

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

### SEC. 27-601. PARKING AND STORAGE RESTRICTIONS.

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

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- (b) **Commercial and Industrial** The following standards for off-street parking and storage shall apply in all commercial and industrial zoning districts.
- (1) Open storage for more than five (5) consecutive days of junk, salvage and trash is prohibited.
  - (2) Open storage for more than five (5) consecutive days of material collected as salvage for recycling, re-use, dismantling to remove parts for re-use or for separation prior to recycling or destruction is a Special Review use of property only in Highway Commercial (SIC 5015), Controlled Industrial (SIC 5093) and Heavy Industrial (SIC 5093).
  - (3) Open storage and off-street parking of inoperable motor vehicles for more than five (5) consecutive days is a Special Review use of property only in Highway Commercial (SIC 5015), Controlled Industrial (SIC 5093) and Heavy Industrial (SIC 5093).
  - (4) Open storage and off-street parking of inoperable motor vehicles for more than five (5) consecutive days is an allowed accessory use of property for principal uses classified as Automotive Repair Shops (SIC 753). The open storage and off-street parking area shall be located in the rear or side yard, and inoperable motor vehicles or vehicle parts shall not be visible from any right of way or adjoining property. A sight obscuring fence of at least six (6) feet in height from grade shall be required to enclose the storage or off-street parking area for inoperable motor vehicles. Chain link fence may be allowed as a sight obscuring fence if opaque slat inserts are used.
  - (5) Outside display of merchandise is permitted in residential professional, neighborhood commercial, community commercial, highway commercial, and controlled industrial zoning districts only if the merchandise is related to the principal use of the property, and such merchandise is removed each night into an enclosed structure. The continuous outside display of merchandise is permitted when the principal use of property is for lumber and construction materials (SIC 503, 521 and 525), wholesale and retail nurseries, lawn and garden supply (SIC 078, 081, 5191, 5193, and 526) or for temporary uses and structures regulated by section 27-614.
  - (6) Bufferyards and required landscaping shall not be used for the displaying of merchandise in any commercial or industrial zoning district.
  - (7) Outside the city limits, the use of any recreational vehicle for living or sleeping purposes for more than five (5) consecutive days is prohibited when parked off-street or stored on property zoned for commercial or industrial uses or on property developed for commercial or industrial uses.
  - (8) Open storage of equipment and supplies is an allowed accessory use of property as limited in Section 27-306. Any property where open storage of equipment and supplies is an allowed accessory use, the open storage area shall be located in the rear or side yard. A sight obscuring fence of at least six (6) feet in height from finished grade shall be required to enclose the storage area. Chain link fence may be allowed as a sight obscuring fence if opaque slat inserts are used.
- (c) **Penalties.** A violation of this section is designated as a municipal infraction, and punishable by civil penalties as specified in Section 18-1304.

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### SEC. 27-602. ARTERIAL SETBACKS.

- (a) In any residential or public zoning district, no building or structure shall be erected within eighty (80) feet of the centerline of a principal arterial street, or within seventy (70) feet of the centerline of a minor arterial street. In addition, within any such residential or public zoning district, no required parking area or portion thereof, shall be constructed or located within seventy (70) feet of the centerline of a principal arterial street or within sixty (60) feet of the centerline of a minor arterial street.
- (b) In any commercial or industrial zoning district located within the Billings City Limits, no building or structure shall be erected or maintained within sixty (60) feet of the centerline of an arterial street. In addition, within any such commercial or industrial zoning district, no required parking area or portion thereof, including driving aisles, shall be constructed or located within fifty (50) feet of the centerline of a principal arterial street or within forty (40) feet of the centerline of a minor arterial street. The Central Business District (CBD) zoning district shall be exempt from this section.

In any commercial or industrial zoning district located outside the Billings City Limits, but within the County Zoning Jurisdiction, no building or structure shall be erected or maintained within eighty (80) feet of the centerline of a principal arterial street, or within seventy (70) feet of the centerline of a minor arterial street. In addition, within any such commercial or industrial zoning district, no required parking area or portion thereof, including driving aisles, shall be constructed or located within seventy (70) feet of the centerline of a principal arterial street or within sixty (60) feet of the centerline of a minor arterial street.
- (c) Any new construction that increases the number of required off-street parking spaces, must locate these additional required parking spaces in areas that comply with above subsections (A) and (B). The term "new construction" shall be defined as construction on a previously vacant lot or parcel, construction of new structures after existing structures are demolished or removed, or expansion of existing structures.
- (d) Approved advertising signs and public use controls and systems, trees trimmed up eight (8) feet and canopies with at least eight (8) feet clearance, shall be permitted in this setback area. For the purpose of this subsection, canopies shall be defined as covers that are solely attached to and supported by the structure on which it is attached to and which can be removed without destroying any part of that supporting structure. This shall only apply to canopies attached to the principal structure.
- (e) The designation of a street as an arterial shall be recommended by the City Engineer, County Public Works Director or in conformity with the most recent Urban Transportation Plan.
- (f) The centerline of such arterials shall be established by the City of Billings or Yellowstone County:
  - (1) By actual physical establishment by the City Engineer's or County Public Works Office, and approval thereof by the City Council or Board of County Commissioners; or

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- (2) If not possible to establish the centerline by physical establishment, then the centerline shall be established by resolution/ordinance.
- (g) Permitted Projections. The following projections shall be permitted within the setback areas on arterial streets in residential districts:
- (1) Fireplaces and bay windows not to exceed two (2) feet;
  - (2) Roof overhangs, eaves, gutters, cornices or other architectural features not to exceed two (2) feet;
  - (3) Open exterior stairways or decks not to exceed two (2) feet in side yards, four (4) feet in front yards, nor eight (8) feet in rear yards;
  - (4) Covered unenclosed porches over front steps or walkways not to exceed four (4) feet;
  - (5) Ramps that provide accessibility; and
  - (6) The above projections are not permitted if they protrude into or hang over the public right-of-way.

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**SEC. 27-603. BUILDING PERMITS ISSUED PRIOR TO ADOPTION.**

Where construction has started pursuant to a building permit validly issued by the City of Billings Building Division prior to the effective date of Ord. No. 97-5048, adopted 12/22/97, it may be completed (under the regulations in effect at the time of issuance) thereunder without regard to this resolution/ordinance.

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### SEC. 27-604. FENCES, WALLS AND HEDGES.

(a) Fences, walls and hedges may be erected or maintained in any zoning district provided the height, setback, and material provisions outlined below are followed and a permit is secured. "Fence" for the purposes of this section means any fence wall or hedge. No fence shall be erected or maintained in a public right-of-way.

(b) *Height.* Height for the purposes of this section shall be defined as the vertical distance from the top rail, board or wire to the ground directly below.

(c) Setbacks required. Fences, walls or hedges of up to four (4) feet may be erected or maintained in the required front yard setback as defined in sections 27-308 or 27-309. Fences, walls or hedges between a height of four (4) and six (6) feet may be erected or maintained anywhere outside of the front yard setback, except as described in subsection (d) below. (see figure 6, section 27-618). Any fence, wall or hedge in excess of six (6) feet shall meet all of the yard setback requirements for structures as defined in sections 27-308 or 27-309. None of the above setback requirements shall apply to lands located in the agricultural-open space (A-1), central business district (CBD), controlled industrial (CI), or heavy industrial (HI) zones.

(d) Setbacks for clear vision zones. No fence, wall or hedge greater than thirty (30) inches in height may be erected or maintained in any zoning district within a clear vision zone pursuant to Section 27-615 and as illustrated in figures 1, 2, and 3 of section 27-618.

(e) Material permitted--residential and commercial zones. All fences in residential, agricultural and commercial zoning districts shall be constructed from materials which are commonly used for fencing and shall not be constructed from railroad ties, wood pallets, tires, rubble or salvaged material. Commonly used fence materials include wood, brick, stone, split railing, chain-link, wire, vinyl, ornamental iron work. Materials not listed are subject to special review.

(f) Material permitted--Industrial zones. All fences in industrial zoning districts shall be constructed from materials commonly used for fencing and shall not be constructed from railroad ties, wood pallets, rubble, or salvaged material. Commonly used fence materials include wood, brick, stone, split railing, chain-link, wire, vinyl, ornamental iron work, finished or coated steel or aluminum building panels. Materials not listed are subject to special review.

(g) Material exception--Barbed wire or electric fence. In the Billings City Limits, no barbed wire or electrical fencing shall be permitted in any residential zoning district. Barbed wire and electrically charged fencing is allowed in the A-1 and A-S districts within Yellowstone County. When electrically charged fences are used in an A-1 or A-S district, such fences shall be posted with warning signs or fluorescent markings at intervals not to exceed one hundred fifty (150) feet, where such fences are adjacent to public rights-of-way.

In the Billings City Limits, no electrical fencing shall be permitted in any commercial or industrial zoning district. Electrically charged fencing is allowed in commercial or industrial districts within Yellowstone County provided that such fences shall be posted with warning signs or fluorescent markings at intervals not to exceed one hundred and fifty (150) feet, where such fences are adjacent to public rights-of-way. Barbed wire fencing is allowed in commercial or industrial zoning districts both within the city limits and Yellowstone County when such material is located not less than eight (8) feet above grade.

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(h) Permit required. Any fence between a height of four (4) feet and six (6) feet shall require a permit from the planning department. Any retaining wall exceeding a height of four (4) feet or any fence exceeding a height of six (6) feet shall require a permit from the building department.

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

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### SEC. 27-605. HAZARDOUS WASTE FACILITIES.

- (a) Intent. The purpose and intent of this section is to establish review criteria for the citing of any new hazardous waste facility as defined herein, in order to prevent any significant threat to human health or the environment. When used in citing new hazardous waste facilities, the criteria shall:
  - (1) Protect the residents of the City of Billings and Yellowstone County;
  - (2) Ensure the structural stability of the new hazardous waste facility;
  - (3) Protect surface water;
  - (4) Protect groundwater;
  - (5) Provide for the safe transportation of hazardous waste to new hazardous waste facilities;
  - (6) Protect environmentally sensitive areas; and
  - (7) Protect air quality.
- (b) Definitions. For the purposes of this Section, the following definitions shall apply:
  - (1) **HAZARDOUS WASTE:** Means a waste or combination of wastes that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:
    - (a) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness;
    - (b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed; or
    - (c) A material which is classified by the Environmental Protection Agency (EPA) as being Hazardous or Extremely Hazardous.
  - (2) **FACILITY (HAZARDOUS WASTE MANAGEMENT FACILITY):** Means all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous wastes. A facility may consist of several treatment, storage or disposal operational units.
  - (3) **TRANSFER FACILITY:** Means any transporter-owned or operated land, structure, or improvement, including loading docks, parking areas, holding sites, and other similar areas used for the transfer and temporary storage of hazardous wastes and where shipments of hazardous waste are held temporarily for a period of ten (10) days or less during the normal course of transportation, up to but not including the point of ultimate treatment, storage, or disposal.
  - (4) **LONG-TERM STORAGE FACILITY:** This facility is the same as a "transfer facility", except that it is designed to store hazardous wastes for a period longer than ten (10) days.

