

## **Exhibit C**

### **City Council Adjustments and Amendments to Exhibit A, 2020 Draft Billings Zoning Code**

[Note: This exhibit is formatted to provide complete page replacements for the full Billings Zoning Code distributed to the City Council November 9, 2020 (commonly referred to as Exhibit A). There will be content on some pages that does not include redline edits.]

#### **Article 27-100, General Provisions**

No subject matter adjustments.

#### **Article 27-200, Zone Districts and Official Zoning Map**

No subject matter adjustments. Zoning map updates through December 3, 2020 included in Exhibit B. Staff will continue to work with property owners to make adjustments unless instructed otherwise.

#### **Article 27-300, Neighborhood Districts**

See page [3](#).

#### **Article 27-400, Mixed-Use and Commercial Districts**

No subject matter adjustments.

#### **Article 27-500, Public Districts**

No subject matter adjustments.

#### **Article 27-600, Industrial Districts**

No subject matter adjustments.

#### **Article 27-700, Planned Development (PD)**

No subject matter adjustments.

#### **Article 27-800, Planned Neighborhood Development (PND)**

See page [18](#).

#### **Article 27-900, East Billings Urban Redevelopment District (EBURD)**

No subject matter adjustments.

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### **Article 27-1000, Use-Specific Standards**

No subject matter adjustments.

### **Article 27-1100, Proportionate Compliance**

See page [25](#).

### **Article 27-1200, Landscaping, Buffering, and Screening**

See page [29](#).

### **Article 27-1300, Parking and Loading**

No subject matter adjustments.

### **Article 27-1400, Sign Code**

See page [30](#).

### **Article 27-1500, Nonconformities**

See page [32](#).

### **Article 27-1600, Administration and Procedures**

No subject matter adjustments.

### **Article 27-1700, Violations, Enforcement, and Remedies**

No subject matter adjustments.

### **Article 27-1800, Measurements and Definitions**

See page [37](#).

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### Article 27-300, Neighborhood Districts

#### 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, singleproportionate garages located in the front façade ~~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 3 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.

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### 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 Zoning Code. See Article 27-1500, 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

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

2. 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 with access provided by private easement.

4-3. Where there is an existing or planned alley system, lots shall be provided vehicle access from the alley. Lots without alley access shall be provided a curb cut for vehicle access pursuant to City Curb Cut and Driveway Standards in BMCC 6-1208.

#### 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, Use-Specific Standards, 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. Administrative Relief. Article 27-1600 defines administrative relief applicable to the site and structure regulations. Additional administrative relief may be noted throughout this article.

4-2. 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

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2-3. Public, Civic, and Institutional Uses. Public, civic, and institutional uses allowed in the district are required to 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 Section 27-1614, Administrative Relief.
- (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 Administrative Relief per Article 27-1614. 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)<br>All others not less than 5 feet to front property line  | None         | 2 feet       | 2 feet              |  |
| Open decks, Stairways & Landings              | 8 feet (N3 & RMH)<br>All others not less than 5 feet to front property line | 2 feet       | 2 feet       | 2 feet              | Ramps providing an accessible way are exempt from these requirements |

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### 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 standards apply 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.

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### 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 27-300.3: SITE AND STRUCTURE REGULATIONS**

| A. BUILDING SITING           |  | REFERENCES  |
|------------------------------|--|---|
| <b>1</b>                     | Minimum Lot Width (feet) per principal building<br>Maximum Lot Width (feet) per principal building | 20<br>80<br><br>See <a href="#">27-304.D</a> for 2-unit buildings.<br>See Article 27-1500 existing lots of record.  |
| <b>2</b>                     | Maximum Front Building Width (feet)  | 65 per principal building   |
| <b>3</b>                     | Front Build-to Zone (feet)   | 8-20; match block face average  |
| <b>4</b>                     | Street-Side Build-to Zone (feet)   | 5-15<br>See Article 27-1800 for block face averaging instructions.  |
| <b>5</b>                     | Side Setback (feet)<br>Space Between Principal Buildings on Lot (feet)                             | 5 minimum<br>10 minimum<br>See <a href="#">27-304.D</a> for side street lots  |
| <b>6</b>                     | Rear Setback (feet)  | 5 minimum   |
| <b>7</b>                     | Accessory Building Yard Location   | Rear  |
| <b>8</b>                     | Accessory Building: Min. Rear Setback (feet)   | 3, except 0 at alley  |
| <b>9</b>                     | Maximum Building Coverage (%)  | 60  |
| <b>10</b>                    | Permitted Driveway Access Location   | Alley, side street if no alley  |
| <b>11</b>                    | Attached Garage Entrance Location  | Rear, side, or street-side façade; front façade allowed maximum <del>15</del> <sup>16</sup> feet in width and no more than 30% of façade<br><br>See <a href="#">Article 27-1305</a> for driveway access. See <a href="#">BMCC 6-1200</a> for driveway access. |
| B. HEIGHT                    |  |   |
| <b>12</b>                    | Principal Building: Maximum Height (stories)<br>Maximum Height (feet)                              | 2.5<br>34<br><br>See Article 27-1800 for instructions for measuring height<br>Accessory roof pitch shall match principal building   |
| <b>13</b><br><del>2</del>    | Accessory Building: Maximum Height (stories)<br>Maximum Height (feet)                              | 2; not taller than the principal structure<br>27  |
| C. WINDOWS, FRONT DOOR, ROOF |  |   |
| <b>14</b>                    | Minimum Window & Door Coverage: Front Façade (%)   | 15 measured per story of all full stories<br><br>Measured per each full and half story. See Article 27-1800 for information on measuring front façade window & door coverage  |
| <b>15</b>                    | Front Door Location<br>Entrance Treatment  | Front Façade<br>See 27-303.J for Front Entrance<br>See 27-304.D for 2-unit buildings.   |
| <b>16</b>                    | Permitted Roof Types<br>Minimum pitch, less than 2 stories<br>Minimum pitch, 2 or more stories     | Pitched, tower permitted<br>4:12 (rise:run)<br>3:12 (rise:run)<br>See Article 27-1800 for definition of roof types and exception for other allowed roof types.<br>See Article 27-1500 for existing buildings  |

