

(a) If a free-standing sign projects over a private vehicular driveway or parking lot aisle, the minimum clearance of 14 feet shall be maintained between the bottom of the sign edge and the established grade of the site.

(b) A clear, unobstructed area, a minimum of eight feet in height is required above existing finish grade level when a pole sign is located over a pedestrian walkway or within a clear sight triangle.

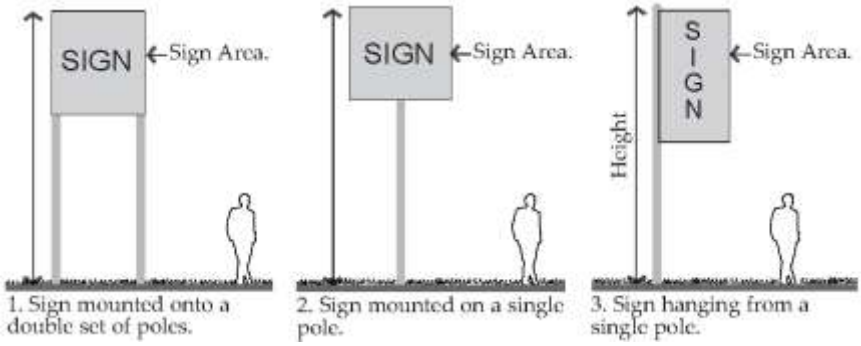


Figure 3: Pole Sign Configurations

Figure 4: Pole Sign Examples

5. Pedestrian-Scale Signs

(a) A pedestrian-scale pole-mounted sign is freestanding and may be mounted on one or two poles. Three configurations are permitted:

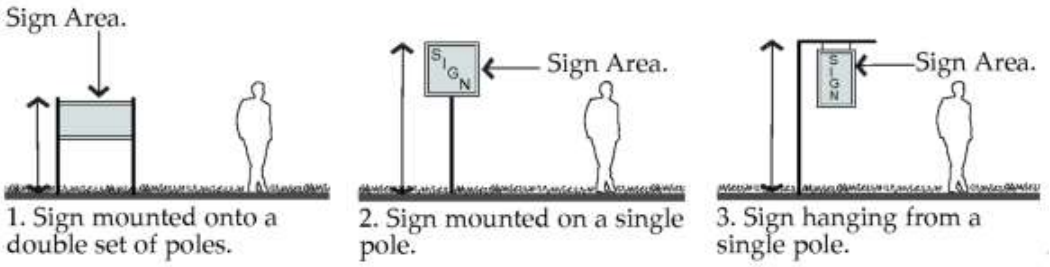


Figure 5: Pedestrian-Scale Sign Configurations

(b) Hanging signs may not overhang a lot line or right-of-way.

6. Structural Canopy

Structural canopy signs shall be mounted on the canopy and shall not project more than 24 inches above or below the canopy structure. Signs that project below the canopy shall maintain a minimum clearance of 14 feet between the bottom of the sign edge and the established grade of the site.

Figure 6: Structural Canopy Sign Examples

7. **Subdivision, and Neighborhood Signs**

(a) Two entrance signs are permitted per subdivision or neighborhood entrances.

(b) A sign, masonry wall, landscaping and other similar materials or features may be combined to form a display.

(c) Dimensions:

(1) Sign area, max: 32 square feet

(2) Height, max.: Eight feet or the height of the wall on which the sign is located, whichever is lower.

(3) Setback: a minimum of five feet behind all property lines.

Figure 7: Subdivision and Neighborhood Sign Examples

B. ATTACHED SIGNS

1. Awning Signs

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

(b) Maximum Projection: six feet from the building and the awning and sign shall not project closer than two feet from back of curb. An encroachment permit is required for any awning sign that encroaches into the public right-of-way.

(c) Minimum Clearance: eight feet.

(d) The awning sign shall not interfere with the operation any window, door, ventilation system or the roof design.

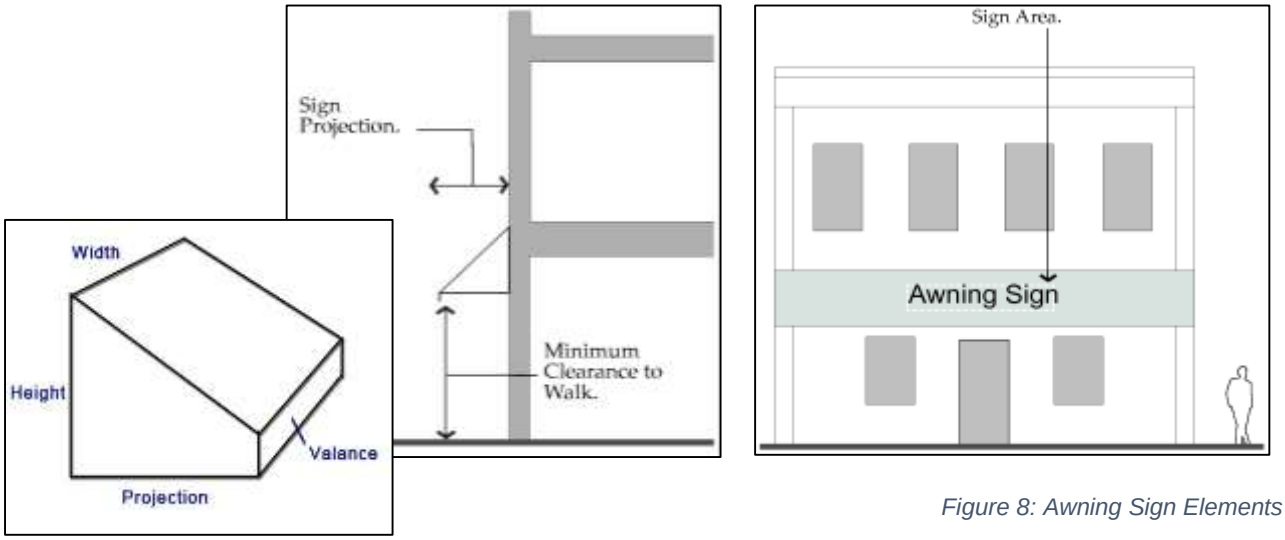


Figure 8: Awning Sign Elements

Figure 9: Awning Sign Examples

2. **Canopy Signs**

(a) Minimum Clearance: eight feet. Where under-canopy signs are permitted there shall be eight feet of clearance beneath the under-canopy sign.

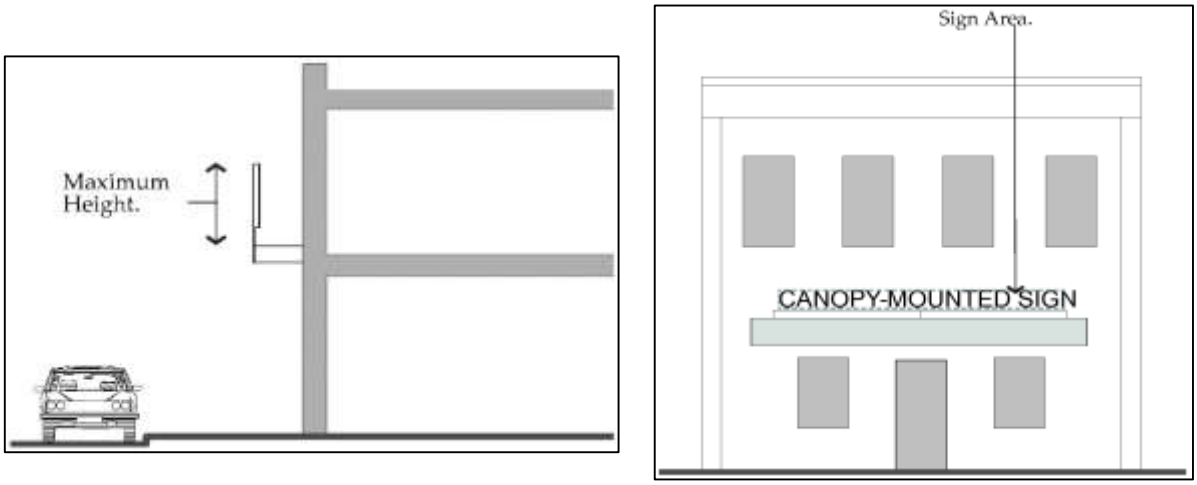
(b) Maximum Projection: Canopy signs may project up to two feet to a vertical line from the curb face over the right-of-way. An encroachment permit is required for any canopy sign that encroaches into the public right-of-way.

(c) Signage placed on a canopy will count as one sign for that canopy regardless of the number of sides of the canopy have signage.

(d) The canopy sign shall not interfere with the operation of any window, door, ventilation system, or the roof design.

Figure 10: Canopy Sign Examples

Figure 11: Canopy Sign Elements



3. Marquee Sign

(a) Minimum Clearance: Eight feet

(b) Maximum Projection: six feet from the building; the sign shall not project closer than two feet from back of curb. An encroachment permit is required for any projecting sign that encroaches into the public right-of-way.

(c) Marquee signs may be used only on theaters.

(d) The roofs of all marquees exceeding 40 square feet shall be properly guttered and connected with downspouts to storm sewers so that water will not drip or flow into sidewalks or streets.

(e) All signage on the marquee shall be affixed flat to the vertical face of the marquee.

(f) Either manual changeable copy or EMDs may be incorporated in the overall signage. EMD and manual changeable copy sign areas are limited to the face of the marquee, without extension above or below the marquee. The EMD message shall be limited to one copy change every 24 hours.

Figure 12: Marquee Sign Examples

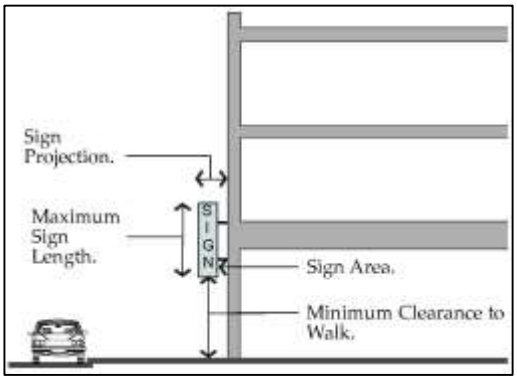
4. Projecting Sign

(a) Minimum Clearance: Eight feet

(b) Maximum Projection: Six feet from the building or two feet from the back of curb, whichever is less. An encroachment permit from City Engineering is required for any projecting sign that encroaches into or over the public right-of-way.

(c) Maximum Sign Dimensions: Six by eight feet.

(d) Supports shall be covered in a neat and orderly fashion. Guy wire support is prohibited.



5. **Roof Sign**

(a) Maximum Height: Roof signs shall not extend more than four feet above the average height of the roof.

(b) Maximum Projection: Roof signs shall not project horizontally, overhang, or extend beyond any exterior wall or parapet line of any roof.

(c) 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.

(d) Roof signs shall be designed to look like part of the building or roof structure, with most of the sign structure incorporated into the sign design, rather than suspended from or standing on the building that displays significant sign structure. Roof signs shall typically be situated parallel to the adjacent street.

(e) Neon glass is permitted provided the neon is not visible from the rear of the sign.

Figure 13: Roof Sign Examples

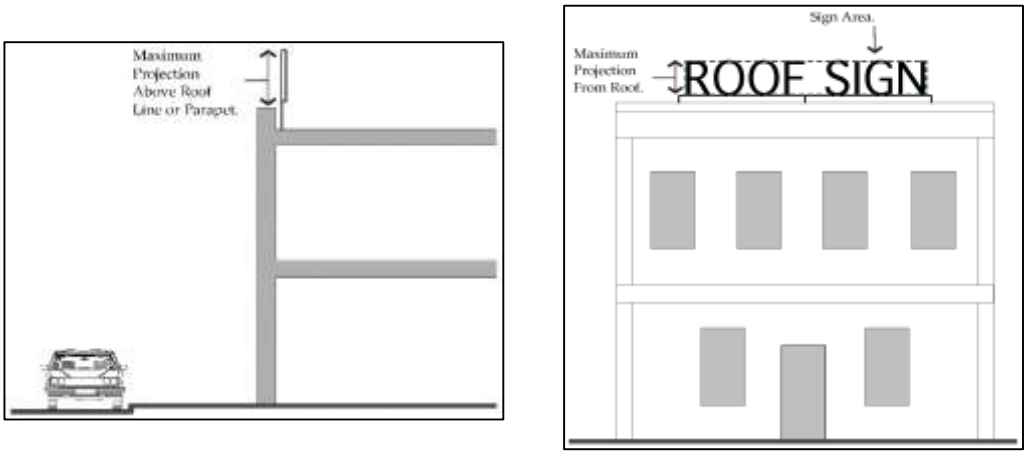


Figure 14: Roof Sign Elements

6. **Wall Sign**

(a) Maximum Projection:

(1) Wall signs that do not extend more than 12 inches from the face of the building may be installed at any height on the structure.

(2) Wall signs that project more than 12 inches from the face of the building shall be installed with eight feet of clearance below the sign.

(3) Signs that project more than 24 inches or that are not installed parallel to the wall plane shall be considered projecting signs.

(b) Maximum Height:

(1) Wall sign(s) shall not extend above the roofline of the building to which it is attached.

(2) An EMD wall sign shall be placed at least two feet from the top of the wall on which it is installed. Where the size of the structure on which the sign is placed permits, the maximum height of a wall sign with an EMD shall be 40 feet from the building wall grade.

Figure 15: Wall Sign Examples

7. Window Sign

(a) The area of window signs shall be counted as part of the overall permitted sign area as follows:

(1) Sign face coverage of up to 25 percent of the area of an individual window is exempt from calculation in the overall sign area maximum.

(1) The total amount of any sign face coverage that exceeds 25 percent of the area of an individual window shall be included in the wall area signage calculation. For example, if a business installs a window sign that covers 35 percent of the window, 10% of the sign area is included in the wall sign area calculation.

(b) Location: Ground or upper story windows.

(c) Installation: Signs may be affixed directly to the inside or outside window or hung/mounted inside the window from the top, side, or bottom of the window frame or similar architectural element.

Figure 16: Window Sign Examples

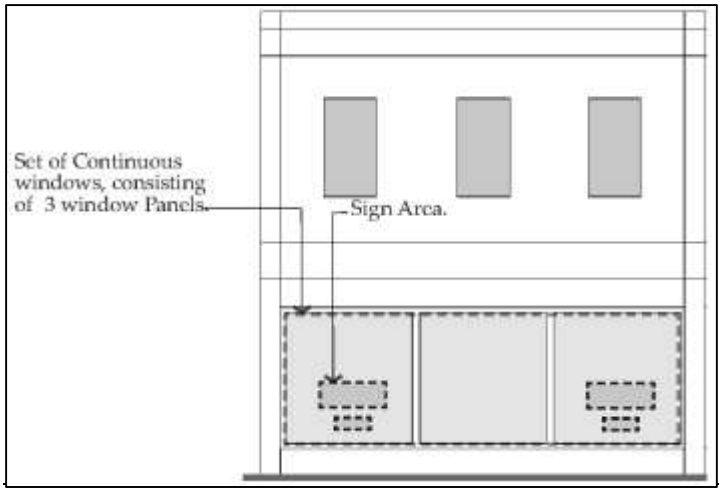


Figure 17: Window Sign Elements

C. ELECTRONIC MESSAGE DISPLAY (EMD) SIGNS

1. EMD Signs Prohibited

EMD signs are prohibited in the following districts:

(a) All residential neighborhood districts: N1-3, NX1-3 and RMH

(b) Neighborhood Office

(c) Neighborhood Mixed-Use

(d) Public 1

(e) Historic districts

2. Display Technology

The technology currently being deployed for EMDs is LED (light emitting diode), but there may be alternate, preferred, and superior technology available in the future. Any other technology that operates pursuant to the display brightness limits above shall not require an ordinance change for approval.

3. Incorporation in Wall or Freestanding Sign

(a) An EMD may only be used in conjunction with an adjacent wall sign or as part of a freestanding sign and shall not be displayed on its own.

(1) The EMD shall not be larger than 40 percent of the total square footage of the permanent graphic portion of the sign when compared as separate components.

(2) 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 and measured as a single sign, inclusive of any physical separation between the two components.

(b) Only one EMD sign, either wall or freestanding is permitted per developed parcel. EMD sign(s) shall be counted in the total number of signs allowed on the parcel.

4. Generally Applicable Display Standards

(a) All EMD signs shall comply with the following display standards:

(1) 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

(2) The sign shall not include audio, pyrotechnic, bluecasting (bluetooth advertising), or other similar components.

5. Static Display EMD

Where a static display EMD is permitted by this article, the following standards shall apply:

(a) A static display EMD may display a series of static messages and may not flash, scintillate, blink, show motion borders or traveling lights, employ any other aspect of animation, or display video.

(b) Messages on static display EMDs shall not include flashing, the varying of light intensity, or scrolling.

(c) Each static message on the sign shall be displayed for a minimum of six seconds in duration.

(d) Message change shall be completed instantaneously.

(e) There shall be a direct change from one message to the next. All transition effects, such as motion, animation, fading, scrolling, or dissolving are prohibited.

6. Animated Display EMD

Where an animated display EMD is permitted by this article, the following standards shall apply:

(a) The sign shall be on-premises;

(b) A freestanding animated display EMD sign shall be separated by at least 35 linear feet in any direction from any other freestanding animated display EMD;

(c) The sign shall be located at least 100 feet from any residential neighborhood zone (N1-3, NX1-3, or RMH); and

(d) Video display is prohibited.

7. Sign Permit Conditions

The following conditions apply to all EMD sign permits. Failure to comply shall result in the sign ceasing operation until compliance occurs.

(a) 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;

(b) That a City inspector may access the property upon 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;

(c) 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 24 hours' notice to the owner, operator or permittee.

(d) 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.

Figure 18: EMD Sign Examples

SECTION 27-1406 GENERALLY APPLICABLE SITE AND DESIGN STANDARDS

A. ILLUMINATION FOR NON-ELECTRONIC MESSAGE DISPLAYS

1. Intent

Light sources to illuminate signs shall neither be visible from any street right-of-way, nor cause glare which is hazardous or distracting to pedestrians, vehicle drivers, or adjacent properties.

2. External Illumination

Externally illuminated signs shall have lighting confined to the sign and shall be positioned and shielded to minimize impacts to the surrounding area(s).

3. Internal Illumination

(a) Internally illuminated signs, where permitted, including neon lighting, must be static in intensity and color.

(b) The light source for internally illuminated signs must be entirely enclosed within the sign.

4. Flashing or Rotating Lights Restricted

Flashing or rotating lights are prohibited.

B. LANDSCAPING

The area surrounding a freestanding sign shall comply with the applicable requirements of Section 27-1200, Landscaping.

SECTION 27-1407 SIGN REGULATIONS BY ZONE DISTRICT

A. NEIGHBORHOOD RESIDENTIAL

1. Applicability

The standards in this section shall apply to the following districts: N1, N2, N3, NX1, NX2, NX3, RMH

2. Summary Table

Table 27-1400.2 identifies the types of signs permitted in the neighborhood districts, subject to the regulations identified in the table and this article.

Table 27-1400.2: Permanent Signs in Neighborhood Residential Districts

Sign Type	Number	Height (max., ft.)	Sign Area per Sign (max., sf.)	Setback (min., ft.)	Illumin.	Additional Standards
Attached Signs						
Wall: Multi-unit Development	1; see27-1407.A.3	Same as wall [1]	12	n/a	Internal or external	27-1405.B Wall Signs
Wall: Public, Civic, and Institutional Uses	1	Same as wall [1]	32	n/a	Internal or external	27-1405.B Wall Signs
Freestanding Signs						
Monument: Neighborhood or Subdivision	2 per entrance	8	32	5 [2]	Internal or external	27-1405.A Monument Signs
Monument: Public, Civic, and Institutional	1 per parcel	8	48	5 [2]	Internal or external	27.1405.A, Monument Signs
Notes:						
[1] May not project above wall on which located [2] From all property lines; must comply with clear vision areas per 27-1802.H.						

3. District Specific Standards

(a) Where signs are linked to a use category, a description of the category can be found in Section 27-1000, Use Standards.

(b) EMD signs are not permitted in neighborhood residential districts.

(c) Multi-unit wall signage is permitted as follows:

(1) NX1: the sign shall be located on the primary building on a wall facing the main entrance to the development.

(2) NX2,3, and RMH, all with 10 or more units: wall sign with the same restrictions as NX1 plus one neighborhood monument sign.

B. NEIGHBORHOOD OFFICE, NEIGHBORHOOD MIXED-USE, AND EBURD RSV

1. Applicability

The standards in this section shall apply to the following districts: NO, NMU, and EBURD RSV

2. Maximum Total Permitted Sign Area

(a) Attached signs: 20% of total wall area of a public street-facing wall, to a max of 100 square feet.

(b) Freestanding signs: 60 square feet unless otherwise provided in Table 27-1400.4. Table 27-1400.1, Permitted Number of Permanent Freestanding Signs applies.

3. Summary Tables

Tables 27-1400.3 and 27-1400.4 identify the types of signs permitted in the NO and NMU districts, subject to the regulations identified in the table and this article.

Table 27-1400.3: Attached Signs NO, NMU, and EBURD RSV

Sign Type	Number	Height (max., ft.)	Sign Area per Sign (max., sf.)	Illumin.	Additional Standards
Awning	1 per awning	n/a	n/a	Internal or external	27-1405.B, Awning Signs
Canopy	1 per canopy	n/a	n/a	Internal or external	27-1405.B, Canopy Signs
Projecting	1 per street frontage	Same as wall [1]	32	Internal or external	27-1405.B, Projecting Signs
Wall	1 per tenant per street frontage	Same as wall [1]	32 [2]	Internal or external	27-1405.B, Wall Signs
Window	n/a	Limited to architect. distinct window area	27-1405.B, Window Signs	No	27-1405.B, Window Signs

Notes:

[1] May not project above wall on which located

[2] Distribution of this signage across multiple tenancies is the responsibility of the property owner. Extra signage will not be permitted once the maximum signage identified here has been met.

Table 27-1400.4: Freestanding Signs NO, NMU, and EBURD RSV

Sign Type	Number	Height (max., ft.)	Sign Area per Sign (max., sf.)	Setback (min., ft.)	Illumin.	Additional Standards
Access Point	1 per vehicle access	3	2	0 [1]	Internal or external	27-1405.A, Access Point Signs
Monument	1 per street frontage	8	32	5 [1]	Internal or external	27-1405.A, Monument Signs
Monument, Multitenant [2]	1 per street frontage	8	Same as monument plus 10 sf per tenant up to 6 tenants (base + 60 sf max)	5 [1]	Internal or external	27-1405.A, Monument Signs
Pedestrian-Scale Freestanding	1 per street frontage	Single pole: 8 Double pole: 5	8	2 [1]	Internal or external	27-1405.A, Pedestrian-Scale Signs
Structural Canopy	1 per street frontage	2 feet above canopy	n/a	Canopy: zone district standards	Internal or external;	27-1405.A, Structural Canopy Signs
Notes:						
[1] From all property lines; must comply with clear vision areas per 27-1802.H [2] Distribution of this signage across multiple tenancies is the responsibility of the property owner. Extra signage will not be permitted once the maximum signage identified here has been met.						

4. District Specific Standards

(a) Where signs are linked to a use category, a description of the category can be found in Section 27-1000, Use Standards.

(b) Residential uses and structures within an NO, NMU, or EBURD RSV district are permitted the same signage as neighborhood residential districts as provided in Table 27-1400.2.

(c) EMD signs are not permitted in NO, NMU, or EBURD RSV districts.

(d) Tenant signage in multitenant structures shall be allocated to each tenant unit based on the front wall area of the individual unit. Tenants with side, rear, or alley entrances are permitted wall signage on the wall with their primary public entrance only.

C. CORRIDOR MIXED-USE AND EBURD RSVMS

1. Applicability

The standards in this section shall apply to the following districts: CMU1, CMU2, and EBURD RSVMS.

2. Maximum Total Permitted Sign Area

(a) Attached signs: Attached signs: 20% of total wall area to a max of 250 square feet.

(b) Freestanding signs:

(1) Table 27-1400.1, Permitted Number of Permanent Freestanding Signs applies.

(2) Table 27-1400.5, Maximum sign area for freestanding signs is as follows:

Table 27-1400.5: Freestanding Sign Maximum Area in CMU1, CMU2, and EBURD RSVMS

Zone District and Number of Businesses	Street Frontage 0-300 linear feet	Street Frontage Greater than 300 linear feet
CMU1 One Tenant	50 sf	50 sf
CMU1 Multiple Tenants [1]	+ 10 sf sign area per additional tenant up to 6 tenants (110 sf)	+ 10 sf sign area per additional tenant up to 6 tenants (110 sf)
CMU2 One Tenant	80 sf	140 sf
CMU2 Multiple Tenants [1]	+ 20 sf sign area per additional tenant up to 6 tenants (200sf)	+ 10 sf sign area per tenant up to 10 tenants (240 sf)
CMU2 Shopping Center [1]	375 sf	375 sf
Notes: [1] Distribution of this signage across multiple tenancies is the responsibility of the property owner. Extra signage will not be permitted once the maximum signage identified here has been met.		

3. Summary Tables

Tables 27-1400.6 and 27-1400.7 identify the types of signs permitted in these districts, subject to the regulations identified in the table and this article.

Table 27-1400.6: Attached Signs in CMU1, CMU2, and EBURD RSVMS

Sign Type	Number	Height (max., ft.)	Sign Area per Sign (max., sf.)	Illumin.	EMD	Additional Standards
Awning	1 per awning	n/a	n/a	Internal or external	n/a	27-1405.B, Awning Sign
Canopy	1 per canopy	n/a	n/a	Internal or external	n/a	27-1405.B, Canopy Sign
Projecting	1 per tenant	Same as wall	48	Internal or external	n/a	27-1405.B, Projecting Sign
Wall	1 per tenant per street frontage	Same as wall	D.2.(a), above [1]	Internal or external	Static; Max 40% of sign area	27-1405.B, Wall Sign
Window	n/a	architect. distinct window area	27-1405.B, Window Signs	No	n/a	27-1405.B, Window Signs
Notes						
[1] Distribution of this signage across multiple tenancies is the responsibility of the property owner. Extra signage will not be permitted once the maximum signage identified here has been met.						

Table 27-1400.7: Freestanding Signs in CMU1, CMU2, and EBURD RSVMS

Sign Type	Number	Height (max., ft.)	Sign Area per Sign (max., sf)	Setback (min., ft.)	Illumin.	EMD	Additional Standards
Access Point	1 per vehicle access	3	6	0 [2]	Internal or external	n/a	27-1405.A, Access Point Sign
1) Monument, 2) Multitenant Monument, or 3) Shopping Center	Table 27-1400.1	8	Table 27-1400.5	5 [2]	Internal or external	Static: Max 40% of sign face	27-1405.A Monument Sign
Pedestrian-Scale Freestanding	Table 27-1400.1	Single Pole: 8; Double Pole: 5	8	2 [2]	Internal or external	Static: Max 40% of sign face	27-1405.A, Pedestrian-Scale Freestand.
Pole	1 per parcel	25 [1]	Table 27-1400.5	5 [2]	Internal or external	Static: Max 40% of sign face	27-1405.A, Pole Sign
Structural Canopy	1 per street frontage	2 feet above canopy	n/a	Canopy: Zone district standards	Internal	Static; Max 40% of sign face	27-1405.A, Structural Canopy Sign
Notes:							
[1] The maximum height of pole signs located in the CMU2 and EBURD RSVMS districts within 660 feet of and oriented to the interstate or interstate frontage right-of-way is 40 feet. [2]From all property lines; must comply with clear vision areas per 27-1802.H.							

4. District Specific Standards

(a) Where signs are linked to a use category, a description of the category can be found in Section 27-1000, Use Standards.

(b) Tenant signage in multitenant structures shall be allocated to each tenant unit based on the front wall area of the individual unit. Tenants with side, rear, or alley entrances are permitted wall signage on the wall with their primary public entrance.

D. CBD AND DX

1. Applicability

The standards in this section shall apply to the CBD and DX zone district.

2. Maximum Total Signage

(a) Attached signs

(1) Buildings under 10 stories: 10% of the wall area up to a max of 250 square feet.

(2) Buildings 10 stories and taller: 10% of wall area with no maximum.

(b) Freestanding signs: 0.5 square foot per lineal foot of street frontage to a max of 50 square feet unless otherwise provided in Table 27-1400.9. Table 27-1400.1, Permitted Number of Permanent Freestanding Signs: urban standards apply.

3. Summary Tables

Tables 27-1400.8 and 27-1400.9 identify the types of signs permitted in these districts, subject to the regulations identified in the table and this article.

Table 27-1400.8: Attached Signs in CBD and DX

Sign Type	Number	Height (max., ft.) [1]	Sign Area Max per Sign (sf)	Illumin.	EMD	Additional Standards
Awning	1 per awning	n/a	n/a	Internal or external	n/a	27-1405.B, Awning Signs
Canopy	1 per canopy	n/a	n/a	Internal or external	n/a	27-1405.B, Canopy Signs
Projecting	1 per street frontage	May not extend beyond roofline	48 sf	Internal or external	n/a	27-1405.B, Projecting Signs
Roof	1 per premises	4 ft above roofline	x	Internal or external	Animated; Max 40% of sign face	27-1405.B, Roof Sign
Under awning or canopy signs	1 per tenant	Below awning or canopy	x	Internal or external	n/a	Buildings with awnings or canopies over the right-of-way
Wall	1 per tenant per street frontage	Same as wall	E.2(a) above [2]	Internal or external	Animated; Max 40% of sign face	27-1405.B, Wall Sign
Window	n/a	Limited to architect. distinct window area	27-1405.B, Window Signs	No	n/a	27-1405.B, Window Signs

Notes:

[1] Attached signs on taller structures, except for roof signs, shall be located at or below the 10th story of the building.

[2] Distribution of this signage across multiple tenancies is the responsibility of the property owner. Extra signage will not be permitted once the maximum signage identified here has been met.

Table 27-1400.9: Freestanding Signs in CBD and DX

Sign Type	Number	Height (max., ft.)	Sign Area per Sign (max., sf)	Setback (min., ft.)	Illumin.	EMD	Additional Standards
Access Point	1 per vehicle access	3	6	0 [2]	Internal or external	n/a	27-1405.A, Access Point Sign
Monument; Monument, Multitenant	1 per street frontage; Table 27-1400.1	8	50 per side; plus 4 sf sign area per tenant up to 6 tenants (24 sf) [1]	0 [2]	Internal or external	Animated, max 40% of sign area	27-1405.A Monument Sign
Pedestrian-Scale Freestanding	1 per street frontage; Table 27-1400.1.	Single Pole: 8; Double Pole 5	12 per side	0 [2]	Internal or external	Animated, max 40% of sign area	27-1405.A, Ped.-Scale Freestand. Sign
Structural Canopy	1 per street frontage	2 feet above canopy	n/a	0 [2]	Internal	Static, max 40% of sign area	27-1405.A, Structural Canopy Sign

Notes:

[1] Distribution of this signage across multiple tenancies is the responsibility of the property owner. Extra signage will not be permitted once the maximum signage identified here has been met.

[2] From all property lines; must comply with clear vision areas per 27-1802.H.

E. COMMERCIAL, INDUSTRIAL, AND EBURD CW, 13TH ST, AND IS

1. Applicability

The standards in this section shall apply to the following districts: CX, I1, I2, and EBURD CW, 13th St. and IS

2. Maximum Total Signage

(a) Attached signs: 2 square feet per lineal foot of building frontage to a max of 250 square feet.

(b) Freestanding signs: 1 square foot per lineal foot of street frontage to a max of 250 square feet unless otherwise provided in Table 27-1400.11. Table 27-1400.1, Permitted Number of Permanent Freestanding Signs applies.

3. Summary Table

Tables 27-1400.10 and 27-1400.11 identify the types of signs permitted in these districts, subject to the regulations identified in the table and this article.

Table 27-1400.10: Attached Signs Commercial, Industrial, and EBURD CW, 13th, and IS

Sign Type	Number	Height (max., ft.)	Sign Area Max per Sign (sf)	Illumin.	EMD	Additional Standards
Awning	1 per awning	n/a	n/a	Internal or external	n/a	27-1405.B, Awning Sign
Canopy	1 per canopy	n/a	n/a	Internal or external	n/a	27-1405.B, Canopy Sign
Projecting	1 per tenant	Same as wall	48	Internal or external	n/a	27-1405.B, Projecting Sign
Roof [1]	1 per premises	4 ft above roofline	250	Internal or external	n/a	27-1405.B, Roof Sign
Wall	1 per tenant per street frontage	Same as wall	F.2(a) above, [2]	Internal or external	Static; Max 40% of sign face	27-1405.B, Wall Sign
Window	n/a	Limited to architect. distinct window area	27-1405.B, Window Signs	No	n/a	27-1405.B, Window Signs

Notes:

[1] Permitted in lieu of a wall sign.
[2] Distribution of this signage across multiple tenancies is the responsibility of the property owner. Extra signage will not be permitted once the maximum signage identified here has been met.

Table 27-1400.11: Freestanding Signs Commercial, Industrial, and EBURD CW, 13th St., and IS

Sign Type	Number	Height (max., ft.)	Sign Area per Sign (max., sf)	Setback (min., ft.)	Illumin.	EMD	Additional Standards
Access Point	1 per vehicle access	3	6	0 [1]	Internal or external	n/a	27-1405.A, Access Point Sign
Monument	1 per street frontage; Table 27-1400.1	8	100 per side	5 [1]	Internal or external	Static; Max 40% of sign face	27-1405.A Monument Sign
Multitenant Monument [2]	1 per street frontage; Table 27-1400.1	8	100 plus 10 sf per tenant up to 6 tenants; 160 max	5 [1]	Internal or external	Static; Max 40% of sign face	27-1405.A Monument Sign
Shopping Center Monument	1 per street frontage	8	375	5 [1]	Internal or external	Static; Max 40% of sign face	27-1405.A, Monument Sign
Pole	1 per street frontage; Table 27-1400.1.	25 [3]	100 per side	5 [1]	Internal or external	Static; Max 40% of sign face	27-1405.A, Pole Sign
Structural Canopy	1 per street frontage	2 feet above canopy	n/a	5 [1]	Internal	Static; Max 40% of sign face	27-1405.A, Structural Canopy Sign

Notes:

[1] From all property lines; must comply with clear vision areas per 27-1802.H.
[2] Distribution of this signage across multiple tenancies is the responsibility of the property owner. Extra signage will not be permitted once the maximum signage identified here has been met.
[3] The maximum height of pole signs within 660 feet of and oriented to the interstate or interstate frontage right-of-way is 40 feet.

F. PUBLIC DISTRICTS

1. Public 1: Park and Open Space

(a) Freestanding signage is permitted per street frontage as identified in Table 27-1400.12.

(b) Internal park signage is exempt per Section 27-1403.C.

Table 27-1400.12: Maximum Sign Area P1

Street Type	Maximum Total Sign Area (sf)
Local	32
Collector	64
Minor Arterial	64
Principal Arterial	100

2. Public 2: Public and Institutional

Signage is permitted pursuant to Section 27-1406.B, NO and NMU.

3. P3: Medical Campus Signs

(a) Applicability

(1) The standards in this section shall apply to the P3 Medical Campus district.

(2) The permitted signage in the P3 Medical Campus is applicable to two categories of structures and uses, both of which are defined in Section 27-1800:

a. Medical Structures: any primary structure on the campus that is used for the provision of medical services or support of medical staff and administration.

b. Non-Medical Structures: Permitted support campus structures such as, but not limited to, restaurants or hotels.

(b) District Specific Terms

(1) Internal signage is defined as signage that is not visible from outside of the campus or from the main circulation routes of the campus.

(2) Street frontage is defined as building frontage on an exterior street. Signs facing other internal streets are considered internal signage.

(c) Prohibited Signs and Lighting

The following signs and lighting are prohibited in the P3 Medical Campus district:

(1) Animated display EMD

(2) Inflatable signs

(3) Flashing illumination and flashing neon

(4) Strobe lights

(5) Searchlights

(6) Temporary signs

(7) Window signs

(d) Medical Structures Signage

Maximum signage is calculated by sign category as provided below.

Table 27-1400.13: Medical Structure Signs in P3

Attached					
Sign Type	**Number**	**Height (max., ft.)**	**Sign Area per Sign (max., sf)**	**Illumination**	**Additional Standards**
Attached, all	n/a	Height of wall	Smaller of 25% of wall area or 250 feet [1]	Internal, external, or static EMD	27-1405

Freestanding						
Sign Type	**Number**	**Height (max., ft.)**	**Sign Area per Sign (max., sf)**	**Setback (min, ft)**	**Illumin.**	**Additional Standards**
Freestanding, all	n/a	20	175	5 [2]; 100 ft separation from other freestanding signs	Internal, external, or static EMD	27-1405

Notes:

[1] On a structure within 150 feet of and not separated by a public street from an N zone, wall signs may not, individually or collectively, cover more than 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

[2] From all property lines; must comply with clear vision areas per 27-1802.H.