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- (c) Use Allowed. Any hazardous waste facility shall only be allowed in the Heavy Industrial (HI) zoning district and must be approved through the Special Review procedure as outlined in BMCC Section 27-1501, et seq.
- (d) Supplemental Requirements. Any hazardous waste facility shall, in addition to meeting all other requirements of this resolution/ordinance, comply with the following supplemental requirements:
  - (8) Submit with the required Special Review application, twenty (20) copies of a community and environmental impact statement which shall include the following elements:
    - a. Description of impact of proposal upon existing environmental conditions:
      - 1. Population and Land Use
      - 2. Soils
      - 3. Drainage
      - 4. Vegetation
      - 5. Topography
      - 6. Wildlife
      - 7. Air Quality
      - 8. Surface Water Quality
      - 9. Ground Water Quality
      - 10. Floodplain Data
      - 11. Scenic Vistas
      - 12. Historic and Cultural Sites
    - b. Description of Impact of Proposal Upon Existing and Required Services:
      - 1. Public Utilities
        - i. Water
        - ii. Sewer
        - iii. Drainage
        - iv. Electric
        - v. Gas
        - vi. Telephone
      - 2. Schools
    - c. The applicant(s) shall document the adequacy and availability of fire, police, medical and other emergency management facilities and services in the area, as well as, their familiarity with the substance(s) being treated, disposed or stored. Documentation shall also be required as to the adequacy and availability of transportation means and routes for the purposes of evacuation of the population at risk in the event of an accident. Evacuation methods and routes shall be indicated. In addition, information shall be provided on spill mitigation measures and pollution risk analysis.

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

Statements in writing which grant preliminary, tentative or conditional approvals as required by any local, county, state, federal, or public authority shall be submitted to the Planning Department along with all other materials as required by this resolution/ordinance. These documents shall be submitted along with the information required through the Special Review process.

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

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

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**SEC. 27-606. HOME OCCUPATIONS.**

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

The Planning Department recognizes that the restrictions set forth in this section do not anticipate all possible types of Home Occupations. Therefore, to guide the Planning Department in the enforcement of this section, the department has adopted the following policies:

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

The Home Occupation shall comply with all of the following restrictions:

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

<u>S.I.C. Number</u>	<u>Description</u>
7231	Beauty Shops
7241	Barber Shops
7251	Shoe Repair Shops
7291	Tax Return Preparation Services
7631	Watch, Clock and Jewelry Repair
76--	Office Only for Miscellaneous Repair Services
7911	Dance Studios, Schools and Halls

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

- (b) No person shall be employed other than the residents of the dwelling.
- (c) The occupation shall be conducted entirely within the dwelling or an accessory building.
- (d) The floor area devoted to the occupation shall not exceed five hundred (500) square feet or twenty-five (25) percent of the total ground area occupied by the buildings, whichever is less.
- (e) The occupation shall not produce light, noise, vibration, glare, fumes, odors, electrical interference, etc., which is inconsistent with the character of the residential area.

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- (f) There shall be no sign advertising or calling attention to the home occupation on the premises.
- (g) There shall be no display, evidence or activity apparent from the exterior of the lot which would indicate that the premises are being used for any purpose other than that of a dwelling.
- (h) There shall be no group instruction, assembly or activity for greater than five (5) persons.
- (i) One (1) business vehicle that is associated with the Home Occupation and which does not exceed eight thousand (8,000) pounds Gross Vehicle Weight (G.V.W.), may be parked or stored on the premises. In addition, there shall be no outside storage of materials or equipment related to the Home Occupation, except the one (1) allowed business vehicle.

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### SEC. 27-607. LIVESTOCK AND FOWL.

Livestock, as defined in BMCC Section 27-201, shall not be maintained in any zoning district located within the limits of the City of Billings (see also BMCC Sections 4-501 through 4-505). However, horses may be permitted in the City when located within a Planned Development, as described in Section 27-1303, that is specifically designed to accommodate horses and/or equestrian centers

Areas located outside the limits of the City of Billings, but within certain Agricultural or Residential zoning districts, as shown in the Residential District Regulations (see BMCC Section 27-305), shall be permitted to have livestock and/or fowl. In addition, livestock and/or fowl may be permitted as part of a Planned Development, as described in Section 27-1303, and are also exempt from the following animal unit standards, unless specifically referenced within the Planned Development Agreement. However, the standards outlined below must be satisfied, depending upon the size of the property.

The allowance of livestock and/or fowl in commercial or industrial zoning districts, situated outside the limits of the City of Billings, may be permitted when the regulations established in below subsection (b) are met, regardless of the lot size. However, if the number of animals requested exceeds the allowed limit in below subsection (b), then the property must conform to the uses allowed by right or through Special Review, as shown in the Commercial/Industrial District Regulations matrix in BMCC Section 27-306.

- (a) Lots which are 2.5 net acres or less in size are allowed to have livestock and/or fowl provided that all of the following regulations are satisfied.
  - (1) One (1) livestock and/or fowl unit is allowed per twenty thousand (20,000) square feet of land devoted exclusively to the raising of the animal(s). Livestock or fowl that are listed in the livestock and/or fowl unit table(s) below are allowed types of animals under this subsection, with the exception of bison.
  - (2) Supplemental feeding of the animal(s) is required.
  - (3) Any keeping of animal(s) in this section shall be secondary and accessory to the primary residential use of the property. Commercial breeding and/or commercial raising of any type of animal or fowl shall be prohibited, except as allowed by right or through Special Review in the Residential District Regulations matrix located in BMCC Section 27-305.
  - (4) In addition to the above regulations, project animal(s), as defined in BMCC Sections 27-201, are allowed, but shall be limited to one (1) livestock or fowl unit (as defined below) per youth actively enrolled in F.F.A., 4-H or other similar types of programs. In addition, project animals are required to be supplementally fed and shall only be allowed to remain on the property for no more than six (6) months during any twelve (12) month period. Breeding projects shall be exempt from the above time limit.

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- (5) All accessory structures used for the purpose of housing, keeping or sheltering livestock or fowl shall be setback a distance of fifty (50) feet from any property line and fifty (50) feet from any dwelling.
  - (6) No accessory building or structure used for the housing of livestock or fowl shall occupy any portion of a required front yard in any district, except in the Agricultural-Open Space (A-1) zoning district. See BMCC Section 27-310, for the allowed maximum size of detached accessory structures.
- (b) Lots which are 2.51 to 9.99 net acres in size are allowed to have livestock and/or fowl provided that all of the following regulations are met.
- (1) One (1) livestock and/or fowl unit per one (1) acre of land devoted exclusively to the raising of the animal(s), in which the animal(s) is supplementally fed and/or is on irrigated pasture land.
  - (2) One (1) livestock and/or fowl unit per four (4) acres of land devoted exclusively to the raising of the animal(s), in which there is no supplemental feeding and/or the animal is on unirrigated pasture land.
  - (3) In addition to the above regulations, project animal(s), as defined in BMCC Section 27-201, are allowed, but shall be limited to one (1) livestock or fowl unit (as defined below) per youth actively enrolled in F.F.A., 4-H or other similar types of programs. In addition, project animals are required to be supplementally fed and shall only be allowed to remain on the property for no more than six (6) months during any twelve (12) month period. Breeding projects shall be exempt from the above time limit.
  - (4) All accessory structures used for the purpose of housing, keeping or sheltering livestock or fowl shall be setback a distance of one-hundred (100) feet from any property line and fifty (50) feet from any dwelling.
  - (5) No accessory building or structure used for the housing of livestock or fowl shall occupy any portion of a required front yard in any district, except in the Agricultural-Open Space (A-1) zoning district. See BMCC Section 27-310, for the allowed maximum size of detached accessory structures.
- (c) Lots which are greater than 9.99 net acres shall be exempt from this section.
- (d) Livestock and fowl units, for the purpose of this section, shall be defined as follows:

<u>Livestock Class</u>	<u>Livestock Units</u>
Cow – mature	1.00
Cow with calf	1.00
Bull – mature	1.00
Bull – yearling	0.50
Calf – weaned or under 6 months	0.50
Steer – one year or older	1.00
Heifer – one year or older	1.00
Horse – mature	1.50
Horse with colt	1.50

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Colt – weaned	1.00
Ewe – mature	0.25
Ewe with lamb	0.25
Lamb – weaned or under 6 months	0.25
Ram – mature	0.25
Goat – mature	0.25
Goat with kid	0.25
Kid – weaned or under 6 months	0.25
Bison – mature	2.00
Bison with calf	2.00
Bison calf – weaned or under 6 months	1.50
Hog – mature	0.25
Hog – weaned	0.10
Llama	1.00

Fowl Class

Hens, roosters or ducks	.25 each
Turkeys or geese.	.50 each

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

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

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### SEC. 27-608. MANUFACTURED HOME PARKS AND INDIVIDUAL MANUFACTURED HOMES

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

- (1) **MANUFACTURED HOME:** A dwelling unit that: (a) is constructed in accordance with the standards set forth by the U.S. Department of Housing and Urban Development, (b) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (c) exceeds forty (40) feet in length and eight (8) feet in width.
- (2) **MANUFACTURED HOME, CLASS A:** A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:
  - (a) The home has a length not exceeding four (4) times its width;
  - (b) The pitch of the home's roof has a minimum vertical rise of three (3) inches for each twelve (12) inches of horizontal run (3:12), and the roof is finished with a type of shingle that is commonly used in standard residential construction;
  - (c) The exterior siding consists of wood, hardboard, aluminum or vinyl siding comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
  - (d) A continuous, permanent perimeter foundation, which complies with the Uniform Building Code, is installed under the home; and
  - (e) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.
- (3) **MANUFACTURED HOME, CLASS B:** A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a Class A manufactured home.
- (4) **MANUFACTURED HOME CLASS C:** Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home.
- (5) **MANUFACTURED HOME PARK:** A residential use in which more than one manufactured home is located on a single lot. Manufactured home parks must also comply with the subdivision regulations for the jurisdiction in which it is located and when located within the limits of the City of Billings, Article 15-500 of the Billings, Montana City Code.