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### 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**

| A. BUILDING SITING           | REFERENCES  |  |   |
|------------------------------|---|--|---|
| <b>1</b>                     | Minimum Lot Width(feet) per principal building<br>Maximum Lot Width (feet) per principal building | 50<br>120  | See 27-305.D for 2-unit buildings. See Article 27-1500 existing lots of record.   |
| <b>2</b>                     | Maximum Front Building Width (feet)   | 80 per principal building  |   |
| <b>3</b>                     | Front Build-to Zone (feet)  | 10-20; match block face average  | See Article 27-1800 for block face averaging instructions   |
| <b>4</b>                     | Street-Side Build-to Zone (feet)  | 10-15  |   |
| <b>5</b>                     | Side Setback (feet)<br>Space Between Principal Buildings on Lot (feet)                            | 5 minimum<br>10 minimum  |   |
| <b>6</b>                     | Rear Setback (feet)   | 5 minimum  | See 27-305.D for side street lots   |
| <b>7</b>                     | Accessory Building Yard Location  | Rear   |   |
| <b>8</b>                     | Accessory Building: Rear Setback (feet)   | 3 minimum, except 0 at alley   |   |
| <b>9</b>                     | Maximum Total Building Coverage (%)   | 40   |   |
| <b>10</b>                    | Permitted Driveway Access Location  | Any  | See 27-1305 for driveway access exceptions. See BMCC Section 6-1200 for driveway access exceptions                      |
| <b>11</b>                    | Attached Garage Entrance Location   | Any façade; front façade limited to no more than <u>3540</u> % of façade                       |   |
| B. HEIGHT                    |   |  |   |
| <b>12</b>                    | Principal Building: Maximum Height (stories).<br><br>Maximum Height (feet)                        | 1.5; 2 stories on maximum 60% of footprint <u>except as provided in 27-305.D</u><br><br>27     |   |
| <b>132</b>                   | 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 |   |  |   |
| <b>14</b>                    | 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 |
| <b>15</b>                    | Front Door Location   | Street Façade  | See 27-305.D for 2-unit buildings.  |
| <b>16</b>                    | Permitted Roof Types<br>Minimum pitch<br>Maximum pitch  | Low pitched, flat<br>3:12 (rise:run)<br>6:12 (rise:run), <u>except as provided in 27-305.D</u> | See Article 27-1800 for definition of roof types and exception for other allowed roof types.                            |

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### SINGLE-UNIT OR TWO-UNIT HOME