(e) Non-Medical Structure Signage

(1) Maximum signage is calculated by sign type, as provided below.

(2) Tables 27-1400.14 and 27-1400.15 identify the types of signs permitted for non-medical structures in the P3 district, subject to the regulations identified in the table and this article.

Table 27-1400.14: Non-Medical Structure Attached Signs in P3

Sign Type	Number	Height (max., ft.)	Sign Area per Sign (max., sf)	Illumination	Additional Standards
Awning	1 per awning	Flat on awning	Size of awning	Internal or external	27-1405.B, Awning Sign
Canopy	1 per canopy	24" above canopy	27-1405.B, Canopy Sign	Internal or external	27-1405.B, Canopy Sign
Projecting	1 per street frontage	Height of wall	27-1405.B, Projecting Sign	Internal, external, or static EMD	27-1405.B, Projecting Sign
Wall	1 per street frontage	Height of wall	25% of wall or 100 sf, whichever is less	Internal, external, or static EMD	27-1405.B, Wall Sign

Table 27-1400.15: Non-Medical Structure Freestanding Signs in P3

Sign Type	Number	Height (max., ft.)	Sign Area per Sign (max., sf)	Setbacks (min., ft.)	Illumin.	Additional Standards
Access Point	2 per vehicle access	3	8	n/a [2]	Internal or external	27-1405.A, Access Point Sign
Monument	1 per street frontage	8	32	5 [2]	Internal, external, or static EMD	27-1405.A Monument Sign
Structural Canopy	1 per street frontage	Same as canopy	20% of canopy facia on side where mounted	5 [2]	Internal or static EMD	27-1405.A, Structural Canopy Sign
Notes:						
[1] From all property lines; must comply with clear vision areas per 27-1802.H.						

4. P3 Educational and Civic Campus Signs

(a) Applicability

(1) The standards in this section shall apply to the P3 Educational Campus and P3 Civic Campus district.

(2) The permitted signage in the P3 Educational or Civic Campus is applicable to two categories of structures and uses:

a. Educational or Civic Structures: any primary structure on the campus that is used for the provision of core campus services or support of staff and administration.

b. Support Structures: Permitted support campus structures that may include but are not limited to uses such as restaurants or hotels.

(b) District Specific Terms

(1) Internal signage is defined as signage that is not visible from outside of the campus or from the main circulation routes of the campus.

(2) Street frontage is defined as building frontage on an exterior street. Signs facing other internal streets are considered internal signage.

(c) Educational and Civic Structure Signage

Maximum signage is calculated by sign category as provided below.

Table 27-1400.16: Educational Structure Signs in P3

Attached					
Sign Type	**Number**	**Height (max., ft.)**	**Sign Area per Sign (max., sf)**	**Illumination**	**Additional Standards**
Attached, all	n/a	Height of wall	Smaller of 25% of wall area or 175 feet [1]	Internal, external, or static EMD	27-1405

Freestanding						
Sign Type	**Number**	**Height (max., ft.)**	**Sign Area per Sign (max., sf)**	**Setback (min, ft)**	**Illumin.**	**Additional Standards**
Freestanding, all	n/a	20	175	5 [2]; 100 ft separation from other freestanding signs	Internal, external, or static EMD	27-1405

Notes:

[1] On a structure within 150 feet of and not separated by a public street from an N zone, wall signs may not, individually or collectively, cover more than 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

[2] From all property lines; must comply with clear vision areas per 27-1802.H.

(d) Support Structure Signage

(1) Maximum signage is calculated by sign type, as provided below.

(2) Tables 27-1400.17 and 27-1400.18 identify the types of signs permitted for non-educational structures in the P3 district, subject to the regulations identified in the table and this article.

Table 27-1400.17: Support Structure Attached Signs in P3

Sign Type	Number	Height (max., ft.)	Sign Area per Sign (max., sf)	Illumination	Additional Standards
Awning	1 per awning	Flat on awning	Size of awning	Internal or external	27-1405.B, Awning Sign
Canopy	1 per canopy	24" above canopy	27-1405.B, Canopy Sign	Internal or external	27-1405.B, Canopy Sign
Projecting	1 per street frontage	Height of wall	27-1405.B, Projecting Sign	Internal, external, or static EMD	27-1405.B, Projecting Sign
Wall	1 per street frontage	Height of wall	25% of wall or 100 sf, whichever is less	Internal, external, or static EMD	27-1405.B, Wall Sign

Table 27-1400.18: Support Structure Freestanding Signs in P3

Sign Type	Number	Height (max., ft.)	Sign Area per Sign (max., sf)	Setbacks (min., ft.)	Illumin.	Additional Standards
Access Point	2 per vehicle access	3	8	n/a [2]	Internal or external	27-1405.A, Access Point Sign
Monument	1 per street frontage	8	32	5 [2]	Internal, external, or static EMD	27-1405.A Monument Sign
Structural Canopy	1 per street frontage	Same as canopy	20% of canopy facia on side where mounted	5 [2]	Internal or static EMD	27-1405.A, Structural Canopy Sign
Notes:						
[1] From all property lines; must comply with clear vision areas per 27-1802.H.						

G. HISTORIC DISTRICTS

Statement of special purpose. This special code acknowledges the unique visual concerns associated with the Billings' historic districts, including the Billings Townsite Historic District, Old Town Historic District, and North Elevation Historic District, as defined in BMCC 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.

1. Signs Permitted in Historic Districts

Within the North Elevation Historic District signs are permitted as per the underlying zone district and in compliance with the requirements for placement and style as per this code section.

Within the Billings Townsite Historic District and Old Town Historic District, signs are permitted as follows:

(a) 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.

(b) The size of signs in the historic district is limited to 50 percent of that allowed in this article.

(c) No new roof signs shall be permitted after the adoption of this code [insert date].

2. Sign Standards

(a) Signs and sign lettering within the Billings Townsite, Old Town, and the North Elevation Historic Districts shall be designed and installed to compliment the architectural style.

(b) Where an awning does not have a clear vertical plane, the signage may not exceed 25 percent of the lower third of the awning.

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

(d) 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.

(e) In the Billings Townsite and Old Town Historic Districts, 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. Neon and incandescent lamps may flash in the following ways.

(1) Alternating. One 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 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.

(f) No sign will be permitted to obscure or cover any significant architectural detail or decorative element of the existing building.

(g) 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.

(h) 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.

(i) Ghost signs that were created 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 applicable sign district regulations.

(j) Only on-premises signs shall be allowed within the Billings Townsite, Old Town and North Elevation Historic Districts.

(k) 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.

3. Prohibited Signs

The following signs are prohibited.

(a) New billboards, off-premise/third party signs.

(b) Electronic message displays.

(c) Changeable copy signs, except for the use on a theater marquee.

(d) Rotating signs.

(e) Intermittent or flashing lights, except for neon signs as described above.

(f) Above peak roof signs unless a roof sign had previously been on the building.

4. Temporary Signs

(a) Banner signs in the 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 20 square feet in area.

(3) Banners may not be stretched across the public rights-of-way.

(b) Banners on Private Property

Each business shall be permitted to display one banner not to exceed 32 square feet in area for one five-day period per calendar year.

(c) Sandwich board (A-frame) signs.

(1) One sandwich board sign shall be permitted per public entrance.

(2) All requirements of BMCC Section 22-407.1 and 22-407.2 must be met.

(3) Sandwich boards must be securely anchored to the ground.

(4) Sandwich boards may only be displayed during regular business hours.

SECTION 27-1408 TEMPORARY SIGNS

A. PURPOSES

The purposes of these temporary sign regulations are as follows:

1. Enhance opportunities for visual communication, including promoting the legibility of such communications;
2. Create a more attractive economic and business climate within the City;
3. Enhance and protect the physical appearance of all areas of the City;
4. Identify permissible signage for temporary uses and temporary events, and
5. Reduce the distractions, obstructions, and hazards to pedestrian and automobile traffic caused by the excessive number, size, or height, inappropriate means of illumination or movement, indiscriminate placement, overconcentration, or unsafe construction of signs.

B. ALLOWED ON PRIVATE PROPERTY RESTRICTIONS

Temporary event signs, including, but not limited to, those specified within this article, may be allowed off-premises on private property provided they meet the following requirements:

1. The sign conforms to all requirements of this article;
2. The sign does not interfere with automobile traffic or pedestrians;
3. The sign is not placed in the public right-of-way or on public property;
4. When a sign placed on private property, is done with the express permission of the property owner; and
5. The sign is not a public danger or nuisance during high winds or inclement weather.

C. PERMIT AND DISPLAY

1. A temporary sign permit is required unless otherwise specified in this article.
2. Temporary signs shall comply with the following unless otherwise specified in this article:
   (a) Maximum display time: 30 days;
   (b) Maximum number of temporary signs: shall not exceed one 32 sf sign per property frontage unless otherwise permitted in this article.

D. GENERALLY APPLICABLE TEMPORARY SIGN STANDARDS

1. Temporary Sign Types

The following temporary sign types are applicable to this section:

Table 27-1400.19: Temporary Sign Types

Sign	Max. Size	Max. Height
Banner	32 sf	n/a
Inflatable	4,500 cubic ft (volume)	30 ft
Sandwich Board	8 sf per side	4 ft
Yard, Large	32 sf	8 ft
Yard, Small	16 sf	6 ft

2. Location

(a) Temporary signs are subject to the prohibited sign locations identified in Section 27-1401.E.

(b) No temporary sign shall cause unsafe ingress or egress or otherwise create traffic visibility problems – Sec. 27-1802.H.

3. Size and Placement Limitations

The following placement limitations are generally applicable to temporary signs unless otherwise specified in this article.

(a) Signs may be printed on both sides or two single-sided banners may be placed back-to-back. V-type configurations are not permitted.

(b) Measuring one side of the display shall determine the square footage for purposes of computation.

E. ADDITIONAL TEMPORARY SIGNS PERMITTED BY TYPE

1. Banner Sign

(a) One banner sign is permitted for one 30-day period in mixed-use, commercial, industrial, and EBURD districts.

(b) Banner signs are limited to use on private property unless otherwise provided in a zone district.

(c) Banner signs must be securely attached to a structure, the wall of a building, or canopy.

2. Inflatable Signs

(a) One inflatable sign is permitted for one 30-day period in the CMU1, CMU2, CX, I1, I2, and EBURD districts.

(b) Inflatable signs are permitted on rooftops provided the sign and structure are securely anchored to the rooftop.

3. Sandwich Board Signs

(a) Sandwich board signs may be placed on private property or the public sidewalk in the NO, NMU, CBD, DX, and EBURD districts directly in front of the business at any time when the business is open.

(b) Sandwich board signs shall be placed so they do not interfere with or impede the flow of pedestrian movement; a minimum of three feet of unobstructed sidewalk with must be maintained while the sign is displayed.

(c) Sandwich board signs placed on a public sidewalk within the street right of way will follow all requirements of BMCC Section 22-407.1 and 22-407.2.

F. ADDITIONAL TEMPORARY SIGNS PERMITTED BY ACTIVITY

1. Active Real Estate Listing

Additional temporary signage is permitted for the duration of the active real estate listing as follows:

(a) Neighborhood residential use or property: one small yard sign per street frontage.

(b) Mixed use, commercial, and industrial use or property: one large yard sign or banner attached to a permanent structure per street frontage.

(c) Open house event: signage permitted per Table 27-1400.20.

(d) Temporary sign permits are not required.

2. Active Building Permit / Active Construction

(a) Single structure development shall be permitted one large yard sign per construction project. The sign shall be confined to the site of construction and shall be removed five days after issuance of an occupancy certificate or completion of construction and prior to occupancy.

(b) Subdivision development projects shall be permitted two large yard signs per subdivision development project. The sign shall be removed six months after construction on the last lot is commenced.

(c) Contractor, architect, surveyor, or engineer signs. Subcontractors on an active construction project may place a maximum of one small yard sign on one street frontage for the same period of time as the single structure or subdivision development sign. Subcontractor signs may be moved from lot to lot as construction progresses.

(d) Temporary sign permits are not required.

3. New or Relocating Business

New businesses or existing businesses which are relocating may have one additional temporary sign that complies with the standards of Table 27-1400.19. The temporary sign shall be limited in use to one time for no longer than 60 days. A Temporary Sign permit is required.

4. Real Estate Sign – Prospective Development Listing

Additional temporary signage is permitted for a subdivision, multi-unit residential development, or non-residential structure following the issuance of a building permit as follows:

(a) Residential development: One large yard sign per public entrance.

(b) Non-residential development: One large yard sign per public entrance or one banner placed on the structure per street frontage.

(c) The sign shall remain only as long as property remains unsold or unleased for the first time within the tract, but not to exceed one year. The planning division may extend the one-year time period upon written request by the owners/developers of the project.

(d) A Temporary sign permit is required.

G. TEMPORARY SIGNAGE PERMITTED BY TEMPORARY USE GROUP PERMIT

1. Temporary Use Signage Permitted

(a) Temporary uses allowed by temporary use permit may have up to 100 square feet of temporary sign area allocated across signage that complies with Table 27-1400.19 for the district in which the temporary use is located.

(b) Group 3 Temporary Uses will require a Temporary sign permit. Group 1 and Group 2 Temporary Uses will not require sign permits for temporary signage.

(c) The temporary signage shall meet the following standards:

(1) Signs advertising the temporary use or activity are allowed only at the same location as the temporary use.

(2) Signage may only be displayed while the temporary use is on the property.

(3) Clear vision triangle standards are applicable (Sec 27-1802.H).

(4) Paper or cardboard signs are prohibited.

(5) All signage and temporary structures must be removed at the time the temporary use has ceased on the property.

H. TEMPORARY SIGNAGE PERMITTED BY EVENT

1. Standards for Temporary Event Signage

(a) Temporary signs may be allowed as part of a special event whether or not a temporary use permit for the event is required.

(b) Temporary signs for special events may be off-premises with the permission of the property owner, and may be allowed on a parcel in addition to the maximum amount of temporary signage permitted on that parcel.

(c) Temporary signs for special events do not require permits.

2. Signage Permitted

Temporary signs permitted for special events are restricted to the types, sizes, and heights identified in Table 27-1400.20 unless otherwise specified in this subsection.

Table 27-1400.20: Temporary Signage by Event

Event	Type of Sign	Number Permitted	Duration
Estate/Garage/Rummage Sale	Yard, small	4	24 hours before and after event, no permit required
Open House/Auction	Yard, small	4	24 hours before and after event
Public Event	Yard, large	10	Placed no more than 7 days before; removed w/in 48 hours
	Banner	5	

SECTION 27-1409 OFF-PREMISES/BILLBOARD SIGNS

A. PURPOSE AND INTENT:

The purpose of this section is to regulate the impact of billboards on the community; to improve the appearance of major corridors and gateways; 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:

1. 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.
2. Billboards may be often incongruous with the City's natural setting and features due to their large-scale figures, numbers, letters, and colors.
3. A billboard may dominate the view from vehicles and interfere with the occupants' enjoyment of the City's natural setting and features.
4. A high concentration of billboards may create traffic safety problems and distract attention away from public safety signs.
5. Billboards of excessive size or height should be downsized within a reasonable period of time.
6. Billboards are incompatible with residential uses.
7. The I-90, Highway 3, Main Street, 27th Street, other gateways, 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.
8. The downtown area defined in the Downtown Strategic Plan is an area in which urban design significantly influences the health and vitality of the total community.

B. NO NEW OFF-PREMISES/BILLBOARD SIGNAGE PENDING REMOVAL OF NON-CONFORMING SIGNS

1. New Billboards Prohibited

No off-premises/billboard sign shall be constructed or erected in any district after the date of the enactment of this subsection 27-1409 [previous code Section 27-706(b), adopted by Ord. No. 99-5107, enacted Nov. 22, 1999].

2. Billboard Replacement Provisions

(a) For each non-conforming off-premises/billboard sign face removed a replacement conforming off-premises/billboard sign face may be erected. Replacement off-premises/billboard sign face(s) shall comply with all of the applicable regulations contained herein.

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

C. LOCATION STANDARDS FOLLOWING COMPLIANCE WITH SEC. 27-1409.B

All replacement billboards shall be located in accordance with the following standards:

1. Zoning Districts

(a) Replacement billboards shall be permitted as an allowed use in Heavy Commercial (CX), Controlled Industrial (I1), and Heavy Industrial (I2) zoning districts and on Boulevard Street Types in EBURD zone districts.

(b) Billboards shall be permitted as an allowed use in Corridor Mixed Use 2 (CMU2) zoning district provided that the structure is two hundred (200) feet or more from a residential zoning district.

(c) A special review shall be required for all billboards to be located in a CMU2 zone if the structure is less than 200 feet but greater than 150 feet from a residential zoning district.

(d) Billboards may be permitted in the CBD through Section 17-16xx, Special Review.

(e) No new billboards shall be permitted on, directed to, or within 200 feet of the following corridors regardless of the applicable zoning:

(1) 27th Street from I-90 to Airport Road (excluding 27th Street North from Montana Avenue to 6th Avenue North).

(2) Highway 3 (Airport Road) from Alkali Creek Road west to the City limits.

(3) Shiloh Road from I-90 to Rimrock Road.

(4) Yellowstone River.

(5) Any historic district registered on the National Register of Historic Places.

2. Locations Standards

(a) Billboards shall be set back 20 feet from the front property line.

(b) No billboard shall be placed on the roof of any building or structure.

3. Spacing Standards

Billboards shall be required to have the following spacing requirements:

(a) Billboards located in CMU2 shall have a minimum spacing of a 1,000-foot radius from any other billboard.

(b) Billboards located in CX, I1, I2, and EBURD shall have a minimum spacing of 600 linear feet from any other billboard.

(c) No billboard shall be placed within 150 feet of any neighborhood residential zone.

4. Area, Height, Face, and Pole Standards

All replacement billboards (and new billboards when permitted) shall conform to the following standards:

(a) Sign area: New and replacement billboards faces and supporting framework shall not exceed the following sign areas:

(1) Generally: 250 square feet.

(2) Located within the interstate corridor: 480 square feet.

(b) Height, maximum:

(1) 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 15 feet.

(c) Faces:

(1) There shall be no more than a total of two faces per supporting structure.

(2) All structures must be single face, back-to-back, or "v" type of construction. Stacked faces are prohibited.

(d) Pole construction: All structures must be of single pole construction.

5. Special Review Requirements for Off-Premise/Billboard Signs in CMU2 and CBD

The following criteria will be used in reviewing the proposed structure:

(a) 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) The signs will not cover or blanket any prominent view of a structure or facade of historical or architectural significance.

(c) The sign will not obstruct views of users of adjacent buildings to side yards. This requirement does not include views of distant vistas.

(d) The sign cannot be seen from religious assemblies, schools, the Yellowstone River or any City, county, or state park; or, if it can be seen it must be located at 250 feet from the boundaries of such places.

(e) The height of signs located in undeveloped areas (no buildings within 300-foot radius) shall not exceed 26 feet above grade. The minimum clearance of a sign shall be at least 15 feet.

(f) 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.

6. Lighting and Display

(a) Static lighting shall comply with Section 27-1406.A or the EMD provisions in this section.

(b) Electronic Message Display (EMD) lighting shall comply with Section 27-1405.C and the following:

(1) A billboard EMD may be allowed on any off-premises/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-premises billboard signs in Section 27-1409(b) and the maintenance and repair requirements of Section 27-1410.

(2) A billboard EMD does not need to be incorporated in a freestanding or wall sign pursuant to Section 27-1405.C, the EMD may be used as the only sign area on the billboard sign face.

7. Landscaping

The provisions of Section 27-1406.B, Landscaping, apply to new and replacement billboards.

8. 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 60 days continuous days. The owner shall either advertise upon or remove the billboard within 30 days of written notification by the City.

SECTION 27-1410 INSTALLATION AND MAINTENANCE

A. INSTALLATION

1. Compliance with Adopted Building Code(s)

All signs shall comply with the appropriate provisions of any adopted building and related code(s) with standards for 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. MAINTENANCE

1. Good Condition

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 condition at all times.

(a) All signs, including those exempted, shall be kept neatly painted, including all metal parts and supports by which these conditions are deteriorating.

(b) The sign administrator may 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.

2. Continuous Maintenance Required

(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 60 days.

(c) 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) Any signage which has been damaged to such extent that it may pose a hazard to passersby shall be repaired or removed immediately. If the sign is repaired, it shall be done in compliance with this article.

C. ABANDONMENT

1. Abandoned Signs

(a) Except as otherwise provided in this article, the City may determine that a sign or sign structure has been abandoned where either:

(1) The sign or sign structure is no longer used by the property or sign owner, in which case discontinuance of sign use may be shown by expiration or revocation of a business license for the business located on the property, or cessation of use of the property where the sign or sign structure is located for the use or purpose associated with the sign; or

(2) The sign or sign structure has been damaged, and repairs and restoration have not been started within 45 days of the date the sign was damaged, or, once started, are not diligently pursued to completion.

(b) A nonconforming sign that meets the requirements of this section may be considered abandoned and will be subject to enforcement and removal.

(c) Temporary signs shall be considered abandoned if the associated permit has expired, the special event has occurred in the past or if the sign fails to meet the maintenance requirements of this article.

2. Sign Face Change

(a) Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business or where a building or tenant space is for lease shall not be deemed abandoned unless the property remains vacant for a period of six months or more.

(b) The sign face(s) of all signs associated with the structure or tenant space shall be removed and shall be replaced with a blank face.

3. Sign Removal

(a) An abandoned sign or sign structure is prohibited and shall be removed by the owner of the sign or owner of the premises within 45 days of a determination of abandonment.

(b) When an on-premises sign or sign structure becomes abandoned due to demolition or destruction of the structure in which the business was located, the sign and structure shall be removed at the same time as the demolition of the structure, or within 45 days of a determination of abandonment by the sign administrator.

(c) Where a successor to a business agrees in writing, prior to the demolition of the structure or as part of a determination of abandonment, to bring any sign into compliance with this article and to maintain the sign as provided in this article, the removal requirement shall not apply. The sign and sign structure shall be brought into full compliance prior to the issuance of a certificate of occupancy for use of any part of the associated structure or business.

SECTION 27-1411 VIOLATIONS AND SIGN REMOVAL

A. VIOLATIONS

1. 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.

2. Signs Declared Unlawful

(a) 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.

(b) 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.

SECTION 27-1412 ADMINISTRATION AND INSPECTION

A. SIGN PERMIT

1. Permits Required

(a) 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 an approved sign permit for each sign from the sign administrator as required by this article.

(b) 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.

(c) 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.

2. Permit Expiration

(a) Every sign permit issued by the sign administrator shall become null and void if work is not commenced within 120 days from the date of such permit.

(b) If work authorized by such permit is suspended or abandoned for 60 days any time after the work is commenced, a new permit shall be first obtained to do so, 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.

3. 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.

B. APPLICATION PROCESS

1. Application for Permit

Application for a permit shall be made to the sign administrator through a process 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:

(a) Name and address of owner of the sign;

(b) Name and address of owner or the person in possession of the premises where the sign is located or to be located;

(c) Clear and legible drawings or photo with description definitively showing the 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;

2. Issuance; Denial

(a) The sign administrator may 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.

(b) 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.

(c) The sign administrator shall make a determination within 30 business days of receiving a complete application.

3. 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.

C. TEMPORARY SIGN PERMIT

1. 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 sign 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.

2. Issuance—Denial

(a) The sign administrator may issue a temporary sign permit for the erection or display of a temporary sign within the City when the administrator has determined that the applicant has met all requirements of this section and all other applicable laws of the City.

(b) The sign administrator shall establish area/height allowance and shall specify where the temporary sign is to be located, taking into consideration clear vision triangle and setback requirements.

DEFINITIONS (move to Article 27-1800, Measurements and Definitions)

Abandon/Abandoned

The cessation of a use or structure for a specified period of time as evidenced through discontinuance, non-operation, vacation of the structure or property, or lapse of business license. Casual, intermittent, temporary, or illegal use of land or buildings shall not be construed to establish or continue a nonconformity subject to abandonment. Neither the existence of fixtures or equipment, nor the continued payment of rent, mortgage, or utilities shall evidence a continuing use.

Conforming

A structure, use, or site feature that, when originally constructed, was in full compliance with all applicable zoning regulations.

Nonconforming

Nonconforming Lot: A lot that was lawful prior to the adoption, revision, or amendment of this Zoning Code, but that fails by reason of such adoption, revision, or amendment, to conform with the present lot requirements for the zone district in which the lot is located.

Nonconforming Structure: A structure or building that was lawful prior to the adoption, revision, or amendment of this Zoning Code, but which fails by reason of such adoption, revision, or amendment, to conform to the present requirements for a conforming or compliant structure in the zone district in which such structure or building is located. See Compliant Structure in Section 27-1506.

Nonconforming Use: A use or activity that was lawful prior to the adoption, revision, or amendment of this Zoning Code, but which by reason of such adoption, revision, or amendment, is no longer permitted in the zone district in which such use or activity is located.

Nonconforming Site Characteristic (was “use of land”): A site characteristic that was lawful prior to the adoption, revision, or amendment of this Zoning Code, but that fails by reason of such adoption, revision, or amendment, to conform with the present location or dimension requirements for the zone district in which the lot is located.

Site Characteristic

An aspect of a site that is regulated by this Zoning Code but is not a structure, use, or lot. Site features include site elements such as landscaping, parking, access location, and uses not located in a structure, such as wind or solar energy systems.

SECTION 27-1501 PURPOSE

A. PURPOSE

1. Changes to the zoning code can impact the status of legal, existing uses, lots, structures, and site features. It is the general policy of the City to allow uses, structures, and lots that came into existence legally to continue to exist and be put to productive use. As these uses and structures change, they should be brought into compliance with applicable regulations as expediently as is reasonably possible.
2. This article continues the City's established regulations regarding nonconformities and also establishes an intermediate legal status category for applicability following partial compliance with this Zoning Code.

B. INTENT

These regulations are intended to:

1. Recognize the interests of property owners in continuing to use their property;
2. Promote the reuse and rehabilitation of existing buildings; and
3. Place reasonable limits on the expansion of nonconformities that have the potential to adversely affect surrounding properties, neighborhoods, or the City as a whole.

C. ILLEGAL STATUS AND CODE VIOLATIONS

Nothing in this article 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 Zoning Code.

SECTION 27-1502 APPLICABILITY

A. GENERAL APPLICABILITY

1. The provisions of this article shall apply to buildings, structures, lands, uses, and site features that become nonconforming as a result of adoption, revision, or amendment to this Zoning Code.
2. The effective date for these regulations is _____, ___, 2020 for any property that was located within the limits of the City of Billings on or before that date.
3. Any permit application or development approval that had been accepted by the City as a complete application as of ____,__, 2020 shall be subject to the provisions of Section 27-107, Transitional Regulations.

B. PRE-EXISTING NONCONFORMITY

1. Any legal nonconformity existing as of the effective date of this Zoning Code will also be a legal nonconformity under this Zoning Code, as long as the situation that resulted in the nonconforming status under the previous zoning code continues to exist.
2. If a nonconformity under the previous zoning code becomes conforming because of the adoption of this Zoning Code, then the situation will no longer be a nonconformity.

C. REPAIRS AND MAINTENANCE

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

D. NONCONFORMING SIGNS

Nonconforming signs are addressed in Section 27-1400, Signs.

SECTION 27-1503 NONCONFORMING STRUCTURES

A. CONTINUATION OF NONCONFORMING STATUS

1. A nonconforming structure may continue to be used in conformance with the zone district where it is located so long as the structure remains lawfully occupied.
2. The structure may not be enlarged or altered in a way which increases its nonconformity unless an enlargement or structural alteration is required by law or by subsection C. above. Structural alterations may be permitted when necessary to adapt a nonconforming building to new technologies or equipment pertaining to uses housed in such building. Any enlargement greater than 10% of the GFA that is necessary to adapt to new technologies shall be authorized only by a variance, as described in Sections 27-16xx.

B. ABANDONMENT AND TERMINATION

1. When a nonconforming structure is abandoned for 12 months or more, the nonconforming status shall be considered terminated and the structure shall be brought into compliance with the current Zoning Code prior to any use.
2. Should the structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Zoning Code.
3. If the structure is brought into conformance or compliance with the zone district in which it is located, the structural nonconformity may not be resumed.
4. Should the structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the zone district in which it is located after it is moved.

SECTION 27-1504 NONCONFORMING USES

A. CONTINUATION OF USE

1. Nonconforming uses may be continued so long as the use remains otherwise lawful.
2. Any nonconforming use may be extended throughout any parts of a building designed for such use that existed as of [adoption date], but no such use shall be extended to occupy any land outside such building.

B. CONTINUATION OF STRUCTURE SPECIFIC TO USE

No existing structure specific to a nonconforming use shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in conjunction with changing to a conforming use.

C. DISCONTINUANCE

1. Compliance with Code

   (a) When a nonconforming use is replaced with a conforming use, the nonconforming use is considered terminated and may not be resumed.

   (b) Any structure specific to the use, or structures and land in combination specific to the use, in or on which a nonconforming use is replaced by a permitted use shall be brought into compliance with the zone district in which the structure(s) is located and the nonconforming use may not be resumed.

2. Abandonment

   (a) When a nonconforming use is abandoned for six months or more it shall be considered terminated.

   (b) When a nonconforming use of a structure specific to a use, or structures and land in combination specific to a use, is abandoned for one year or more, the structure, or structures and premises in combination, shall be brought into conformance with the applicable zone district regulations and the nonconforming use may not be resumed.

3. Demolition, Destruction, or Obsolescence

   (a) Where nonconforming use status applies to a structure specific to a use or structure and land in combination specific to a use, 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 50 percent of the replacement cost at time of destruction. The operation of a noncompliant residential use located in an N1-4, NX1-3, or RMH district shall not be terminated regardless of the amount of damage or destruction suffered by the structure in which the use is operated.

   (b) Obsolete or Substandard Non-Residential Structure: The right to operate and maintain any nonconforming use shall terminate and shall cease to exist whenever the non-residential structure in which the use is operated and maintained becomes obsolete or substandard under any applicable state or City code and the cost of placing such structure in lawful compliance with the applicable ordinance exceeds 50 percent of the replacement cost of such structure on the date that the building official determines such structure is obsolete or substandard; provided, however, that in determining the replacement cost of any structure, there shall not be included therein the cost of land or any factors other than the structure itself.

SECTION 27-1505 NONCONFORMING SITE CHARACTERISTICS

A. GENERAL

The following provisions apply to nonconforming site characteristics as identified in Section 27-1804:

1. The nonconforming site characteristic shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption.

2. The nonconforming site characteristic shall not be moved in whole or in part to any other portion of the lot or parcel occupied by the use at the effective date of adoption.

B. MANUFACTURED HOME

Within a period of one year or less from its removal from a lot of record, 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 more than 50% larger in GFA than the manufactured home that it replaced and can be placed on the lot in compliance with the applicable zone district standards.

SECTION 27-1506 COMPLIANT SINGLE UNIT RESIDENTIAL LOTS

A. A single unit dwelling and customary accessory buildings may be erected on any vacant single lot of record as of the effective date of this Zoning Ordinance in an N1-4, NX1-3 or RMH district as follows:

1. The lot must be in separate ownership and not of contiguous frontage with other lots in the same ownership.

2. This provision shall apply even though such lot fails to meet the applicable requirements for lot width or area, as applicable, provided the setback dimensions, lot coverage, and other requirements not involving lot width or area of the lot shall conform to the regulations of the district in which such lot is located.

3. Either Section 16xx, Administrative Relief, or Section 27-16xx, Variance may be used to make requests for adjustments to area and yard requirements

B. If two 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, and if all or part of the lots do not meet the requirements for lot area as established by this ordinance, the land involved shall be considered to be an undivided parcel for the purpose of this ordinance, and no portion of the parcel shall be used or sold which does not meet lot area requirements established by this ordinance, nor shall any division of the parcel be made which leaves remaining any lot, with area below the requirements stated in this Zoning Code unless the lot is created for utility or dedication purposes and is at least 50% smaller than the minimum lot size permitted in the zone district.

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SECTION 27-1601 OVERVIEW OF PROCEDURAL REQUIREMENTS

A. ORGANIZATION

The administration of zoning processes and permits is divided into two categories. Commonly applicable procedures (Sections 27-1603 to 27-1613) and specific procedures (Sections 27-1614 to 27-1626). Both are described in this section.

1. Commonly Applicable Procedures

The following requirements are common to many of the procedures contained in this Zoning Code. Applications are typically processed in accordance with the steps shown in Figure 27-1600.A. Additional details may be included in each specific procedure.

(a) Sec. 27-1603, Pre-Application Meeting

(b) Sec. 27-1604, Neighborhood Meeting

(c) Sec. 27-1605, Application Submission Meeting

(d) Sec. 27-1606, Procedures for Complete Applications with Changed Status

(e) Sec. 27-1607, Staff Review, Referral, and Recommendation

(f) Sec. 27-1608, Public Notice Requirements

(g) Sec. 27-1609, Review and Decision-Making Bodies

(h) Sec. 27-1610, Action by Review and Decision-Making Bodies

(i) Sec. 27-1611, Post-Review Actions

(j) Sec. 27-1612, Lapsing and Extension of Approvals

(k) Sec. 27-1613, Other Permits and Approvals Still Necessary

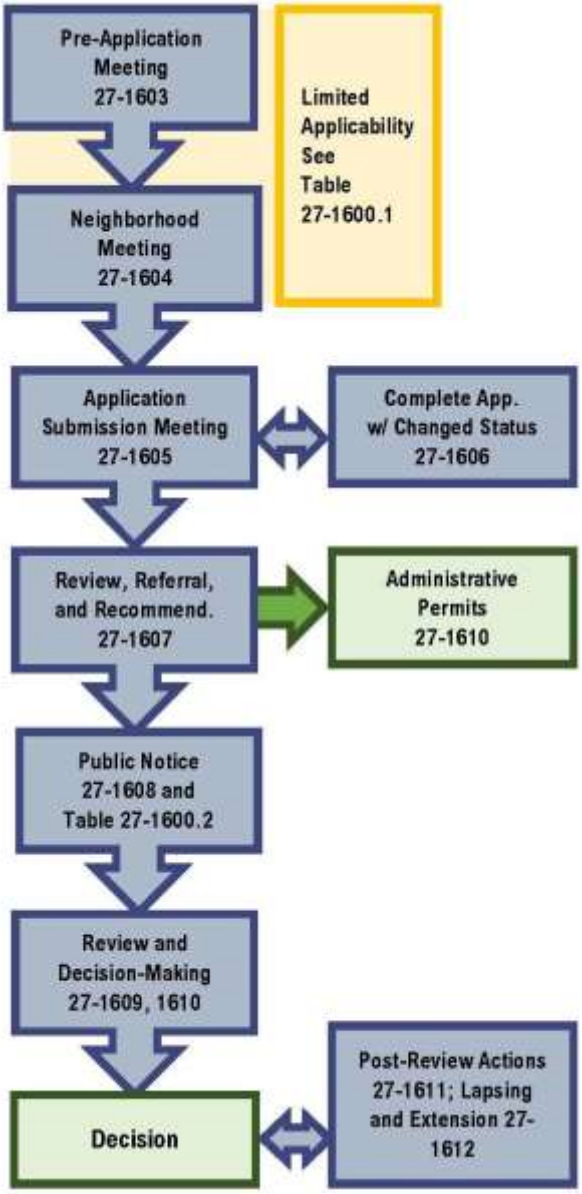


Fig. 27-1600.A: Commonly Applicable Procedures

2. Specific Procedures

Sections 27-1614 to 27-1629 provide the application-specific requirements for review and submission of each type of application or permit available:

(a) Sec. 27-1614, Administrative Relief

(b) Sec. 27-1615, Classification of Newly Annexed Area

(c) Sec. 27-1616, Appeal of Administrative Decision

(d) Sec. 27-1617, Code Interpretation

(e) Sec. 27-1618, Landscape Plan

(f) Sec. 27-1619, Master Site Plan

(g) Sec. 27-1620, Permits

(h) Sec. 27-1621, Short-Term Rentals

(i) Sec. 27-1622, Sign Permit

(j) Sec. 27-1623, Special Review Uses

(k) Sec. 27-1624, Temporary Use Permit

(l) Sec. 27-1625, Wind and Solar Facilities

(m) Sec. 27-1626, Wireless Communication Faciltiies

(n) Sec. 27-1627, Variance

(o) Sec. 27-1628, Zone Change

(p) Sec. 27-1629, Zoning Compliance Permit

B. USER'S GUIDE

The zoning coordinator may compile the requirements for application contents, forms, fees, submission materials, and review schedule in a User's Guide, which shall be made available to the public. The zoning coordinator may amend and update the User's Guide from time-to-time.

SECTION 27-1602 SUMMARY OF SPECIFIC APPLICATION STEPS

Table 27-1600.1 summarizes the application procedures in this Zoning Code and identifies whether pre-application and neighborhood meetings are required. Exceptions to these general rules apply and may be specified in the regulations for the individual procedure.