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- (6) **MODULAR HOME:** A dwelling unit constructed in accordance with the standards set forth in the Uniform Building Code and bearing the insignia of the State of Montana, applicable to site-built homes, and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the Uniform Building Code Standards applicable to site-built homes), or a series of panels or room sections transported on a truck and erected or joined together on the site.
- (7) **COMMERCIAL USE:** Trailers or manufactured homes shall not be used for any commercial use other than an on-premise office in connection with a trailer or manufactured home sales area.

## **ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS**

### **SEC. 27-609. PLATS RECORDED AFTER EFFECTIVE DATE.**

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

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

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

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

### SEC. 27-610. SATELLITE ANTENNAS AND DISHES.

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

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- (3) A satellite dish antenna may be permanently mounted or may be installed on a portable or movable device.
  - (4) No satellite dish antenna (whether permanent or portable) shall be installed in a required parking space.
  - (5) No satellite dish antenna shall exceed the maximum height of the zoning district.
- (d) Permit Required. Before any satellite antenna is erected in any zoning district, the property owner(s) shall first obtain the applicable permits from the Building Official.
- (1) A building permit is not required for installation of satellite dish antennas which are four (4) feet or less in diameter.
  - (2) All satellite dish antennas and the construction and installation thereof shall conform to the building and electrical codes adopted by the Building Division.
  - (3) Satellite dish antennas shall meet all manufacturer's specifications, be of noncombustible and corrosive-resistant material, and be erected in a secure, wind-resistant manner.

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

### SEC. 27-611. SEXUALLY ORIENTED BUSINESSES. (CITY ONLY)

(a) Purpose and Intent. 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 of Billings, 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

(b) Findings and Determinations. The Billings City Council hereby finds and determines that:

The establishment of adult uses in business districts which are immediately adjacent to and which serve residential neighborhoods has a deleterious effect on both the business and residential segments of the neighborhood, causing or contributing to blight and a downgrading of property values.

The establishment of more than two (2) adult uses within six hundred (600) feet of each other has a deleterious effect on surrounding residential and business areas and the fostering of such businesses within a close proximity tends to create a "skid row" atmosphere.

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.

Concern for, and pride in, the orderly planning and development of a neighborhood should be encouraged and fostered in those persons comprising residential and business segments of that neighborhood.

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

(1) Adult Arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."

(2) Adult Book Store or Adult Video Store means a commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:

a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, video reproductions, slides, or other visual representations which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

- b. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."
- (3) Adult Cabaret means a commercial establishment which regularly features:
- a. Persons who appear nude or in a state of nudity or semi-nudity; or
  - b. Live performances which are characterized by the exposure of specified anatomical areas or by the exhibition of specified sexual activities;
- (4) Adult Motel means a hotel, motel, or similar commercial establishment which:
- a. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by an emphasis on the depiction or description or "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
  - b. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
  - c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- (5) Adult Motion Picture Theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (6) Church or Other Place of Worship means a building which is used primarily for religious worship and related religious activities, including but not limited to churches, convents, monasteries, shrines, and temples.
- (7) City means the City of Billings, Montana.
- (8) Establishment means and includes any of the following:
- a. The opening or commencement of any sexually oriented business as a new business;
  - b. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
  - c. The additions of any sexually oriented business to any other existing sexually oriented business; or
  - d. The relocation of any sexually oriented business.
- (9) Nudity or a state of nudity means (a) the appearance of a human bare buttock, anus, male genitals, female genitals, or areola or nipple of the female breast, or (b) a state of dress which fails to opaquely and fully cover human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.
- (10) Sexually Oriented Business means an adult arcade, adult book store, adult cabaret, adult video store, adult motel, or adult motion picture theater.

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- (11) Specified Anatomical Area means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.
- (12) Specified Sexual Activities means and includes any of the following:
- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
  - b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
  - c. Masturbation, actual or simulated; or
  - d. Excretory functions as part of or in connection with any of the activities set forth in above (a) through (c).
- (13) Transfer of Ownership or Control of sexually oriented business means and includes any of the following:
- a. The sale, lease, or sublease of the business;
  - b. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or
  - c. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.
- (d) Classification. Sexually oriented businesses are classified as follows:
- (1) Adult Arcades;
  - (2) Adult Book Stores or Adult Video Stores;
  - (3) Adult Cabarets;
  - (4) Adult Motels; and
  - (5) Adult Motion Picture Theaters.
- (e) Location of Sexually Oriented Business.
- (1) No person, whether as a principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any sexually oriented business within one thousand (1,000) feet of the following residential zones:
- a. Agricultural Suburban (A-S) Zone;
  - b. Agriculture Open-Space (A-1) Zone;
  - c. Residential 15,000 (R-150) Zone;
  - d. Residential 9,600 (R-96) Zone;
  - e. Residential 8,000 (R-80) Zone;
  - f. Residential 7,000 Restricted (R-70R) Zone;
  - g. Residential 7,000 (R-70) Zone;
  - h. Residential 6,000 Restricted (R-60R) Zone;

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- i. Residential 6,000 (R-60) Zone;
  - j. Residential 5,000 (R-50) Zone;
  - k. Residential Multi-Family (RMF) Zone;
  - l. Residential Multi-Family - Restricted (RMF-R) Zone;
  - m. Residential Manufactured Home (RMH) Zone;
  - n. Entryway Mixed Use (EMU) Zone; or
  - o. Any Planned Development Zone that allows residential uses unless such zone is separated from the location of a sexually oriented business by an Interstate Highway.
- (2) No person, whether as a principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any sexually oriented business within one thousand (1,000) feet of the following land uses:
- a. Public library;
  - b. Public playground or park(for purposes of this section, publicly owned multiuse trails shall be deemed to be a park);
  - c. Public or private school and its grounds, from Pre-school through twelfth grade;
  - d. A state licensed Community Residential Facility, family day care home, group day care home, or day care center;
  - e. Church or other place of worship; or
  - f. A cemetery.
- (3) No person, whether as a principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own or operate any sexually oriented business within six hundred (600) feet of another sexually oriented business.
- (4) For purposes of this section, specified distances will be measured in a straight line, without regard to intervening structures, from the property line of the sexually oriented business to the property line of the preceding land uses or zoning districts.
- (5) In addition to the preceding requirements, sexually oriented businesses are permitted in the following zones only:
- a. Central Business District (CBD) Zone;
  - b. Highway Commercial (HC) Zone;
  - c. Controlled Industrial (CI) Zone; or
  - d. Heavy Industrial (HI) Zone.
- (f) Nonconforming Use - Amortization period established. (Refer to BMCC Section 27-405(G))

**ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS**

**SEC. 27-612. SUPPLEMENTAL COMMERCIAL DEVELOPMENT STANDARDS.**

Certain commercial uses shall be specifically restricted as follows:

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

- (1) A distance of six hundred (600) feet between property lines, measured in a straight line, is maintained from any building that is predominantly used as a church or school or from a public park that contains a children's playground or playfield.
  - a. Properties or establishments which are located in the Central Business District zoning district are exempt from subsection 1.
  - b. Properties may be granted a waiver from the 600 foot separation required in subsection 1. if the governing body finds that a physical barrier exists between the proposed use and the use requiring the 600 foot separation. These barriers include, but are not limited to, the following:
    1. An arterial street with no existing or proposed signalized pedestrian crossing;
    2. A building or buildings that entirely obstruct the view between the separated uses; and/or
    3. No direct physical access exists between the separated uses. The person applying for the Special Review must provide the governing body with proof that the proposed property or establishment meets one of the above described physical barriers or that other types of physical barriers exist that warrant the waiving of the 600-foot separation.

Exemptions to above subsection A. for establishments previously granted a Special Review are located in BMCC Section 27-613.

(b) **Drive-in Service.** Any persons desiring to use any premises or to erect, construct or alter any new or existing building or structure for a drive-in service as defined in BMCC Section 27-201 shall satisfy the following criteria, based upon the adjoining zoning district(s).

- (1) When a drive-in establishment adjoins (including any location across an alley) residentially zoned property, the use shall obtain approval of a Special Review as outlined in BMCC Sections 27-1503 and 27-1509. The application will conform to all the standards within subsection 27-612(e).
- (2) All other drive-in establishments, including those which are located across a public street from residentially-zoned property, shall meet the following criteria:

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- a. A traffic accessibility study shall be completed and approved by the City Engineer or County Public Works Director; and
- b. The use shall comply with all other sections of this code.

(c) **Gambling Operation.** Any gambling operation as defined in Article 7-1100 of the Billings, Montana City Code, other than for nonprofit organizations, shall be allowed only in those zones specified in BMCC Section 27-306, and shall meet all of the rules, regulations and requirements of this resolution/ordinance pertaining to bars, taverns and lounges, except that this provision shall not apply to bingo.

(d) **Neighborhood Convenience Store (County Only).** Any person desiring to construct or remodel an existing structure for use as a Neighborhood Convenience Store in a residential zoning district shall apply for special review approval as shown in Section 27-305 of this chapter. In RMF-R and RMF districts a special review approval is not required to establish a Neighborhood Convenience Store. In addition to conditions that maybe imposed as part of a special review approval the following standards shall apply to every Neighborhood Convenience Store in a residential zoning district:

- (1) Limited to 3,000 square feet or less of gross floor area not including any outdoor seating area.
- (2) Located no closer than 1,500 feet from another Neighborhood Convenience Store.
- (3) Comply with the underlying zoning district setbacks, building height and lot area per dwelling unit if dwelling units are included as part of the store development.
- (4) Lot coverage may be up to 55% regardless of the underlying zoning district.
- (5) Shall include one off-street parking space per 500 square feet of gross floor area of retail space, one of which will be a handicapped accessible space.
- (6) If a dwelling unit is included in a store development, one additional off-street parking space shall be provided per dwelling unit.
- (7) The off-street parking requirements in subsections d(5) and d(6) supersedes and replace the off-street parking standards in Section 6-1203 and Sections 27-1202 through 27-1211 of the BMCC. Design and construction standards for curb cuts, driveways, size of off-street parking spaces, storm water control and paving standards shall otherwise apply.
- (8) No such store shall take delivery of goods before 8:00 am or after 8:00 pm.
- (9) At least two trash receptacles shall be provided per store that are accessible to the public on the store property. These trash receptacles will be emptied daily near the time of close of business.
- (10) Lighting on the building, in the parking lot or other yard area shall have full cut-off shields.