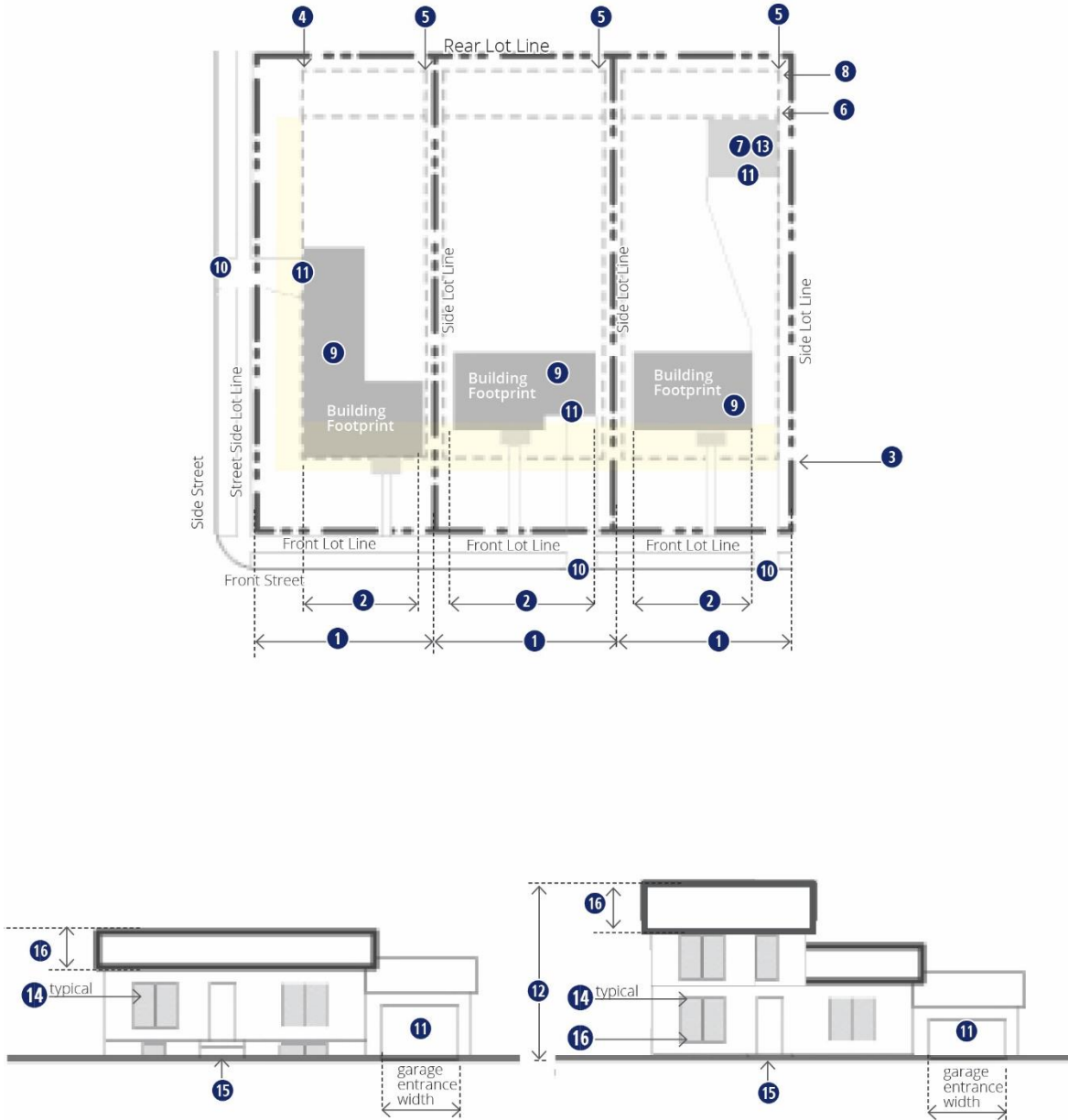


Figure 27-300(2). N2 district diagrammatic plans and elevations.

#### 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

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most of the lots on the block. Lots with only side street frontage are allowed maximum building coverage of 80%.

2. The following standards apply 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) Infill Development in Existing Neighborhood. The following apply to any 2-unit building developed adjacent to or abutting existing housing that does not qualify as a new neighborhood development in D.2(c):

(1) 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.

(2) 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.

(c) New Neighborhood Development. A new neighborhood is any development occupying lot(s) in a subdivision, amended subdivision, certificate of survey, or master site plan created on or after May 3, 1972. The following apply to any 2-unit building developed as part of a new neighborhood development:

(1) Garage entrances located on the front facade are limited to no more than 40% of the front facade width.

(2) Up to 2 entrances are permitted on the street.

(3) Principal buildings may have two stories for the entire footprint of the structure.

(4) Roofs may exceed the 6:12 maximum roof pitch

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### 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   |
|-------------------------------|--|---|---|--|
| <b>1</b>                      | Minimum Lot Width (feet) per principal building                        | 20 for 1 or 2 units;<br>50 for 3 or more units                            | 50  | See Article 27-1500 for existing lots of record.<br>Side-by-side means units attached along front façade.<br>See 27-307.D for fee simple side-by-side attached units.  |
| <b>2</b>                      | Maximum Front Building Width (feet)                                    | 60  | 80, 4 units;<br>120, 4 units on side street | See 27-307.D for fee simple side-by-side attached units.   |
| <b>3</b>                      | 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. |
| <b>4</b>                      | Street-Side Build-to Zone (feet)                                       | 8-15  |   |  |
| <b>5</b>                      | Side Setback (feet)<br>Space Between Principal Buildings on Lot (feet) | 5 minimum<br>10 minimum   |   | See 27-307.D for side street lots.   |
| <b>6</b>                      | Rear Setback (feet)  | 5 minimum   |   | See 27-307.D for side street lots.   |
| <b>7</b>                      | Accessory Building Yard Location                                       | Rear  | Rear  | See Article 27-1800 for explanation of yards.  |
| <b>8</b>                      | Accessory Building: Rear Setback (feet)                                | 5 minimum or 0 at alley   |   |  |
| <b>9</b>                      | Maximum Building Coverage (%)  | 60  |   |  |
| <b>10</b>                     | Permitted Driveway Access Location                                     | Alley, side street; front street if no side street is available           |   | See 27-1305 for driveway standards. See BMCC Section 6-1200 for driveway access standards.   |
| <b>11</b>                     | Attached Garage Location<br>Allowed Garage Entrance                    | Rear half of the building;<br>Rear or side adjacent to street façade only |   |  |
| B. HEIGHT                     |  |   |   |  |
| <b>12</b>                     | Principal Building: Maximum Height (stories)<br>Maximum Height (feet)  | 2.5<br>27   | 2.5<br>27                                   | See Article 27-1800 for definition half story.   |
| <b>13<del>2</del></b>         | 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 |  |   |   |  |
| <b>14</b>                     | 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.  |
| <b>15</b>                     | 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   |   |  |

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|           |                      |                                   |  |
|-----------|----------------------|-----------------------------------|--|
| <b>16</b> | Permitted Roof Types | Parapet, pitched; tower permitted | See Article 27-1800 for definition of roof types and exception for other allowed roof types. |
|-----------|----------------------|-----------------------------------|--|