Table 27-1600.1: Summary of Application Steps

		Application Process							Review and Determination			
	Section	Pre-Application Meeting	Neighbor. Meeting	Application Submission Meeting	Referral Review	Staff Review	Public Notice Required	Public Hearing Required	Staff	Zoning Comm	City Council	District Court (DC) or Board of Appeals (BOA)
		Key: O Optional, R Required, -- Not Applicable							Key: R Review, RR Review and Recommend, D Decision, A Appeal, -- Not Applicable			
Project Application Type												
Administrative Relief	27-1614	--	--	R	--	R	--	--	D	--	--	BOA
Class. Newly Annexed Area	27-1615	O	O	R	R	R	R	R	RR	RR	D	DC
Planned Development (PD)	27-700	R	R	R	R	R	R	R	RR	RR	D	DC
Planned Neighborhood Development (PND)	27-800	R	R	R	R	R	R	R	RR	RR	D	RC
Special Review	27-1623	O	R	R	R	R	R	R	RR	RR	D	DC
Variance	27-1627	O	O	R	R	R	R	R	RR		BOA	DC
Zone Change	27-1628	O	R	R	R	R	R	R	RR	RR	D	DC
Permits												
Fence	27-1620	O	--	R	--	R	--	--	D	--	--	BOA
Landscape Plan	27-1618	O	--	R	--	R	--	--	D	--	--	BOA
Master Site Plan	27-1619	R	--	R	R	R	--	--	D	--	--	BOA
Proportionate Compliance	27-1620	O	--	R	--	R	--	--	D	--	--	BOA
Short-Term Rental	27-1621	O	--	R	--	R	--	--	D	--	--	BOA
Sign/Temporary Sign	27-1622	O	--	R	--	R	--	--	D	--	--	BOA
Temporary Use	27-1624	O	--	R	R	R	--	--	D	--	--	BOA
Wind and Solar	27-1625	O	--	R	--	R	--	--	D	--	--	BOA
Wireless Communication	27-1626	O	--	R	--	R	--	--	D	--	--	BOA
Zoning Compliance	27-1629	O	--	R	--	R	--	--	D	--	--	BOA
Code Administration												
Appeal of Admin. Decision	27-1616	R	--	R	--	R	R	R	RR	--	BOA	DC

Code Interpretation	27-1617	--	--	R	--	R	--	--	D	--	--	BOA
Zoning Text Amendment	27-1628	R	--	R	R	R	R	R	RR	R	D	DC

SECTION 27-1603 PRE-APPLICATION MEETING

A. PURPOSE

1. The purpose of the pre-application meeting is to provide an opportunity for the applicant and the City to discuss the development concept prior to the application submission for a project or permit in order to:
   (a) Determine the required application(s) and, if necessary, the timing of multiple application submittals (i.e., whether they may be processed concurrently or must be processed sequentially);
   (b) Provide the applicant with application materials and inform the applicant of submittal requirements;
   (c) Provide the applicant with an estimated time frame for the review process;
   (d) Discuss generally compliance with the code's zoning, use, density, development, and design standards, and attempt to identify potentially significant issues regarding compliance;
   (e) Discuss the need for any neighborhood meetings and public notice requirements; and
   (f) Engage the applicant in conversation with other departments or agencies to discuss potential significant issues prior to application submittal.
2. Pre-application meetings are informational for the applicant and are not open to the public.

B. APPLICABILITY

1. Pre-Application Meeting Recommended

Any applicant may request a pre-application meeting prior to submitting most development applications. The pre-application meeting is designed to help the applicant understand the development review and approval process.

2. Pre-Application Meeting Required

Pre-application meeting are required for some application types, as noted in the specific application section.

C. RECORD AND EFFECT

1. The City is not responsible for making or keeping a summary of the general topics discussed at the pre-application conference.
2. A pre-application meeting is advisory only and does not constitute or effect approval of any aspect or item of an application.

SECTION 27-1604 NEIGHBORHOOD MEETING

A. PURPOSES

The purposes of a neighborhood meeting are to: inform neighboring property owners of the details of a proposed development, identify how the developer intends to meet the standards contained in this Zoning Code, and to allow the applicant to receive preliminary public comment on the proposal.

B. APPLICABILITY

1. When a neighborhood meeting is required by this Zoning Code, the applicant or applicant's agent shall conduct a pre-application neighborhood meeting to explain the proposed development and receive comment from the surrounding property owners.
2. An applicant may voluntarily conduct a neighborhood meeting prior to submission of any application.

C. NOTICE

1. The applicant shall provide written notice of the date, time, and location of the pre-application neighborhood meeting to:
   (a) Persons on the surrounding property owner list provided by the City,
   (b) Additional persons, businesses, or property owners as identified by the City; and
   (c) The planning and community services department.
2. The written notification shall be mailed at least seven calendar days prior to the scheduled meeting. The written notification shall include the information required for public notice as listed in Section 27-1608.B.1, B.2, and B.3.
3. Courtesy electronic notice of the neighborhood meeting shall also be provided to any affected neighborhood organizations that request notification from the planning and community services department. Planning staff is not responsible for verifying or correcting email addresses provided by a neighborhood organization and failure of a neighborhood organization or individual member to receive notice does not affect the validity of the neighborhood meeting.

D. MEETING

1. The pre-application neighborhood meeting shall be conducted at a location that is within two radius miles of the subject parcel. The meeting may be scheduled after 5:00 p.m. on a weekday or on a weekend day between 8:00 a.m. and 7:00 p.m.
2. The pre-application neighborhood meeting shall be conducted at least seven calendar days but no more than 60 calendar days prior to the submittal of the proposed development application to the planning and community services department.
3. 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.

E. WRITTEN SUMMARY AND EFFECT

1. The applicant shall provide the zoning coordinator with a written summary or minutes of the neighborhood meeting with the completed application.
2. The written summary or notes shall include a list of those in attendance, a summary of the issues discussed, comments by those in attendance and the applicant's response, and any other comments the applicant deems appropriate.
3. The written summary or notes of the meeting shall be made available to the meeting attendees and the public for inspection following the filing of a complete application.

SECTION 27-1605 APPLICATION SUBMISSION

A. AUTHORITY TO FILE

1. Property Owner Application

Unless otherwise specified in this Zoning Code, the person having legal authority to take action according to the approval sought shall file an application for a project review or approval under this Zoning Code. The person is presumed to be one of the following: (1) the record owner, (2) purchaser under a sale or option to purchase, or (3) the duly authorized agent of the record owner. Agents may only submit applications where the owner indicates consent in writing on the application.

2. City Application

A request for action pursuant to the Zoning Code that is submitted on behalf of the City shall be initiated by the appropriate managing agency (e.g., engineering or parks department). Requests made by elected or appointed bodies with the authority to request a change or other action pursuant to this Zoning Code shall be initiated by a vote of that body and then processed by the zoning coordinator.

B. APPLICATION SUBMISSION REQUIREMENTS

All applications for all permits and approvals, or modifications of permits or approvals, pursuant to this section and Article 27-1600 shall be submitted in accordance with the application submittal schedule, required forms, and required numbers of copies of each document (if any), established and revised from time to time by the zoning coordinator.

C. CONCURRENT APPLICATIONS

1. Where an applicant seeks approval of two different requests for the same parcel simultaneously, the applicant shall submit all necessary documents, plans, maps, and other required information in accordance with the provisions relating to both of the submitted applications and pay all appropriate fees for both applications.
2. Whenever two or more different application types are being processed simultaneously and this Zoning Code provides different time frames for review or decision-making, all related applications and approvals shall be completed within the longest time frame applicable to any of the relevant procedures.

D. FEES

1. Generally

Application fees for each type of application shall be established by resolution from time to time by the city council to defray estimated staff costs and expenses of processing applications pursuant to this Zoning Code.

2. Initial Application

The required application fee shall be paid by the applicant at the same time any application is filed. Application fees are generally non-refundable unless otherwise specified on the application form.

3. Changes to Complete Applications

In addition to fees set forth in the City fee schedule, the following fees shall apply to actions taken on a complete application:

(a) Withdrawn Application: All fees are forfeited in the event the City has incurred any expense related to the application. If the application is refiled within 180 days a

resubmittal fee must be paid. The submission fee shall be paid again in full if the application is resubmitted after six months.

(b) Continuance of Application: Payment of fees may be required to cover the cost of additional notice.

(c) Reapplication: Payment of fees shall be required for a reapplication where a previous application has been denied.

(d) Modification or Revision of Approved Site Plan

(1) Minor modifications: Application for administrative relief and payment of associated fee.

(2) Major modifications: Any requested modifications that do not qualify for administrative relief shall be considered major modifications. A new application is required along with the associated application fee.

E. SUBMITTAL WAIVERS

1. At or following an application submission meeting, the zoning coordinator may agree to waive specific project submittal requirements, in order to reduce the burden on the applicant and tailor the requirements to the information required to review a specific application.
2. The zoning coordinator may waive such requirements where the applicant has made an itemized, written request identifying the specific submission items to be waived and why, and the zoning coordinator finds the following:

(a) The applicant shows good cause for the requested waiver;

(b) The project size, complexity, anticipated impacts, or other factors support a waiver;

(c) The waiver does not compromise a proper and complete review; and

(d) The information is not material to describing the proposal or demonstrating compliance with approval criteria.

F. DETERMINATION OF COMPLETENESS

1. Complete Application Required

All applications must be complete prior to any processing by the City. A complete application includes all of the submittal information identified on the application form and any items or exhibits requested by the zoning coordinator that are consistent with the standards and requirements of this Zoning Code. A complete application is also accompanied by the applicable fee.

2. Application Submission Meeting

Planning staff shall meet with applicants to review all applications and permit requests to determine if the application includes all material required by the applicable application submittal schedule (including required supporting material) in sufficient detail to evaluate the application and determine whether it complies with the requirements of this Zoning Code. A completeness determination will be made during the application submittal meeting.

G. SUBMISSION TIMING FOR PUBLIC HEARING SCHEDULE

All applications to be heard in a specific month must be received on or before the first Monday of the previous month. For example, an applicant desiring public hearings in June would have to submit a complete application by the first Monday of May.

SECTION 27-1606 PROCEDURES FOR COMPLETE APPLICATIONS WITH CHANGED STATUS

A. INACTIVE APPLICATION

1. An inactive application is any application for which the City has requested additional information or revisions and the applicant has not provided this information within 60 calendar days.
2. Inactive applications shall not receive further review and shall be considered withdrawn by the applicant and shall be terminated by the City without further notice. Time of delay shall commence on the date on which the City requests additional information.

B. WITHDRAWN APPLICATION

1. Prior to Public Notice

(a) An applicant may withdraw an application by providing written notice to the zoning coordinator of the applicant's intent to withdraw the application. After such withdrawal, no further City action on the application shall take place.

(b) A zone change application may be withdrawn at any time prior to the publication of the legal advertisement for the public hearing before the City zoning commission. A withdrawn zone change application may be refiled after a 120-day waiting period.

(c) To re-initiate review, the applicant shall re-submit the application with a new application fee payment, and the application shall in all respects be treated as a new application for purposes of review and scheduling.

2. Following Public Notice

(a) No application may be amended or modified after the legal advertising has been published.

(b) After legal notice for the city zoning commission or board of adjustment has been published, the request for withdrawal shall be submitted in writing to the planning and community services department office at least 24 hours prior to the first or only public hearing.

(c) The City zoning commission may allow withdrawal of an application, after advertisement of the zoning commission public hearing has been published, by a majority vote of the members present. 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 public hearing has been published.

C. POSTPONEMENT

The applicant may request an application be postponed to a future scheduled public hearing date.

1. Request submitted prior to public notice: the request must be in writing, either by mail or email, and the request must be received by the zoning coordinator prior to date of publication of the notice of public hearing.
2. Request submitted following public notice: If the request is received by the zoning coordinator after the date of publication of the notice of public hearing, the applicant must attend the public hearing to request the application be tabled to a future scheduled public hearing date.

D. APPLICATION TERMINATION

1. If the zoning coordinator determines the applicant is not taking affirmative steps to advance a postponed application for a final determination or the applicant requests that an application be tabled for a second time, the zoning coordinator may declare the application terminated.
2. No further processing of such application shall occur and the application fees shall be forfeited.
3. Any re-submittal of the application shall be treated as a new application for purposes of review, scheduling, and payment of application fees.

SECTION 27-1607 STAFF REVIEW, REFERRAL, AND RECOMMENDATION

A. STAFF REVIEW

1. Upon submission of an application, the zoning coordinator shall review the application and accompanying documentation to determine whether the information included in the application is sufficient for the review and decision-maker(s) to evaluate the application against the approval criteria of the procedure or permit requested,
2. The zoning coordinator, upon receiving a complete application, shall also do the following:
   (a) Consult with other departments of the City and relevant external agencies to fully evaluate the impact of the proposal upon public facilities and services including but not limited to schools, drainage, traffic and related facilities;
   (b) Study each application with reference to its appropriateness and effect on existing and proposed land use, and references to the growth policy;
   (c) In the case of a protest petition filed in the matter of any application for zone change, determine the validity of such petition; and
   (d) Prepare written findings and conclusions for submission to the City zoning commission, which report shall be a matter of public record.

B. STAFF REPORT

1. Staff shall use best efforts to reconcile and compile all referral comments, including comments collected from any neighborhood outreach, into a single written report.

2. The preliminary report shall incorporate the responses and comments from reviewing agencies, shall report whether the development application complies with all applicable standards, and shall specify any areas of possible noncompliance.
3. Where the application includes technical information that requires expert analysis outside of that provided by staff, the City may contract with a technical expert to review the application and charge the consultant's fees to the applicant. The City shall notify the applicant if expert analysis will be necessary and will discuss the estimated fee with the applicant prior to engaging the expert. Technical information subject to outside expert analysis shall be limited to those issues outside of the scope of typical planning and community services department review. Outside technical experts will not be hired for routine site, structural, use, or transportation issues.
4. The preliminary report shall also identify any need for any required plan modifications, additional information, or technical reports to supplement the mandatory submittal requirements.
5. Staff may recommend conditions for approvals to mitigate any adverse impacts from the development proposal or any changes necessary to bring the application into compliance with the provisions of this Zoning Code. Zone change applications may not be conditioned.

SECTION 27-1608 PUBLIC NOTICE REQUIREMENTS

A. GENERAL APPLICABILTY

1. Applications for development approval shall comply with the Montana Code Annotated and the provisions of this section with regard to public notification. The required notice for each application type is identified in Table 27-1600.2. Application-specific notification instructions are located in the section for the specific application types.

Table 27-1600.2: Required Public Notice

	Section	Mailed	Published	Posted	Electronic via email	Agenda/ Website
		Key: O Optional, R Required, -- Not Applicable				
Project Application Type						
Administrative Relief	27-1614	--	--	--	--	--
Classification of Newly Annexed Area	27-1615	R	R	R	R	R
Planned Development (PD)	27-700	R	R	R	R	R
Planned Neighborhood Development (PND)	27-800	R	R	R	R	R
Special Review	27-1623	R	R	R	R	R
Variance	27-1627	R	R	R	R	R
Zone Change	27-1628	R	R	R	R	R
Permits						
Fence	Public notice is not required for permit review.					
Landscape Plan						
Master Site Plan						
Proportionate Compliance						
Short-Term Rental						
Sign/Temporary Sign						
Temporary Use						
Wind and Solar						
Wireless Communication						
Zoning Compliance Permit						
Code Administration						
Appeal of Administrative Action	27-1616	R	R	R	R	R
Code Interpretation	27-1617	--	--	--	--	--
Zoning Text Amendment	27-1628	R	R	R	R	R

2. No public notice under this section shall be made for incomplete applications per Section 27-1605.E, or for applications requiring additional revisions and review per Section 27-1606.E. Applications that remain incomplete or requiring revision after the posting deadline in Table 27-1600.2 shall be removed from the applicable meeting agenda and placed on the next available meeting agenda.

B. CONTENT

Notices, when required by this section or a specific application type, shall, whether by publication or written, meet the general requirements of notice provided by the City and provide the following information:

1. Address or location of the property subject to the application and the name, address, email, and telephone number of the applicant or the applicant's agent;
2. Date, time, and place of the public hearing;
3. Description of the nature, scope, and purpose of the application or proposal including a description of the development plan and, where appropriate, the classification or change sought;
4. Notification about where the public may view the application; and
5. State that the public may appear at the public hearing.
6. All meetings are held in buildings and locations that comply with accessibility standards according to the Americans with Disabilities Act (ADA). A TTY number for the hearing impaired, 406-657-3079, is available upon request.
7. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify the Planning Clerk, at 406-247-8610.

C. TYPES OF NOTICE

1. Agenda Notice

Agenda notice shall be posted and published on the City's website a minimum of 48 hours prior to a meeting.

2. Published Notice

Where Table 27-1600.2 requires published notice, the notice containing the content listed in Section 27-1607.B above shall be provided in a newspaper of general circulation at least 15 days in advance of the date of the city zoning commission, board of adjustment, or city council public hearing.

3. Mailed Notice

(a) Where Table 27-1600.2 requires mailed notice, the City shall:

(1) Notify the applicant and/or the applicant's agent of the City zoning commission public hearing of the date, time, and place of such hearing at least five days prior to the date.

(2) Notify adjacent property owners and other interested parties as provided in the specific application type. Mailed notice shall be provided to the property owner whose name appears on the last tax record of the property subject to notice. Unless otherwise specified, mailed notice shall be provided not less than 15 days in advance of the date of the hearing.

(b) Failure of any addressee of such letter of notification to receive the same shall not in any way invalidate or affect subsequent action on the application and such requirement shall not be construed as a legal precedent to the official approval.

(c) Written notice to property owners shall be required only for the initial presentation of the proposed development at a public hearing. Additional mailed notice shall not be required where the application is not decided at the initial public hearing.

(d) If the hearing is deferred or continued at the applicant's request, the applicant shall be responsible for paying any additional fees for the purposes of re-notifying adjacent property owners.

4. Posted Notice

(a) Where posted notice is required, the applicant planning staff shall place notice of the public hearing on the property subject to the application at least 15 days in advance of the date of public hearing.

(b) The signs shall be clearly posted by the zoning coordinator on the property for which a request has been made.

(c) On large parcels, interior parcels, or parcels that are difficult to see from the exterior boundary lines, additional posted signs, as may be necessary to reasonably ensure that notice is provided around the property, may be required by the zoning coordinator.

(d) At least one sign must be placed on the property's frontage so that it may be seen from the abutting street. If the property has two streets frontages and both frontages are more than 300 feet long, a sign shall be posted on both frontages.

(e) Reposting. If the decision-making body continues the meeting or public hearing at which the application is being considered to a later date, or if the decision-making body decides to consider the application at any time other than that specified on the notification signs, the zoning coordinator shall update the existing signs with the new date.

(f) Sign Removal

(1) Notice signs shall be removed by the applicant within five days after the meeting or public hearing for which they were required.

(2) No person other than the applicant, applicant's agent, or City staff shall erect, remove, or alter such signs.

5. Courtesy Notice

(a) The City may, as a courtesy, provide notice to any persons or organization in the City or Yellowstone County, or to any governmental, public, or quasi-public organization regarding any matter related to this Zoning Code that may be of interest to of that person or organization, or on any matter on which any such person or organization has requested notice.

(b) Courtesy notice may be provided in any appropriate manner, including electronically, and may be directed to an organization through its leadership for distribution rather than to the entire membership.

(c) The failure of the City to send courtesy notice or the failure of any resident or property owner to receive such notice shall not affect the validity of any City action with respect to an application.

6. Constructive Notice

(a) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in legal descriptions, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to the affected parties.

(b) Failure of a party to receive written notice shall not invalidate subsequent action.

(c) If questions arise at a review hearing regarding the adequacy of notice, the decision-making authority shall direct the zoning coordinator to make a formal finding as to whether there was substantial compliance with the notice requirements of this Zoning Code, and such finding shall be made available to the decision-making authority prior to final action on the request.

(d) When City records document the publication, mailing, or posting of notices as required by this section, it shall be presumed that notice of a public hearing was given as required by this section.

SECTION 27-1609 REVIEW AND DECISION-MAKING BODIES

A. CITY COUNCIL

1. Powers and Duties

The city council shall have the following powers and duties:

(a) To review and decide on amendments to this Zoning Code or the future land use map, including any related PND plan.

(b) To review and decide on major amendments to approved PND preliminary plans.

(c) To review and decide on special review applications.

2. Membership and Procedures

The membership and procedures for the city council are established in Chapter 2 of the Billings Montana City Code.

B. CITY ZONING COMMISSION

1. Created

There is hereby created a City of Billings Zoning Commission to consist of five 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 three or four years and the terms of the members shall be staggered to coincide with the election cycle of city council wards so that a minimum number of terms shall expire in any one year.

2. Attendance

The members of the city zoning commission are required to attend all publicly-advertised city zoning commission meetings. Members shall notify the zoning commission chairperson and zoning coordinator of any absence in advance of the meeting that will be missed. The presence of three members shall constitute a quorum.

3. Duties

(a) The city zoning commission shall have the authority to exercise all powers granted to the commission by MCA 76-2-307 and as amended from time to time.

(b) In particular, the City zoning commission shall recommend the boundaries of the various zone 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.

(c) The city council shall not hold its public hearing or take any action until it has received a final report from the zoning commission.

C. CITY BOARD OF ADJUSTMENT

1. Created

There is hereby created for the City of Billings, a board of adjustment as provided by statute, consisting of seven 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 term. Vacancies shall be filled for the unexpired terms of any members whose terms are interrupted for any reason.

2. Proceedings

(a) The 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.

(b) 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, 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 Billings Planning & Community Services Department.

(1) The official minutes of the board's proceedings shall be signed by the chairperson or acting chairperson.

(2) The decision of the board shall become effective immediately, unless otherwise directed by the board.

3. Powers and Duties

The board of adjustment shall have the following powers:

(a) 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 ordinance adopted pursuant thereto; and

(b) 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.

(c) The Billings Board of Adjustment does not have the authority to hear or decide on special review requests to this Zoning Code.

(d) If the 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.

D. ZONING COORDINATOR

1. The zoning coordinator has the authority to administer the provisions of this chapter for the City of Billings and all responsibilities as assigned or delegated by the Planning and Community Services Director. The zoning coordinator may delegate this work to other personnel in the Planning and Community Services Department.
2. 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 the zoning coordinator's responsibility to present any applications or requests to the appropriate board or commission.
3. The zoning coordinator shall also aid the various boards, commissions, and departments in transmitting recommendations to the city council and to otherwise promote procedural regularity in the administration of this chapter.

E. ZONING ENFORCEMENT OFFICER

It shall be the duty of the zoning coordinator to be the enforcement officer for the zoning regulations. The zoning coordinator is hereby given the authority to enforce the provisions of this chapter for the City of Billings. The zoning coordinator may delegate this work to other personnel in the Planning and Community Services Department.

SECTION 27-1610 ACTION BY REVIEW AND DECISION-MAKING BODIES

A. ADMINISTRATIVE DECISIONS

For procedures where the zoning coordinator serves as the decision-making authority, the zoning coordinator shall make a decision according to the following steps:

1. Review

(a) The zoning coordinator shall review the application for conformance with all applicable provisions of this Zoning Code.

(b) Within the timeframe specified by the application type, or 15 business days of the filing date if no timeframe is specified, the zoning coordinator shall approve or deny the application and provide written notification of the decision to the applicant. If an application is denied, the written notification shall include the reasons for denial.

2. Review Criteria

When the zoning coordinator has the authority to decide an application, except in the case of an interpretation, the application shall be reviewed against the applicable provisions of this Zoning Code. To be approved, an application shall be fully consistent with the standards of this Zoning Code unless administrative relief is concurrently approved to allow specified deviation from applicable standards. An administrative approval may include instructions and clarifications regarding compliance with this

Zoning Code, but shall not be approved with conditions that require action beyond the specific requirements of this Zoning Code.

B. CITY ZONING COMMISSION

The zoning commission shall review and take action upon each application in accordance with the provisions of this article and after a public hearing at which the application has been legally advertised.

1. The zoning coordinator shall present each application, together with the staff report, to the zoning commission.
2. The zoning commission may, by a majority vote of the members present, delay action to the next available public meeting of the commission without prejudice to the applicant.
3. A report of the commission's recommendation and the zoning coordinator's findings and conclusions shall be submitted to the city council.
4. The zoning commission shall make a recommendation to the city council to:
   (a) Zone changes: Grant or deny the application;
   (b) Special review applications: Grant, condition, or deny the application.
   (c) Request to withdraw an application after the zoning commission's hearing: allow or refuse withdrawal
5. The zoning commission shall submit its recommendations and, where appropriate, conditions in writing along with a statement indicating its reasons for the recommendation to grant, condition, deny, or allow withdrawal of the amendment within 15 business days following the public hearing.

C. CITY COUNCIL ACTION

Before taking any action on an application, the city council shall first consider the findings and recommendations of the zoning commission. The city council shall:

1. Approve the application, either as submitted for zone change applications, or with conditions for special review applications;
2. Deny the application;
3. Allow withdrawal of the application; or
4. Delay the application to a future council meeting date certain.

SECTION 27-1611 POST-REVIEW ACTIONS

A. SUCCESSIVE APPLICATIONS

No application for zone change, special review, or variance on the same request nor one involving the same tract shall be permitted within one year of an application denial.

B. AMENDMENTS

1. All substantial changes, modifications, removal, or release of the provisions of an approved application that do not qualify for administrative relief under Section 27-1611.C.2 shall be considered amendments. Amendments shall include, but are not be limited to, changes in use, access, layout, any condition of approval, any change resulting in significant increased off-site impacts, and similar changes as determined by the zoning coordinator.

2. For purposes of review and scheduling, proposed amendments are treated as new applications subject to the applicable procedures and review criteria set forth in this article unless otherwise noted in the specific review procedures.

C. MODIFICATION OF APPROVALS

1. Application

If, at any time, the owner of land with an existing development approval desires to modify the terms of that approval or the conditions attached to that approval, the owner shall submit a written application requesting such revision.

2. Review and Determination of Major/Minor Modification Status

Applications for modification shall be reviewed by the zoning coordinator to determine whether the proposed modifications constitute a major or minor revision to the existing approval.

(a) Minor modifications are those that qualify for administrative relive pursuant to Sec. 27-1614 or modification to an application that was approved administratively.

(b) Major modifications are those that do not qualify for administrative relief pursuant to Sec. 27-1614, request for modification to a special review approval, or request for modification to a condition established by the city council.

3. Action by Decision-Making Body

(a) Applications for minor modifications shall be treated as applications for administrative relief.

(b) The zoning coordinator may require that an application for administrative relief be treated as an application for a major modification if the zoning coordinator determines that the application raises a significant public controversy in which numerous parties other than the owner of the property may want to offer testimony. Applications for major modifications shall be treated as new applications for an approval of the same type being modified, unless the zoning coordinator determines that an application for modification of is not consistent with an approved preliminary plan or plat for the property, as applicable. If so, the zoning coordinator shall inform the applicant that a new application will need to be submitted.

4. Effect of Modification

If approved, the modification shall then supersede the previous approval, and subsequent development on the property shall be in accord with the amended approval.

SECTION 27-1612 LAPSING AND EXTENSION OF APPROVALS

Approvals granted under this Zoning Code terminate if unused by the applicant after a reasonable period of time.

A. LAPSE

1. Administrative Approval and Permits

Except where a different timeframe is provided in a specific procedure or application approval, an administrative approval or permit granted under this Zoning Code shall lapse and shall become void one year following the date of final approval unless, prior to the expiration date, a building permit based upon such approval is issued and construction is commenced and pursued toward completion.

2. Approvals Subject to Public Hearing

(a) A zone change is not subject to lapsing.

(b) Any approval made through a public hearing process shall not lapse pursuant to this section unless the approval was not a zone change and the city council, or board of adjustment established a specific time limit for the approval.

B. EXTENSION

1. An approval that is subject to lapsing may be extended one time by the zoning coordinator for a period of time not to exceed six months. Applicants who require a second extension shall make the second extension request of the body that issued the original approval, which may also be a second request to the zoning coordinator if the zoning coordinator issued the original approval. The total time approved for extensions may not exceed one year.
2. All requests for extensions should be submitted to the zoning coordinator in writing at least 30 days prior to the expiration of approval.
   (a) An extension request shall include payment of required fees and written description of the reasons for the applicant's inability to comply with the specified deadlines, listing any changes in the character of the neighborhood, any changes to the growth policy or this Zoning Code that have occurred since approval of the permit/plan as these changes affect the permit/plan, and the anticipated time schedule for completing the review project and/or the specific project.
   (b) Additional review of the permit/plan may result in additional conditions.
3. If an application lapses at the end of an extension period, the applicant may re-submit a new application, subject to the fees and regulations in effect at the time of re-submittal, for the same project.

SECTION 27-1613 OTHER PERMITS AND APPROVALS STILL NECESSARY

A. CITY PERMITS AND APPROVALS

The approval of any application pursuant to this Zoning Code shall not relieve the applicant of the requirement to apply for and receive any other permits or approvals required from the City, prior to development (such as building permits, certificates of occupancy, subdivision approval, and any similar permits or approvals). Any such later permits and approvals shall be consistent with the terms and provisions of any approval granted pursuant to this Zoning Code.

B. OTHER PERMITS AND APPROVALS

The approval of any application pursuant to this Zoning Code shall not relieve the applicant of the requirement to apply for and receive any and all other permits or approvals from Yellowstone County, State of Montana, or federal government or from other local entities with jurisdiction over the property.

SECTION 27-1614 ADMINISTRATIVE RELIEF

A. APPLICABILITY

1. Administrative relief allows the modification of an existing numeric dimensional standard to accommodate site-specific or minor construction issues.
2. Administrative relief is applicable to new development, redevelopment, and major façade changes.
3. Administrative relief may be requested either as part of an original application or as a modification to an existing approval.

B. AUTHORITY

Administrative relief may be requested by an applicant qualified to request a primary development approval or amendment.

C. PROCEDURES

1. Common Procedures

Procedures for review and decision of an administrative relief application are established in Sections 27-1602 through 27-1613. They are summarized here for applicant convenience.

2. Specific Procedures

All applications for administrative relief shall identify the specific issue that the administrative relief is intended to address and how the administrative relief will resolve that issue:

(a) A request for administrative relief prior to construction shall be submitted with the project site plan application. Where the site plan is submitted in conjunction with a primary application, such as a special review request, that is decided by the city council, the request for administrative relief shall also be decided by that body. For example, if an administrative relief request is submitted with a rezoning application, the city council will also decide on the administrative relief.

(b) A request for administrative relief to address a minor construction issue shall be submitted with the approved project site plan, a written description of the minor construction issue, and an amended drawing of that part of the site for which the administrative relief is requested.

D. PERMITTED TYPES OF ADMINISTRATIVE RELIEF

1. N1-3, NX1-3, NO, NMU, CMU1, CMU2, DX, and EBURD Districts

An applicant may request the following adjustments through administrative relief:

(a) The location of the building within up to 5 feet from any minimum yard requirement or build-to zone width/location.

(b) EBURD: Up to 10 percent increase in total impervious coverage, not to exceed the total amount of permitted impervious plus semi-pervious coverage. Compliance with stormwater regulations is required.

(c) Up to 10 percent decrease in primary frontage coverage.

(d) Additional height of any story up to 2 feet, as long as the overall building height does not exceed the allowable height of all floors at their maximum permitted height.

(e) Up to 10 percent decrease in transparency or a 10 percent increase in blank wall limitation for corner side facades.

2. CBD, CX, I1, I2, P1-3, PD Districts

(a) The zoning coordinator may grant administrative relief that conform to the following requirements:

(1) Setbacks. In any zone, modifications of the front, side, or rear yard setback requirement; provided that the total modification shall not reduce the applicable setbacks by more than ten percent of those otherwise required in the zone.

(2) Lot Coverage. In any zone, modifications of the lot coverage requirement; provided, that the total modification shall not increase the applicable coverage to more than ten percent of the otherwise maximum lot coverage in the zone.

(3) Structure Heights. In any zone, modifications of the building or structure height requirement; provided, that the total modification shall not increase the applicable building or structure height by more than ten percent of the otherwise maximum height in the zone, nor add another habitable story or mezzanine.

(4) Usable Open Space. In any zone, modifications of the usable open space requirement; provided, that the total modification shall not increase the applicable coverage to more than ten percent of the otherwise required usable open space in the zone.

(5) Fence Heights. In any zone, modifications of the maximum fence height requirement; provided, that the total modification shall not increase the applicable fence height by more than ten percent of the otherwise maximum height in the zone. Fences greater than or equal to eight feet in height will need a building permit.

(6) Parking. In any zone, a decrease in the number of required parking spaces of not more than ten percent when total required spaces are at least twenty spaces.

(7) Deviations from Final Planned Development Maps. In any planned development zone, deviations to final planned development maps which are consistent with the requirements of the preliminary planned development, final planned development conditions of approval, or development standards of the underlying zoning district.

(b) Administrative relief may not:

(1) Create, intensify, or expand any nonconformity with maximum or minimum requirements of the zoning district;

(2) Permit uses other than those permitted in the zone district;

(3) Reduce the effectiveness of approved transitional screening, buffering, landscaping, and/or open space; or

(4) Expand the area or type of signage approved.

E. DECISION CRITERIA

To approve a request for administrative relief, the zoning coordinator shall make and record findings that all of the following provisions are met:

1. The proposed use, structure, or activity is permitted in the underlying zone district.
2. There are special circumstances existing on the property for which the application is made related to size, shape, area, topography, surrounding conditions, and location that do not apply generally to other property in the same area and zone district;
3. The special circumstances have not been created by the applicant; and
4. The impact of the administrative relief is internal to the subject property.

F. REVIEW AND DECISION-MAKING

Requests for administrative relief are processed as an administrative decision pursuant to Section 27-1610.A.

SECTION 27-1615 CLASSIFICATION OF NEWLY ANNEXED AREA

A. ALL PROCEDURES EXCEPT ANNEXATION BY PETITION

Annexations of land into the City of Billings may be undertaken pursuant to several statutory procedures. When a parcel of land is annexed to the City under any procedure except annexation by petition, the appropriate zone(s) shall be determined through Section 27-800, PND. Property that is exempt from the PND process shall be classified into a zone district as follows:

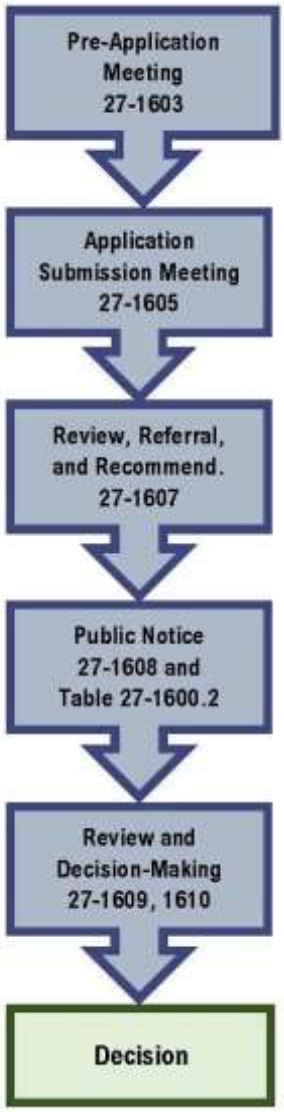
1. The zoning coordinator will determine the most appropriate zone district. The land owner shall have adequate opportunity to provide input, but the final zone district classification shall be made by the zoning coordinator.
2. Upon determination of the applicable zone district, the zoning coordinator shall follow the procedure in Section 27-1628, Zone Change, Staff Review, Referral, and Recommendation, 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 applicable zone district shall be held concurrently with the public hearing on the annexation before the city council, provided that the hearing shall not be sooner than 15 days after notice of the proposed zone has been given.
4. If the proposed zone district is not approved by the city council, the land shall retain the zone district it had in the County; provided, that if the County district is not identical to the City zone district, then a zone district appropriate to the character of the surrounding area will be applied.

B. ANNEXATION BY PETITION

When the proposed annexation is by petition pursuant to MCA Title 7, Chapter 2, Part 46 (Section 7-2-4601, et seq.), the zoning coordinator shall determine whether the Section 27-800 PND process is applicable, in which case the petitioner shall also submit an application for PND approval. If not, the petitioners shall, concurrently with the petition for annexation, make an application for change of zoning through Section 27-1628, Zone Change .

1. All fees shall be paid by petitioner upon filing the application for zoning.
2. Upon filing the application, the zoning coordinator shall follow the procedure set forth in above Section A.2, above.
3. If no application is filed or the application is denied, the land shall retain the same zone district it had in the County provided, that if the County zone district is not identical to the City zone district, a zone district appropriate to the character of the surrounding area will be applied. The provisions of this subsection shall not be construed to preclude the City from fixing the zone district as provided in Section 27-1604.A, above.

SECTION 27-1616 APPEAL OF ADMINISTRATIVE DECISION



A. APPLICABILITY

Any administrative decision made in the interpretation or application of this Zoning Code may be appealed to the board of adjustment.