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- (11) No light fixture shall exceed 15 feet in height from grade to the top of the fixture.
  - (12) Signage shall be limited to one non-illuminated wall sign of 24 square feet or less per retail business.
  - (13) No store shall have an outdoor announcement or music system.
- (e) Commercial and Industrial Uses within the City of Billings. All Commercial and Industrial Uses, as listed within Section 27-306, within 50 feet of any Residential zoning district, including a Planned Development that allows residential use, shall comply with these site development standards:
- (1) All buildings in excess of 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 20 feet in height or less.
  - (3) Mechanical equipment, including but not limited to air conditioning units, air handling units, back-up power generators, installed at ground level or on a roof must be fully screened from view. The screening shall be at least the height of the mechanical equipment. Mechanical equipment that generates or is expected to generate noise in excess of 55 decibels (DbA) within three (3) feet of the equipment location must provide sound abatement or suppression which may require the equipment to be enclosed in a structure.
  - (4) Loading docks, if necessary or required by the operation, must be located the farthest distance practicable from the residential zone. However, if the property adjoins an arterial street, the loading dock must be set back far enough such that no trucks will be loading, unloading, or backing within the street. Loading shall be done from alleys when possible.
  - (5) Outdoor storage of merchandise or equipment must be within an area enclosed with a sight obscuring fence at least six (6) feet in height that is architecturally coordinated in color and design with the building. Vehicle sales lots and plant materials may be displayed outside of an approved building or enclosed area so long as they are on the same site wherein the business displays the bulk of its goods for sale. Outside promotional displays are allowed during business hours only.
  - (6) No fascia of a building or canopy may be internally illuminated.
  - (7) No signs may be placed on a building wall that parallels a residential zone. No freestanding advertising signs may be placed within 30 feet of a property line that adjoins a residential zone or within 10 feet of a property line that parallels a residential zone.

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- (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, may continue unless the site is re-developed for a new use, a new building is added to the existing development, or the floor area of the existing structures is increased by more than 10% of the gross floor area. At the time of re-development, change in use or expansion, the property will conform to these standards.

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### SEC. 27-613. SUPPLEMENTAL SPECIAL REVIEW STANDARDS.

(a) Eating and Drinking Places. The following exemptions from the Special Review requirements, as regulated by Section 27-306, shall apply to those establishments where alcoholic beverages are served for on-premise consumption, which have previously been approved pursuant to a Special Review by the City Council or Board of County Commissioners:

1. Such an establishment shall be allowed to remodel, expand or relocate within the same structure without an additional Special Review, as regulated by Section 27-306 provided that:
  - a. The gross floor area of the remodeled, expanded or relocated establishment is not over ten (10) percent greater than the gross floor area originally occupied by the establishment;
  - b. The number of potential occupants is not increased by more than ten (10) percent, than the number that is currently allowed;
  - c. The number of new parking stalls is not more than ten (10) percent greater than the original number of spaces; and
  - d. All other requirements of this resolution/ordinance and/or the Billings, Montana City Code are met.
2. Such an establishment in which additions and/or remodels include an outdoor patio lounge shall be required to obtain Special Review approval, as regulated by Section 27-306 and as outlined in BMCC Sections 27-1503 and 27-1509.

(b) Churches. Churches and other places of worship shall be reviewed as a Special Review use in all residential zones pursuant to BMCC Section 27-305. The following exemptions from the Special Review requirements shall only apply to those churches and other places of worship which have previously been approved pursuant to a Special Review by the City Council or Board of County Commissioners or which are legal nonconforming uses:

1. Such a church or place of worship shall be allowed to remodel or expand without an additional Special Review provided that:
  - a. The number of potential occupants is not increased by more than ten (10) percent, than the number that is currently allowed;
  - b. The gross floor area of the facility after such remodeling or expansion is not over ten (10) percent greater than the gross floor area originally occupied by the facility;
  - c. The number of new parking stalls is not more than ten (10) percent greater than the original number of spaces; and
  - d. All other requirements of this resolution/ordinance and/or the Billings, Montana City Code are met.
2. If, at the time the original or subsequent Special Review was conducted and approved, the applicant submitted a master plan showing: (a) future additions to

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the structure(s); (b) future structure(s); and/or (c) future parking area(s), those future improvements may be constructed without additional Special Review provided that these future improvements were considered in the Special Review approval and all other requirements of this resolution/ordinance and/or the Billings, Montana City Code are met. Minor modifications and expansions to the future improvements identified on the master plan may also be constructed without additional Special Review provided that such modifications and/or expansions to the master plan meet the provisions of above subsection (1).

(c) Other Special Review Uses. Uses not listed in above subsections (a) or (b), which have been approved pursuant to a Special Review by the City Council or Board of County Commissioners, may be allowed to expand or remodel without an additional Special Review, provided that the expansion or remodeling meets all of the following criteria:

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

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### SEC. 27-614. TEMPORARY USES AND STRUCTURES.

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

This section shall not apply to sidewalk vendors governed by Article 7-1200 of the Billings, Montana City Code.

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

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

- a. Such use shall be an allowed use in the underlying zoning district;
- b. Any temporary structure must be setback five (5) feet behind all property lines;
- c. No part of the temporary use or temporary structure shall block any defined clear vision area (BMCC27-615) for driving aisles, drive approaches from streets, or at the intersection of streets or alleys;
- d. Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed one-hundred (100) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of any freestanding sign is eight (8) feet from finished grade. Paper or cardboard signs are prohibited. Banner signs are exempt from the limitations found in the City Sign Code {Section 27-700(b)(1)(b)}.
- e. All signage and temporary structures must be removed at the time the temporary use has ceased on the property.

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

- a. The following temporary uses may be allowed in this temporary use group:
  1. Carnival, circus, seasonal sales or other uses as allowed in the district regulations in BMCC section 27-306.
- b. Supplemental standards.

Uses in this group shall comply with the following:

1. Such use shall be an allowed use in the underlying zoning district;

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2. Any temporary structure must be setback five (5) feet behind all property lines;
  3. No part of the temporary use or temporary structure shall block any defined clear vision area (BMCC27-615) for driving aisles, drive approaches from streets, or at the intersection of streets or alleys;
  4. Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed one hundred (100) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of any freestanding sign is eight (8) feet from finished grade. Paper or cardboard signs are prohibited. . Banner signs are exempt from the limitations found in the City Sign Code {Section 27-700(b)(1)(b)}.
  5. All signage and temporary structures must be removed at the time the temporary use has ceased on the property.
  6. New access drives to public right-of-ways must be approved by the City of Billings Engineering Division or County Public Works Department as required.
  7. A business license for temporary uses located within the city limits must be obtained if required by Billings Municipal City Code (BMCC) Chapter 13-400 (Finance and Revenue).
- (3) *Group 3 temporary uses.* This group shall be defined as temporary uses of property continuing for longer than sixty-one (61) days but less than one (1) year and are required to obtain a temporary use permit from the Planning & Community Services Department.
- a. The following temporary uses may be allowed in this temporary use group, but must be located in a district that allows the use, as specified in the district regulations in BMCC sections 27-305 and 27-306:
    1. Greenhouses or other similar seasonal-oriented uses, as determined by the zoning coordinator;
    2. Portable classrooms;
    3. Portable offices; or
    4. Other uses, such as carry-out food and/or beverage service.
  - b. Location restrictions.
    1. Any Group 3 temporary use/structure existing upon adoption of this chapter, which does not comply, depending upon its location, with the applicable city or county site development regulations, shall comply with such standards within one (1) year from the date of the enactment of this section or any amendment thereto;
    2. Any new or relocated temporary use must be located on a site which complies, depending upon its location, with the applicable city or county

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- site development regulations, including landscaping, surfacing and number of required off-street parking spaces;
3. The structure shall be a factory-built structure and shall not have an axle(s). Temporary structures which do not comply with one or both of these requirement(s) and which exist on the date of adoption of these regulations, shall be deemed legal nonconforming structures and may continue to be used as a temporary structure, provided the temporary use and structure complies with all other requirements of this section; and
  4. Temporary uses as listed in above subsection (3)a.4. shall also comply with the following criteria:
    - a. Maximum size of the structure shall be ten (10) feet by twelve (12) feet or one hundred twenty (120) square feet;
    - b. Site circulation shall be approved by the city traffic engineer or county public works director, along with the location of any drive-in window. This group of temporary uses shall be exempt from any special review requirements for drive-in service;
    - c. The temporary use must provide the required number of paved off-street parking spaces. In addition, the temporary use shall not utilize any parking spaces that would make the principal use deficient in the required number of off-street parking spaces;
    - d. Utilities to serve the temporary use shall be located underground or suspended overhead, in compliance with all applicable codes; and
    - e. All structures are subject to local, county and state requirements and must obtain all relevant licenses before a temporary use/structure permit is issued.
- c. Supplemental Standards.
1. When submitting for a temporary use/structure permit, a Group 3 use shall provide the following:
    - a. Existing site plan, including parking stalls and buildings;
    - b. Proposed site plan, including location of temporary use and its relationship to existing site circulation and off-street parking spaces and driving aisles, including existing and proposed surfacing;
    - c. Location of drive-in service, if applicable;
    - d. Setbacks from property lines and arterial streets;
    - e. Size of temporary structure; and
    - f. Proposed use of the temporary structure.
  2. Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed one-hundred (100) square feet in area and may be displayed while the temporary use

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of a freestanding sign is eight (8) feet from finished grade. Banner signs, paper or cardboard signs are prohibited.

3. The temporary use must provide sufficient space to accommodate the structure and paved off-street parking for customer and use-related vehicles;
4. Clear Vision Standards set forth in BMCC section 27-615 shall be followed;
5. Access to any public right-of-way must be approved by the City of Billings Engineering Division or County Public Works Department;
6. It shall be the responsibility of the owner of the temporary structure to ensure that the structure is secured to withstand an eighty (80) miles per hour (m.p.h.) wind load and to meet all applicable Americans with Disabilities Act (A.D.A.) and accessibility standards;
7. All Group 3 temporary structures, regardless of size, which contain electrical wiring, and are placed on property within the Billings city limits, shall have such electrical wiring permitted, inspected and approved by the City of Billings Building Division. All temporary structures that exceed 120 square feet, except greenhouses, shall have the structure permitted, inspected and approved by the City of Billings Building Division or labeled as a factory-built structure by the State of Montana Building Codes Bureau prior to issuance of a temporary use/structure permit; and. A temporary use/structure permit shall be obtained by the owner and a business license, if required, shall be obtained by the operator. Such temporary use/structure permit shall be valid for a period of not more than one (1) year. An annual renewal may be given by the Zoning Coordinator, provided that the use complies with the above requirements. However, permits for portable offices or classrooms may be renewed only one time per location.