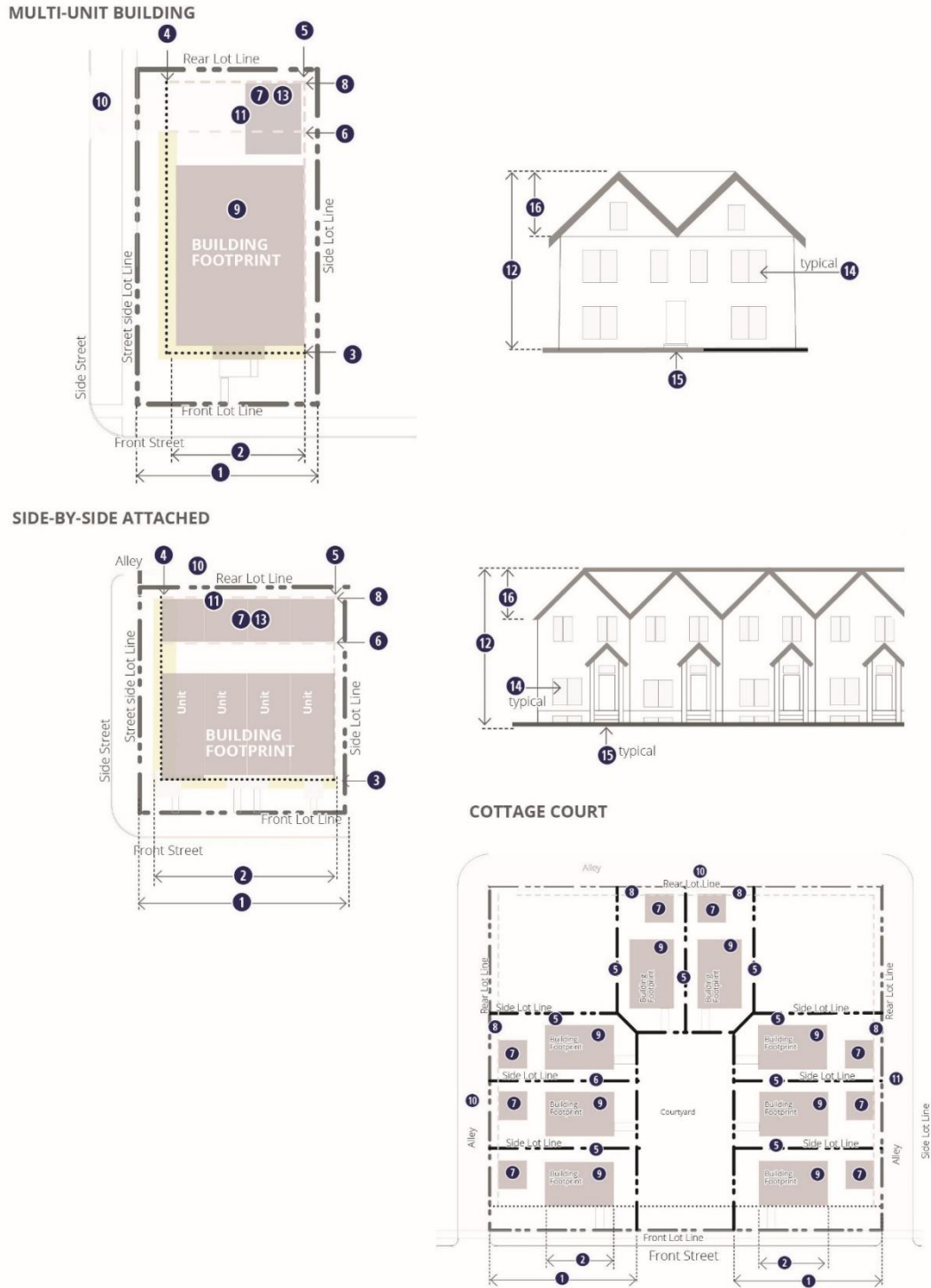


Figure 27-300(4). NX1 district diagrammatic plan.

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### 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 ~~10~~20 feet of street frontage.
  - (b) Green. A green is a larger, landscaped space, ~~a minimum of one acre in size,~~ with at least ~~20~~50 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.

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### 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.

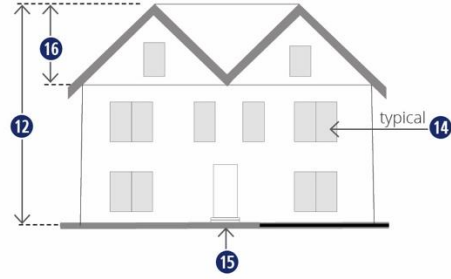
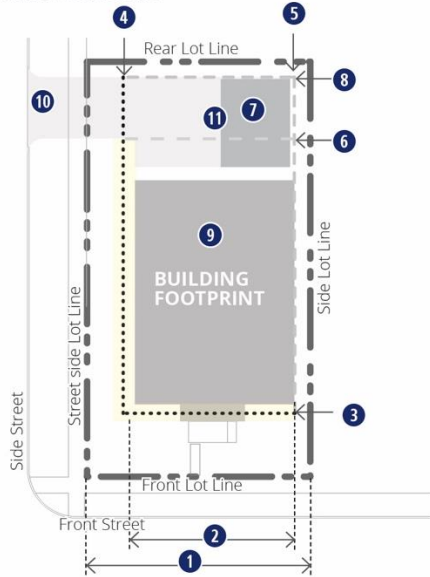
**TABLE 27-300.7: SITE AND STRUCTURE REGULATIONS**

| A. BUILDING SITING           |  | Multi-Unit Building   | Side-by-Side Units               | REFERENCES  |
|------------------------------|--|---|----------------------------------|---|
| <b>1</b>                     | 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)                   | <del>7000</del> ; None for 2 units                              | None                             |   |
| <b>2</b>                     | 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.   |
| <b>3</b>                     | 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 <del>27-700</del> 1802 for visibility at intersections. |
| <b>4</b>                     | Street-Side Build-to Zone (feet)                 | 5-15  |                                  |   |
| <b>5</b>                     | Side Setback (feet)                              | 5 minimum; 15 abutting N1, N2, N3, or RMH districts             |                                  |   |
|                              | Space Between Principal Buildings on Lot (feet)  | 10 minimum  |                                  |   |
| <b>6</b>                     | Rear Setback (feet)                              | 10 minimum; 20 abutting N1, N2, N3, or RMH districts            |                                  |   |
| <b>7</b>                     | Accessory Building Yard Location                 | Rear  |                                  | See Article 27-1800 for definition of yards.  |
| <b>8</b>                     | Accessory Building: Rear Setback (feet)          | 7.5   |                                  |   |
| <b>9</b>                     | Maximum Building Coverage (%)                    | 60  |                                  |   |
| <b>10</b>                    | Permitted Driveway Access Location               | Alley, side street; front street if no side street is available |                                  | See <del>27-1305</del> for driveway access. See BMCC Section 6-1200 for driveway access standards.  |
| <b>11</b>                    | Attached Garage Location Allowed Garage Entrance | Rear half of the building; Rear or street-side façade only      |                                  |   |
| B. HEIGHT                    |  |   |                                  |   |
| <b>12</b>                    | 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             |   |
| <b>13</b>                    | Accessory Building: Maximum Height (stories)     | 1.5   | 1.5                              | Accessory roof pitch shall match principal building   |
|                              |  | Maximum Height (feet)   | 27                               |   |
| C. WINDOWS, FRONT DOOR, ROOF |  |   |                                  |   |
| <b>14</b>                    | 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.   |
| <b>15</b>                    | 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                                 |                                  |   |