B. AUTHORITY

Appeals to the BOA may be taken by any person aggrieved or by any officer, department, board or of the city affected by any decisions of the administrative office made under the terms of this Zoning Code.

C. PROCEDURES

1. Common Procedures

Procedures for appeal of an administrative decision are established in Sections 27-1602 through 27-1613. They are summarized here for applicant convenience.

2. Specific Procedures

(a) Such appeal shall be taken within 60 calendar days of the issuance of a final administrative decision. An applicant who wishes to appeal a verbal administrative decision may request that the decision be provided to the applicant in writing and the appeal timeframe will start on the date after the written decision has been signed.

(b) The staff member from whom the appeal is taken shall transmit the decision record to the BOA. The decision record shall include all of the information relied upon in making the decision.

(c) The BOA shall:

(1) Fix a reasonable time for the hearing of appeal, not to exceed 60 days; and

(2) Give public notice of the hearing, as well as mailed notice to the parties in interest.

(d) At the hearing, any party may appear in person or by agent or attorney.

D. STAY OF PROCEEDINGS

1. An appeal stays all proceedings in furtherance of the action appealed from except as provided in Section D.2. No further action will be taken by the planning division on the initial application or request while the administrative decision is being appealed.
2. The City may decide not to stay activities related to the application while the administrative decision is being appealed where a stay would cause imminent peril to life or property, determined as follows:
   (a) The appeal is filed; and
   (b) The staff member from whom the appeal is taken certifies to the BOA that by reason of facts stated in the appeal, a stay would, in that officer's opinion, cause imminent peril to life or property.
   (c) In such cases, proceedings shall not be stayed other than 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. DECISION CRITERIA

In reviewing an administrative decision, the BOA shall have all the powers of the office from whom the appeal is taken. An appeal may be sustained only if the BOA finds that the administrative decision was made in error.

F. REVIEW AND DECISION-MAKING

1. The BOA may, in conformity with the provisions of this Zoning Code, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination as ought to be made.
2. The concurring vote of four 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 appeal.
3. The BOA shall render a decision within 35 calendar days of the completion of the hearing.

G. JUDICIAL APPEAL

Any person aggrieved by any decision of the BOA, 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.

1. The petition must set forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality.
2. The petition shall be presented to the court within 30 calendar days after the filing of the decision of the BOA.

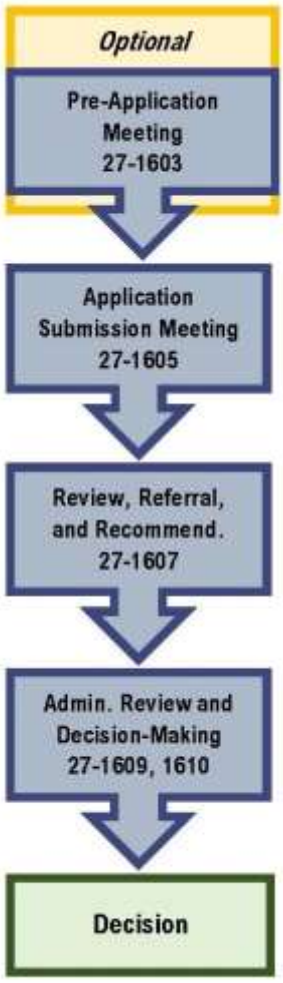
H. REAPPLICATION

If an application for an administrative review is denied by the BOA and not approved for reconsideration, another application shall not be filed within a period one year from the date of denial.

SECTION 27-1617 CODE INTERPRETATION

A. APPLICABILITY

1. The zoning coordinator is authorized to provide a written interpretation of the contents and requirements of this Zoning Code.
2. Interpretations may be requested for a provision of this Zoning Code subject to a proposed or current application, hearing, or appeal.
3. The zoning coordinator may also provide a property-specific code interpretation in the form of a zoning code clarification that identifies whether specific regulations in this Zoning Code are applicable to the subject property.



B. AUTHORITY

An interpretation may be requested by any:

1. Applicant,
2. Person affected by an action proposed pursuant to this Zoning Code, or
3. Any City departments or other governmental agencies that may be subject to the provisions of this Zoning Code.

C. PROCEDURES

Procedures for a code appeal are established in Sections 27-1602 through 27-1613. They are summarized here for applicant convenience.

D. RENDERING OF INTERPRETATION

After the application for request for interpretation has been determined complete, the zoning coordinator shall render an interpretation pursuant to Section 27-1610.A, Administrative Determinations.

E. OFFICIAL RECORD

The zoning coordinator shall maintain an official record of all interpretations, which shall be available for public inspection during normal business hours.

SECTION 27-1618 LANDSCAPE PLAN

A. APPLICABILITY

Landscaping in compliance with this Zoning Code shall be required for any new construction, and expansion of existing structures. All plans submitted in support of a building permit or zoning compliance permit shall include a landscape plan where appropriate.

B. AUTHORITY

A landscape plan may be submitted for review by a property owner or the property owner's agent, including the landscape professionals described in Section 27-1607.C.

C. PROCEDURES

1. Common Procedures

Common procedures for landscape plan review are established in Sections 27-1602 through 27-1613. They are summarized here for applicant convenience.

2. Specific Procedures

Landscape plans shall be prepared as follows:

(a) Lots of 1 acre or larger: the plan shall be prepared by a Montana licensed landscape architect.

(b) Lots smaller than 1 acre: the applicant is encouraged to work with a nurseryman or landscape design professional to meet the requirements of this article.

D. DECISION CRITERIA

The zoning coordinator may approve a landscape plan upon a finding that the application meets all of the following criteria, as applicable:

1. The landscape plan conforms to all requirements of this article and is consistent with the currently adopted growth policies and any other applicable plans.
2. The landscape design includes the installation of a diversity of species and sizes of vegetation with preference given to locally naturalized vegetation.
3. Preservation of existing, locally naturalized vegetation is incorporated into the landscape design.
4. No plant materials or landscape features are situated in such a manner so as to inhibit clear sight areas established in Section 27-1812 or otherwise create a traffic hazard.
5. The facilities for watering and drainage are adequate to ensure the landscape area is maintained and that no soil, bark, mulch, gravel, stone, or similar materials are allowed to wash off the landscape area into parking areas, driveways, public streets, sidewalks, gutters, or storm drainage facilities.

E. POST APPROVAL

1. Site Specific and Binding

Approved landscape plans shall be binding upon the applicants and their successors and assigns. No planning division approval of a certificate of occupancy shall be issued

for any building or structure where landscaping has not been provided in accordance with the required and approved landscape plan, or any approved modifications thereto, or the plan has been guaranteed through a performance bond or approved security as provided below.

2. Landscaping Installed Within One Year of Issuance of Building Permit

(a) All landscaping and screening material, organic and inorganic, shall meet the standards of Section 27-1210 and be in place prior to the issuance of a certificate of occupancy. Irrigation systems shall be fully functional at the same time as the completion of the landscape planting. This requirement shall be verified by the submission of a final, as-installed landscaping plan by the party responsible for the creation of the landscape plan that is submitted with the certificate of occupancy application.

(b) If the timing of the project and seasonal limitations prevent planting prior to issuance of the certificate of occupancy, security as described in this section may be provided and the planting period may be extended accordingly.

3. Security Required

(a) When the timing of a project delays the installation of the landscaping, a performance bond or letter of credit in an amount of 150 percent of the landscaping materials and labor costs that does not expire for at least one year from the date of issuance shall be posted with the planning and community services department to ensure the placement of the required landscaping.

(b) The property shall be inspected by the zoning coordinator to make sure that the required landscaping has been planted before release of the security bond or letter of credit.

SECTION 27-1619 MASTER SITE PLAN

A. APPLICABILITY

The purpose of this section is to set forth the procedures and criteria for review and approval of master site plans when two or more buildings share common facilities on an undivided lot. The purpose of master site plan review is to confirm that development is consistent with the requirements of this Zoning Code and with all previously approved plans applicable to the property.

B. AUTHORITY

A request for master site plan approval may be submitted by a property owner or owner's agent.

C. PROCEDURES

Common procedures for master site plan review are established in Sections 27-1602 through 27-1613. They are summarized here for applicant convenience.

D. DECISION CRITERIA

The master site plan shall be reviewed against the following criteria:

1. The master site plan is consistent with any prior approvals, including any conditions that may have been placed on such approvals, and
2. The master site plan conforms with all applicable requirements of this Zoning Code, or with all applicable requirements as modified by a request for a minor code adjustment.

E. REVIEW AND DECISION-MAKING

A master site plan is subject to administrative approval and shall be reviewed as follows:

1. Within 30 working days following the submittal of a complete application, the zoning coordinator shall approve or deny the application, unless the applicant consents in writing to an extension of the review period.
2. In the event that review exceeds 30 days, the applicant may seek immediate approval from the planning director.

F. EFFECT

1. Approved master site plans shall be binding upon the property owner(s) and their successors and assigns.
2. No permit shall be issued for any building, structure, or use that does not conform to an approved master site plan.
3. No building, structure, use or other element of the approved master site plan shall be modified without amending the master site plan.
4. All buildings, structures and uses shall remain in conformance with the approved master site plan or be subject to enforcement action.

G. APPEAL PROCESS

An appeal to the BOA may be made by any applicant aggrieved by a denial of a Master Site Plan application.

H. POST-APPROVAL ACTIONS

1. Expiration

(a) Approved master site plans shall expire one year after approval if a building permit has not been issued or the approved use not established. Where a master site plan expires due to the passage of this time period, new site plan review documents must be submitted for approval in the same manner as an original application for development review.

(b) An extension not to exceed one year may be granted by the zoning coordinator.

2. Modifications to Master Site Plans

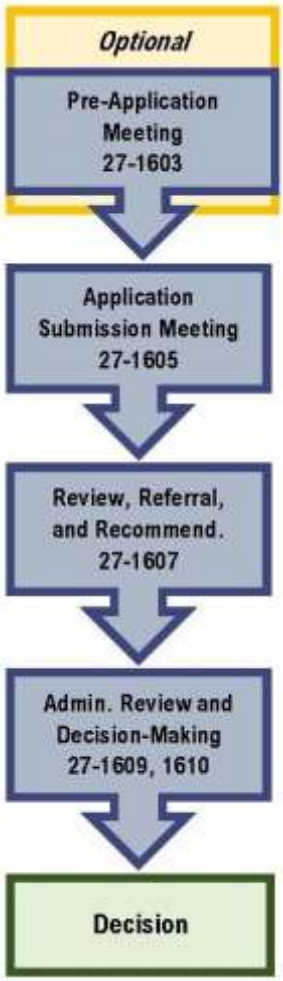
The holder of an approved site plan may request a minimal modification to the document, or the conditions of approval, by submitting amended documents to the zoning coordinator.

SECTION 27-1620 PERMITS

A. APPLICABILITY

The zoning coordinator may review and decide upon applications for the following administrative permits. Some of these permits have additional review and approval requirements included in this section; a cross-reference to those section is provided in the right column.

Permit Type	Additional Procedural Standards
Fences	None
Landscape Plan	Section 27-1618
Master Site Plan	Section 27-1619
Proportionate Compliance	None
Short-Term Rental	Section 27-1621
Sign/Temporary Sign	Section 27-1622
Temporary Use	Section 27-1624
Wind and Solar	Section 27-1625
Wireless Communication	Section 27-1626, Submitted with Zoning Compliance Permit
Zoning Compliance Permit	Section 27-1629



B. AUTHORITY

Permit applications may be submitted by a property owner or owner's agent.

C. PROCEDURES

Common procedures for permit review are established in Sections 27-1602 through 27-1613. They are summarized here for applicant convenience.

D. REVIEW AND DECISION-MAKING

Permit applications shall be decided pursuant to the requirements of Section 27-1610. Permit-specific procedural requirements identified in this article shall be applicable.

SECTION 27-1621 SHORT-TERM RENTAL PERMITS

Short-Term Rental (STR) Permits are processed through Section 27-1619, Permits.

Drafting Note: The STR procedures are currently located in a stand-alone section of the project website. They will be moved to this section following the public review process.

SECTION 27-1622 SIGN PERMIT

A. APPLICABILITY

1. Permanent Sign Permit

(a) Except as otherwise provided in this article, it shall be unlawful for any person to erect, construct, enlarge, move or convert any permanent sign in the city or cause the same to be done, without first obtaining a sign permit for each sign from the zoning coordinator as required by this article.

(b) 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.

(c) 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.

2. Temporary Sign Permit Required

Application for a temporary sign permit shall be made to the zoning coordinator 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 zoning coordinator

3. Illegal Signs

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.

B. AUTHORITY

1. A sign permit may be requested by a property owner, tenant, or an owner or tenant's agent.
2. 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.

C. PROCEDURES

Common procedures for sign permit review are established in Sections 27-1602 through 27-1613. They are summarized here for applicant convenience.

D. DECISION CRITERIA

The sign permit shall be reviewed against the following criteria:

1. The sign permit is consistent with any prior approvals, including any conditions that may have been placed on such approvals; and

2. The sign permit conforms with all applicable requirements of this Zoning Code, specifically Section 27-1400, Signs, or with all applicable requirements as modified by a request for administrative relief or variance.

E. REVIEW AND DECISION-MAKING

The zoning coordinator shall issue a permit for the erection, alteration, or relocation of a sign within the City when an application has been properly made and the sign complied with all appropriate laws and regulations.

F. APPEAL

1. Appeal may be taken to the board of adjustment from the zoning coordinator's denial of a sign permit.
2. The zoning coordinator's failure to either formally grant or deny a sign application within 20 business days of the determination of a complete application shall be grounds for appeal to the board of adjustment.

G. POST-APPROVAL ACTION

1. Revocation

The zoning coordinator may, in writing, suspend or revoke a permit under provisions of this section whenever the permit was issued on the basis of a misstatement of fact or fraud.

2. Permit Expiration

Every sign permit issued by the zoning coordinator shall become null and void if installation is not commenced within 120 days from the date of permit issuance.

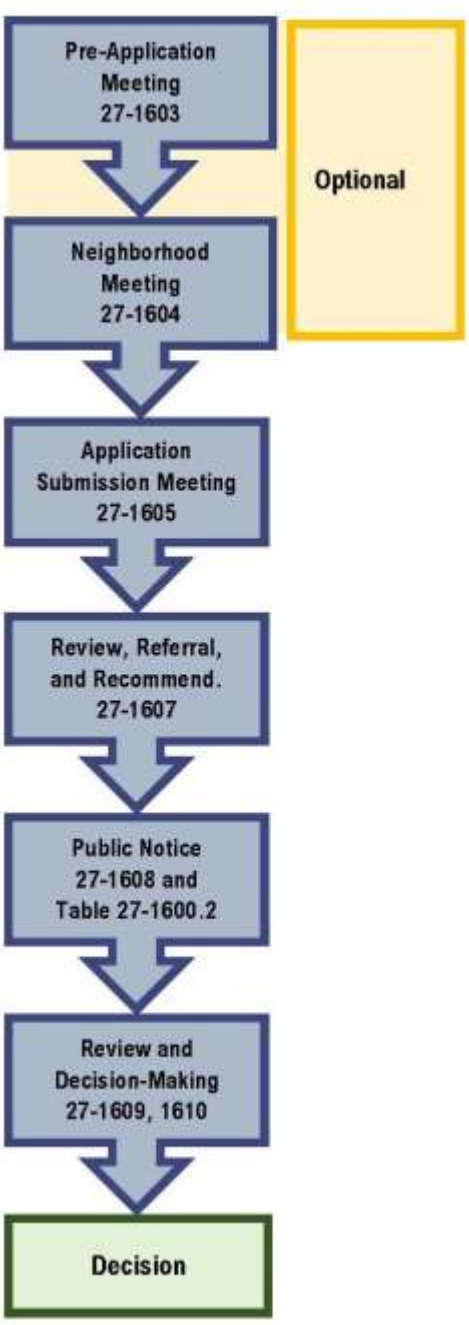
SECTION 27-1623 SPECIAL REVIEW USES

A. APPLICABILITY

1. Each zoning district is primarily intended for a predominant type of use as identified in Table 27-1000.1.There are also a limited number of specific uses that may or may not be appropriate in a particular district, depending upon all the circumstances of the individual use on the site and in context with surrounding development. Consideration of these uses includes examination of the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets, and potential environmental effects, and whether specific conditions can be applied to mitigate the potential negative impacts of the use. Special review uses are special exceptions to the general terms of this Zoning Code.
2. It is the intent of this section 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 Zoning Code and the objectives of the City growth policies.
3. Only those uses identified as special review uses in Table 27-1000.1 may be approved pursuant to these procedures. If the zoning coordinator determines that a desired use is not included within the definition of a use listed as a special review use in Table 27-1000.1, then the desired use may only be approved if:

(a) This Zoning Code is amended to add the specific use to the district containing the subject property, or

(b) The subject property is rezoned to a district where the use is listed as a permitted or special review use.



B. AUTHORITY

An application for a special review may be filed by the property owner, contract purchaser, or an owner or applicant's authorized agent.

C. PROCEDURES

1. Common Procedures

Common procedures for special review are established in Sections 27-1602 through 27-1613. They are summarized here for applicant convenience.

2. Specific Procedures

(a) A neighborhood meeting is required per Section 27-1604.

(b) Notice shall be provided as follows:

(1) Publication: Notice of the application shall be advertised in a newspaper of general circulation at least 15 days in advance of the date of the public hearing.

(2) Mail

a. The applicant and/or applicant's authorized agent shall be mailed notice of the public hearing date, time and place at least five days prior to the date;

b. All the property owners within 300 feet of the exterior boundaries of the tract subject to the special review shall be mailed notice at least 15 days in advance of the time, date, place and proposed use.

i. Where the subject property is within 300 feet of the city limits, the mailed notice area will be 600 feet.

ii. Where special review uses are subject to a separation requirement from other uses, the maximum separation distance will be the mail notice area.

iii. The zoning coordinator may notify property owners within a radius of more than 300 feet if the zoning coordinator determines that the

proposed use would be such as to have a substantial environmental impact on the surrounding land uses;

(3) Posted: Place notice of the public hearing on the property subject to the special review at least 15 days in advance of the public hearing. Additional posting may be required by the zoning coordinator for large parcels.

(c) The staff report for a special review use shall contain the following information:

(1) A summary of the comments received from the interdepartmental/agency review;

(2) Findings for each of the decision criteria listed in this section;

(3) A preliminary list of conditions if approval is recommended; and

(4) A recommendation to approve the application, approve it with conditions, or deny the application.

D. DECISION CRITERIA

The zoning commission shall only recommend approval or conditional approval and the city council shall only approve or conditionally approve a special review request if:

1. The special review use is consistent with the City's growth policy and applicable neighborhood plans, if any;
2. The establishment, maintenance, or operation of the special review use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
3. The site for the proposed use is adequate in size and topography to accommodate the use while meeting the other requirements of this Zoning Code, including zone district dimensions, landscaping requirements, and parking.
4. The special review use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
5. The special review use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
6. Conditions necessary to protect the public health, safety, and general welfare can be established, including but not limited to conditions on:

(a) Regulation of the use;

(b) Special setbacks, buffers, or screening;

(c) Surfacing of parking areas;

(d) Street, alley, or service road dedications, improvements, or bonds;

(e) Regulation of points of vehicular ingress and egress;

(f) Regulation of signs;

(g) Regulation on the performance of the site, including noise, vibration, and odors;

(h) Regulation of the hours of activities;

(i) Timeframe for development

(j) Duration of use; and

(k) Other relevant conditions that will ensure the orderly development of the site.

7. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;

8. Adequate measures have been or will be taken to provide ingress and egress to minimize traffic congestion in public streets; and

9. The special review use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the city council.

E. REVIEW AND DECISION-MAKING

1. City Zoning Commission

(a) The zoning commission shall consider each application in accordance with the provisions of this section, and at a public hearing at which time the application has been legally advertised.

(b) The zoning commission shall make a recommendation to the city council to:

(1) Approve the application;

(2) Conditionally approve the application;

(3) Deny the application;

(c) Recommendations from the zoning commission shall be based on findings of fact for each criteria and shall be transmitted to the applicant or applicant's agent, and the city council within 15 business days of the date of the public hearing before the commission.

(d) The recommendation of the zoning commission shall be published in a newspaper of general circulation.

2. City Council Action

(a) At least 15 calendar days after the first publication of notice of the zoning commission recommendations, a public hearing shall be held by the city council.

(b) Before taking any action on an application for a special review use, the city council shall first consider the findings and recommendations of the zoning commission.

(c) 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 30 days.

(d) If the application is approved, the applicant shall be notified in writing within 10 business days of the approval. The notification shall include:

(1) Identification of any conditions of approval;

(2) Automatic termination date; and

(3) Notification that permit issuance is contingent upon compliance with the conditions of approval.

(e) If the application is denied, it shall constitute a determination that the applicant has not shown that the conditions required for special review use approval exist. A decision to deny shall include the following:

(1) A statement that the application is denied;

(2) A description of the project, including acreage and proposed use characteristics;

(3) Findings for each of the decision criteria;

(4) A statement indicating that a denial does not limit the applicant's ability to resubmit a revised application for consideration;

(5) A statement that the decision may be appealed to a court of competent jurisdiction; and

(6) The date of the decision.

F. REQUIREMENTS OF APPROVAL

1. All of the conditions imposed by the special review use approval:

(a) Constitute restrictions running with the land use;

(b) Apply, are binding upon, and must be adhered to by the property owner and any successors or assigns;

2. The right to building and occupancy permits are contingent upon the fulfilment of all conditions imposed by the special review use approval.

G. AMENDMENT TO APPROVED SPECIAL REVIEW USES

Uses that have been approved pursuant to a special review by the city council, 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 10 percent greater than the gross floor area originally occupied by the special review use;
2. The number of potential occupants is not increased by more than 10 percent over the number that is currently allowed;
3. The number of new parking stalls is not more than 10 percent greater than the original number of spaces; and
4. All other requirements of this Zoning Code and/or the BMCC are met.

H. EXPIRATION OF APPROVAL

1. Non-Establishment

A special review use shall expire one year after the date of issuance unless substantial work has commenced pursuant to the approval and continues in good faith to completion.

2. Non Use

If a special review use has been established but ceases to operate for more than six months, the special review approval shall expire.

SECTION 27-1624 TEMPORARY USE PERMIT

Temporary uses are processed through Section 27-1620, Permits.

SECTION 27-1625 WIND AND SOLAR FACILITIES

Wind and solar facilities are processed through Section 27-1629, Zoning Compliance Permit.

Drafting Note: The wind and solar procedures are currently located in Section 27-1000, Use-Specific Standards. They will be moved to this section following the public review process.

SECTION 27-1626 WIRELESS COMMUNICATION FACILITIES

Wireless communication facilities are processed through Section 27-1629, Zoning Compliance Permit.

Drafting Note: The WCF procedures are currently located in Section 27-1000, Use-Specific Standards. They will be moved to this section following the public review process.

SECTION 27-1627 VARIANCES

A. APPLICABILITY

1. The board of adjustment (BOA) shall have the authority to grant a variance from the terms of this Zoning Code 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 Code would result in unnecessary hardship.
2. The variance process may not be used to:
   (a) Waive, modify or amend any definition or use classification;
   (b) Waive, modify or otherwise vary any of the review and approval procedures of this Zoning Code; or;
   (c) Waive, vary, modify or otherwise override a condition of approval or requirement imposed by another authorized board or commission.

B. AUTHORITY

A request for variance may be filed by a property owner or the owner's agent.

C. PROCEDURES

1. Common Procedures

Common procedures for variances are established in Sections 27-1602 through 27-1613. They are summarized here for applicant convenience.

2. Specific Procedures

(a) Notice shall be provided as follows:

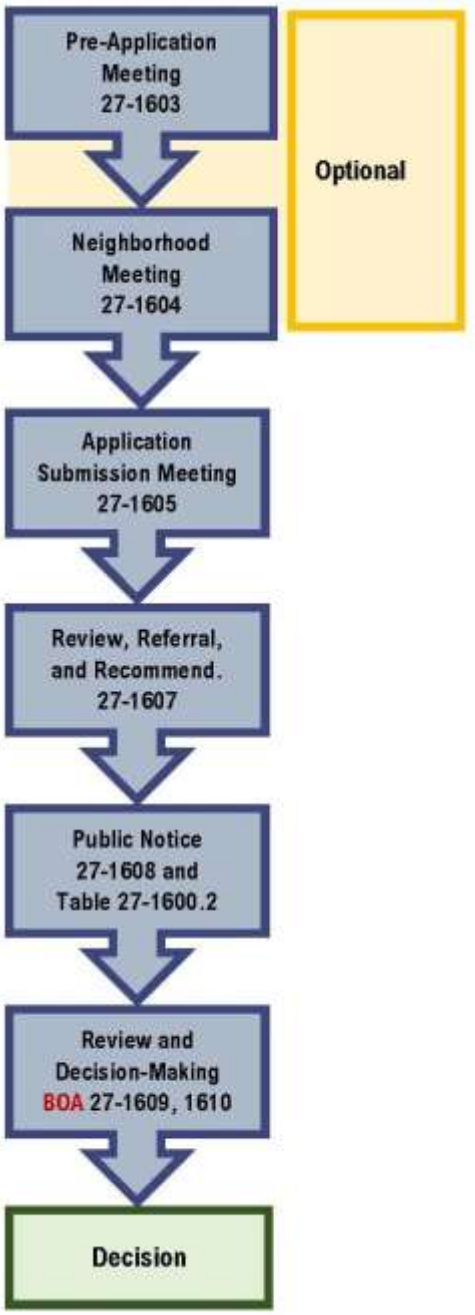
(1) Published: Place notice in a newspaper of general circulation at least 15 days in advance of the date set for the public hearing;

(2) Mailed:

a. Notify the owner of the property and/or owner's agent at least five days in advance of the hearing date;

b. Notify the property owners within 150 feet of the exterior boundaries of the subject property;

(3) Posted: Place a notice on the property at least 15 calendar days prior to the hearing date.



D. DECISION CRITERIA

Before the BOA grants a variance, it 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 Zoning Code 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 Zoning Code 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 Zoning Code and with the growth policies;

E. REVIEW AND DECISION-MAKING

1. Whenever the city board of adjustment grants an application for a variance, the minutes shall specifically state the criteria upon which the variance is granted.
2. In granting any variance, the BOA may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. 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 Zoning Code.

3. The BOA 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.

4. Under no circumstances shall the BOA 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.

F. POST-APPROVAL ACTION

A request for changes in conditions of approval of a zoning variance must be processed as a new variance application, including the requirements for fees, notices and hearings.

G. TRANSFERABILITY

Zoning variance approval runs with the land and is not affected by changes of tenancy, ownership, or management.

H. REAPPLICATION

If an application for a variance is denied by the BOA and not approved for reconsideration, another application shall not be filed within a period one year from the date of denial.

SECTION 27-1628 ZONE CHANGE

A. PURPOSE

This Zoning Code, including the official zoning map, may be amended by the city council.

B. INITIATION OF ZONE CHANGE

1. Text Amendment

Proposals to amend the text of this Zoning Code (text amendment), may be initiated by the city council, the zoning commission, or the Yellowstone County Board of Planning.

2. Zone Change (Map Amendment)

Unless initiated by the city council, all applications for zone change must be submitted by the owner of the subject property, the contract purchaser, or the authorized agent of the owner.

C. PROCEDURES

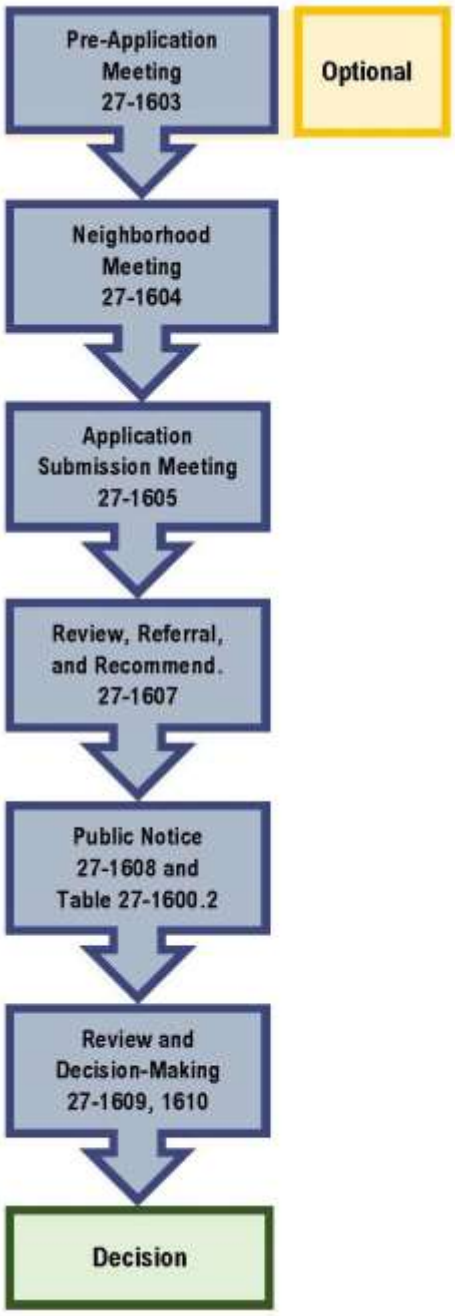
1. Common Procedures

Common procedures for review and decision of a zone change application are established in Sections 27-1603 through 27-1613. They are summarized here for applicant convenience.

2. Specific Procedures

(a) A pre-application neighborhood meeting is required per Section 27-1604.

(1) The applicant shall provide a signed statement affirming the pre-application



neighborhood meeting was conducted in conformance with the requirements of subsection 27-1602(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 .

(b) Notice of a zone change application shall be provided as follows:

(1) Publication: Notice of the application shall be advertised in a newspaper of general circulation at least 15 calendar days in advance of the date of the public hearing.

(2) Mailed notice shall be provided to the applicant and/or applicant's authorized agent and;

a. Where the subject property is equal to or more than 600 feet to exterior coterminous city limits: All property owners within a 300-foot radius. Where the subject property is less than 600 feet to exterior coterminous city limits: All property owners within 1,320 feet. Coterminous city limits do not include unincorporated islands within the city limits.

b. PD zone change: All property owners within 1,320 feet.

c. PND zone change: All property owners within 1,320 feet.

d. In addition to the notice above and 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 map amendment is, the time, date and place of the public hearing on the proposed amendment. Such notification shall be made at least 15 calendar days in advance of the date of public hearing.

(3) Posted: Place notice of the public hearing on the property subject to the special review 15 days in advance of the public hearing.

(4) Notice of a text amendment shall be published in the same manner as the publication requirement of a zone change application.

(c) Public hearings shall be held for both the City zoning commission review and city council review of the request for zone change or text amendment.

D. DECISION CRITERIA

The review and decision-making bodies shall consider the following statutory criteria in making a recommendation or decision regarding a zone change application:

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 affect 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. REVIEW AND DECISION-MAKING

1. City Zoning Commission Recommendation

(a) The City zoning commission shall make a recommendation to the city council to:

(1) Deny the application;

(2) Approve the application; or

(3) Allow the application to be withdrawn.

(b) Recommendations from the zoning commission shall be based on findings of fact and shall be transmitted to the applicant or applicant's agent, and the city council within 15 business days of the date of the public hearing before the zoning commission.

(c) The recommendation of the zoning commission shall be published in a newspaper of general circulation.

(d) The zoning commission may, by a majority vote of the members present, delay action for a period not to exceed 30 business 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.

2. City Council Action

(a) The city council shall hold a public hearing within 20 calendar days after the publication of the zoning commission recommendation.

(b) Before taking action on a Zone Change application, and after presentation of the zoning commission report, the city council shall hold a public hearing on the application.

(c) An additional public hearing shall be held at second reading of the ordinance as required by BMCC Section 2-223.

(d) 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 30 days.

3. Protest Petition Triggers Supermajority Vote Requirement

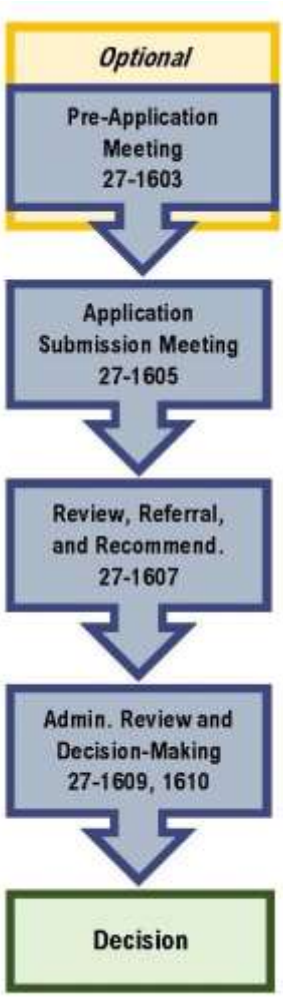
As provided in MCA 76-2-305(2), in the event of a protest petition against such zone change signed by the owners of 25 percent or more of: (1) the area of the lots included in any proposed change; or (2) those lots or units, as defined in MCA 70-23-102, 150 feet from a lot included in a proposed change, such proposed amendment shall not become effective except by the favorable vote of two-thirds (2/3) of the present and voting members of the city council.

(a) 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.

(b) If the property, as defined in MCA 70-23-102, spans more than one 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.

(c) 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.

(d) The protest petition must be received in the planning and community services department office by 5:00 p.m. on the Friday preceding the first reading of the amendment by the city council.



SECTION 27-1629 ZONING COMPLIANCE PERMIT

A. APPLICABILITY

A zoning compliance permit is required prior to the start of construction for properties that are located within the unincorporated jurisdictional area. No land use may be established or changed in whole or in part; 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.

B. AUTHORITY

A request for zoning compliance permit may be filed by a property owner or the owner's agent.

C. PROCEDURES

1. Common Procedures

Common procedures for review and decision of a zoning compliance permit are established in Sections 27-1603 through 27-1613. They are summarized here for applicant convenience.

2. Specific Procedures

(a) Each application for a zoning compliance permit shall be accompanied by a site development plan, building elevations and any other information requested by the zoning coordinator to adequately review the proposed project.

(b) Commercial projects also require submittal of a landscaping plan and a site plan showing off-street parking, loading, etc.

(c) The zoning coordinator may waive the submittal requirements for some of the above-mentioned plans.

D. DECISION CRITERIA

1. The zoning coordinator shall determine that the permit is issued in compliance with the regulations set forth in this Zoning Code.
2. 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 or other City, County, State, or Federal regulations.

E. REVIEW AND DECISION-MAKING

Zoning compliance permits are processed as an administrative decision pursuant to Section 27-1610.A.

F. LAPSE AND EXTENSION

Zoning compliance permits are valid for a period of six months from the date of approval and may be extended for an additional six months with written approval from the zoning coordinator.

SECTION 27-1701 ZONING OFFICIAL

It is the duty of the zoning coordinator to be the enforcement officer for all provisions of the Zoning Code unless otherwise expressly stated. The zoning coordinator may delegate tasks to members of the planning and community services department as appropriate.

SECTION 27-1702 DEFINITION OF VIOLATIONS

It shall be a violation of this Zoning Code to undertake any of the following activities. Each day that a violation is permitted to exist shall constitute a separate offense.

A. ACTIVITIES INCONSISTENT WITH CODE

Erect, construct, reconstruct, remodel, alter, maintain, expand, move, or use any building, structure, land/lot, or sign, or to engage in development of any land in contravention of any zoning or other regulation of this Zoning Code, including all required approvals.

B. NONCONFORMITIES INCONSISTENT WITH ZONING CODE

Create, expand, replace, or change a nonconforming use, structure, lot, or sign except in compliance with this Zoning Code.

C. MAKING LOTS OR SETBACKS NONCONFORMING

Reduce or diminish the required lot area, setbacks, or open space below the minimum required by this Zoning Code.

D. CHANGE OF USE

Change the use of any land, or any portion of a building, structure, or premises, except in accordance with the procedural and substantive standards of this Zoning Code.

E. ACTIVITIES INCONSISTENT WITH APPROVAL OR PERMIT

Engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, or other form of authorization required to engage in such activity.

F. ACTIVITIES INCONSISTENT WITH CONDITIONS OF APPROVAL

Failure to comply with any terms, conditions, or limitations placed by the decision-making body upon any permit or approval.

G. FAILURE TO REMOVE SIGNS

Failure to remove, when notified to do so by the zoning coordinator, any sign installed, created, erected or maintained in violation of this Zoning Code.

H. OBTAINING PERMITS OR APPROVALS THROUGH MISREPRESENTATION

Obtaining any permit or approval listed in Article 27-1600, Administrative Procedures, or this section through misrepresentation, the use of misleading documents or testimony, or the withholding of information known to the applicant.