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

- (1) *Seasonal sales.* The sales of seasonal items including but not limited to holiday decorations in residential zoning districts shall be allowed when all of the following restrictions are met:
  - a. The sale must be conducted on a church, school or other tax exempt premises which provides sufficient space to accommodate the seasonal sales and off-street parking for customer and other sale related vehicles;
  - b. Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed thirty-

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

two (32) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of any freestanding sign is eight (8) feet from finished grade. Banner signs, paper or cardboard signs are prohibited.

- c. Clear Vision Standards set forth in BMCC section 27-615 shall be followed; and
- d. All signage and temporary structures must be removed at the time the temporary use has ceased on the property.

(2) *Roadside stands.* The sale of flowers or produce at temporary roadside stands shall be allowed when all of the following restrictions are met:

- a. Only items which are produced on the premises may be sold on the premises;
- b. Any structure used must be portable and removed after the temporary use/structure has ceased operation. However, structures which are located in the agricultural-open space (A-1) zoning district may be used even if they are permanent;
- c. Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed thirty-two (32) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of any freestanding sign is eight (8) feet from finished grade. Banner signs, paper or cardboard signs are prohibited.
- d. The use must provide sufficient space to accommodate the stand and off-street parking for customer and other sale related vehicles;
- e. No structure, either temporary or permanent, nor any parking area shall be located within any public right-of-way and shall meet the Clear Vision Standards set forth in BMCC section 27-615;
- f. New access to any public right-of-way must be approved by the City of Billings Engineering Division or County Public Works Department; and
- g. All signage and temporary structures must be removed at the time the temporary use has ceased on the property.

(d) *Fireworks stands.* The erection of a temporary fireworks stand may be permitted if it meets the following restrictions:

- (1) The stand is located outside the limits of the City of Billings and is situated in one of the following zoning districts:
  - a. Public (P) zone;
  - b. Community commercial (CC) zone;

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

- c. Highway commercial (HC) zone;
  - d. Controlled industrial (CI) zone;
  - e. Heavy industrial (HI) zone; or
  - f. Agricultural-open space (A-1) zone.
- (2) No fireworks stand shall be allowed to operate within five hundred (500) feet of any other structure. Nor shall any fireworks stand be allowed to operate within one thousand five hundred (1,500) feet of structures which have any flammable or combustible liquid handling, distribution or sales (including gas pumps);
  - (3) All fireworks stands shall display warning signs in red letters on white background with letters not less than three (3) inches in height and one-half ( 1/2) inch in stroke. Such signs shall state:
    - a. Danger - Explosives
    - b. No smoking
    - c. No discharge of fireworks within five hundred (500) feet
    - d. No parking of flammable or combustible liquid transportation vehicles within five hundred (500) feet
  - (4) There must be a minimum of fifty (50) feet clear cut radius measured from the corner of each exterior wall. Vegetation within this radius shall be a maximum of two (2) inches in height and shall be raked clean of any dead vegetation. Any trees within this radius will be subject to review and approval by the county fire marshal;
  - (5) Each fireworks stand shall have a minimum of two (2) pressurized water extinguishers (class 2A or approved equivalent) on premises at all times;
  - (6) Location of each stand shall also be approved by the county fire marshal;
  - (7) Each fireworks stand shall be setback a minimum of fifty (50) feet from any public right-of-way;
  - (8) All fireworks stands shall receive fire protection from a fire protection service licensed or registered in the State of Montana;
  - (9) An application for a permit must be submitted a minimum of fifteen (15) working days prior to the fireworks season, as defined by M.C.A. 50-37-106. The sale of fireworks shall only be allowed within this time period. However, the fireworks stand, without any sales occurring, may be allowed to be erected between June 17 through July 12;
  - (10) Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed one hundred (100) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of any freestanding sign is eight (8) feet from finished grade. Banner signs, paper or cardboard signs are prohibited. All signage and temporary structures must be removed at the time the temporary use has ceased on the property.

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

- (11) The fireworks stand must provide sufficient space to accommodate the stand and off-street parking for customer and other sale-related vehicles;
  - (12) An "Application For Sale of Fireworks" must be obtained and signed by the planning department, county fire marshal, Yellowstone county treasurer and the applicant. In addition, the applicant must obtain "Proof of Fire Protection";
  - (13) No structure, either temporary or permanent, nor any parking area shall be located within any public right-of-way; and
  - (14) Access to any public right-of-way must be approved by the county public works office.
- (e) Temporary uses and structures.
- (1) Construction equipment, sheds and materials. The temporary staging and storage of equipment and materials and use of buildings or modular structures for offices or equipment sheds during construction projects may be permitted in any zoning district. A temporary use/structure permit is not required if the equipment, materials and structures are part of an approved construction project. In addition, all equipment, materials and structures shall meet the following criteria:
    - a. Equipment, materials and structures include any items procured by a contractor that are necessary to complete the approved construction project including, but not limited to:
      - 1. heavy equipment, pipe, fittings, manholes, and the appurtenances;
      - 2. gravel, sand, soil, concrete mix, forms, lumber and similar materials;
      - 3. traffic control devices and stacked pallets of materials; and
      - 4. modular offices and equipment sheds.
    - b. Staging and storage of equipment and materials shall be conducted in a safe, neat and orderly manner at all times;
    - c. Any such equipment, materials and structures shall be removed upon completion of the construction project; and
    - d. No such structure shall be used for living or sleeping purposes.
  - (2) *Other temporary structures.* Temporary structures not used for construction or equipment sheds may be allowed when the following criteria are met:
    - a. For Group 3 uses, the structure shall meet the applicable setbacks for the zone in which it is located, including Arterial Setbacks as found in BMCC section 27-602;
    - b. The structure shall meet the Clear Vision Standards set forth in BMCC section 27-615;
    - c. No such structure shall be used for living or sleeping purposes; and
    - d. The use of the structure shall comply with BMCC sections 27-614(b) and 27-614(c), whichever is applicable.

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

- 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 Sec. 27-614(b).
  - f. A temporary use/structure permit shall be obtained for each location by the owner for Seasonal Sales and Roadside Stands in Residential and Noncommercial zoning districts as defined in Sec. 27-614(c).
- (3) *Time limit established.* The zoning coordinator shall establish the time period that a building or modular structure can be used on a temporary basis. This time period shall coincide with the temporary use/structure permit time period established under above subsections (b) or (c), whichever is applicable. The structure shall be removed when the temporary use is discontinued or the permit has expired. An extension for the renewal of the temporary structure permit only, may be granted by the zoning coordinator, if it is found that unusual and/or extraordinary circumstances exist.

(f) *Temporary use/structure permit required.* Before any Group 2 or Group 3 temporary use or structure is established, the property owner shall obtain a temporary use/structure permit for each location from the zoning coordinator or his/her designee. For Group 3 temporary uses, the temporary use permit holder shall post a one thousand five hundred (\$1,500) bond, money order or cashiers check for each location with the Planning & Community Services Department to ensure timely removal of the use and/or structure. Before any Seasonal Sale or Roadside Stand is established in a Residential or Noncommercial zoning district, the property owner shall obtain a temporary use/structure permit for each location from the zoning coordinator or his/her designee.

(Ord. No. 97-5048, § 5, 12-22-97)

**ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS**

**SEC. 27-615. VISIBILITY AT INTERSECTIONS.**

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

**Table 1—Clear Vision Areas at Intersections**

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

**Notes & Exceptions for Table 1:**

- 1) Only applies to "permanent" T-intersections where there is no chance of the street extending through. Intersections where the property along the top of the "T" is not subdivided or is split into lots significantly larger than the majority of lots in the subdivision, or where there is a private street extending into the adjacent property opposite the stem of the "T" will be treated as a 4-legged intersection
- 2) In cases where there is a curve coming into the intersection or the street alignment near the intersection deviates by more than 5 degrees from tangent may be subject to increased (additional) restrictions based on technical review by the City Traffic Engineer.

**ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS**

- 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
  - 4) 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.
  - 5) 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.
- (b) On corner lots at intersections where one (1) or more approaches are controlled by a stop sign, yield sign, or a traffic signal, no fence, hedge, wall, shrub, structure or vision impediment over thirty (30) inches in height above an established top-of-curb grade shall be located within a triangular area formed by the intersecting lines measured along the property lines as provided in Table 1 (See BMCC Section 27-618, Figures 2a, 2b, 2c, and 2d).
  - (c) On the street side of all lots where an alley or private driveway enters the street right-of-way, a triangular clear vision area shall be maintained. Such area shall be measured as defined in Table 2. No fence, hedge, wall, shrub or structure over thirty (30) inches in height above an established top-of-curb grade shall be erected or maintained within the above defined this clear vision area (See BMCC Section 27-618, Figure 1a). If no sidewalk exists, all measurements shall be made from and along the property line.

**Table 2—Clear Vision Area at Driveways and Alley Approaches**

Approach Type	Clear Vision Area Required
-- 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  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 (See Note 1)
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

Notes for Table 2:

- 1) For commercial driveways the point of reference for “centerline” shall be the actual marked centerline separating inbound and outbound traffic when there are two (2) or more exit lanes.

**ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS**

- 2) 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.
- (d) Central Business District. On corner lots at intersections within the Central Business District no fence, hedge, wall, shrub, structure or vision impediment over thirty (30) inches in height above an established top-of-curb grade shall be located within a triangular area formed by the intersecting lines measured along the street centerline and the back of curbline as provided in Table 3 (See BMCC section 27-618, Figures 2e). In cases where the clear vision area at intersections extends 2 feet or less on to private property, the City Engineer is authorized to review and may waive the clear vision area.