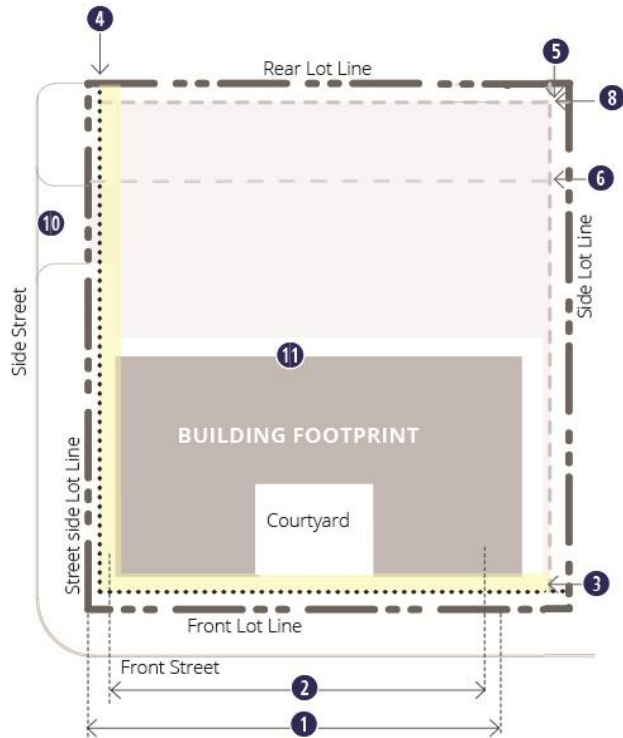
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|           |                      |   |  |
|-----------|----------------------|---|--|
| <b>16</b> | Permitted Roof Types | Parapet, pitched, flat; tower permitted | See Article 27-1800 for definition of roof types and exception for other allowed roof types. |
|-----------|----------------------|---|--|

### 2-4 UNIT BUILDING



### 5+ UNIT BUILDING



## Exhibit C: City Council Adjustments and Amendments

### SIDE-BY-SIDE ATTACHED

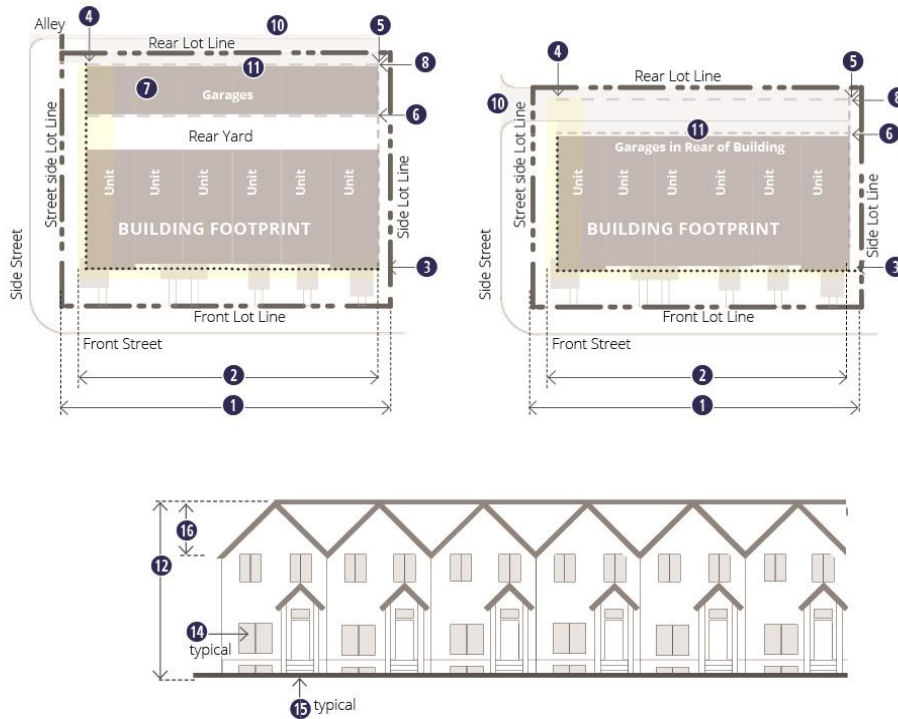


Figure 27-300(5). NX2 and NX3 district diagrammatic plans.

#### 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 or NX3 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 ~~10~~20 feet of street frontage.
  - (b) Green. A green is a larger, landscaped space, ~~a minimum of one acre in size,~~ with at least ~~20~~50 feet of street frontage.

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- |
- (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.

## Exhibit C: City Council Adjustments and Amendments

### Article 27-800, Planned Neighborhood Development (PND)

#### SECTION 27-801 GENERAL

##### A. INTENT

The Planned Neighborhood Development (PND) 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 310 acres for which annexation into the city is requested must meet these PND regulations, submitting the PND application concurrent with the annexation request. Connection to City of Billings public services, including, but not limited to, water and sewer, is 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 310 acres within city boundaries and that can be connected to City of Billings' public services, including, but not limited to, water and sewer, may follow these PND regulations.
3. The following information, at a minimum, shall be shown on the PND plan application:
  - (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 27-1619, Master Site Plan, and Section 27-1628, Zone Change, for approval procedures.