SECTION 27-1703 RESPONSIBILITY FOR VIOLATIONS

The following persons may be jointly and severally responsible for violations of this Zoning Code and subject to enforcement:

A. Any owner of property on which a violation of this Zoning Code occurs;

B. Any architect, engineer, builder, contractor, agent, or any other person who knowingly participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this zoning ordinance; and

C. Any tenant or occupant who has control over, or responsibility for, use or development of the subject property.

SECTION 27-1704 PENALTIES FOR VIOLATION

The effective enforcement of adopted standards is necessary to accomplish their intended purpose. The City has a variety of options for the enforcement of this Zoning Code. The zoning coordinator may select the option which in their opinion is most suitable to the circumstance and violation. More than one enforcement option may be used to attain compliance with the standards of this Zoning Code when deemed appropriate. The remedies and enforcement powers established in this Zoning Code are cumulative, and the City may exercise them in any order.

A. DENY/WITHHOLD PERMITS

Planning and Community Services and other agencies and departments of the City of Billings may deny and withhold all permits, certificates, or other forms of authorization to use or develop any land, structure, or improvements until the violation related to such property, use, or development is corrected. This provision shall apply whether or not the current owner or applicant for the permit is responsible for the violation.

B. PERMITS APPROVED WITH CONDITIONS

Instead of withholding or denying a permit or other authorization, the City may grant such authorization subject to the condition that the violation be corrected. The zoning coordinator will ensure that all conditions are being met by verifying progress schedule or by conducting the final inspection.

C. REVOKE APPROVALS OR PERMITS

1. The City may revoke any development approval, permit, or other authorization when it is determined that either:

   (a) There is a material and substantive departure from the approved plans, specifications, or conditions of approval;

   (b) There is a violation of any provision of this Code;

   (c) The development approval or permit was obtained by false representation; or

   (d) The development approval or permit was issued in error.

2. If the recipient responds to the letter with a written request for additional time supported by a plan of action letter that includes a site plan, progress schedule (if applicable) indicating how they are going to resolve all identified violations, and a proposed compliance date that is approved by the zoning coordinator, they may be granted additional time extensions as reasonably required to complete the remedy but such additional time extensions shall not exceed six months per extension.

3. Written notice of revocation shall be delivered by certified mail upon the property owner of record, the owner's agent, the applicant, or other person to whom the permit was issued or such notice may be posted in a prominent location at the place of the violation. No work or construction shall proceed after service of the revocation notice.

D. STOP WORK ORDER

1. With or without revoking permits, the zoning coordinator may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this Zoning Code or a provision of a permit or other form of authorization issued pursuant to this Zoning Code. The stop work order shall specify the Zoning Code provisions being violated.
2. After any such order has been served, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with the order.
3. The stop work order may be issued at the same time as a notice of the initial violation or subsequent to such notice.

E. STOP USE

Whenever a structure or part thereof is being used in violation of this Zoning Code, the zoning coordinator may order the use to be immediately stopped.

F. FORFEITURE AND CONFISCATION OF SIGNS

1. Any sign installed or placed on public property, except in compliance with the regulations of Article 27-1400, Signs, will be subject to forfeiture to the public and confiscation. In addition to other remedies and penalties of this section, the City has the right to dispose of signs illegally placed on public property and to recover from the sign owner, or person who placed the sign, the full costs of sign removal and disposal.
2. Violation of Article 27-1400 is a strict liability offense.

G. CRIMINAL PENALTIES (CURRENT)

1. Violation of the provisions of this Zoning Code or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with the grant of variances or special review uses or any of the required conditions imposed by the review authority is a misdemeanor.
2. Each day such violation continues shall be considered to be a separate offense.

H. MUNICIPAL INFRACTION

1. Violation of this Zoning Code is a municipal infraction and may be punishable by a civil penalty as provided in BMCC Section 18-1300, in addition to other remedies of this section.
2. Each day such violation continues is considered a separate offense and punishable as such.
3. The determining factor with respect to the civil penalty is the receipt of service of the citation and not the judgment.

I. CIVIL ACTION

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 Zoning Code, or of any ordinance made under authority conferred hereby, the proper authorities of the City 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.

J. OTHER

The City may take any other action permitted by Montana law.

SECTION 27-1801 TERMS, CONSTRUCTION, AND INTERPRETATION

A. TERM INCLUSIONS

1. The term “person” includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual.
2. The term “used” or “occupied” includes the words “intended, designated, or arranged to be used or occupied.”
3. The term “lot” includes the words “plot,” “tract,” or “parcel.”
4. The term “building” includes the term “structure.”
5. The term zone means zone or zoning district.
6. The term County means Yellowstone County, Montana.
7. The term City means the City of Billings, Montana.

B. RULES OF CONSTRUCTION

The following words, terms and phrases, when used in this Zoning Code, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning.

1. Meanings and Intent

All provisions, terms, phrases, and expressions contained in this Zoning Code shall be construed according to this Zoning Code's stated purpose and intent. All provisions, terms, phrases, and expressions contained in this Zoning Code shall be construed according to the general and specific purpose statements set forth throughout this Zoning Code. When, in a specific section of this Zoning Code, a different meaning is given for a term defined for general purposes in this chapter, the specific section’s meaning and application of the term shall control.

2. Headings, Illustrations, and Text

In the event of a conflict or inconsistency between the text of this Zoning Code and any heading, caption, figure, illustration, table, or map, the text shall control.

3. Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and shall not be interpreted as exhaustive lists of all possibilities.

4. Computation of Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the City, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the City. References to days are calendar days unless otherwise stated.

5. References to Other Regulations/Publications

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

6. **Delegation of Authority**
Any act authorized by this Zoning Code to be carried out by a specific city official or staff member may be carried out by a designee of such official. For example, the planning director may delegate the preparation of a staff report to a member of the planning division staff.

7. **Technical and Nontechnical Terms**
Words and phrases not otherwise defined in this Zoning Code shall be construed according to the common and approved usage of the language, but technical words and phrases not otherwise defined in this Zoning Code that may have acquired a particular and appropriate meaning in law shall be construed and understood according to such meaning.

C. RULES OF INTERPRETATION

1. **Mandatory and Discretionary Terms**
The words "shall," "must," or "will" are always mandatory, and the words "may" or "should" are always discretionary.

2. **Conjunctions**
Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

(a) "And" indicates that all connected items, conditions, provisions, or events shall apply; and

(b) “Or" indicates that one or more of the connected items, conditions, provisions, or events shall apply.

3. **Tenses and Plurals**
Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular shall include the plural, and the plural shall include the singular.

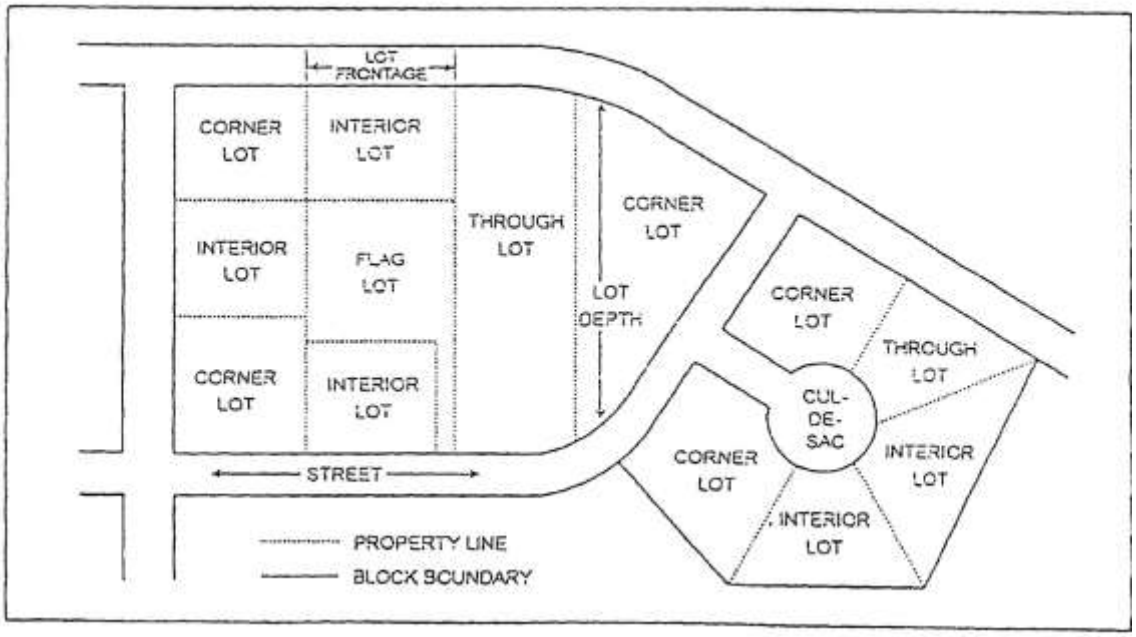
4. **Interpretation**
The planning director has authority to determine the interpretation or usage of terms used in this Zoning Code. Appeal of an interpretation made by the planning director shall be to the Board of Adjustment.

5. **Undefined Terms**
The planning director has the authority to provide the definition for a term where it is not defined in this Zoning Code. Appeal of a definition provided by the planning director shall be to the Board of Adjustment.

SECTION 27-1802 MEASUREMENTS AND ASSOCIATED TERMS

A. LOT AND STREET MEASUREMENTS AND TERMS

1. 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.
2. 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.
3. Lot line: A line of record bounding a lot that divides one lot from another lot or from a public or private street, alley or other public space.
   (a) Front Lot Line: The lot line abutting a public or private front street.
   (b) 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.
   (c) Side Lot Line: Any lot line that is not a front, street-side, or a rear lot line abutting an interior lot.
   (d) Street-Side Lot Line: The lot line abutting a public or private side or non-front street.
4. Lot types:
   (a) Corner Lot: A lot located at the intersection of two or more streets.
   (b) Interior Lot: A lot, other than a corner lot, with only one frontage on a street other than an alley.
   (c) Through Lot or Double Frontage Lot: A lot other than a corner lot with frontage on more than one street other than an alley.



5. Lot Width: Lot widths are measured along the minimum setback or minimum build-to line.

6. *Street.* A dedicated public or a private right-of-way (or portion thereof) intended for general public use to provide access through the area and to buildings and sites within the area. For the purposes of this zoning code, an alley is not a street.

   (a) Street, Front. On interior lots, the street abutting the lot; on corner lots, the street with more front doors and/or buildings fronting the street. Front streets are typically the streets along the longer faces of a block with multiple front entrances. Front streets receive priority over other streets in terms of setting front lot lines and locating building entrances.

   (b) Street, Side or Non-Front. The street abutting a lot that is not considered a front street.

7. *Yard:* An open space about a building, other than a courtyard, unoccupied and unobstructed from the ground to the sky, except as otherwise specifically provided in this zoning code.

   (a) 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.

   (b) Rear Yard: A yard extending from the rear-building facade to the rear lot line between the side yards or, on a corner lot, the street-side and side yards.

   (c) Side Yard: A yard extending from the side-building facade along a side lot line between the front lot line and rear lot line. Also called an interior side yard.

   (d) Yard, Street-Side: A yard extending from the building facade along a side street lot line between the front yard and rear lot line.

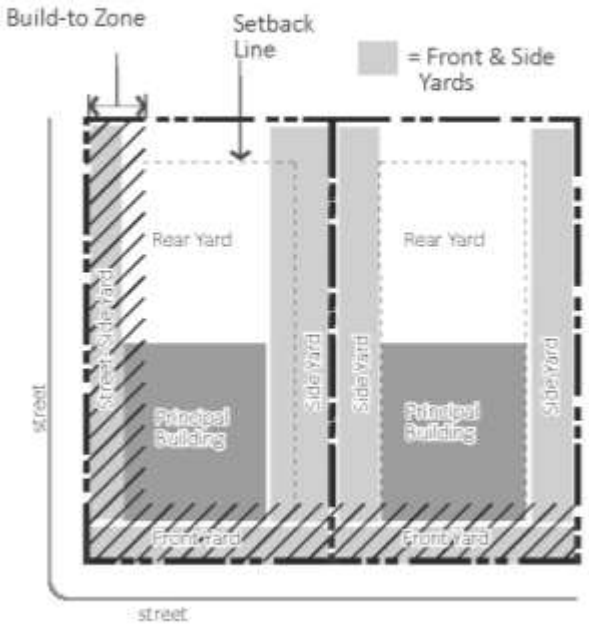


Figure 27-1800-2: Illustration of Yards

Figure 27-1800-3: Illustration of Build-to Zones

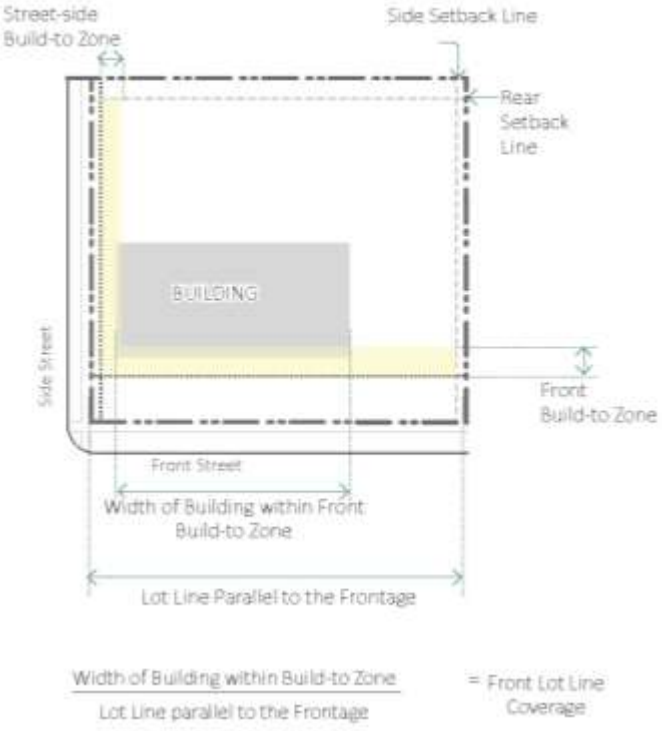


Figure 27-1800-4: Measuring Front Lot Line

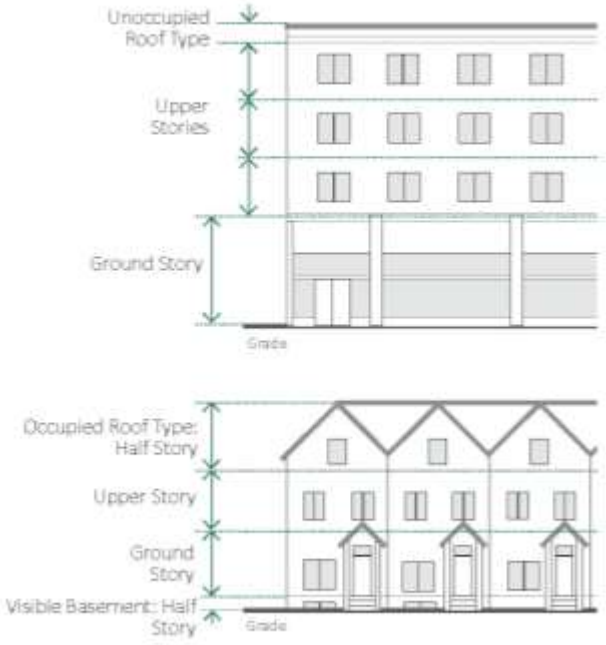


Figure 27-1800-5: Measuring Building Height

B. BUILDING AND PARKING SITING MEASUREMENTS AND TERMS

1. Building Coverage, Maximum

The maximum percentage of a yard or lot permitted to be covered by building and any other structures with a roof.

2. Build to Corner

Buildings are required to be located within the intersection of the front and street-side build-to zones at street corners.

3. Build-to Zones

The build-to zone, when required, is designated separately for each street frontage, front and street-side, in the site and structure regulations table for each district.

(a) Definition: An area in which the front or street side facade of a building shall be placed; it may or may not be located directly adjacent to a lot line. The zone dictates the minimum and maximum distance a structure may be placed from a lot line. Refer to Figure 27-1800-3.

(b) Measurement. The build-to zone for all frontages is measured from the lot line parallel to the frontage, unless otherwise stated in the building and site regulations. When additional streetscape area is required per the building and site regulations, the build-to zone is measured from the edge of the required streetscape onto the site.

(c) Height. The building located in the build-to zone must meet the minimum building heights. For example, if the minimum height of the building is two stories, then, at a minimum, the first two stories of the building from the ground up must be located within the build-to zone on the same vertical plane.

(d) Build-to Zone (BTZ) Averaging. The front setback average shall be calculated as follows:

(1) Measurement. The average of the front setbacks of the next two lots on each side of the lot on the same side of the street. If any applicable lots are vacant, the minimum front setback or build-to zone from the site and structure regulations of the district shall be used in the calculation.

(2) Corner Lots. For corner lots, the average of the front setbacks of the next two lots adjacent to the lot with the same street frontage as the lot in question. If any applicable lots are vacant, the minimum front build-to zone shall be used in the calculation.

4. Front Lot Line Coverage, Minimum.

(a) Definition. The minimum percentage of building facade along the front of a lot as designated in the site and structure regulations table for each district.

(b) Measurement. The width of the principal building, as measured within the build-to zone along the front lot line, is divided by the length of the frontage parallel to the front lot. Side yard and street-side yards are not included in the build-to zone area. Refer to Figure 27-1800-4. Minimum Front Lot Line Coverage.

(c) Courtyards. Where noted in the site and structure regulations for each district, courtyards, maximum of 30% of facade width or 30 feet wide, whichever is less, may count towards the minimum front lot line coverage. The courtyard must be treated with landscape, patio, or sidewalk; no vehicular access or motor vehicle parking area is permitted in any courtyard.

(d) Parking and Driveways. Parking and driveways do not count towards the minimum front lot line coverage, unless otherwise stated.

5. **Setback**

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

(b) Encroachment or Projection. The distance any part of a structure extends beyond a building setback or a build-to zone. See Section 27-303 for a list of permitted encroachments in neighborhood districts.

6. **Occupied Building Space**
Interior building space regularly occupied by the building users; does not include storage areas, utility space, or parking.

7. **Separation Between Buildings**
Building separation is measured as the horizontal distance between buildings, measured along the shortest line that can be drawn between the exterior walls.

8. **Surface or Accessory Parking Yard Locations**
Surface parking lots and accessory parking structures or buildings are allowed in different yards per the site and structure regulations for each district. Limited parking for different yards is defined as follows:

(a) Limited Side Yard Parking. Where allowed, limited side yard parking is one double-loaded aisle of surface parking, perpendicular to the front lot line, with a maximum paving width of 65 feet, located in the side yard of the lot.

(b) Limited Front Yard Parking. Where allowed, limited front yard parking is one single-loaded aisle of surface parking, parallel to the front lot line, with a maximum paving depth of 40 feet, located in the front yard of the lot. The parking must be located on the building side of the drive and curbed sidewalk is required between the parking and the building.

(c) Internal Parking Yard. Where multiple principal structures are located on a lot, the area between the buildings in the front portion of the lot and the buildings in the rear portion of the lot is referred to as the “internal yard” for the purposes of locating surface parking.

C. BUILDING HEIGHT MEASUREMENTS AND TERMS

1. **General Terms**

(a) 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 feet distance from the wall. In cases where walls are parallel to and within 20 feet of a public sidewalk, alley or other public way, the grade shall be the elevation of the sidewalk, alley, or public way.

(b) 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.

(1) Story, ground: Also referred to as ground floor. The first floor of a building that is a full story typically level to or elevated above the finished grade on the front and corner facades and excluding basements and half stories.

(2) Story, half: An occupied story either in a visible basement of the building or an occupied story fully within the roof structure.

(3) Story, upper: Also referred to as upper floor. The floors located above the ground story of a building.

(c) Basement: 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 50% of the total perimeter or is more than 12 feet above grade as defined herein at any point, such basement, cellar or unused under-floor space shall be considered a story. Refer to Figure 27-1800-6.

(d) Visible Basement. A basement that is between 3.5 feet and 6 feet exposed above adjacent finished grade along any street facade. Windows are required for visible basements on street facades. With more than 6 feet exposed, the space shall be considered a story per subsection (c), above.

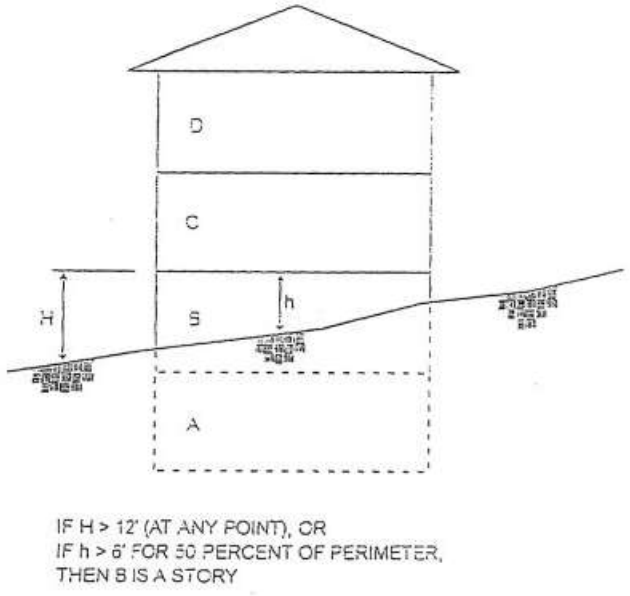


Figure 27-1800-6: Illustration of Basement

2. Overall Building Height

Refer to Figure 27-1800-5 Measuring Building Height in Stories and Stories with Floor-to-Floor Height.

(a) Minimum Overall Height. Minimum heights require a minimum number of stories on the front facades of the building. The building must meet the minimum required height for the first 20 feet of occupied building space measured from the front facade into the building.

(b) Maximum Overall Height. Maximum heights are specified in number of stories and/or a maximum dimension.

(1) This requirement applies to the entire building.

(2) Maximum overall height in feet is measured from grade vertically to the highest point of the structure, excluding any permissible height exceptions per this zoning code.

(3) Towers. Where allowed, towers may exceed the overall maximum height per 27-1803.E. .

(c) Roof Types. Roof heights are measured per 27-1803.E and are additional to the allowable stories and floor-to-floor heights.

(d) Two Half Stories. A building incorporating both a half story within the roof and a visible basement shall count the height of the two half stories as one full story.

3. Story Heights

Where defined in the site and structure regulations tables per district, stories are measured with a range of permitted floor-to-floor heights. Refer to Figure 27-1800-5. Measuring Stories with Floor-to-Floor Height.

(a) Measurement. Story height is measured in feet between the subfloor of a story to the subfloor of the story above it. Minimum and maximum floor-to-floor heights are required to be met on floors along all front facades. See 27-1803.C.3(d), below, allowance for taller heights for such spaces as stairwells, mezzanines, and lobbies.

(b) Top Floor Measurement. For the uppermost story of a multiple story building, floor-to-floor height shall be one foot less than noted per site and structure regulations of the district and measured from the floor of the story to the ceiling, e.g. if the permitted floor-to-floor heights of an upper story range between 9 feet and 14 feet, the range for the topmost story of the building is 8 feet to 13 feet.

(c) Mezzanines. Mezzanines may be included within the floor-to-floor height of any story, included in the calculation of stories. Mezzanines occupying more than 30 percent of the floor area below and extending above the story's allowable floor-to-floor height shall count as an additional story.

(d) Taller Spaces. With the exception of stair and elevator spaces, spaces exceeding the allowable floor-to-floor heights of the building are not permitted on front facades. These spaces are unlimited on interior facades and non-front facades, but shall be counted as the number of stories that would fit within their height.

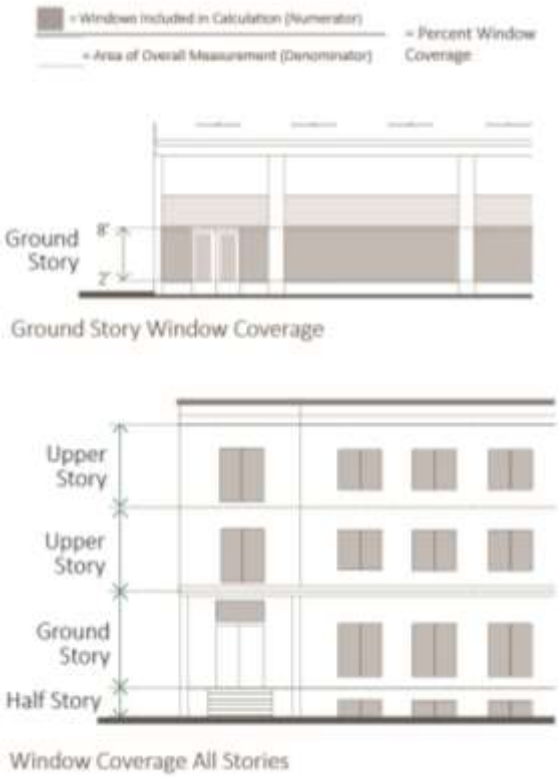


Figure 27-1800-7: Measuring Window Coverage

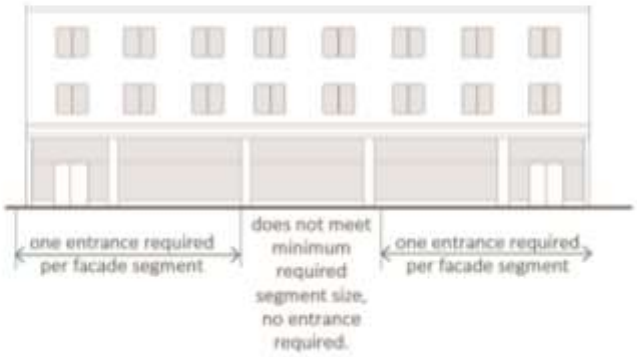


Figure 27-1800-8: Measuring Entrances

D. WINDOWS AND DOOR MEASUREMENTS & TERMS

1. Window & Door Coverage

The site and structure regulations for each district may define a minimum amount of window and door coverage required for designated facades and stories.

(a) Measurement. Minimum window and door coverage is measured from floor-to-floor of each story separately. Refer to Figure 27-1800-7. Measuring Window Coverage. Window and door coverage includes the area of any gross opening in the façade for a window or doors, but shall not include trim.

(b) Blank Wall Segments. The building regulations designate facades where blank wall limitations apply. Blank wall limitations means no facade section more than 15-foot in width, measured horizontally, and more than 30 percent of any story shall be without windows.

(1) Exception. When a facade of any story is located within three feet of a parallel building facade, no minimum transparency is required for that story.

(c) Minimum Ground Story Window and Door Coverage. When required separately by the site and structure regulations, ground story window and door coverage shall be measured between 2 feet and 8 feet from the average grade at the base of the facade. Minimum ground story window and door coverage supersedes the overall minimum window coverage required in the site and structure regulations.

(d) Half Stories. For all mixed-use districts in 27-400, all half stories located within a roof structure or visible basements are required to meet the minimum window and door coverage.

2. Doors

Per the site and structure regulations of the districts, where a minimum number of required entrances must be spaced along a façade, the measurement shall be consistent with Figure 27-1800-8 Number of Required Entrances.

(a) Principal Entrance. A principal entrance is a public entrance, where the general public, residents, visitors, or the like may enter the space, as opposed to a delivery or service entrance where the public is not permitted.

(b) Entrances-per-Façade-Segment Measurement. When an entrance is required per an increment of façade segment, that façade segment increment must be met before an entrance is required. For example, one principal entrance per every 60 feet of façade means that a façade that is 230 feet in length requires only three entrances (one per each of three 60-foot façade segments, and none required for the remaining 50 feet of façade).

Example of a Parapet e

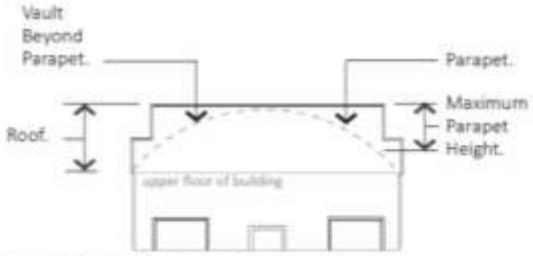
Parallel PItched

Example of a Flat Roof

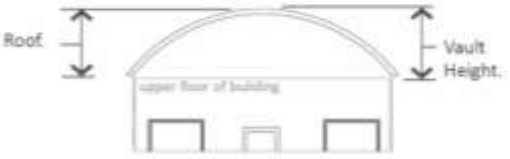
Pitched Gable Roof

Examples of Pitched Roof

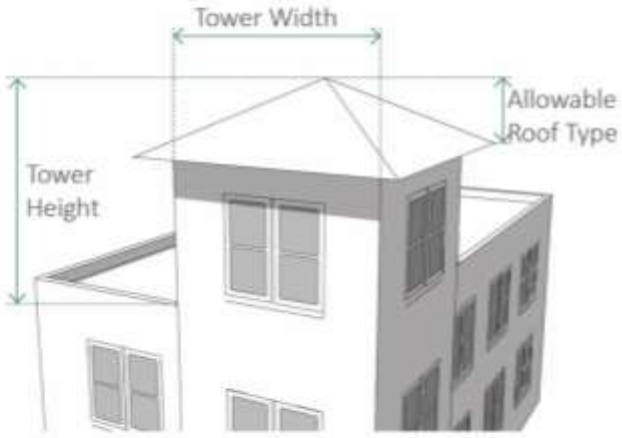
Low Pitched Roof (Hip Roof)



Barrel Roof with parapet.



Barrel Roof without parapet.



Example of a Tower

Figure 27-1800-9: Examples of Roof Types

E. ROOF MEASUREMENTS AND TERMS

As required by the site and structure regulations for each district, the major components of any roof shall meet one of the allowed roof types defined below. The roof type is required where the roof is visible from any street. Roofs for bay or bow windows, entrance canopies, and dormers are not required to meet a roof type.

1. Parapet Roof

A parapet is a low wall projecting above a building's roof along the perimeter of the building. Refer to Figure 27-1800-9 Example of a Parapet.

(a) Parapet Height. Height is measured from the top of the upper story to the top of the parapet. Minimum height is 2 feet with a maximum height of 6 feet.

(b) Occupied Building Space. Space within a parapet roof shall not be enclosed, occupied building space, but any open-air or canopied rooftop spaces are allowed.

(c) Rooftop Appurtenances. With the exception of solar panels, any rooftop appurtenances shall be located towards the rear or interior of the parapet roof. The parapet shall screen the mechanicals from the elevation of the sidewalk across the street.

2. Flat Roof

A flat roof is a visibly flat (may be sloped for drainage) roof with overhanging eaves on all street frontages. Refer to Figure 27-1800-9 Example of a Flat Roof.

(a) Eaves. Eave depth is measured from the building facade to the outside edge of the eave and shall have a depth of at least 14 inches. Eave thickness is measured at the outside edge of the eave, from the bottom of the eave to the top of the eave and shall be a minimum of 6 inches.

(b) Occupied Building Space. Space within or on a Flat Roof shall not be enclosed or occupied building space, but any open-air or canopied rooftop spaces are allowed.

(c) Rooftop Appurtenances. With the exception of solar panels, any rooftop appurtenances shall be located a minimum of 20 feet from any street façade and screened from the street per the director.

3. Pitched Roof

A sloped or pitched roof, where slope is measured with the vertical rise divided by the horizontal span or run. Refer to Figure 27-1800-9 Example of a Pitched Roof.

(a) Pitch Measure. The roof may not be sloped less than a 3:12 (rise: run) or more than 14:12.

(b) Configurations.

(1) Hipped, gabled, and combination of hips and gables with or without dormers are permitted.

(2) Butterfly (inverted gable roof) and shed roofs are permitted with a maximum height of 8 feet, inclusive of overhang.

(3) Gambrel and mansard roofs are permitted in the N districts. Minimum slopes apply to the topmost pitch of these roof types. Lower portions of these roof types must be sloped and not vertical. Space below these roofs counts as a full story.

(c) Parallel Ridge Line. A gabled end or perpendicular ridgeline shall occur at least every 100 feet of roof when the ridgeline runs parallel to the primary frontage.

(d) Roof Height. Roofs without occupied building space and/or dormers shall have a maximum height on primary and non-primary frontage facades equal to no more than 1.5 times the upper story floor-to-floor height utilized on the building.

(e) Occupied Building Space. Space may be incorporated within this roof. See definition of half story.

(f) Rooftop Appurtenances. With the exception of solar panels, any rooftop appurtenances shall be recessed within the pitched roof with no visibility on any street.

4. Barrel Roof

A barrel vaulted roof; may have a parapet on one or more facades. Refer to Figure 27-1800-8 Example of a Barrel Roof.

(a) Configuration. The barrel vault of the roof shall run perpendicular to the front facade. Eaves may or may not be utilized.

(b) Vault Height. The vault height shall not exceed half the vault width.

(c) Parapet. When a parapet wall screens the vault from the street, the parapet shall not extend more than six feet above the barrel vault.

(d) Occupied Space. Space may be incorporated behind this roof. See definition of half story.

5. Other Roof Types

Special roof designs otherwise not defined in this section may be approved through the Administrative Relief process per 27-1600 with the following requirements:

(a) The roof shall not create additional occupied space beyond that permitted by the site and structure regulations.

(b) The scale and type of the roof shall be consistent with the character of city and the area within which it is located.

(c) The shape of the roof shall be different from those defined in this section 27-1803.E, such as a dome, spire, or vault, and not a gabled roof, hipped roof, butterfly roof, gambrel roof, mansard roof, roof with parapet, or flat roof.

6. Towers

A tower is a rectilinear or cylindrical, vertical element, that must be used with other roof types.

(a) Quantity. One tower is permitted per building in any N district. In all other districts, unless otherwise stated, a maximum of one tower is allowed within the first 30 feet of the front façade. Additional towers may be allowed with Administrative Relief per 27-1600.

(b) Tower Height. Maximum height, measured from the top of the parapet or eave to the top of the tower, is the equivalent of the height of one upper floor of the building to which the tower is applied.

(c) Tower Width. Maximum width along all facades is one-third the width of the front facade or thirty feet, whichever is less.

(d) Horizontal Expression Lines. An expression line shall define the tower from the upper stories, except on single family or attached house residential Frontage Types (refer to BMCC Sec.27-904 for Frontage Types).

(e) Occupied Space. Towers may be occupied by the same uses allowed in upper stories of the Frontage Type to which it is applied.

(f) Application. May be combined with all other Roof Types.

(g) Tower Cap. The tower may be capped by the parapet, pitched, low pitched, or flat roof Roof Types, or a spire may cap the tower.

7. Spire

A spire is a long, tapering design element that can be attached to a tower or other Roof Type.

(a) Permitted Location. Spires are permitted only on civic and institutional buildings.

(b) Spire Height. Spire height is not limited.

(c) Spire Width. Maximum width, measured at the spire base is one-sixth (1/6) the width of the front facade or fifteen (15) feet, whichever is less. A wider spire base, proportionate in height, is subject to the approval the Zoning Coordinator.

(d) Occupied Space. Occupied space is not permitted within the spire.

(e) Application. May be combined with any other roof type.

F. OTHER GENERAL STRUCTURE MEASUREMENTS & TERMS

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.

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.

G. USE AND PROPERTY SEPARATIONS MEASUREMENTS

1. Separation Between Uses

(a) Use separation is measured from the nearest point of a structure or part of a multiple use structure occupied by the use requiring separation to the nearest property line occupied by a use from which the separation is to be effected or established.

(b) Only when a significant part of the use is operated outside of a completely enclosed structure shall a separation be measured from the nearest point of the zone lot occupied by the use requiring separation to the nearest property line occupied by a use from which the separation is to be effected or established.

2. Separation Between Properties

(a) Property separation is measured as the horizontal distance between property lines, measured along the shortest line that can be drawn between the subject property lines.

(b) Property separation along the street is measured as the horizontal distance between property lines, measured along the shortest route that follows the centerline of the street right-of-way between the nearest property lines of the subject properties.

H. VISIBILITY AT INTERSECTIONS

1. Definition of Clear Vision Area

(a) Design. Where a clear vision area is required by this section, no fence, hedge, wall, shrub, structure, or vision impediment over 30 inches in height shall be located within the required clear vision triangle except:

(1) Approved advertising signs, and public use controls and systems may be permitted in clear vision areas.

(2) Trees with a maximum trunk diameter of one foot measured four feet above the ground line, provided they are trimmed of all branches between the ground line and eight feet in height.

(b) Measurements and Exceptions. The following measurements shall apply unless provided otherwise in this section:

(1) The clear vision triangle shall be formed by the intersecting lines measured along the property lines.

(2) Height shall be measured above an established top-of-curb grade.

(3) Where the there is a curve coming into the intersection or the street alignment near the intersection deviates by more than five degrees from tangent, the site may be subject to increased (additional) restrictions based on technical review by the city traffic engineer.