#### ZONING DISTRICTS

Planned neighborhood developments shall include a mix of multiple zoning districts as a neighborhood development 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.

## Exhibit C: City Council Adjustments and Amendments

### A. DETERMINATION OF PND TYPE

1. Table of PND Types. Refer to Table 27-800.1 for available types of PNDs.

4.2. Multiple PND Types. The application of one or more types of PNDs, is permitted as follows:

- (a) For all sites up to ~~4~~20 acres, only one of the PND types will be allowed on the site.
- (b) For developments over ~~4~~20 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<br>Min. Acres    |  | Types of PND   | Zoning Districts |      |     |    |     |     |     |    |    |    |     |    |    |
|---------------------------|--|--|------------------|------|-----|----|-----|-----|-----|----|----|----|-----|----|----|
|                           |  |  | CMU1             | CMU2 | NMU | NO | NX1 | NX2 | NX3 | N1 | N2 | N3 | RMH | P1 | P2 |
| <del>3</del><br><u>10</u> | <b>Mixed-Use<br/>MU PND</b><br>(City or County)<br>Choose at least 2<br>districts: Pick 1 MU,<br>Pick 1 NX, or Pick 1<br>N | RL   L   P   P   P   P   L   P   P   -P   P   R   P   P  |                  |      |     |    |     |     |     |    |    |    |     |    |    |
|                           |  | Min. % of gross acres      10                                                             52           3 buildings   |                  |      |     |    |     |     |     |    |    |    |     |    |    |
|                           |  | Max. % of gross acres      30           15      15                8  |                  |      |     |    |     |     |     |    |    |    |     |    |    |
| <del>3</del><br><u>10</u> | <b>Mixed<br/>Residential MR<br/>PND</b><br>(City or County)<br>Choose at least 2<br>districts: Pick 1 NX,<br>Pick 1 N      | -   -   L   P   RP   P   P   P   L   -   P   R   P   P   |                  |      |     |    |     |     |     |    |    |    |     |    |    |
|                           |  | Min. % of gross acres                          25                                              402           3 bldgs |                  |      |     |    |     |     |     |    |    |    |     |    |    |
|                           |  | Max. % of gross acres                10                                    20  |                  |      |     |    |     |     |     |    |    |    |     |    |    |
| <del>3</del><br><u>10</u> | <b>Neighborhood<br/>N PND</b><br>(Choose at least 2<br>N/NX districts)<br>(City or County)                                 | -   -   L   L   L   L   -   RP (mix of all 3 districts)   P   P   P   R   P   P                                      |                  |      |     |    |     |     |     |    |    |    |     |    |    |
|                           |  | Min. % of gross acres                                         5      20                402           3 bldgs         |                  |      |     |    |     |     |     |    |    |    |     |    |    |
|                           |  | Max. % of gross acres                10      10      20      20                     50                               |                  |      |     |    |     |     |     |    |    |    |     |    |    |

Table Notes: All numeric values are percentages of the actual grossnet parcel area.

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

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**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.

### 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~~ requires a combination of at least two development zoning districts at a minimum 78/20 percentage mix measured by total net parcel area, plus the minimum required open space (2 percent minimum). For example, an applicant with a 12-net acre lot may choose to create a Neighborhood PND (N-PND) with a mix of: (1) 9.36 acres (78%) N3, (2) 2.4 acres (20%) N2, and the required .24 acres of P1 open space.
- (b) Zoning district area minimums and maximums are set as a percentage of the total net landparcel area not including the required P1 open space.
- (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.~~

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- ~~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.C. MIXED-USE PLANNED NEIGHBORHOOD DEVELOPMENT (MU-PND)**

Mixed-Use PNDs are required to designate at least one MU district and at least one NX or N district, minimum amount of CMU1 district with other permitted districts, in addition to the minimum area of 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 NOMU District. A maximum of 7860% 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, a~~ At least one N or NX districts shall be designated on a minimum of 20% of the net acreage.
  - ~~(b)—NX3 districts shall be limited to no more than eight percent of the total MU-PND area.~~
  - ~~(c)~~ (b) 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.D. MIXED RESIDENTIAL PLANNED NEIGHBORHOOD MR-PND**

Mixed Residential PNDs are required to provide ~~one~~ two zone districts 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. One NX-category zone district is required and one N-category zone district is required.~~
- ~~2.—A maximum of eight percent of the MR-PND area may be zoned NX3.~~
- ~~3.2.~~ 2. NMU District. The NMU district is limited to nodes at local street intersections ~~up to ten percent of the MR-PND area.~~

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~~4.—N2 districts are limited to no more than 20% of the MR-PND area.~~

~~5.3.~~ P1 Districts. Public and private open space types required in section 27-803 must be zoned P1.

~~6.4.~~ Additional Districts.

- (a) With more than ~~five~~10 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.E. 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~~ with a minimum area of at least one acre of development.
  - ~~(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 features exist on the site, the open space shall be located in order to preserve the maximum amount of the existing trees or natural features. Open space shall also be located and designed to 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, NO, NX, or P2 zone district. A plaza may provide areas for seasonal

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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 must 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)(c)~~        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 ~~10~~20 feet of street frontage.

~~(b)(d)~~        Green. A green is a larger, landscaped space, ~~a minimum of one acre in size,~~ with at least ~~20~~50 feet of street frontage.

~~(c)(e)~~        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.

~~3.2.~~ All 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 P1.

### 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.

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### **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.

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### Article 27-1100, Proportionate Compliance

#### 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) 27-1203, Street Frontage Landscaping
- (b) 27-1204, Bufferyard Standards
- (c) 27-1205, Parking Lot Landscaping Standards

###### 2. Section 27-1300, Parking and Loading

- (a) Table 27-1300.1, Off-Street Parking Standards
- (b) 27-1303, Loading Spaces

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### 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. |
|---|------------------------|----------------------|-------|------|
| <b>Percent compliance with development standards</b>                    |                        |                      |       |      |
| <b>New Development</b>  |                        |                      |       |      |
| New Development   | 100                    | 100                  | 100   | 100  |
| <b>Existing Development</b>   |                        |                      |       |      |
| 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 |                      |       |      |
| <b>Nonconformities</b>  |                        |                      |       |      |
| <i>See Section 27-1500 for applicability of nonconformity standards</i> |                        |                      |       |      |

### B. MEASURING REQUIRED COMPLIANCE

#### 1. Interior Changes

In the CBD, DX, CMU1, CMU2, NO, NMU, and EBURD districts, Section 27-1203, 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

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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 AND STRUCTURE DESIGN REQUIREMENTS

For any site or structure renovations, the regulations applicable to all neighborhood districts (Section 27-303) or commercial and or mixed-use districts (Section 27-403) general-site design requirements shall be met for that aspect of the site or structure subject to renovation.

### B. ZONE DISTRICT SPECIFIC REGULATIONS GENERAL RENOVATIONS

Any renovation involving the addition of 50% or more gross building square footage, measured cumulatively within a five-year period as determined by the building permit application(s), shall comply with applicable zone district site and structure standards as follows:

#### 1. Build-to Zones

(a) Build-to zones are locations, when required by the zone district, on a lot in which the front or street side facade of a building shall be placed. Refer to Section 27-1802.B, Building and Parking Siting Measurements and Terms.

(b) The renovation or expansion of existing structures is exempt from compliance to place any part of the structure within the required build-to zone identified in the zone district building siting standards unless the renovation is designed to encroach into a build-to zone. Where the expansion does encroach into a required build-to zone, that aspect of the building design shall comply with the build-to standard.

#### 2. Façade Regulations

(a) Façade regulations are those zone district-specific regulations that apply to the design of the front or street side of a building; façade regulations include doors and windows.

(b) Renovations are required to comply with façade regulations only when the renovation is to a front or street façade that exists or will exist in the required build-to zone and which meets one of the following:

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- (1) Expansion or change in location of 50 percent or more of the doors or windows on any street façade of the building; renovations to garage openings are not included in this calculation. Refer to Section 27-1800 for the definition of street façade.
- (2) In the EBURD (Section 27-900) district only, Replacement of 50 percent or more of facade materials on any street facade of the building with a different facade material.

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 façade.~~
- ~~2.1. Replacement of 50 percent or more of facade materials on any street facade of the building with a different facade material.~~

#### 2.3. Roof Renovations

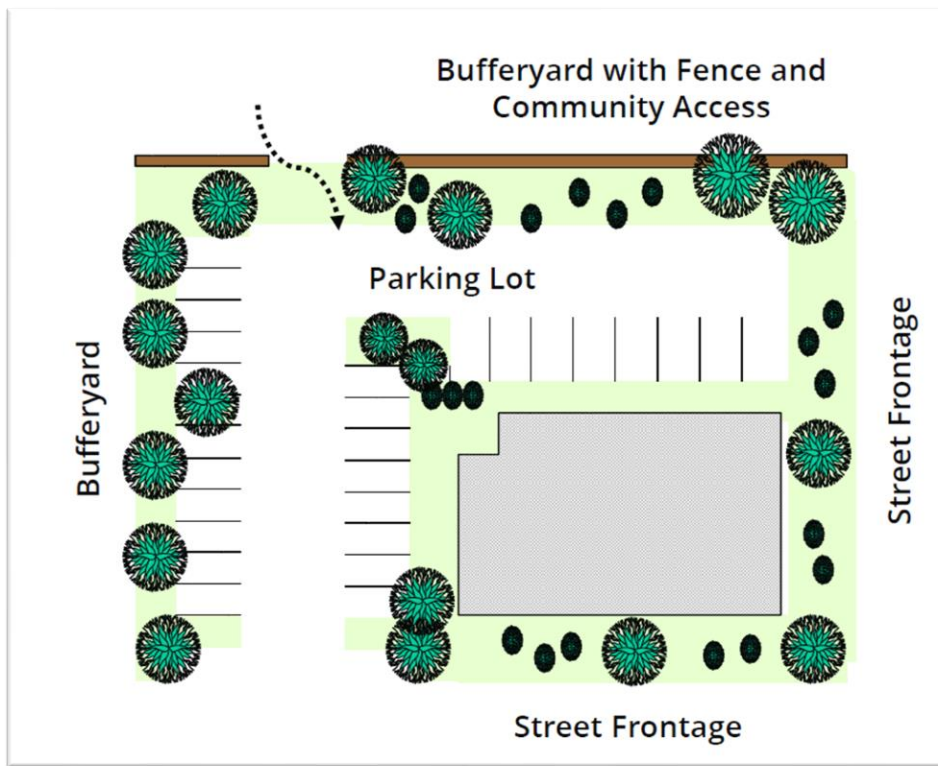
If the renovation of the shape or style of more than 50 percent of the roof occurs, the applicable roof pitch regulations shall be met. Renovations that do not extend or change the roof of an existing structure do not trigger the application of the zone district's roof regulations.