2. Clear Vision Areas at Intersections Outside of CBD

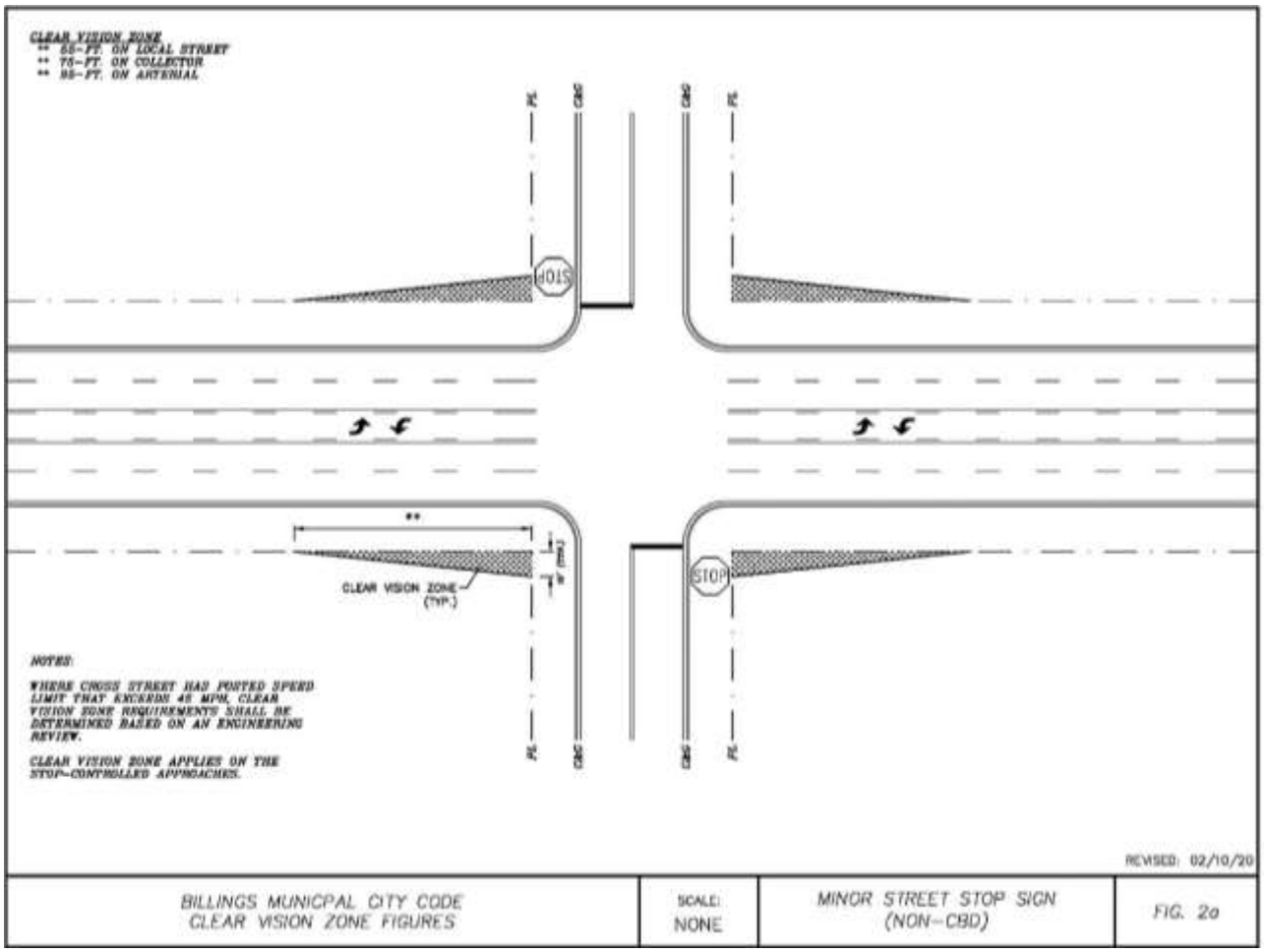
(a) Controlled Intersections. On corner lots at intersections where one or more approaches are controlled by a stop sign, yield sign, or a traffic signal, a triangular clear vision area shall be provided as defined in Table 27-1802.1.

Table 27-1802.1: Clear Vision Areas at Controlled Intersections

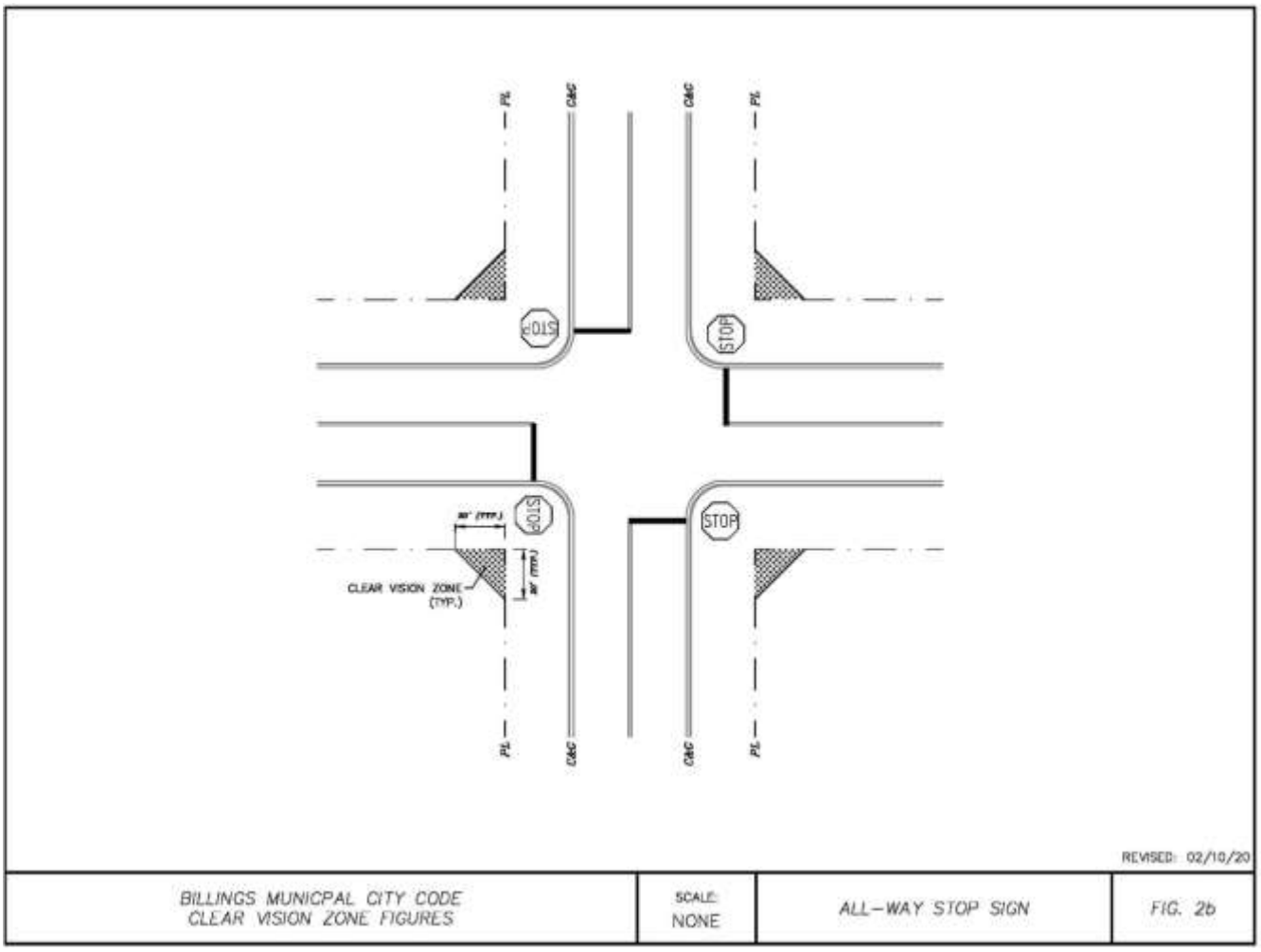
Intersection Type	Clear Vision Area Required	Illustrated in Figure(s)
Controlled [1]		
Minor Street Stop [2,3]	Entering a Local Street—10′ × 55′ (along property lines)	2a
	Entering Collector Street—10′ × 75′ (along property lines)	
	Entering Arterial Street—10′ × 95′ (along property lines)	
All-Way Stop	20′ × 20′ along property lines	2b
Yield	25′ × 60′ along property lines	2c
Traffic Signal	Same as minor street stop looking toward approaching traffic in nearest travel lanes Same as all-way stop looking opposite direction	2d
Notes		
[1] Along private streets where there is no property line, controlled intersection areas shall be measured as though there is a property line 12 feet behind the curbline of the private street. [2] For minor street stop (case 2a) entering a street with a posted speed limit greater than 45 mph, the required clear vision area will be based on an engineering review subject to approval by the city traffic engineer. [3] Along arterial and collector streets where the "major" street curbline is more than 20 feet from the property line, the clear vision area may be reduced to that provided for a stop controlled local street intersection.		

(b) Controlled intersection types and figures:

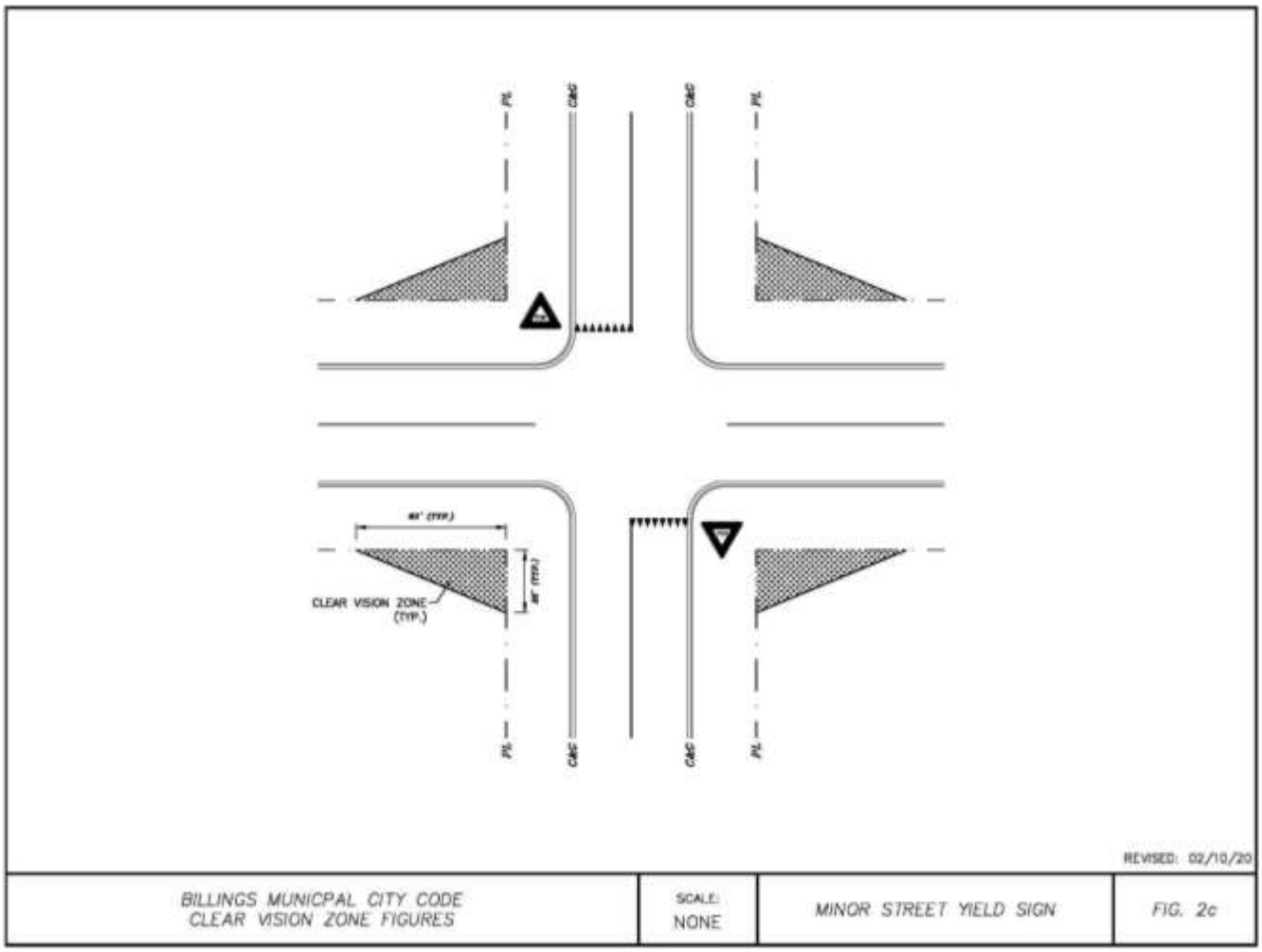
(1) Minor Street Stop Control. Any intersection where one or more approaches is controlled by a stop sign. See Figure 2a



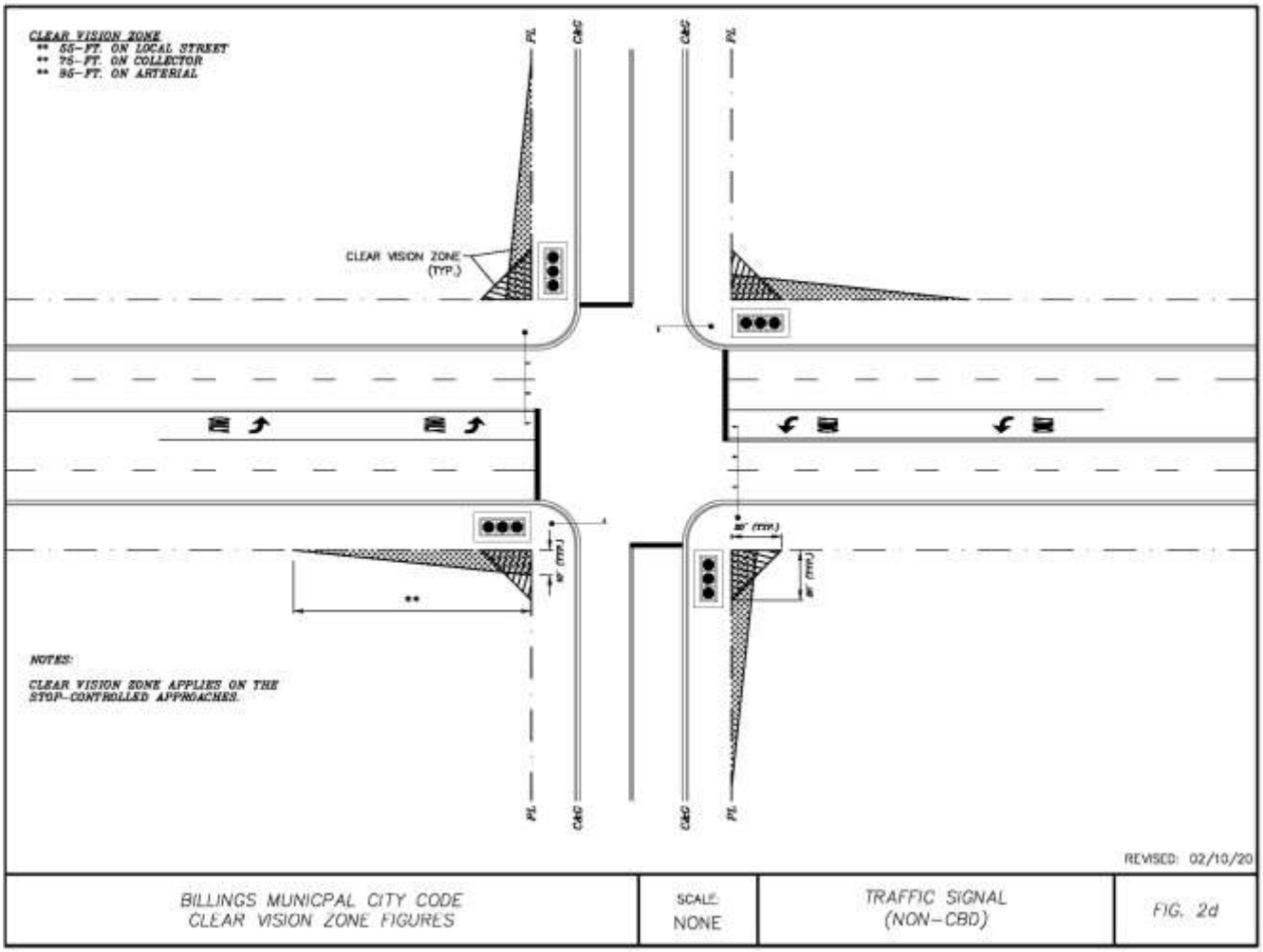
(2) All Way Stop Control. Any intersection where all approaches are controlled by stop signs. See Figure 2b.



(3) Yield Control. Any intersection where one or more approaches is controlled by a yield sign. See Figure 2c.



(4) Traffic Signal Control. Any intersection where traffic is controlled by traffic signals. See Figure 2d.



3. **Uncontrolled Intersections**
On corner lots at the intersection of all streets not regulated by Section 27-1802.H.2, a triangular clear vision area shall be provided as defined in Table 27-1802.2.

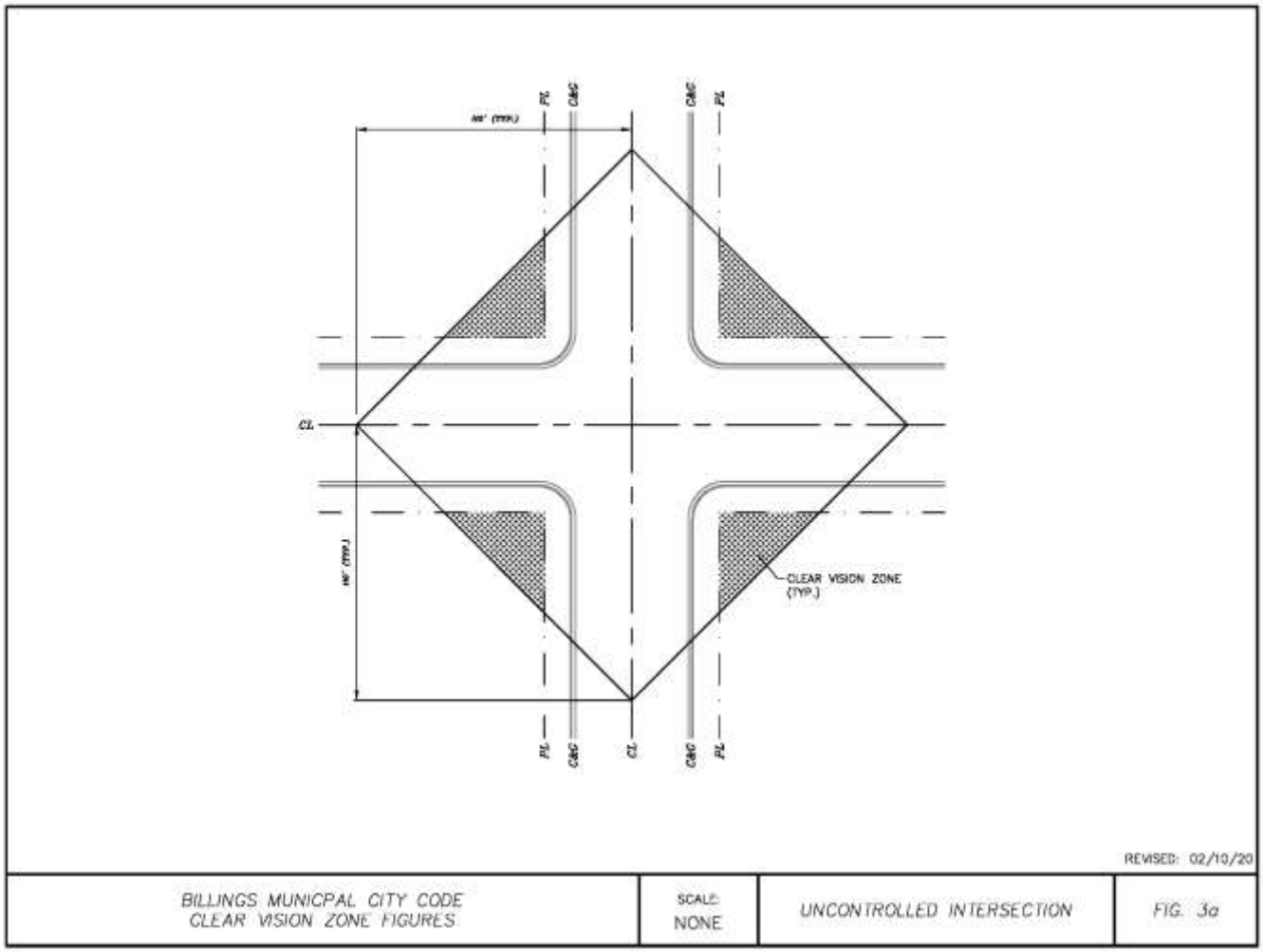
Table 27-1802.2: Clear Vision Areas at Uncontrolled Intersections

Intersection Type	Clear Vision Area Required	Illustrated in Figure(s)
Uncontrolled (Open)		
4-Legged	110′ × 110′ along street centerline	3a
2-legged	80′ × 80′ along street centerlines (extended)	3b
"T" intersection	25′ along stem × 60′ along top of "T" measured along property lines	3c
Notes		

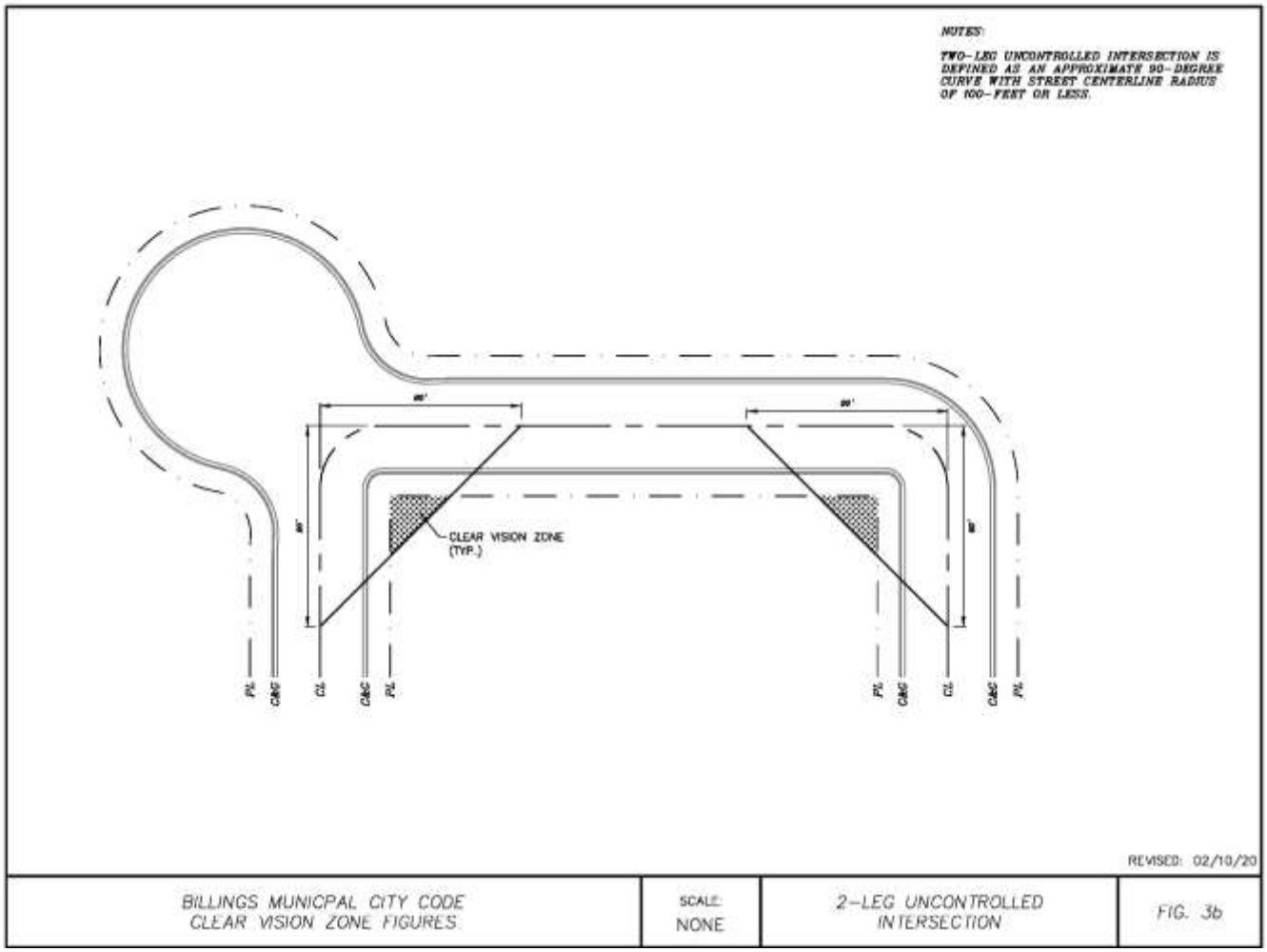
(a) The clear vision triangle shall be formed by the intersecting street centerlines and a straight line joining such intersecting lines at points measured back from the point where the centerlines or the extension of the centerlines intersect a distance as established in Table 27-1802.2.

(b) Uncontrolled intersection types and figures:

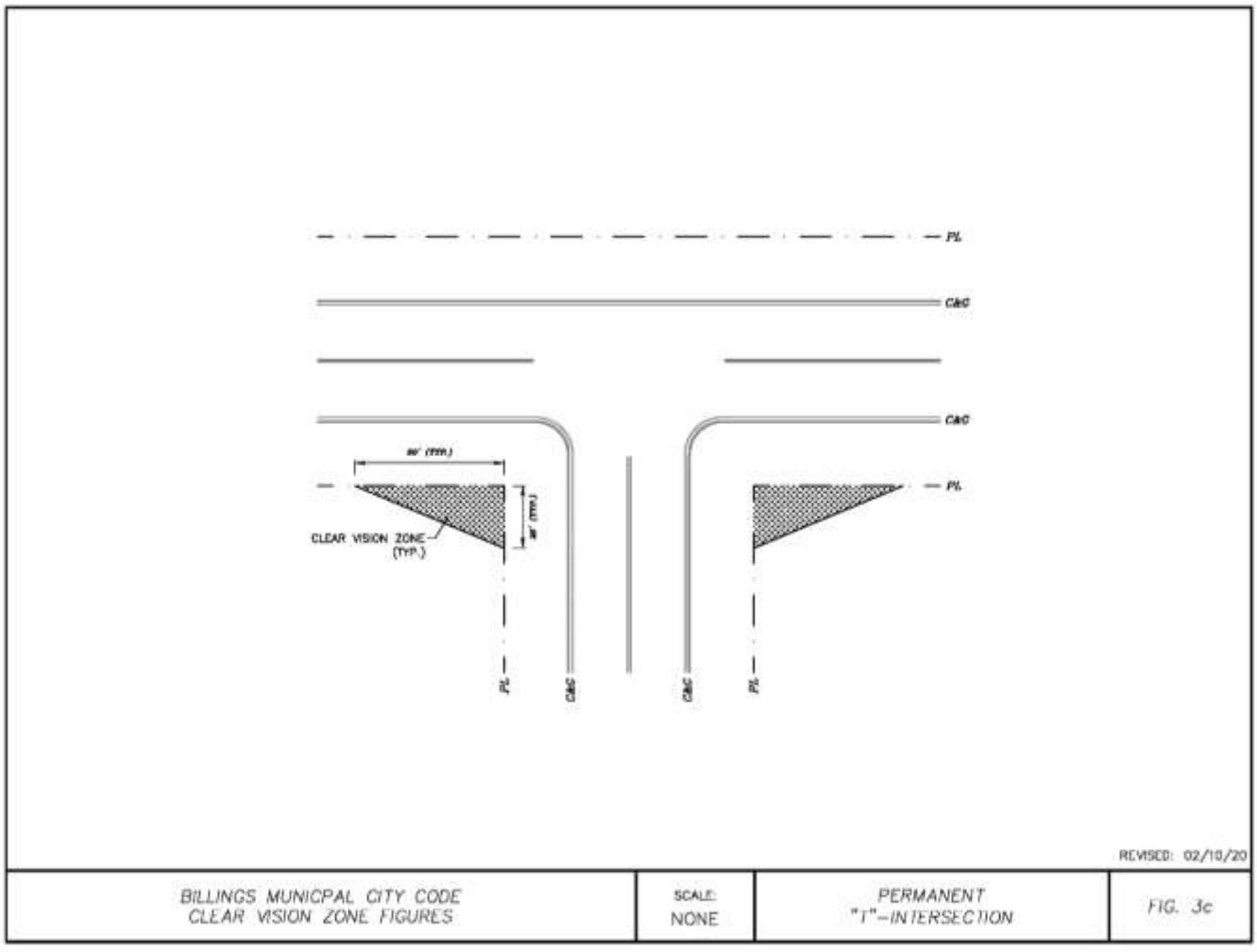
(1) Uncontrolled 4-Legged Intersection. Any intersection where none of the approaches are controlled by a stop sign, yield sign or traffic signal. See Figure 3a.



(2) Uncontrolled 2-Legged Intersection. Any intersection with a right angle curve with street centerline radius of 100 feet or less. See Figure 3b.



(3) Uncontrolled “T” Intersection. See Figure 3c. 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.



4. Clear Vision Area at Driveways and Alley Approaches Outside of CDB

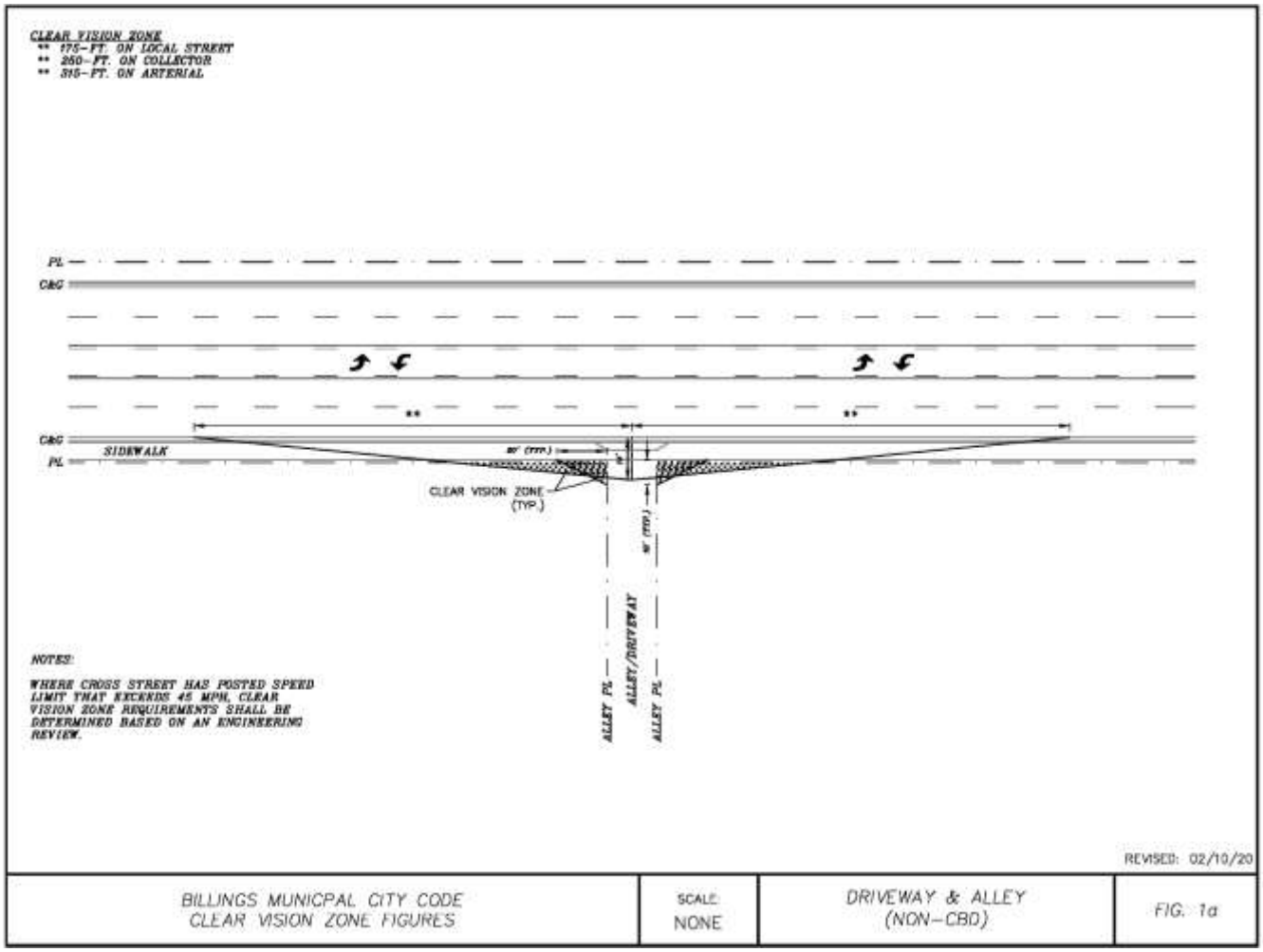
(a) At the intersection of any alley or any driveway and a public street outside of the central business district, the illustrated clear vision area shall be maintained as defined in Table 27-1802.3.

(b) If no sidewalk exists, all measurements shall be made from and along the property line.

Table 27-1802.3: Clear Vision Areas at Driveways and Alleys Outside of CBD

Clear Vision Area for:	Clear Vision Area Required	Illustrated in Figure(s)
Vehicular Traffic	Entering local street —Triangle measured along centerline of the driveway or alley 14 feet from back of curb by 175 feet along the curb line or the extension of the curb line on the cross street.	1a
	Entering collector street —Triangle measured along centerline of the driveway or alley 14 feet from back of curb by 250 feet along the curb line or the extension of the curb line on the cross street.	
	Entering arterial street —Triangle measured along centerline of the driveway or alley 14 feet from back of curb by 315 feet along the curb line or the extension of the curb line on the cross street. [1]	
	For driveways entering a street with a posted speed limit greater than 45 mph, the required clear vision area will be based on an engineering review subject to approval by the city traffic engineer.	
Pedestrian Traffic	Triangle 10 feet from back of walk into property measured along the edge of the drive, and 20 feet along the back of sidewalk measured from the edge of the driveway.	1a
Notes		
[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 or more exit lanes.		

(1) Clear vision area figure(s):



5. **Central Business District**

(a) Intersections

(b) On corner lots at intersections within the central business district a triangular clear vision area as defined in Table 27-1802.4.

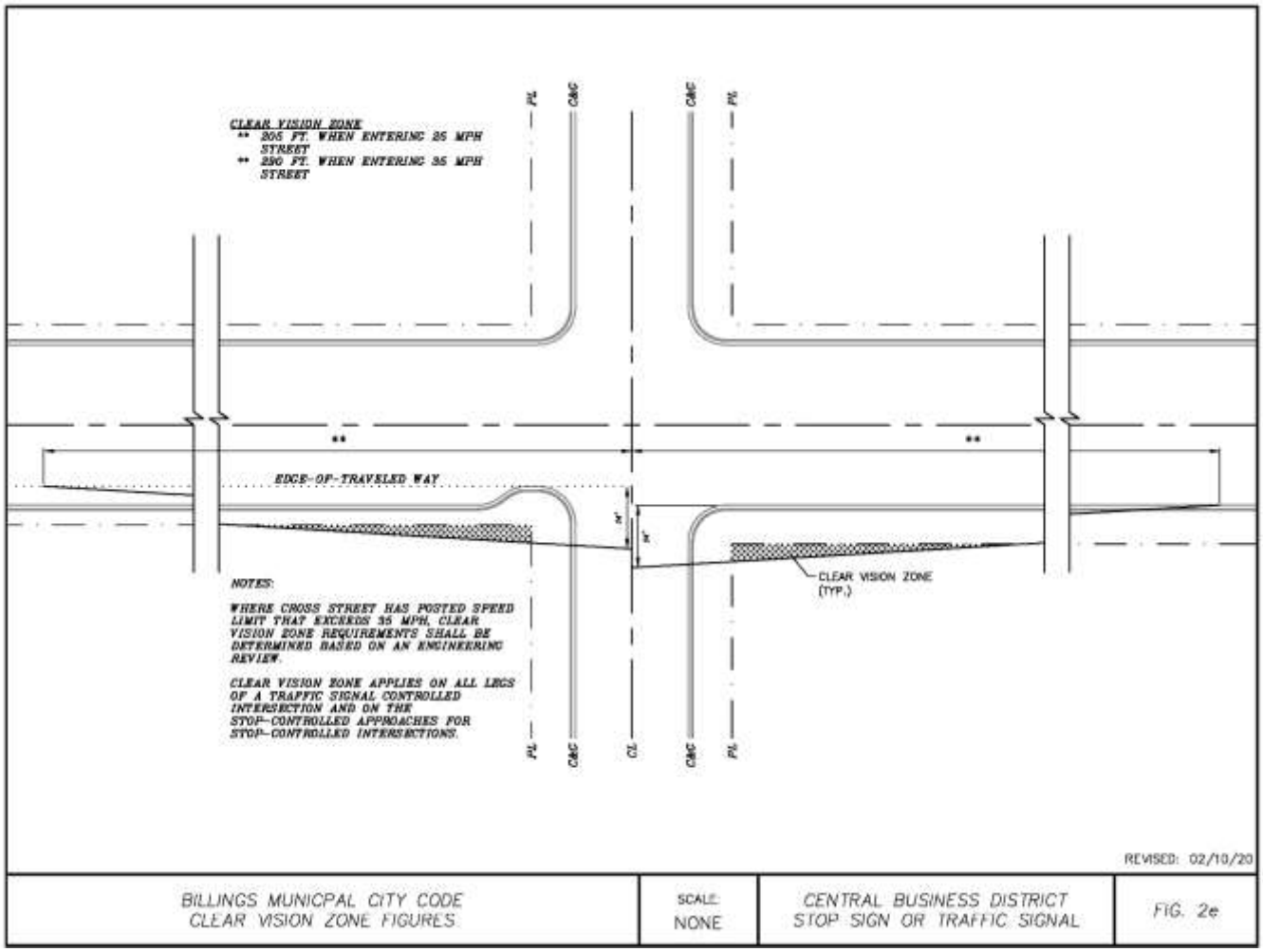
Table 27-1802.4: CBD Clear Vision Areas at Intersections

Intersection Type	Clear Vision Area Required	Illustrated in Figure(s)
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 curbline or the extension of the curb on the cross street	2e
	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 curbline 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	
Yield	The required clear vision area will be based on a site specific engineering review subject to approval by the city traffic engineer	None
Uncontrolled/Open	The required clear vision area will be based on a site specific engineering review subject to approval by the city traffic engineer	none
Notes		

(c) In cases where the clear vision area at intersections extends two feet or less on to private property, the city engineer is authorized to review and may waive the clear vision area.