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**Article 27-1200, Landscaping, Buffering, and Screening**

**SECTION 27-1202 APPLICABILITY**

| <b>Table 27-1200.1: Landscaping Applicability</b>   |         |   |  |            |         |            |        |                       |
|---|---------|---|--|------------|---------|------------|--------|-----------------------|
| Landscape Type  | Section | Res (N1-3, NX1-3 and RMH)                             | NO, NMU                                  | CMU1, CMU2 | DX, CBD | CX, I1, I2 | P2, P3 | EBURD                 |
| <b>Key: ✓-A = Applicable, L/A = Limited Applicability N/A = Not Applicable</b>  |         |   |  |            |         |            |        |                       |
| Street Frontage/ Trees  | 27-1203 | ✓-A All districts and uses located on a public street |  |            |         |            |        | Located in Sec.27-900 |
| Bufferyards   | 27-1204 | L/A [1]   | ✓-A                                      | ✓-A        | ✓-A     | ✓-A        | ✓-A    |                       |
| Parking Lot Landscaping   | 27-1205 | L/A [2]   | ✓ Any parking lot with 10 or more spaces |            |         |            |        |                       |
| Tree Preservation Options   | 27-1206 | N/A   | ✓-A                                      | ✓-A        | ✓-A     | ✓-A        | ✓-A    |                       |
| <p>Notes: [1] May be applicable to new master site plans or new subdivisions adjacent to existing non-residential development or non-residential zone districts.</p> <p>[2] May be applicable to multifamily parking lots depending on total number of spaces-.</p> |         |   |  |            |         |            |        |                       |



*Fig. 27-1200.A: Illustrated location of different required landscape types*

**A. PROPORTIONATE COMPLIANCE**

Article 27-1100, Proportionate Compliance, may be applicable to adjust landscape standards for redevelopment projects.

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### Article 27-1400, Sign Code

#### SECTION 27-1405 GENERAL REGULATIONS FOR PERMANENT, ON-PREMISES SIGNS

##### 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:

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- (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~~three 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.

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### Article 27-1500, Nonconformities

#### 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 shall be established by the ordinance enacting the same. This Zoning Code applies to 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 the effective date of this Zoning Code 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.

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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 Article 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.
  - (a) Structural alterations may be permitted when necessary to adapt a nonconforming building to new technologies or equipment pertaining to uses housed in such building.
  - (b) 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 27-1627.
  - (c) All structural changes shall be made in compliance with Article 27-1100, Proportionate Compliance.
3. Enlargement or alteration of nonconforming residential structures is permitted as follows:
  - (a) A residential structure that is nonconforming to the applicable zone district façade regulations, as defined in Section 27-1802, may be enlarged or altered in any manner that does not increase the façade non-conformance.
  - (b) A residential structure that is nonconforming to applicable zone district build-to zones may be enlarged or altered in any manner that is compliant with zone district standards.
  - (c) All structural changes shall be made in compliance with Article 27-1100, Proportionate Compliance.

### 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.

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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]~~ the effective date of this Zoning Code, 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: (1) a structure specific to a use (such as a gas station), or (2) structure and land in combination specific to a use, (such as an automobile dealership), removal or destruction of the structure shall presumptively eliminate the nonconforming status of the land and reconstruction shall be done in compliance with this Zoning Code.

(1) 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.

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(2) The operation of a nonconforming 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.

(3) The operation of a nonconforming non-residential structure specific to a use or structure and land in combination specific to a use shall be terminated unless the property owner seeks Special Review approval (See Section 27-1623) to reestablish the destroyed structure or structure and land within six months of the date of the event(s) that caused the destruction. In addition to the decision criteria in Section 27-1623,D, the zoning commission and city council shall also consider:

a. Whether changes, over time, to the surrounding area or neighborhood make reestablishment of the structure and use or structure, land and use detrimental to nearby residents or property values;

b. Whether the use and specific structure or use, specific structure and land became nonconforming because of the actions of the property owner; or

a-c. Whether the use and structure or use, structure and land were subject to distance requirements (“separated use”) from other uses (“protected uses”) and became non-conforming only when a protected use in a structure specific to that use (such as a religious assembly in its own building) or structure and land specific to that use (such as a primary school) were established within the distance restricted area after the documented establishment of the separated use.

(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 defined in Section 27-1803:

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.

3. The existence of nonconforming site characteristics do not render an otherwise conforming structure or use on the site nonconforming. When changes are made to a conforming

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structure or use on a site with nonconforming site characteristics, the site characteristics may need to be brought into compliance as required in Article 27-1100.

### 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 Code 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 1614, Administrative Relief, or Section 27-1627, 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 Zoning Code, the land involved shall be ~~considered to be treated as~~ an undivided parcel for the purpose of zoning determinations, and no portion of the parcel shall be used or sold which does not meet lot applicable area requirements required by the zone district in which the parcels are located, nor shall any division of the parcel be made which leaves remaining any lot, with area below the applicable zone district 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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### Article 27-1800, Measurements and Definitions

#### SECTION 27-1802.F.6 ROOF MEASUREMENTS AND TERMS

- (a) 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.
- (b) Tower Width. Maximum width along all facades is one-third the width of the front facade or thirty feet, whichever is less.
- (c) 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).
- (d) Occupied Space. Towers may be occupied by the same uses allowed in upper stories of the Frontage Type to which it is applied.
- (e) Application. May be combined with all other Roof Types.
- (f) 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.

#### 2. 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.

#### G. 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.

#### H. USE AND PROPERTY SEPARATIONS MEASUREMENTS

##### 1. Generally Applicable Requirements

Unless otherwise specified in this Zoning Code, separation requirements shall not be applicable when a protected use (e.g., religious assembly, primary or secondary education

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facility) is located in a mixed-use structure where the protected use constitutes less than 50% of the total occupation of the structure.

### **2. Separation Measurements**

Unless otherwise specified in this Zoning Code, the following measurement standards will be applied:

#### (a) Separation Between Uses

- (1) 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.
- (2) 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