(d) Intersection Types

(1) Stop Sign or Traffic Signal. Any intersection within the central business district where traffic is controlled by stop signs or traffic signals See Figure 2e.



(2) Yield Controlled. Any intersection where one or more approaches is controlled by a yield sign.

(3) Uncontrolled. Any intersection where none of the approaches are controlled by a stop sign, yield sign or traffic signal.

6. Driveway or Alley

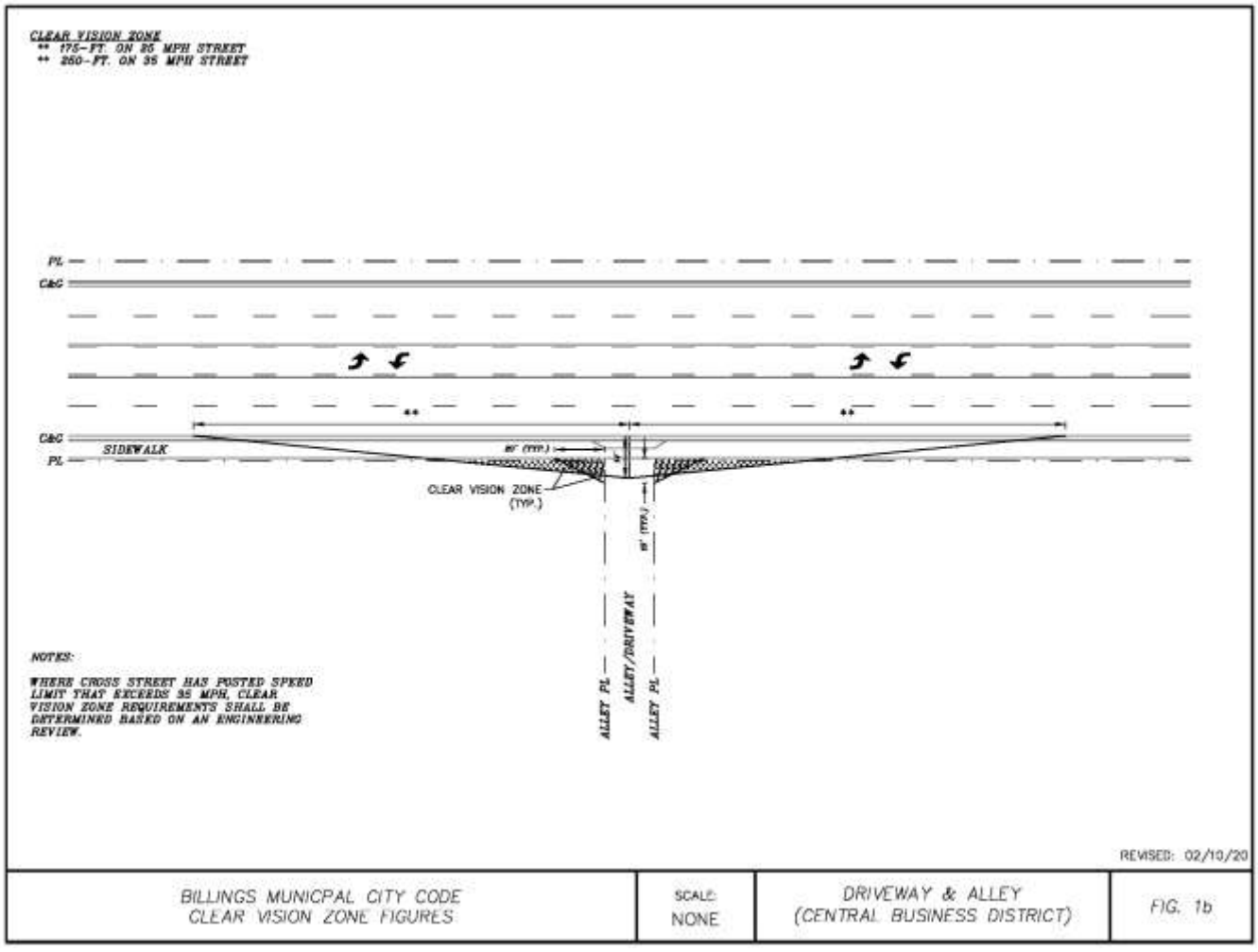
(a) On the street side of all lots within the central business district where an alley or driveway enters the street right-of-way, a vehicular and pedestrian clear vision area shall be maintained as defined in Table 27-1802.5.

(b) The clear vision area for alleys and driveways shall not apply to buildings or pertinent parts thereof within the central business district.

Table 27-1802.5: CBD Clear Vision Areas at Driveways and Alleys

Clear Vision Area for:	Clear Vision Area Required	Illustrated in Figure(s)
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	1b
	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	
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	1b
Notes		

(c) Clear vision area figure:



SECTION 27-1803 DEFINITIONS

A. A TERMS

AM: Amplitude-modulated broadcasting in the frequency band 535-1, 705 Kilohertz.

Abandoned antenna support structures: Any antennae or antenna support structures that are not used for the provision of wireless communications services for a continuous period of six months shall be considered abandoned.

Abandoned Sign: A sign that meets the criteria for abandonment in Section 27-1411.

Abut (or Abutting): To touch or share a contiguous boundary or border.

Adjacent: Lying near or in the immediate vicinity, e.g. across a street or alley, or diagonally across from.

Access Point Sign: A sign located at a motor vehicle access point to a property.

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.

> *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.
>
> *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 feet from any other building or structure.

Accessory dwelling unit: A residential unit that is located on the same lot as a primary residential dwelling unit, either internal to or attached to the primary residential dwelling unit or in a detached structure.

Accessory Equipment (Wireless Communication Facilities): Any equipment serving or being used in conjunction with a WCF, including, but not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

Adult day care center: An adult day care center is a facility that provides the staff assistance to clients that each requires for activities of daily living, including but not limited to eating, walking, and grooming in accordance with the requirements of the Montana Department of Public Health and Human Services.

Adult foster family care home: See Community residential facilities.

Adult Entertainment Terms:

> 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."
>
> Adult bookstore or adult video store means a commercial establishment that, 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:

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

Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

Adult cabaret means a commercial establishment that regularly features:

Persons who appear nude or in a state of nudity or semi-nudity; or

Live performances that are characterized by the exposure of specified anatomical areas or by the exhibition of specified sexual activities;

Adult motel means a hotel, motel, or similar commercial establishment which:

Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by an emphasis on the depiction or description or "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;

Offers a sleeping room for rent for a period of time that is less than 10 hours; or

Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

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."

Religious assembly 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.

City means the City of Billings, Montana.

Establishment means and includes any of the following:

The opening or commencement of any sexually oriented business as a new business;

The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

The additions of any sexually oriented business to any other existing sexually oriented business; or

The relocation of any sexually oriented business.

Nudity or a state of nudity means:

The appearance of a human bare buttock, anus, genitals, areola or nipple of the female breast, or

A state of dress that fails to opaquely and fully cover human buttocks, anus, genitals, pubic region, or areola or nipple of the female breast.

Sexually oriented business means an adult arcade, adult bookstore, adult cabaret, adult video store, adult motel, or adult motion picture theater.

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.

Specified sexual activities means and includes any of the following:

The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

Sex acts, whether actual or simulated, including: intercourse, oral copulation, or sodomy;

Masturbation, actual or simulated; or

Excretory functions as part of or in connection with any of the activities set forth in subsections a. through c.

Transfer of ownership or control of sexually oriented business means and includes any of the following:

The sale, lease, or sublease of the business;

The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or

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.

Agricultural use: The use of a tract of land for the production of plants, animals or horticultural products for commercial purposes, including but not limited to: forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep and swine; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; or nursery, floral, ornamental and greenhouse products. Agriculture use shall not include commercial greenhouses and those lands that are used for recreational purposes, suburban residential acreages, rural home sites and yard plots whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition. This definition shall include equipment and/or facilities necessary to prepare agricultural products for transport to market but shall not include equipment and/or facilities for the processing of a raw agricultural product into a value-added agricultural product.

Air transportation courier and freight services: facilities for handling freight, with or without storage and maintenance facilities.

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 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.

Alternative financial services: The use of a site for the provision of alternative financial services such as vehicle title loans, check cashing, payday advance/payday loan, or money transfer as defined below. An alternative financial services establishment does not include state or federally chartered banks, savings and loans, and credit unions. An alternative financial establishment does not include an establishment that provides financial services that are accessory to another main use.

Check cashing business. An establishment that provides one or more of the following:

a. An amount of money that is equal to the face of the check or the amount specified in the written authorization for an electronic transfer of money, less any fee charged for the transaction;

b. An agreement not to cash a check or execute an electronic transfer of money for a specified period of time; or

c. The cashing of checks, warrants, drafts, money orders, or other commercial paper for compensation by any person or entity for a fee.

Payday advance/loan business. An establishment that makes small consumer loans, usually backed by a postdated check or authorization to make an electronic debit against an existing financial account, where the check or debit is held for an agreed-upon term, or until a customer's next payday, and then cashed unless the customer repays the loan to reclaim such person's check. Such establishments may charge a flat fee or other service charge and/or a fee or interest rate based on the size of the loan amount.

Money transfer business. An establishment that transfers funds for a fee.

Vehicle title loan business. An establishment that makes small consumer loans that leverage the equity value of a car or other vehicle as collateral where the title to such vehicle is owned free and clear by the loan applicant and any existing liens on the car or vehicle cancel the application. Failure to repay the loan or make interest payments to extend the loan allows the lender to take possession of the car or vehicle.

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).

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.

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.

Amusement, indoor: Uses that provide commercial recreation or amusement indoors (except adult entertainment), including but not limited to: bowling alleys and poolrooms; indoor sports arenas, movie theaters and live theaters; indoor skating rinks (ice or roller); video arcades; and shooting arcades

Amusement, outdoor: Uses that provide commercial recreation or amusement outdoors (except adult entertainment), including but not limited to: drive-in movie theater; amusement park or theme park; fairgrounds; miniature golf establishments; golf driving ranges; water slides; and batting cages.

Antenna (Wireless Communication Facilities): Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennae, such as, but not limited to, panels antennas, reflecting discs, microwaves dishes, and satellite dishes, and omni-directional antennae, such as whip antennae, or other similar devices and configurations, and exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of wireless communications signals, but not including satellite earth stations.

Animated display sign: A sign that employs the illusion of motion or light and/or color changes achieved through electronic means. Video display is not included in the activities that create animation.

Apartment house: See Dwelling, multiple-family.

Applicant: A person who formally requests action pursuant to this Zoning Code. Where the term applicant is used, the applicant's legal agent is also included. For the purposes of wireless communication facilities, applicant means any person that submits an application to the City to site, install, construct, collocate, modify, and/or operate a wireless communications facility.

Arboretum/botanic gardens/zoo: a group of uses that provide educational and cultural services to the public as part of their scientific collection and study of the subject that is the purpose of the establishment.

Area of sign: The total dimensions of a sign surface used to display information, copy, and/or symbols. See Section 27-1405 for sign measurement regulations.

Assembly: A room or place such as a ballroom, auditorium, party room, gaming room, or convention hall that is intended or used to accommodate people in a group and is further divided into the following types:

> *Civic*: A building or structure, or group of buildings or structures, that by design and construction are primarily intended for the conducting of organized meetings, or other activities and accessory uses associated therewith, for non-commercial purposes.
>
> *Entertainment and Trade*: A building or portion thereof used for groups of people to gather for an event, or regularly scheduled program. General assembly uses include arenas, auditoriums, banquet facilities, conference and reception centers, concert halls and theaters.
>
> *Religious:* A facility or area for people to gather together for public worship, religious training, or other religious activities including a church, temple, mosque, synagogue, convent, monastery, or other structure, together with its accessory structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions. Schools and other childcare services are not accessory uses and shall require approval as separate principal uses.

Attached sign: A sign that is attached or affixed to a building, including awning signs, canopy signs, marquee signs, projecting signs, roof signs, wall signs, and window signs.

Auction house: An establishment where the real or personal property of others is sold by a broker or auctioneer to persons who attend scheduled sales or events.

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 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.

Awning: A roof-like cover that projects from the wall of a building for the purpose of shielding a doorway or window from the elements. An awning is either permanently attached to a building or can be raised or retracted to a position against the building when not in use.

Awning sign: Any sign that is a part of or attached to any awning.

B. B TERMS

Banner sign: Any sign made of cloth, paper, or fabric of any kind that is attached any structure, staff, pole, rope, wire, or framing that is anchored on two or more edges or at all four corners. Banners are temporary signs that are used to attract attention, whether or not imprinted with words or characters. Banners do not include flags.

Bars, taverns: An establishment where alcoholic beverages are served on the premises and where the total sales of alcohol exceeds the total sales of food.

Base Station (Wireless Communication Facilities): A structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The definition of base station does not include or encompass a tower as defined herein or any equipment associated with a tower. Base station does include, without limitation:

1. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the City and has been reviewed and approved under the applicable zoning or siting process or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support; and

2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems (“DAS”) and small-cell networks) that, at the time the relevant application is filed with the City, has been reviewed and approved under the applicable zoning or siting process or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

The definition of base station does not include any structure that, at the time the relevant application is filed with the City does not support or house equipment described in paragraphs 1 and 2 above.

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

Bed and breakfast inn: means a private, owner- or manager-occupied residence that is used as a private residence but in which: (a) breakfast is served and is included in the charge for a guest room; and (b) the number of daily guests served does not exceed 18.

Billboard sign: A freestanding pole sign with a sign area of 70 square feet or larger that typically advertises products or services not sold or distributed on the premises on which the sign is located.

Board: The Board of Adjustment of the City of Billings.

Boarding, animal: The feeding, housing, and exercising of animals not owned by the owner of the property and for which the property owner may receive compensation.

Boarding or lodging house: Buildings in which separate sleeping rooms are rented that provide sleeping accommodations for three or more persons on a weekly, semimonthly, monthly, or permanent basis, whether or not meals or central kitchens are provided but without separated cooking facilities or kitchens within each room, and whose occupants do not need professional nursing or personal-care services provided by the facility. 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.

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.

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.

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.

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.

Broadcasting stations or studios: A building or portion of a building used as a place to create radio, television, or other electronic media programming. A broadcasting studio may contain studios, stages, editing facilities, post-production facilities, and equipment for program distribution via satellite, wire, or fiber optic cable. A broadcasting station or studio does not include a tower.

Building: Any structure having a roof, but excluding all forms of vehicles or shipping containers 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, principal: The primary building(s) on a lot that accommodates the principal use(s) to which the premises are devoted.

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.

Bulletin board sign: A sign composed of a cork, letter board, white board, or comparable surface that is within a secured, weather-resistant enclosure and is used for the display of temporary messages.

Bus or taxi maintenance and parking shed: a facility where buses, taxis, and similar modes of transportation are stored and maintained.

Business service: Services such as building repair and maintenance, the installation of plumbing, electrical, air conditioning and heating equipment, janitorial services, and exterminating services. The retail sale of supplies is permitted as an accessory use.

C. C TERMS

Cabinet sign: Sign composed of a frame or external structure with a box-like design that encloses a sign face and other functional elements of the sign, including electrical components.

Caliper: A standard for trunk measurement of plant nursery stock.

Campground, public and private: Any area or tract of land used or designed to accommodate two or more camping parties, including cabins, tents, travel trailers, recreational vehicles, and other camping outfits.

Camouflage, Concealment, or Camouflage Design Techniques (Wireless Communication Facilities): The designing of a WCF to alter its appearance in such a manner as to substantially integrate it into surrounding building designs and/or natural settings to minimize the visual impacts of the facility on the surrounding uses and ensure the facility is compatible with the environment in which it is located. A wireless communication facility utilizes camouflage design techniques when it: (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a utility tower, or (iii) uses a design which mimics and is consistent with the nearby natural or architectural features (such as a clock tower) or is incorporated into (including without limitation, being attached to the exterior of such facilities and painted to match it) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not readily apparent.

Canopy: An attached or detached structure, open on at least one side, which is designed to provide overhead shelter from the sun or weather. Canopies include, but are not limited to, service station canopies, carports, porte-cochères, arcades, and pergolas. A canopy is different from an awning in that a canopy is not covered with fabric or flexible material. Permanent, freestanding canopies such as service station canopies are referred to as structural canopies for the purposes of sign regulation.

Canopy sign: Any sign that is a part of or attached to a canopy.

Canopy tree: A species of tree that normally bears crown foliage no lower than six feet above ground level upon maturity.

Carport: A structure to house or to protect motor vehicles owned or operated by the occupants of the main building and is open on at least one side.

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, other mechanical devices, or hand labor in the cleaning of the vehicle.

Card game table: A live card game table as defined in MCA Section 23-5-112.

Casino: An establishment where legal gambling is authorized pursuant to MCA Title 23, Chapter 5, Part 1 et seq., either in the form of gambling machines (video poker, keno, etc.), card games or other licensed gambling activity. A casino may have beverage and restaurant facilities as accessory uses. Casinos are classified as follows:

Accessory Limited: 1 to 3 gaming machines and one table game located in the structure or on the site.

Accessory Small: 4 to 9 gaming machines and one table game located in the structure or on the site.

Primary/Large: 10 or more gaming machines and/or more than one table game located in the structure or on the site.

Cemetery/Crematorium: A facility or area used or intended to be used for the burial of the dead, including crematories, mausoleums, and mortuaries when operated in conjunction with, and within the boundaries of such cemetery.

Changeable copy sign: A sign whose informational content can be manually changed or altered.

Channel letter: a three-dimensional letter than may include a light source.

Chemical dependency facility: A facility whose function is the treatment, rehabilitation, and prevention of the use of any chemical substance, including alcohol, that creates behavioral or health problems and endangers the health, interpersonal relationships, or economic function of an individual or the public health, welfare, or safety in accordance with the requirements of the Montana Department of Public Health and Human Services.

Cidery: A place where alcoholic cider is manufactured, stored, and sold.

Clearance: the distance from the bottom of an elevated sign face and the grade below.

Co-location (Wireless Communication Facilities): The mounting or installation of transmission equipment on an existing tower or base station; provided that for eligible facilities requests, “co-location” means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and /or receiving radio frequency signals for communications purposes.

Commercial speech: Expression by a speaker for the purposes of commerce, where the intended audience is actual or potential consumers, and where the content of the message is commercial in character. Commercial speech typically advertises a business or business activity or proposes a commercial transaction.

Commercial wireless communications services (Wireless Communication Facilities): 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.

Community garden: An area managed and maintained by a group of individuals to grow and harvest food crops, or non-food crops, for personal or group consumption, for donation, or for sale that is incidental in nature

Community group home: See Community residential facilities.

Community residential facilities: Residential occupancy by persons other than a household in any of the following organizations:

Adult foster family care home: A private home licensed by the Montana Department of Public Health and Human Services owned by one or more persons 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.

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.

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.

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 to six foster children or youths, other than the foster parents' own children, stepchildren or wards.

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 to 12 children or youth.

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 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.

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

Consumer maintenance and repair: A use category that includes uses that provide the repair and maintenance of a wide variety of consumer products.

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.

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

Copy Change: The replacement or alteration of any portion of a sign that includes copy. This includes any change that alters the script, size, color, or arrangement of copy on a sign face or replacement of a sign face. This does not include any change to manual changeable copy or changes on EMD signs.

Correctional Facility: A facility for the judicially required detention or incarceration of people, where inmates and detainees are under 24-hour supervision by professionals, except when on approved leave.

Courtyard: An outdoor area enclosed by a building or buildings on at least three sides for at least 75 percent of the length of each side, and open to the sky.

Craft Alcohol: The production of small batches of wine, hard cider, beer, or distilled alcoholic beverage as licensed by Montana law.

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 90 degrees.

D. D TERMS

Dangerous sign: A sign constituting a hazard to public safety because it no longer complies with some or all requirements of the building code or electrical code.

Day care: (or "child care") means care for children provided by an adult, other than a parent of the children or other person living with the children as a parent, on a regular or irregular basis, as applicable, for daily periods of less than 24 hours, whether that care is for daytime or nighttime hours. The term does not include a place where day care is provided if a parent of a child for whom day care is provided remains on the premises.

Day care facility: A person, association, or place, incorporated or unincorporated, that provides day care on a regular basis or a place licensed or registered to provide day care on an irregular basis or for children suffering from illness. The term includes a family day-care home, a day-care center, a group day-care home, or a facility providing care in a child's home for the purpose of meeting registration requirements for the receipt of payments. The term does not include: (a) a person who limits care to children who are related to the person by blood or marriage or under the person's legal guardianship, unless registration or licensure as a day-care facility is required to receive payments; or (b) any group facility established chiefly for educational purposes that limits its services to children who are 3 years of age or older.

> *Day-care center*: An out-of-home place in which day care is provided to 13 or more children on a regular or irregular basis and which is licensed by the Montana Department of Public Health and Human Services.
>
> *Family day-care home*: A private residence in which day care is provided to three to six children on a regular basis. Such day care home shall be licensed by the Montana Department of Public Health and Human Services.
>
> *Group day-care home*: A private residence or other structure in which day care is provided to 7 to 12 children on a regular basis and which is licensed by the Montana Department of Public Health and Human Services.
>
> *School-age care:* An adult-supervised program that is provided for school-age children during non-school hours.

Deciduous: A plant with foliage that is shed annually.

Director: The Director of Planning & Community Services and his or her designee.

Distributed Antenna System (Wireless Communication Facilities): A network consisting of transceiver equipment at a central hub site to support multiple antenna locations throughout the desired coverage area.

Drive-in service: A use whose character is dependent on a driveway approach, a drive-through and/or parking space for motor vehicles to either serve customers while in the vehicle or permit consumption of food or beverages in a vehicle obtained on the premises.

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

Drive-through (thru): The use of land, buildings, or structures, or parts thereof, to provide or dispense products or services, either wholly or in part, through an attendant, window or automated machine, to persons remaining in motorized vehicles that are in a designated stacking lane. This definition does not include a vehicle washing facility, a vacuum cleaning station accessory to a vehicle washing facility, or a service station.

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

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

Duplex: See Dwelling, two-unit.

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

Dwelling, attached: A structure 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.

Dwelling, detached: A dwelling that is free of any shared walls and stands alone

Dwelling, single-unit: A building constructed and designed for one dwelling unit.

Dwelling, two-unit (duplex): A building constructed and designed for two attached dwelling units,

Dwelling, multiple-unit: A building constructed and designed for three 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 or more rooms designed for or occupied exclusively by one household.

E. E TERMS

Eave. The edge of a pitched or flat roof; it typically overhangs beyond the side of a building.

Educational Facility: A use category for public, private, and parochial institutions at the primary, elementary, middle, high school, or post-secondary level, or trade or business schools that provide educational instruction to students.

Electric vehicle charging station: An electric vehicle charging station is a public or private parking space(s) that is (are) served by battery charging equipment with the purpose of transferring electric energy to a battery or other energy storage device in an electric vehicle, and is classified based on the following levels:

Level 1 is considered slow charging, and operates on a fifteen to twenty amp breaker on a one hundred twenty volt AC circuit.

Level 2 is considered medium charging, and operated on a forty to one hundred amp breaker on a two hundred forty volt AC circuit.

Level 3 is considered fast or rapid charging, and operated on a sixty amp or higher breaker on a four hundred eighty volt or higher three phase circuit with special grounding equipment. Level three stations can also be referred to as rapid charging stations that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.

Electronic message display (EMD): A sign with a display surface composed of light-emitting diodes (LEDs) or similar light sources that is capable of displaying varying words, symbols, figures, or images that can be electronically or mechanically changed by remote or automatic means.

Eligible Support Structure (*Wireless Communication Facilities*): Any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the City.

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

Equipment enclosure (Wireless Communication Facilities): 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.

Existing (Wireless Communication Facilities): For purpose of wireless communication facilities and as applied to a tower or base station, existing means and refers to a constructed tower or base station that has been reviewed and approved under the applicable zoning or siting process of the City, or under another State, county or local regulatory review process.

Expression line. Specific to the EBURD, an architectural feature consisting of a decorative, three-dimensional, linear element, horizontal or vertical, protruding or indented at least two (2) inches from the exterior facade of a building typically utilized to delineate the top or bottom of floors or stories of a building.

F. F TERMS

FAA: Federal Aviation Administration

FCC: Federal Communications Commission

Facade. The exterior face of a building, including but not limited to the wall, windows, windowsills, doorways, and design elements. The front facade is any building face adjacent to the front lot line.

Family day care home: See Child care facilities.

Farm stand: A temporary structure not permanently affixed to the ground and is readily removable in its entirety, which is used solely for the display or sale of agricultural products.

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.

Financial institution: Establishments that provide retail banking services, mortgage lending, and similar financial services to individuals and businesses. Accessory uses may include automatic teller machines, offices, and parking. The use may or may not be allowed to have a drive-through facility, depending on the zone district.

Flag: A flexible piece of fabric, that is attached along one edge to a straight, rigid flagpole (directly or with rope), and which is designed to move when the wind blows. Flags are typically (but not necessarily) rectangular in shape, and often (but not always) include printed or embroidered insignia that symbolizes a nation, state, or organization, or that display a graphic or message.

Flashing sign: An electronic message display, portion thereof, or non-EMD lighting that 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. Neon and incandescent lamps may flash in the following ways.

1. Alternating: One 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 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: Lighting that goes all on and then all off.

Flutter flags: A piece of cloth or other similar material, varying in size, color, and design, that is attached to a flexible pole or staff, and may be in the shape of a vertically-oriented rectangle, teardrop, or similar, where typically the cloth or material is supported by wire to maintain the shape of the flag. Also called wind blade, blade, feather, or teardrop flags.

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.

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 and pole signs.

Fuel sales: A facility engaged in the storage, distribution, and retail sales of vehicle fuels for personal vehicles, fleet vehicles, and/or trucks.

Funeral home: A building or part thereof used for human funeral services. Such building may contain space and facilities for: (a) embalming and the performance of other services used in the preparation of the deceased for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns and other related funeral supplies; (d) the storage of funeral vehicles, and(e) facilities for cremation.

G. G TERMS

Gambling device: See MCA Section 23-5-112: A mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling activity.

Gambling: See MCA Section 23-5-112: Risking any money, credit, deposit, check, property, or other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise. The term does not mean conducting or participating in a promotional game of chance and does not include amusement games regulated by Title 23, chapter 6, part 1. The term does not include social card games of bridge, cribbage, hearts, pinochle, pitch, rummy, solo, and whist played solely for prizes of minimal value, as defined by Montana Gambling Control Division rule.

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

Ghost signs: A sign painted on an exterior building wall, which has been weathered and faded to the extent that it has lost its original brightness of color and visibility, most commonly located on masonry facades and served as advertising of the business within or as a leased area to other businesses.

Golf course: A tract of land laid out for at least nine holes for playing the game of golf that may include a clubhouse, golf schools, driving ranges, and accessory uses such as restaurants/bars, pro shops, and related facilities.

Government offices and buildings: An office of a governmental agency that provides administrative and/or direct services to the public, including but not limited to, employment offices, public assistance offices, motor vehicle licensing, and registration services.

Government sign: Any temporary or permanent sign erected and maintained by the city, county, state, or federal government.

Grain elevator: A building for elevating, storing, discharging, and sometimes processing grain.

Greenhouse: A building or structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of fragile or out-of-season plants for subsequent sale or for personal enjoyment.

Ground cover: Material planted or placed directly on the horizontal area of a lot at grade to completely open ground. Ground cover is specified as either organic or inorganic landscaping material.

Ground level (signs): 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 feet from the sign, between the sign and a line five feet from the sign.

Group day care home: See Child care facilities.

H. H TERMS

Halfway house: See Community residential facilities.

Hazard (sign): Whenever any portion, support structure, or appurtenance of a sign is likely to fail or to become detached, dislodge, or collapse.

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.

Hobby farm: A small holding or farm maintained without expectation of profit or as a primary source of income. For purposes of these regulations, this definition shall exclude residential structures.

Home occupation: 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.

Hospice: A facility where palliative and supportive care are provided to meet the needs of a terminally ill patient and the patient's family according to the requirements of the Montana Department of Public Health and Human Services.

Hospital A facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals. Except as otherwise provided by law, services provided must include medical personnel available to provide emergency care onsite 24 hours a day and may include any other service allowed by state licensing authority. A hospital has an organized medical staff that is on call and available within 20 minutes, 24 hours a day, 7 days a week, and provides 24-hour nursing care by licensed registered nurses. The term includes: (i) hospitals specializing in providing health services for psychiatric, developmentally disabled, and tubercular patients; and (ii) specialty hospitals.

Hotel: A building, or portion thereof, designed or used for temporary lodging, being less than 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.

Household:

1. A family, including any foster children, plus any number of unrelated persons living together in a single, not-for-profit housekeeping unit sharing one common kitchen facility; or

2. One or more persons occupying a dwelling unit as a single housekeeping unit, subject to a limit of not more than two adult persons per bedroom; or
3. Any group of individuals and caretakers recognized as a household by Montana law.

I. I TERMS

Impervious site coverage (EBURD only). The percentage of a lot developed with principal or accessory structures and impervious surfaces, such as driveways, sidewalks, and patios.

Individual business: 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. See also Tenant.

Industrial sales and service: A use category of firms that are engaged in the sale, repair, or servicing of agricultural, industrial, business, or consumer machinery, equipment, products, or by-products. Contractors and similar users perform services off-site. Few customers come to the site. Accessory activities may include sales, offices, parking, and storage.

Inflatable sign: A sign that is constructed from or attached to an envelope flexible material that is given shape and / or movement by inflation. The phrase inflatable sign does not include balloons that are less than 18 inches in all dimensions. Inflatable signs do not include hot air balloons used for air travel.

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.

Interstate corridor: The area of the city which is within 660 feet of the nearest edge of the right-of-way of a designated interstate highway and which area is not in a neighborhood residential zone or used for residential purposes.

Invasive Species: An alien (non-naturalized) species whose introduction does or is likely to cause economic or environmental harm or harm to human health and which tends to disrupt natural ecosystems by displacing naturalized species.

Irrigation system: An artificial watering system designed to transport and distribute water to plants.

J. J TERMS

Junk: Any worn out cast off or discarded article or material that 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.

K. K TERMS

Kennel, commercial: Any lot, building, structure or premises where more than two dogs or cats over the age of six 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 24 hours. Female dogs bred for the sole purpose of the sale of puppies for profit, and female dogs numbering more than three constitute a Commercial Kennel.

Kennel, noncommercial: A kennel at, in, or adjoining a private residence where more than two 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.

L. L TERMS

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.

Landscape architect: A person who holds a license to practice landscape architecture in the State of Montana.

Landscaping: To change the natural features of a plot of ground by combination of organic and inorganic elements, as further described in sections 27-1201, et seq.

Landscaping material, inorganic: Material such as rock, stone, flower tubs, fountains, outdoor plazas or other amenities.

Landscaping material, organic: Any material that is or is derived from living plants, such as trees, shrubs, vines, turf, and flowerbeds, bark chips, or mulch.

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.

Long-term care facility: a facility or part of a facility that provides skilled nursing care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more individuals or that provides personal care in accordance with the requirements of the Montana Department of Public Health and Human Services.

Long-Term Tenant: A person who occupies land or property rented from a property owner for 30 days or longer.

Luminaire: A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

M. M TERMS

Maintenance (sign): The cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the structure of the sign. Replacement of a static sign with an EMD is considered a sign change that requires a permit.

Manufactured home: (See MCA 15-1-101(m)) A home built on a non-removable steel chassis or frame. Each transportable unit of a manufactured home has a red certification label on the exterior section and is built according to the Manufactured Home Construction and Safety Standards (HUD Code). A manufactured home does not include a mobile home or house-trailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976. Manufactured homes are classified as Type 1, homes that were certified on or after January 1, 1990; and Type 2, homes that were certified prior to January 1, 1990.

Manufactured home park: A residential use in which more than one manufactured home is located on a single lot. 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.

Manufacturing: Establishments involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, constructed, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, such activity is a subordinate part of sales. Relatively few customers come to the manufacturing site. Accessory activities may include retail sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, and caretaker's quarters.

Artisan: Spaces used by artists for the creation of art or the practice of their artistic endeavors.

Limited: The creation of a unique or customized product, such as hats, boots, or knives, in fulfillment of a customer order.

Light: An establishment engaged in fabrication, assembly, processing, or manufacturing that generally do not create significant impacts on surrounding areas.

Heavy: An establishment engaged in fabrication, assembly, processing, or manufacturing that have the potential to create significant impacts on surrounding areas due to the types of materials used, byproducts created, hours of operations, volumes of heavy truck or rail traffic, or other factors.

Marquee: A permanent structure, other than a roof or canopy, attached to, supported by, and projecting from a façade of a building.

Marquee sign: A sign attached to a marquee.

Mechanical motion sign: Signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced mean.

Medical Structures: Any structure on a P3 Medical Campus that is used for the provision or support of healthcare services and/or patient care including, but not limited to, a hospital, clinic, medical building, emergency room, trauma center, urgent care facility, surgery center, dialysis or infusion center, medical research center, home oxygen service, pharmacy and any parking associated with and/or used by the occupants of or visitors to those structures. All other structures on a P3 Medical Campus and their associated parking are considered non-medical.

Mental health center: A facility providing services for the prevention or diagnosis of mental illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals, or any combination of these services in accordance with the requirements of the Montana Department of Public Health and Human Services.

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.

Message hold time: The time interval a static message must remain on an electronic message display sign before transitioning to another message.

Micro Cell Facility (Wireless Communication Facilities): A small wireless facility that is no larger than 24 inches in length, 15 inches in width, 12 inches in height, and that has an exterior antenna, if any, that is no more than eleven inches in length.

Microbrewery (craft brewery, brew pub): A facility for the production and packaging of up to 10,000 barrels a year of malt beverages of alcoholic content for on or off premises distribution, retail or wholesale in conformance with Montana State law. The facilities typically include a tasting room and may include accessory food preparation and sales, as well as sales of promotional merchandise such as growlers, T-shirts, and hats.

Microdistillery: A facility for the limited production of distilled spirits, making up to 25,000 gallons per year, for on or off premises distribution, retail, or wholesale in conformance with Montana State law. The facilities typically include a tasting room and may include accessory food preparation and sales, as well as sales of promotional merchandise such as T-shirts and hats.

Micro-irrigation: The frequent application of small quantities of water directly on or beneath the soil surface, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the lateral water delivery pipes. Micro-irrigation includes drip, subsurface, bubbler, and spray irrigation and may be referred to as trickle irrigation, low volume, or low flow irrigation.

Mobile home: (See MCA 15-1-101(o)) Forms of housing known as "trailers", "house-trailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, house-trailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence.

Modular home: (See ARM 42.4.201(14)) A home built in a factory setting in units, transported to the home site, placed on a permanent foundation, and joined. Modular homes are required to meet the Building Code adopted by the State of Montana.

Monopole (Wireless Communication Facilities): A single, freestanding pole-type structure supporting one or more antennas.

Monument sign: A sign and supporting structure constructed as a solid structure or one that gives the appearance of a continuous, non-hollow, unbroken mass. A multitenant monument sign is a monument sign permitted for a property with three or more tenants, as identified by individual tenant addresses.

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

Moving billboard sign: A sign attached in any way to a vehicle operating in the public right-of-way, that is used for the primary purpose of advertising, and where the vehicle is either: (1) not used primarily for the transportation of passengers for hire or goods, or (2) is not designed for the transportation of passengers for hire or goods.

Multiple businesses (signs): Businesses that may be located in a single building or in multiple buildings on a single site.

Multi-unit developments:

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

N. N TERMS

Native plant: Plant species occurring naturally and native to a given ecosystem or plant community that is suited to the soil, topography, hydrology, and wildfire risk of a particular site.

Naturalized plant: A plant species that has become established in an area where it is not native.

Neighborhood watch sign: A sign obtained through the local law enforcement agency as part of a neighborhood watch program.

New Wireless Communication Facility: The establishment of a telecommunications facility on a tower, building or other support structure where no such facility presently exists.

O. O TERMS

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

Occupied space: Interior building space occupied by the building users. It does not include storage areas, utility space, or parking.

Off-premises sign: A sign or billboard that is used or intended for use to advertise, identify, direct or attract the attention of the public to a business, institution, product, organization, event or location offered or existing elsewhere than upon the same lot, tract or parcel of land where such sign or billboard is displayed.

Office, business and professional: A category of establishments in which services are performed involving administrative, professional, business, or clerical operations. This use includes contractors and others who perform services off-site only if major equipment and materials are not stored at the site and fabrication or similar work is not carried out on the site.

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

On-vehicle sign: Any magnetic sign(s), signs painted or wrapped on, adhesive vinyl film affixed to a window, or sign attached by other temporary or permanent means to a vehicle, where the vehicle is owned by the business, is operable and properly licensed, and the vehicle is regularly and consistently used in the normal daily conduct of the business, such as delivering or transporting goods or providing services related to the business.

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

Outdoor sales lot: Use of land for retail product sales where the majority of the goods are stored or displayed outside during both business and non-business hours. Outdoor sales lots include automobile and truck sales and rental; boat and recreational vehicle sales and rental; and manufactured home dealerships.

Outpatient center for surgical services: A clinic, infirmary, or other institution or organization that is specifically designed and operated to provide surgical services to patients not requiring hospitalization and that may include recovery care beds in accordance with the requirements of the Montana Department of Public Health and Human Services.

Over the Air Receiving Device: An antenna used to receive video programming from direct broadcast satellites, broadband radio services and television broadcast stations, but shall not include antennas used for AM/FM radio, amateur (“ham”) radio, CB radio, digital audio radio services or antennas used as part of a hub to relay signals among multiple locations.

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

Owner-occupied: For the purposes of short-term rentals, a residence that is lived in by the owner or a long-term tenant for the majority of a calendar year.

P. P TERMS

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.

Passenger terminal: Premises used for the boarding or discharge of people being transported.

Pedestrianway: A pathway designed for use by pedestrians; it can be located mid-block allowing pedestrian movement from one street to another without traveling along the block's perimeter.

Pennant: A piece of fabric, plastic or other flexible medium that may be in the shape of a triangle, rectangle or other shape, is typically mounted to a flexible cord or rope that is stretched across two points, is mounted in quantity and spaced along the cord or rope.

Permanent sign: A sign constructed of materials that are weather resistant for multiple years without significant deterioration from exposure to the elements or wear and tear.

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.

Personal service: A use category for establishments providing non-medical services to individuals as a primary use.

Pervious surface: Also referred to as pervious material. A material or surface that allows for the absorption of water into the ground or plant material, such as permeable pavers or a vegetated roof.

Parking, commercial: A use category including the commercial assembly or standing of vehicles, either in a garage structure or on a surface lot.

Personal self-service storage: Real property designed and used for the purpose of renting or leasing individual storage space to tenants with access to such spaces for the purpose of storing and removing personal property.

Pole-Mounted Small Cell Wireless Facility: A small cell facility with antenna that are mounted and supported on an alternative tower structure, which includes a replacement pole.

Pole sign: A sign that is supported by one or more uprights, poles, or braces affixed to the ground, and not attached to a building or structure.

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.

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: An entrance to a business that 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.

Principal building:

1. 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. A campus may also have more than one principal building or principal use. Campuses may include buildings or uses that would be principal if located off-campus, but which are accessory to the principal use of the campus.

2. The building in a multi-unit multifamily development located at the main access to the complex or where the office functions are provided for the complex.

Principal building entrance: A street-level primary point of public pedestrian access into a building. The phrase “principal building entrance” does not include doors used principally as emergency exits, or doors that provide restricted access (e.g., for employees or deliveries).

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.

Private: In reference to a building, structure, utility, facility or use, "private" means owned by someone other than a unit of government, or an agency of a government, unless the context clearly indicates that "private" is being used in the broader sense of something not available to the general populace.

Projected light sign: Any image, text, or other content that is projected onto an outdoor surface (e.g., a building wall or sidewalk) by a laser projector, video projector, video mapping, or other comparable technology, in a location such that the image, text, or content is obviously visible from outside of the premises.

Projecting sign: A sign, other than a flat wall sign, that is attached to and projects from a building, wall or other structure not specifically designed to support the sign. Projecting signs include architectural blade signs.

Proposed Facilities Modification (Wireless Communication Facilities): A proposal submitted by an applicant to modify an eligible support structure which the applicant asserts is subject to review under Section 6409 of the Spectrum Act (minor modification), and involving: (i) collocation of new transmission equipment; (ii) removal of transmission equipment; or (iii) replacement of transmission equipment.

Public: In reference to a building, structure, utility, facility, or use, "public" means owned and/or operated by a unit of government or an agency of a unit of government, unless the context clearly indicates that "public" is being used in the broader sense of something available to the general populace.

Public recreation facility: Facilities or equipment that are used for public recreational or natural resource purposes that have a relatively low flood damage potential, and do not involve a structure. This includes, without limitation: bicycle, equestrian or pedestrian trails and paths, benches, ball fields, tennis and basketball courts, interpretive facilities, and golf courses.

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.

Q. Q TERMS

[Reserved]

R. R TERMS

Radio Frequency Emissions Letter (Wireless Communication Facilities): A letter from the applicant certifying all WCFs that are the subject of the application shall comply with federal standards for radio frequency emissions.

Ranch: A ranch is an area of land that usually serves as a place to raise grazing livestock including sheep, cattle, and lesser-known livestock such as ostrich, elk, American bison, or emu.

Recreational vehicle: A motor home, travel trailer, or camper, all as defined in MCA 61-1-101.

Recreational vehicle park: Any area or tract of land designed or used that contains two or more spaces that are available for rent to the general public for parking or placement of temporary recreational vehicles. This term does not include a parcel composed of individually platted lots.

Recycling processing facility: 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.

Re-facing: Any alteration to the face of a sign involving the replacement of materials. Re-facing does not refer to replacing the entire sign structure or the removal of the sign.

Replacement Pole (Wireless Communication Facilities): An alternative tower structure that is a newly constructed and permitted traffic signal, utility pole, street light, flagpole, electric distribution, or street light poles or other similar structure of proportions and of equal height or such other height that would not constitute a substantial change to a pre-existing pole or structure in order to support a WCF or small cell facility or micro cell facility or to accommodate collocation and replaces a pre-existing pole or structure.

Research and testing laboratory: A facility for conducting medical or scientific research, investigation, testing, or experimentation; however, this does not include facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory. This definition includes electronic and telecommunications laboratories, including assembly.

Residential treatment facility: A facility operated for the primary purpose of providing residential psychiatric care to individuals under 21 years of age in accordance with the requirements of the Montana Department of Public Health and Human Services.

Residential care facility: An adult day-care center, an adult foster care home, an assisted living facility, or a retirement home.

Restaurant: An establishment where food and drinks are available to the general public, primarily for consumption within a structure on the premises where the total sales of food and non-alcoholic beverages exceeds the total sales of alcoholic beverages.

Retail sales: A use category for businesses involved in the sale, lease, or rental of new or used products to the general public. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging or repair of goods for on-site sale.

Agricultural retail: Retail outlets that sell farm, ranch, and agricultural supplies but may include other merchandise.

General retail: An establishment engaged in the sale of good to the public at retail and that have the potential to create impacts on surrounding residential areas due to the scale of the building, hours of operations, volumes of automobile or truck traffic, or other factors.

Large-format retail: A physically large retail store that is typically part of a retail chain. A large-format store is characterized by a large amount of floor space (generally more than 50,000 square feet) and a wide array of items available for sale, either as general merchandise or in a specialty category such as books or consumer electronics,

Limited retail: An establishment engaged in the retail sales of convenience goods and other goods serving the day to day needs of the immediate neighborhood within one half (1/2) mile of the site, and not including major purchase items, and that generally do not create significant impacts on surrounding residential areas due to the small size of the establishment and more limited automobile and/or truck traffic.

Retirement home or village: A building or buildings in which separate living accommodations are rented or leased to individuals who use those accommodations as their primary residence.

Required sign: A sign that is required by an applicable building code (e.g., address numbers) or health and safety regulations (e.g., the Occupational Safety and Health Act ("OSHA")) or other laws or regulations, whether such sign is temporary or permanent.

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

Rider (sign): A subordinate sign panel that is attached to a swing sign, either above the horizontal member or below the principal sign face. To illustrate, but without limiting the range of messages that a rider may convey, if the swing sign is used to advertise a property as "for sale," a rider is often used to convey a related message such as "contract pending."

Roof sign: 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.

1. 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.

2. 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 inches.

Runoff: Water or liquid that is not absorbed by the soil or landscape to which it is applied and flows from the area.

S. S TERMS

Salvage yard: A lot or portion of a lot where junk, waste, discarded or salvaged materials are bought, sold, exchanged, baled, stored, packed, disassembled or handled, including auto wrecking activities, building wrecking activities, used lumber places and places for storage of salvaged building materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building. This definition includes junkyard.

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.

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.

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. This definition also includes higher learning facilities for religious institutions.

School: 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; includes public, private and parochial schools.

School, trade, business, technology, or vocational: A vocational / technical school, trade school, language school, business school, training center, beauty school, culinary school, and comparable advanced or continuing education facilities. The phrase does not include music schools, fitness centers, sports instruction, swimming instruction, or martial arts instruction

Seasonal decorations: Decorations and temporary signs that are clearly incidental, customary, and commonly associated with a holiday, birthday, anniversary, graduation or similar occasion.

Semi-pervious surface (EBURD only): Also referred to as semi-pervious material. A material that allows for at least 40 percent absorption of water into the ground or plant material, such as pervious pavers, permeable asphalt and concrete, or gravel.

Shelter, Animal: A facility that is used to house or contain animals and is owned, operated, or maintained by a nonprofit corporation for the purpose of providing temporary kenneling and care for the animals and finding permanent adoptive homes for them.

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 100,000 square feet of structure footprint, and that attracts consumers from a region-wide market area.

Short-Term Rental: The renting, or offer to make available, (by way of a rental agreement, lease, license or any other means, whether oral or written) for compensation or consideration, of residential property, a dwelling unit, or a portion thereof, for a period of less than 30 consecutive days to a transient guest or guests. See also Tourist Home.

Short-Term Rental Unit: A residential dwelling unit, or portion of such a unit, that is rented for compensation or consideration for less than 30 days at a time; does not include dwelling units owned by the federal government, state, or city, or any of their agencies, or facilities licensed by the state as health care facilities.

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.

Sign: Any writing (including letter, word or number), pictorial representation (including illustration or declaration), product, form (including shapes resembling any human, animal or product form), emblem (including any device, symbol, trademark, object or design which conveys a recognizable meaning, identity or distinction) or any other figure of similar character that is a structure or any part thereof, or is written, painted, projected upon, printed, designed into, constructed or otherwise placed on or near a building, board, plate, or upon any material object or device whatsoever, that by reason of its form, location, manner of display, color, working, stereotyped design or otherwise attracts or is designed to

attract attention to the subject or to the property upon which it is situated, or is used as a means of identification, advertisement, or announcement. The term sign shall not include the following:

(1) Art that does not include commercial speech; or

(2) Products, merchandise or other materials which are offered for sale or used in conducting a business, when such products, merchandise, or materials are kept or stored in a location which is designed and commonly used for the storage of such products, merchandise or materials.

Sign administrator: The zoning coordinator.

Sign area: The total dimensions of a sign surface used to display information including text, symbols, or images. The sign area includes nonstructural trim, but does not include the supporting structure, if any, unless the supporting structure is used for the display of text, symbols, or images. The sign area can be smaller than the sign face.

Sign Face: The surface area of the sign that is designed for the placement of text, symbols, or images. For the purposes of measurement, sign faces are defined as follows:

1. Single-sided sign: A sign with only one face plane.
2. Two-sided (also referred to as double-faced or "V" sign): A sign with back-to-back face planes that are parallel or within 30° of parallel.
3. Three-sided sign: A sign with three face planes.
4. Three-dimensional sign: A sign that is sculptural or three-dimensional in form.

Sign structure(s): The base, footer, support poles, framing, and all other parts and components onto which the copy area is resting or attached.

Sign structure area: The total surface area of the structure of a monument sign that supports its copy area and contains dimensional or material differences from the plane of the sign face. Architectural embellishments and decorative features that do not contain or support advertising copy shall not be included in the sign structure area.

Sign walker: A person who carries a sign that is worn, held, or balanced by that person and is not installed or attached to real property.

Site (Wireless Communication Facilities): (other than towers in the right-of-way and eligible support structures): The current boundaries of the leased or owned property surrounding the tower or eligible support structure and any access or utility easements currently related to the site. A site, for other alternative tower structures, base stations, micro cell facilities, and small cell facilities in the right-of-way, is further restricted to that area comprising the base of the structure and to other related accessory equipment already deployed on the ground.

Small Cell Network (Wireless Communication Facilities): A collection of interrelated small cell facilities designed to deliver personal wireless services.

Small Cell Wireless Communication Facility: A wireless communication facility where each antenna is located inside an enclosure of no more than three cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and primary equipment enclosures are no larger than seventeen cubic feet in volume. the following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch. Small cells may be attached to alternate

tower structures, replacement poles, and base stations. The definition of a small cell facility shall also include a micro cell or micro cell facility.

Solar Energy Facility (SEF) Standards

Accessory Use – An SEF designed primarily for serving on-site needs or a use that is related to the primary use of the property.

Concentrated Solar Power (CSP) –An SEF that uses mirrors to reflect and concentrate sunlight.

Photovoltaic (PV) – An SEF that converts sunlight into electricity through PV cells.

Practicable means it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Primary Use - An SEF that is devoted to solar electric power generation primarily for use off-site.

Secondary Use – An SEF that is not the primary use of the property.

Solar Energy Facility (SEF) means a Solar Electric System that satisfies the parameters set out in Section 27-1009.

Solar Electric System (SES) means the components and subsystems that, in combination, convert solar energy into electric or thermal energy suitable for use, and may include other appurtenant structures and facilities. The term includes, but is not limited to, photovoltaic power systems, solar thermal systems, and solar hot water systems.

Solar Thermal System – Also known as solar hot water systems; an SEF that absorbs solar energy as heat which is then used to heat structures and water.

Solar Reflectance Index (SRI) (EBURD only): A measure of a constructed surface's ability to reflect solar heat, as shown by a small temperature rise. The measure utilizes a scale from zero (0) to one hundred (100) and is defined so that a standard black surface is zero (0) and a standard white surface is one hundred (100). To calculate for a given material, obtain the reflectance value and emittance value for the material; calculate the SRI according to ASTM E 1980-01 or the latest version.

Solid waste facility: A facility principally or solely used for the processing or disposal of solid waste and subject to compliance with all applicable federal, state, and local regulations including:

Transfer Stations: Facilities at which solid waste collected from any source is temporarily deposited to await transportation to another solid waste facility. All activities associated with a Transfer Station shall be done within an enclosed structure including but not limited to sorting, reducing, compressing, shredding, compacting, composting, and storage of waste materials, equipment or vehicles.

Solid Waste Processing Facilities: Facilities where solid waste is sorted, reduced, compressed, shredded, compacted or composted for purposes of volume reduction or preparation for burning or land-filling.

Waste Burning Facilities: Any incinerator, boiler, percolator or other solid waste facility at which solid waste, including previously processed solid waste is burned for the purposes of volume and weight reduction or steam heat, power or energy generation.

Sanitary Landfills: Facilities employing a method of disposing of solid wastes on or into land by various forms of excavation, placement, burial, compaction, or covering.

Recycling Processing Facilities: Facilities at which the primary function is to extract useful materials from the solid waste, and all processing activities are conducted within a completely enclosed building.

Spectrum Act (Wireless Communication Facilities): The "Middle Class Tax Relief and Job Creation Act of 2012" (Public Law 112-96; codified at 47 U.S.C. § 1455(a)).

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.

Stay: The act of temporarily stopping or suspending an action, such as the processing of a permit application.

Stealth Communication Facility (Wireless Communication Facilities): Any WCF that is integrated as an architectural feature of a structure or the landscape so that the facility and its purpose to provide wireless services is not visually apparent or prominent.

Stormwater best management practices/techniques (EBURD only): Conservation practices or systems of practices and management measures that control soil loss; reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment; and minimize adverse impacts to surface water and groundwater flow, circulation patterns, and to chemical, physical, and biological characteristics of wetlands by natural means, including replicating natural systems.

Stormwater Management Manual: City of Billings Stormwater Management Manual.

Streets:

> *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.
>
> *Alley:* A minor way that is used primarily for vehicular service access or for utility lines to the back or the side of properties otherwise abutting on a street.
>
> *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.
>
> *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.
>
> *Cul-de-sac:* A street that terminates in a vehicular turnaround.
>
> *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.

Street face: The facade of a building that faces a public or private street.

Street Front Landscaping: Required landscaping that is placed along the edge of a yard adjacent to a public street or right-of-way.

Street type (*EBURD only):* The permitted and regulated types of streets in this article. Refer to section 27-906, Street type standards for more information and a list of the permitted street types.

Streetwall (EBURD only): The vertical plane created by building facades along a street. A continuous streetwall occurs when buildings are located in a row next to the sidewalk without vacant lots or significant setbacks

Structural canopy: See canopy.

Structure: Anything constructed, erected, or placed with a more or less fixed location on the ground or attached or resting on something having a fixed location on the ground.

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

Studio or instruction service: A small-scale facility for the production of or education in a fine art, dance, fitness, or performance program. Examples of these facilities include individual and group instruction and training in the arts and production rehearsal, photography and the processing of photographs produced only by users of the studio facilities, martial arts training studios, and gymnastics instruction and fitness centers. Also includes production studios for individual musicians, painters, sculptors, photographers, and other artists.

Support Structures (Wireless Communication Facilities): A structure designed to support small cell wireless facilities including, but not limited to, monopoles, alternative tower structures, replacement poles, and other freestanding self-supporting pole structures.

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

Swale: A shallow channel with gently sloping sides that can be used to manage water runoff, filter pollutants, and increase storm water infiltration.

Swing sign: A type of temporary sign that is suspended from a horizontal swing post that is attached to a post that is staked into the ground. Swing signs may include riders that are mounted to the swing post or suspended under the sign panel.

T. T TERMS

Telecommunications Facilities (Wireless Communication Facilities): Any cables, wires, wave guides, antenna and any other equipment or facilities associated with the transmission or reception of communications services located or installed upon or near a tower or base station. Such communications services include, but are not limited to, cellular, personal communication services, specialized mobilized radio, enhanced specialized mobilized radio, paging and other similar services marketed to the commercial or residential consumers. Telecommunications facilities shall not include:

(1) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned commercial or industrial; and

(2) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.

Temporary irrigation: An irrigation system that is used to establish plants and is removed after the establishment period.

Temporary sign: A sign that is: (1) constructed of cloth, canvas, vinyl, paper, plywood, fabric or other lightweight material not well suited to provide a durable substrate; or (2) if made of some other material, is neither permanently installed in the ground, nor permanently affixed to a building or structure that is permanently installed.

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.

Tenant: A single incorporated use of a premises for which a certificate of occupancy has been issued, which is separated from another business by demising walls and has a separate entrance.

Theater: A structure that is open to the public and is used for dramatic, operatic, musical, motion picture, or other performance or entertainment related activities, where admission is charged per performance or event, and where there is no audience participation other than as spectators.

Toll and Tolling: To delay, suspend, or hold off on the imposition of a deadline, statute of limitations, or time limit.

Tourist Home means a private home or condominium that is not occupied by an owner or manager and that is rented, leased, or furnished in its entirety to transient guests on a daily or weekly basis.

Tower (Wireless Communication Facilities): Any structure built for the sole or primary purpose of supporting one or more FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The term includes self-supporting lattice towers, guy towers or monopole towers, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures and the like.

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 as provided in MCA Title 70.

Towing service and storage yard: Any lot, structure, or the use of any portion of such lot or structure for the temporary outdoor storage of towed vehicles that are to be claimed by the titleholders or their agents.

Transient guest: A guest for only a brief stay, such as the traveling public.

Transition (sign): The time interval between display changes of graphics, text, messages, or images on EMD signs.

Transmission Equipment (Wireless Communication Facilities): Equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, Antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Trash: Something worth little or nothing.

Travel trailer: See Recreational Vehicle.

Travel trailer park: See Recreational Vehicle Park.

Truck, RV, and heavy equipment rental, sales, and service: A facility or area for the display, sale, and rental of tools, heavy machinery, dump trucks or commercial and heavy equipment not used in offices, such as used in building construction, farming, restaurant, or manufacturing. Sales may either be retail or wholesale.

Truck stop: Any occupancy that 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 that require hand labor in the cleaning of the vehicle.

Turf grass: Continuous plant coverage consisting of grass species suited to growth in central Montana.

U. U TERMS

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.

Urban agriculture: The practice of cultivating, processing, and distributing food in or around urban areas.

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.

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

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

Utility: A use category for the use of land for public or private lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and facilities for the generation of electricity.

> *Utilities, major facilities/service yard* means infrastructure services that have substantial land use impacts on surrounding areas. Typical uses include, but are not limited to, water and wastewater treatment facilities, major water storage facilities and electric generation plants. This definition also includes service yards for utility providers.
>
> *Utilities, minor facilities/office* means infrastructure facilities and services that need to be located in the area where the service is to be provided such as water and sewer pump stations, electrical transforming substations, wind energy conversion systems, solar collector systems, water conveyance systems or gas regulating stations.

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.

V. V TERMS

Variance: See Sections 27-1600, Administrative Procedures.

Vegetation: Organic plants, including trees, shrubs, vines, and flowers.

Vehicle sales and rental: A facility used primarily for the sale or rental of consumer-oriented motor vehicles, such as automobiles, pick-up trucks, and motorcycles.

Vehicle maintenance and repair:

Major: Vehicle repair consisting of assembly or disassembly of engine parts, body parts, transmission, chassis, axles, etc. and/or the process of painting or upholstering.

Minor: Repairs consisting of a minor nature, such as, tune up, oil change, chassis lubrication, tire change or repair, wheel alignment, muffler repair or installation that meet the following:

i. Repairs are made in fully enclosed bays; and

ii. Repairs are of a type that is typically completed in less than eight hours (e.g., oil changes, brake service, tire rotation and balancing, glass repair, tire replacement, fluid checks and replacement, muffler service, spark plug replacement, and comparable services); and

iii. Vehicles are generally not stored on-site, and on the occasion when overnight storage is necessary, vehicles are stored indoors or an enclosed yard that has a sight-obscuring fence.

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

Veterinary services: A facility, including an animal hospital for the diagnosis and treatment of pets and other large or small animals including, but not limited to, dogs, cats, birds, and horses; incidental grooming, boarding, or breeding of animals may also be provided.

Video: The display of a succession of single images at a rate greater than 29 frames per second.

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

W. W TERMS

Wall sign: 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.

Warehousing: The storing of goods, wares, and merchandise, whether for the owner or others.

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

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

Wind Energy Terms:

Aggregated Project - Aggregated projects are those which are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included in the aggregated project.

Blade Arc - The arc created by the edge of the rotor blade that is farthest from the nacelle.

Fall Zone - The area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure. This area is no greater than the total height of the structure.

Feeder Line - Any power line that carries electrical power from one or more wind turbines or individual transformers associated with an individual wind turbine to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the WECS.

Meteorological Tower - For the purposes of this Wind Energy Conversation System Ordinance, meteorological towers are those towers that are erected primarily to measure wind speed and directions plus other data relevant to siting WECS. Meteorological towers do not include towers and equipment used by airports, the Montana Department of Transportation, or other similar applications to monitor weather conditions.

Micro-WECS - Micro-WECS are WECS of five (5) kW nameplate generating capacity or less mounted on a tower.

Non-Participating - Any landowner except those on whose property all or a portion of a Wind Energy Facility is located pursuant to an agreement with the Facility Owner or Operator.

Project Site – The geographic area of an aggregated site or wind farm project that includes location of all turbines.

Property Line - The boundary line of the area over which the entity applying for WECS permit has legal control for the purposes of installation of a WECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.

Rated Power Output – the electric power output of a WECS at a constant hub height and wind speed of 25 mph.

Rotor Diameter - The diameter of the circle described by the moving rotor blades.

Shadow Flicker – Alternating changes in light intensity caused by the movement of Wind Turbine blades casting shadow on the ground or a nearby stationary object.

Significant Shadow Flicker – More than 30 hours per year of shadow flicker on adjacent property.

Substations - Any electrical facility designed to convert electricity produced by wind turbines to a voltage greater than (35,000 KV) for interconnection with high voltage transmission lines shall be located outside of the road right of way.

Total Height - The highest point, above ground level, reached by a rotor tip or any other part of the WECS.

Transmission Line - Those electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

Tower - Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

Tower Height - The total height of the WECS exclusive of the rotor blades.

WECS - Wind Energy Conversion System (WECS) - An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to, power lines, transformers, and substations that operate by converting the kinetic energy of wind into electrical energy. The energy maybe used on-site or distributed into the electrical grid.

Wind Turbine - A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy by airfoils or similar devices to capture the wind.

Window: An opening in a wall, door, or roof of a building that allows the passage of light, sound, and sometimes air. An individual window is defined by an architecturally distinct opening. Individual windows may be further divided by muntins, mullions, or decorative elements such as grilles.

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.

Winery: A bonded winery facility licensed pursuant to MCA Section 16-4-107 comprising the building or buildings used to convert fruit juices (all or part of which are produced on the property) to wine, and to age, bottle, store, distribute and sell said wine. A winery, for the purposes of this section, includes crushing, fermenting and refermenting, bottling, blending, bulk and bottle storage, aging, shipping, receiving, laboratory equipment and maintenance facilities, sales, and administrative office functions, and may include tasting and promotional events.

Wireless communication facility: A facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the code. A WCF includes an antenna or antennas, base stations, support equipment, alternative tower structures, and towers. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or hand-held radios/telephones and their associated transmitting Antennas, nor does it include other facilities specifically excluded from the coverage of Section 16-4-7.

Wireless communication facility antenna or tower farm: An antenna or tower farm is a tract of land that contains no more than three antenna support structures within 750 linear feet of each other. No antenna support structures located in tower farms shall exceed 250 feet in height. Legal tracts must be adjacent to each other to be included in this definition.

X. X TERMS

Xeriscape: Landscape methods that conserve water by drought-tolerant plants and planting techniques.

Y. Y TERMS

Yard, service or storage: Any land or buildings used primarily for the storage of equipment, vehicles, machinery, or materials.

Yard sign: A type of temporary sign that is constructed of paper, vinyl, plastic, wood, metal or other comparable material, which is mounted on a stake or a frame structure (often made from wire) that includes one or more stakes.

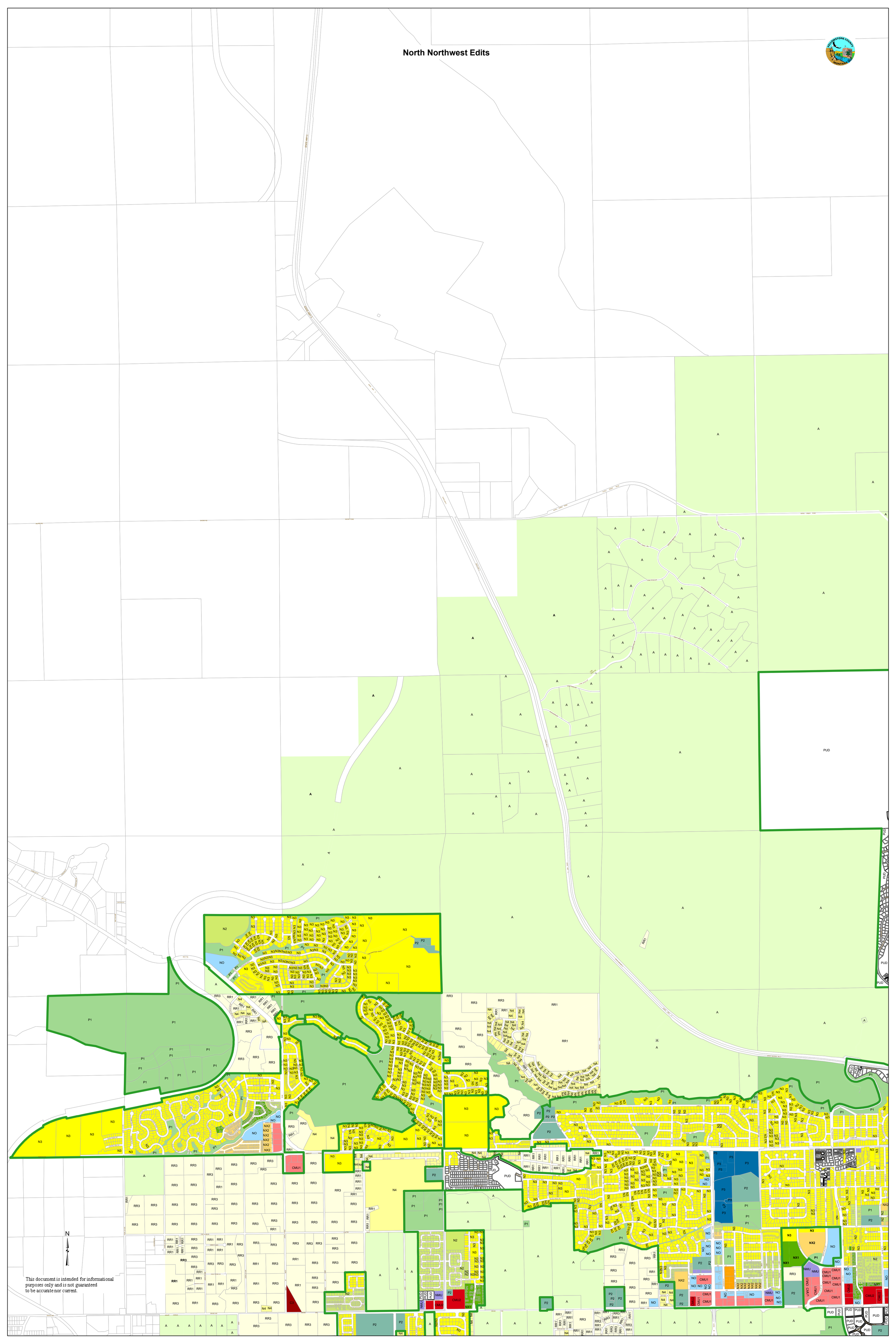
Youth foster home: See Community residential facilities.

Youth group home: See Community residential facilities.

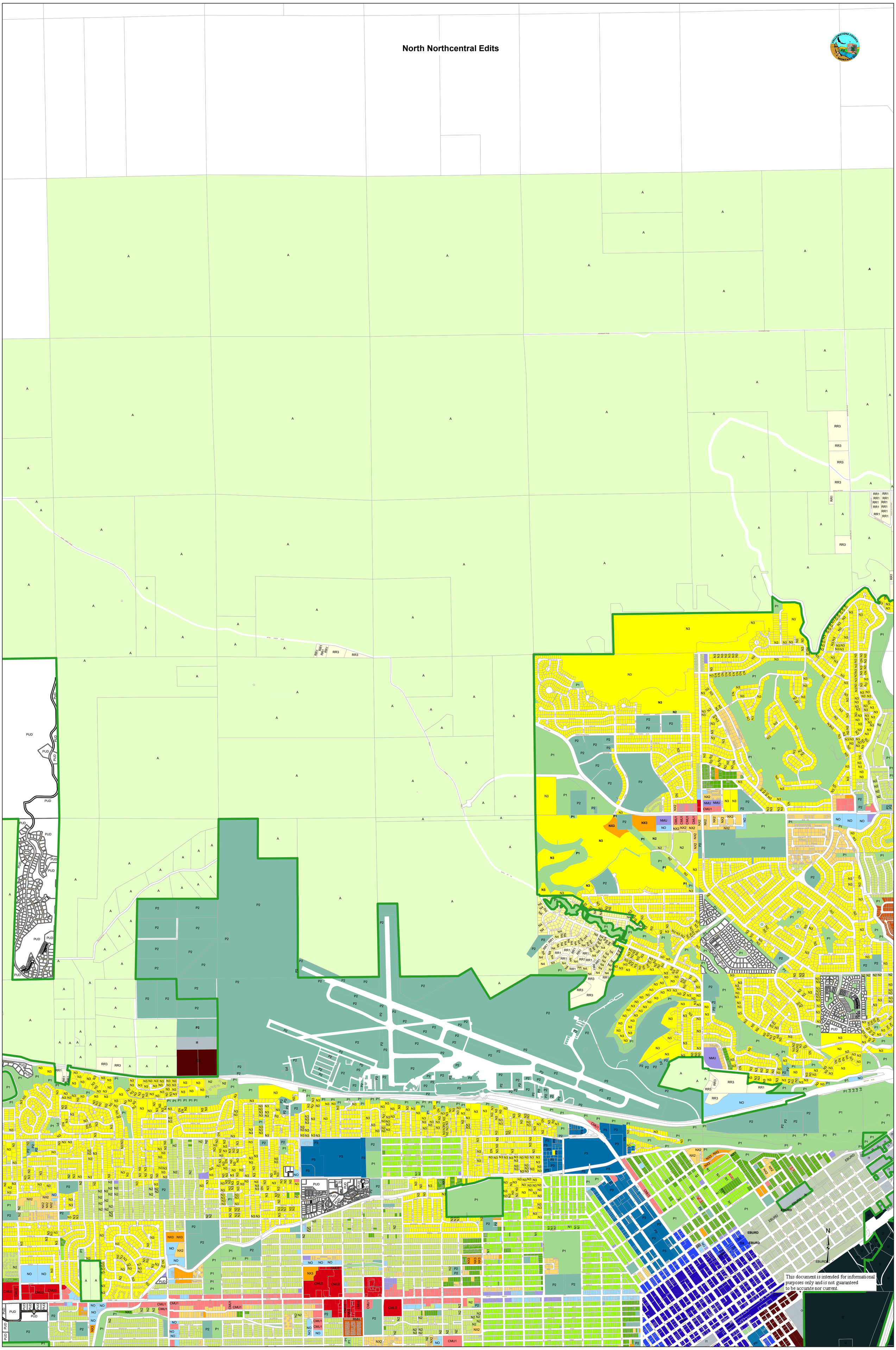
Z. Z TERMS

Zoning coordinator: The person designated by the planning director to oversee the administration of this Zoning Code, and his or her designee.

North Northwest Edits



North Northcentral Edits



North Northeast Edits

South Southwest Edits

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South Southcentral Edits

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South Southeast Edits

N

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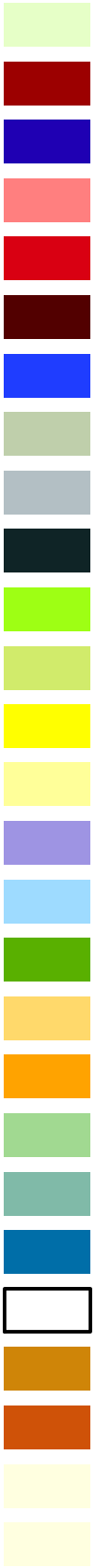
Legend

Billings & Yellowstone County Updated Zoning



A - Agriculture 10+ acres*

C3 - General Commercial*

CBD - Central Business District

CMU1 - Corridor Mixed-Use

CMU2 - Corridor Mixed-Use

CX - Heavy Commercial

DX - Downtown Mix

EBURD

I1 - Light Industrial

I2 - Heavy Industrial

N1 - First Neighborhood

N2 - Mid-Century Neighborhood

N3 - Suburban Neighborhood

N4 - Large Lot Suburban Neighborhood*

NMU - Neighborhood Mixed-Use

NO - Neighborhood Office

NX1 - Mixed Residential 1 (1-4 units)

NX2 - Mixed Residential 2 (2 to 8 units)

NX3 - Mixed Residential 3 (5 or more units)

P1 - Open Space, Parks, Recreation

P2 - Public - Civic & Institutional

P3 - Public - Campuses - Medical, Civic, Educational

PD- Planned Development

R-RMH Rural-Residential Manufactured Home*

RMH - Residential Mobile Home

RR1 - Rural Residential 1 acre to 2.9 acres*

RR3 - Rural Residential 3 acre to 9.9 acres*

* = County Only

ALLEY

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3946
StateFarmBank
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DO NOT
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