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

**TABLE 3 CBD Clear Vision Areas at Intersections**

<b>INTERSECTION TYPE</b>	<b>Clear Vision Area Required:</b>	<b>Reference Figure in Sec. 27- 618</b>
Stop Sign or Traffic Signal	<p>Entering 25 MPH Street—Triangle 14 feet along centerline on the stop controlled approach measured from back of curb on the intersecting street by 205 feet along the curbline or the extension of the curb on the cross street</p> <p>Entering 35 MPH Street— Triangle 14 feet along centerline on the stop controlled approach measured from back of curb on the intersecting street by 290 feet along the curbline or the extension of the curb on the cross street</p> <p><i>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</i></p>	Fig. 2e
Yield	<i>The required clear vision area will be based on a site specific engineering review subject to approval by the City Traffic Engineer</i>	none
<b>Open (uncontrolled)</b>	<i>The required clear vision area will be based on a site specific engineering review subject to approval by the City Traffic Engineer</i>	none

**ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS**

**TABLE 4 CBD Clear Vision Areas at alleys and driveways**

<b>Clear Vision area for:</b>	<b>Clear Vision Area Required:</b> <i>The clear vision area for alleys and driveways shall not apply to buildings or pertinent parts thereof within the Central Business District.</i>	<b>Reference Figure in Sec. 27- 618</b>
Vehicular traffic	<p>Entering 25 MPH Street—Triangle measured along centerline of the driveway or alley 14 feet from back of curb by 175 feet along the curbline or the extension of the curbline on the cross street</p> <p>Entering 35 MPH Street— Triangle measured along centerline of the driveway or alley 14 feet from back of curb by 250 feet along the curbline or the extension of the curbline on the cross street</p> <p><i>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</i></p>	Fig. 1b
Pedestrian Traffic	The clear vision area is defined by a triangle 10 feet along edge of alley or driveway and 20 feet along back of sidewalk	Fig 1b

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

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

### SEC. 27-616. WATERCOURSE SETBACKS.

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

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

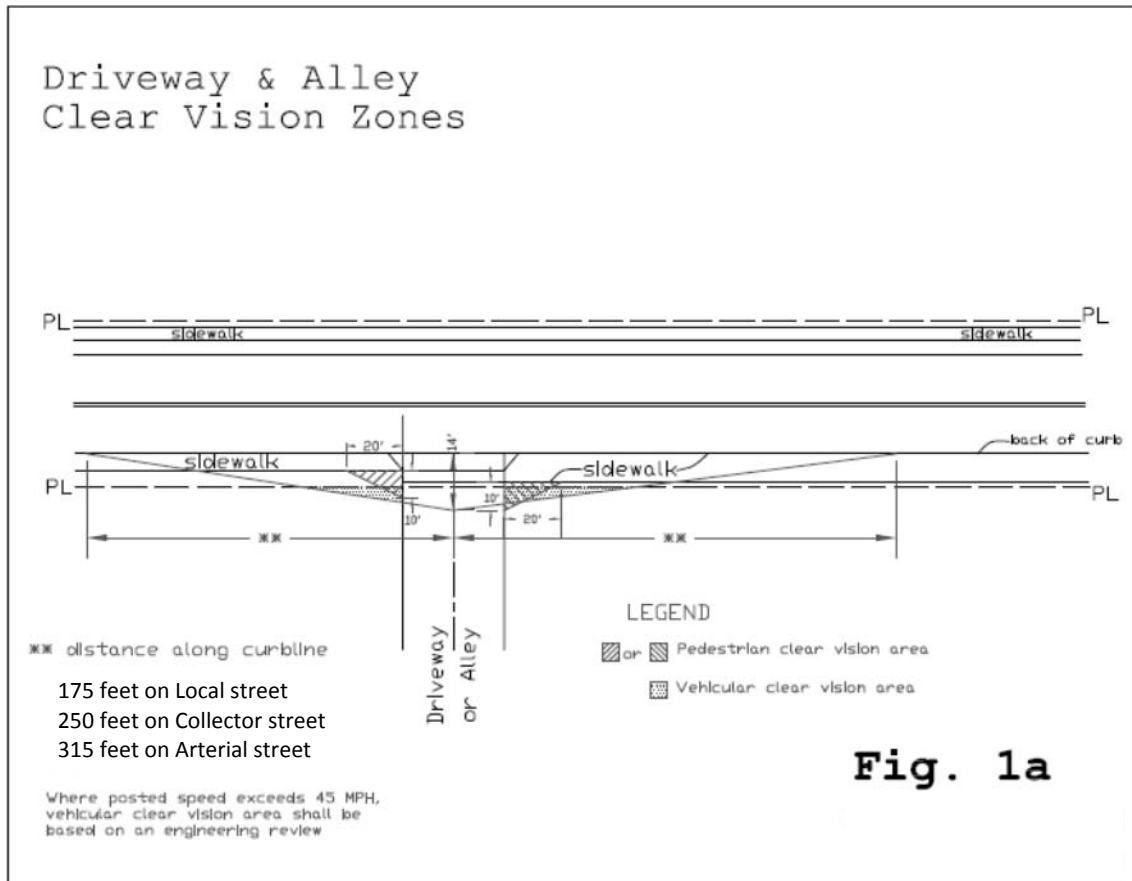
- (c) For the purposes of this section, the following creeks and drainages shall be classified as "watercourses" and shall conform to the restrictions in above subsection (B). These "watercourses" include: the South Fork of Alkali Creek, Basin Creek, Bitter Creek, Brockway Coulee, Dirt Creek, Five Mile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

ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

SEC. 27-618. ILLUSTRATIONS.

FIGURE 1a. VISIBILITY AT ALLEY AND DRIVE APPROACHES

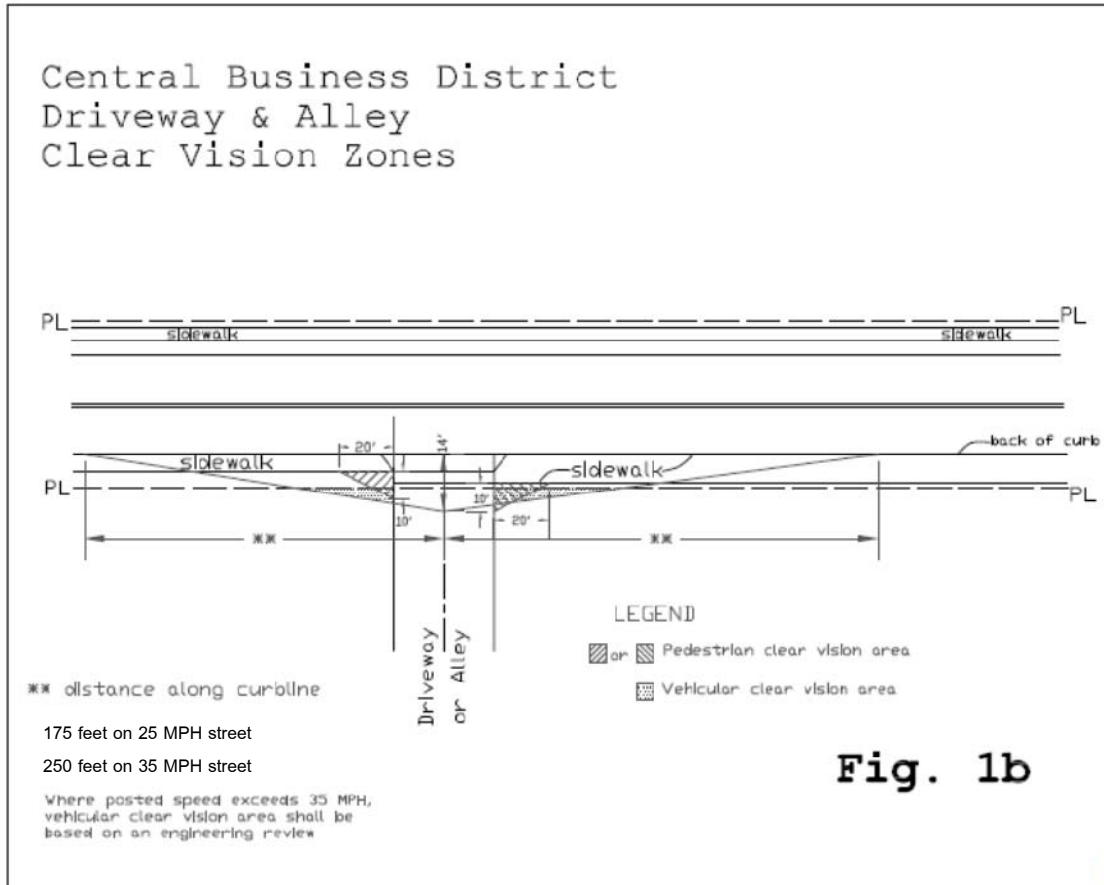
At the intersection of any alley or any driveway and a public street outside of the Central Business District, the illustrated clear vision area shall be maintained.



**ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS**

**FIGURE 1b. VISIBILITY AT ALLEY AND DRIVE APPROACHES**

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

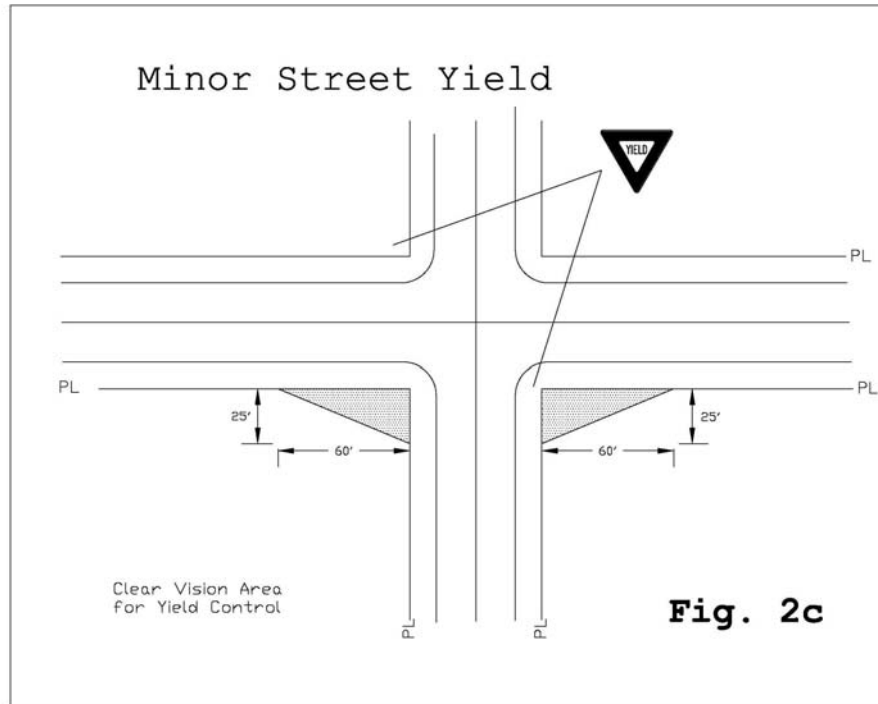




**ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS**

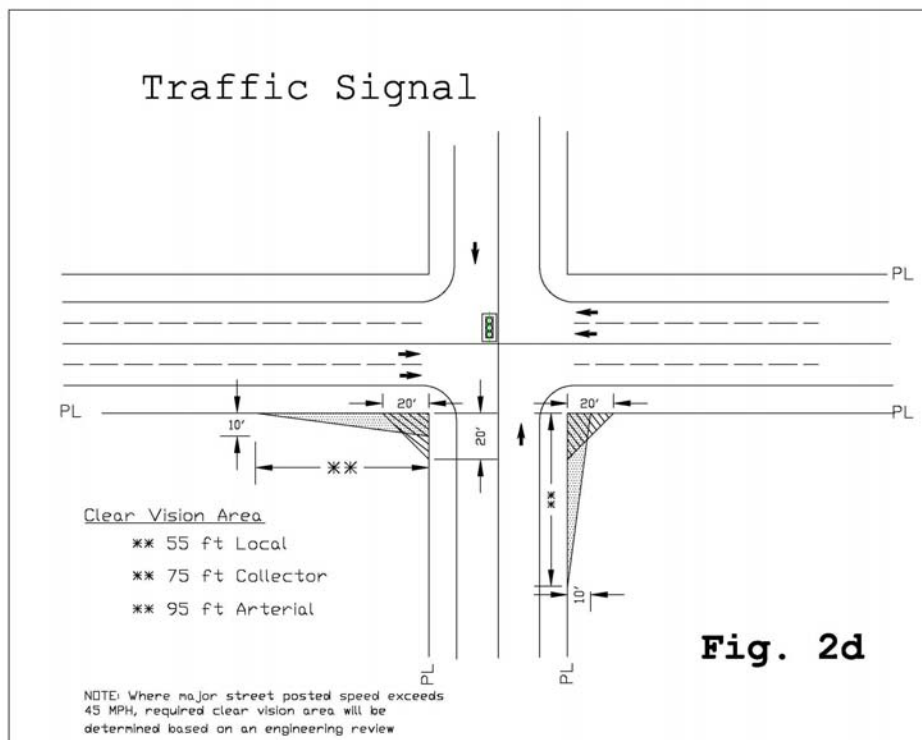
**FIGURE 2c. VISIBILITY AT INTERSECTIONS: YIELD CONTROL**

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



**FIGURE 2d. VISIBILITY AT INTERSECTIONS: TRAFFIC SIGNAL CONTROL**

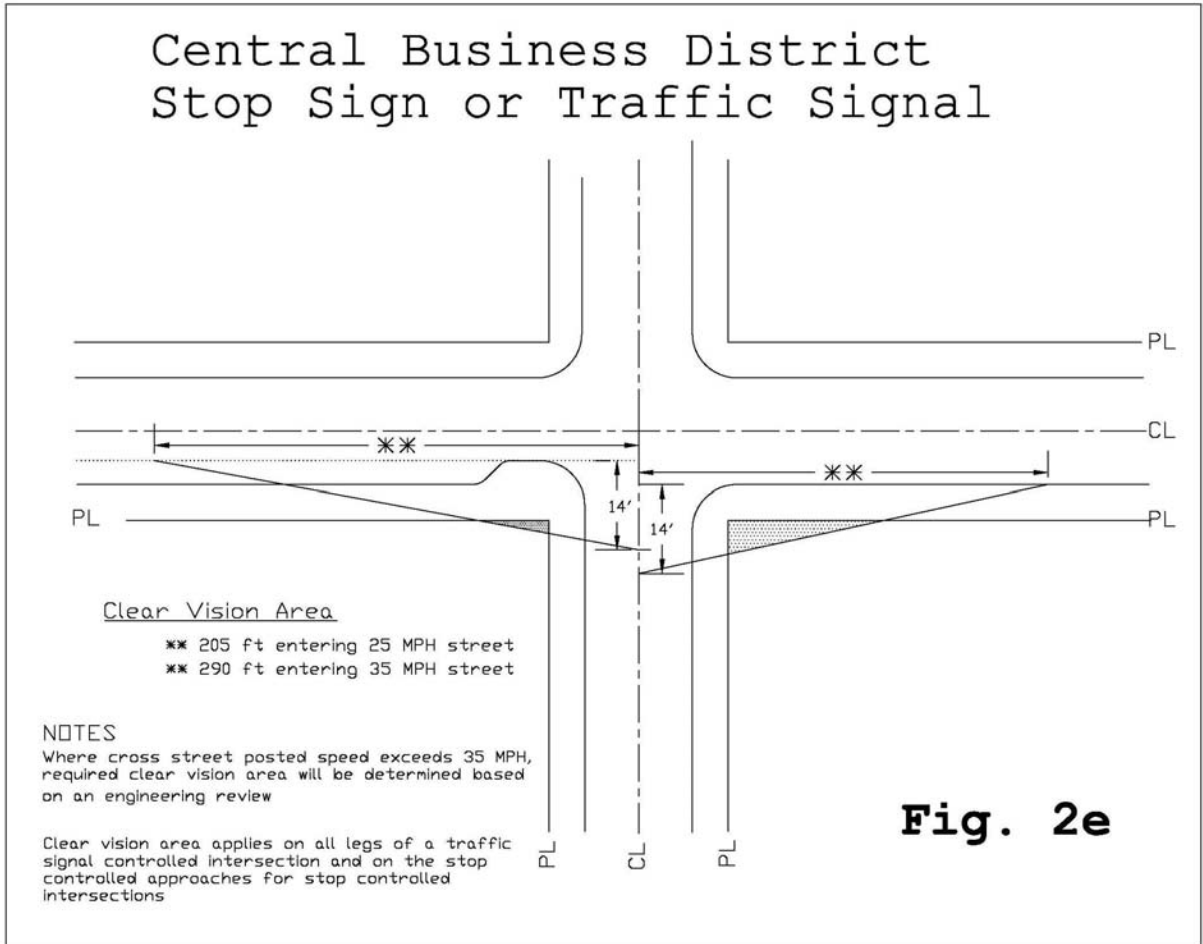
At any intersection where traffic is controlled by traffic signals the illustrated clear vision area shall be maintained.



ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

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

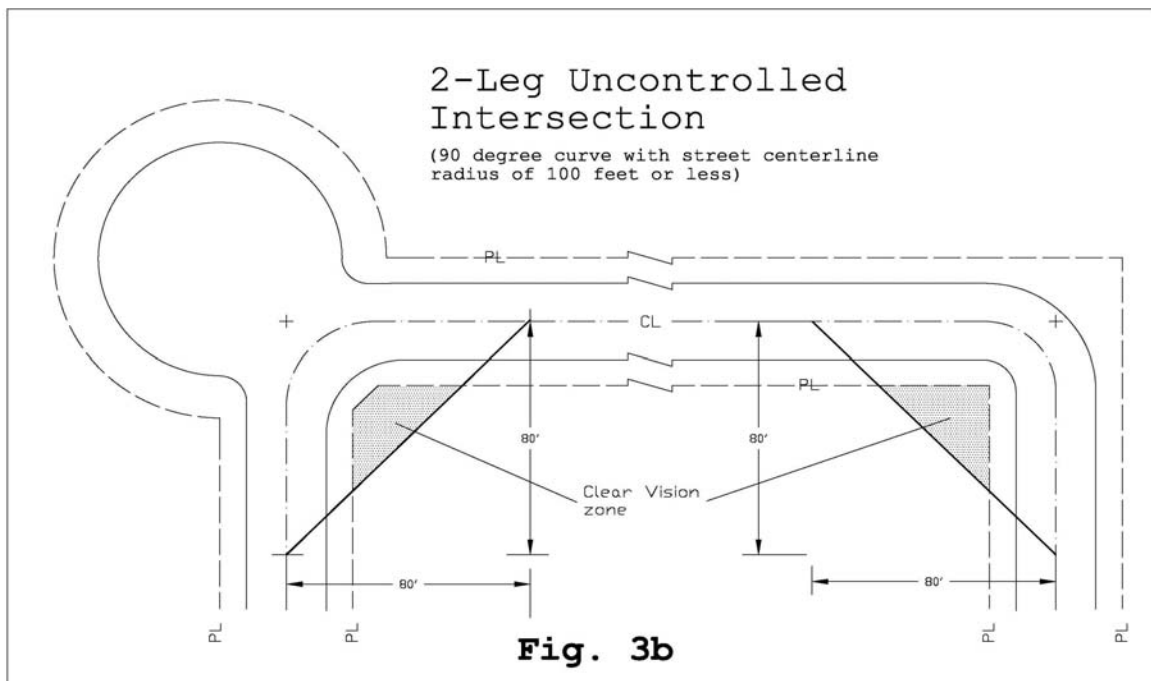
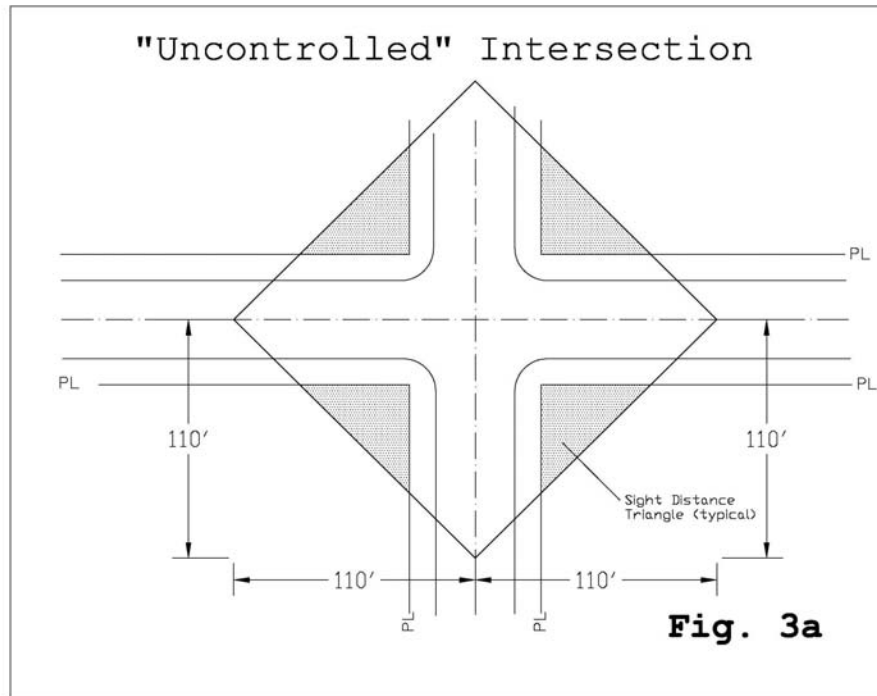
At any intersection within the Central Business District where traffic is controlled by stop signs or traffic signals the illustrated clear vision area shall be maintained.



**ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS**

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

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



ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

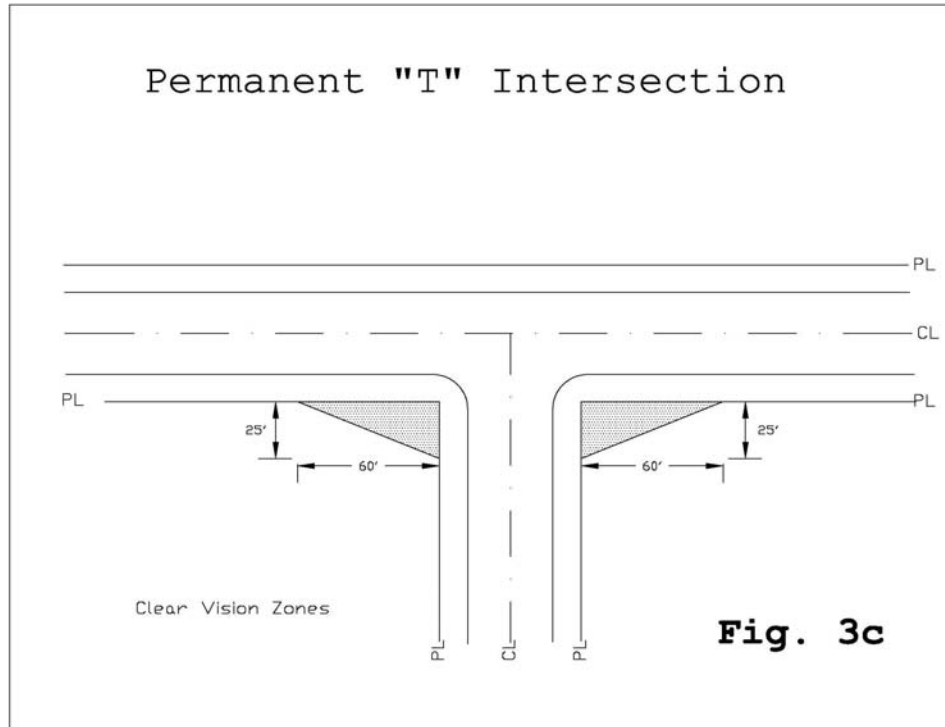
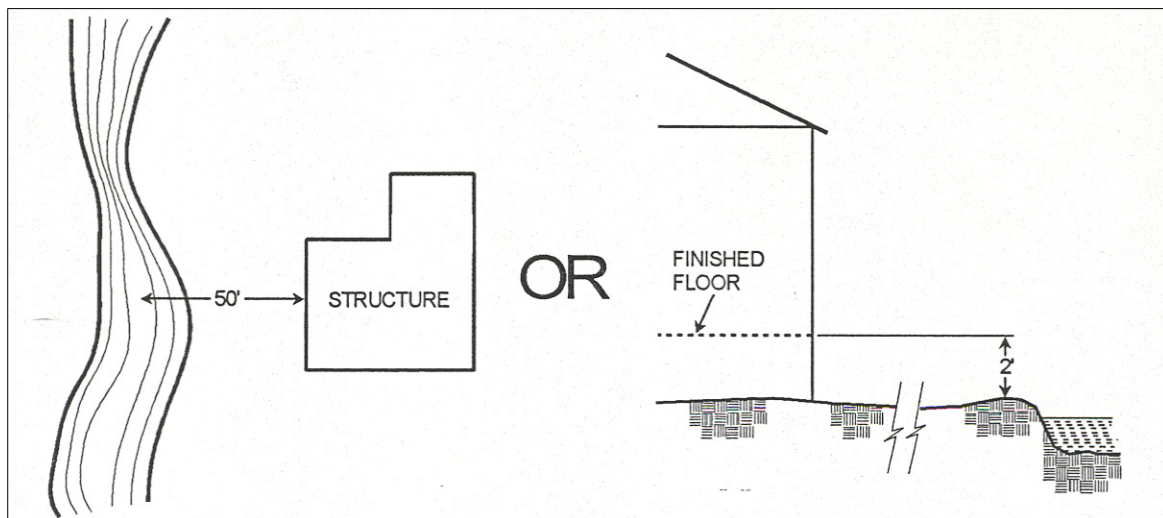


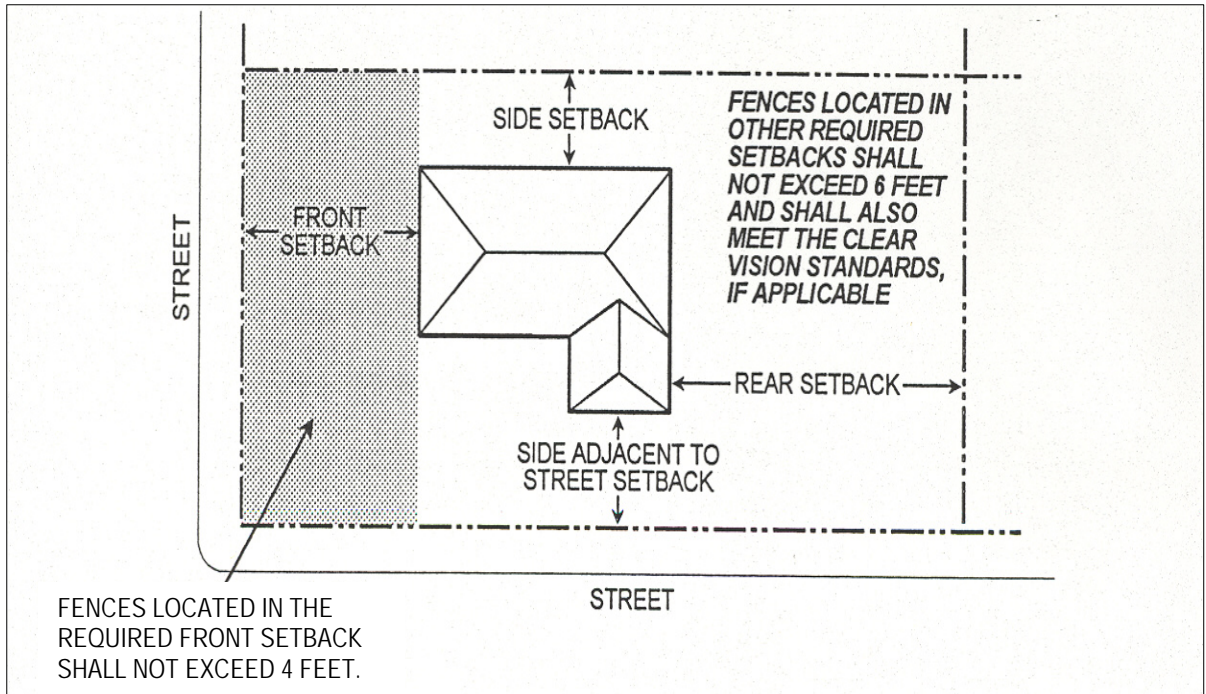
FIGURE 4. WATERCOURSE SETBACKS

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



ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

FIGURE 6. FENCE

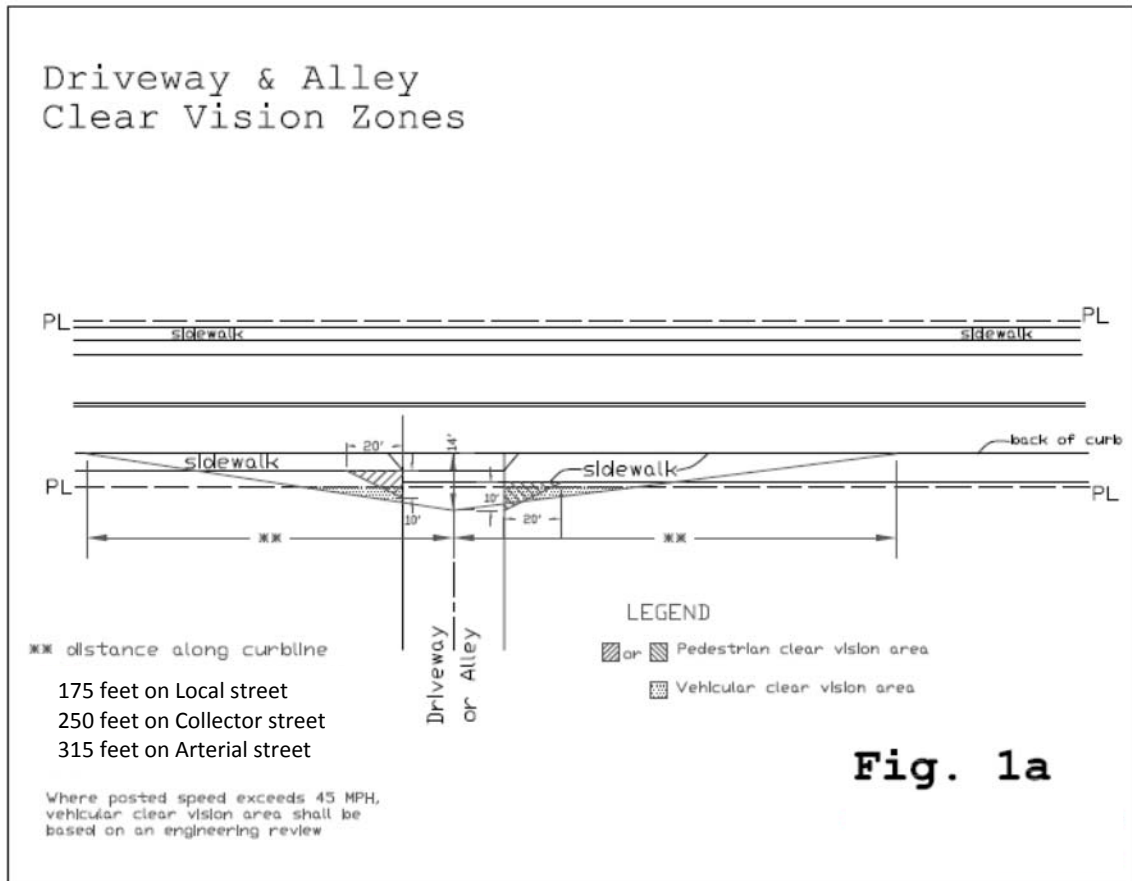


ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

SEC. 27-618. ILLUSTRATIONS.

FIGURE 1a. VISIBILITY AT ALLEY AND DRIVE APPROACHES

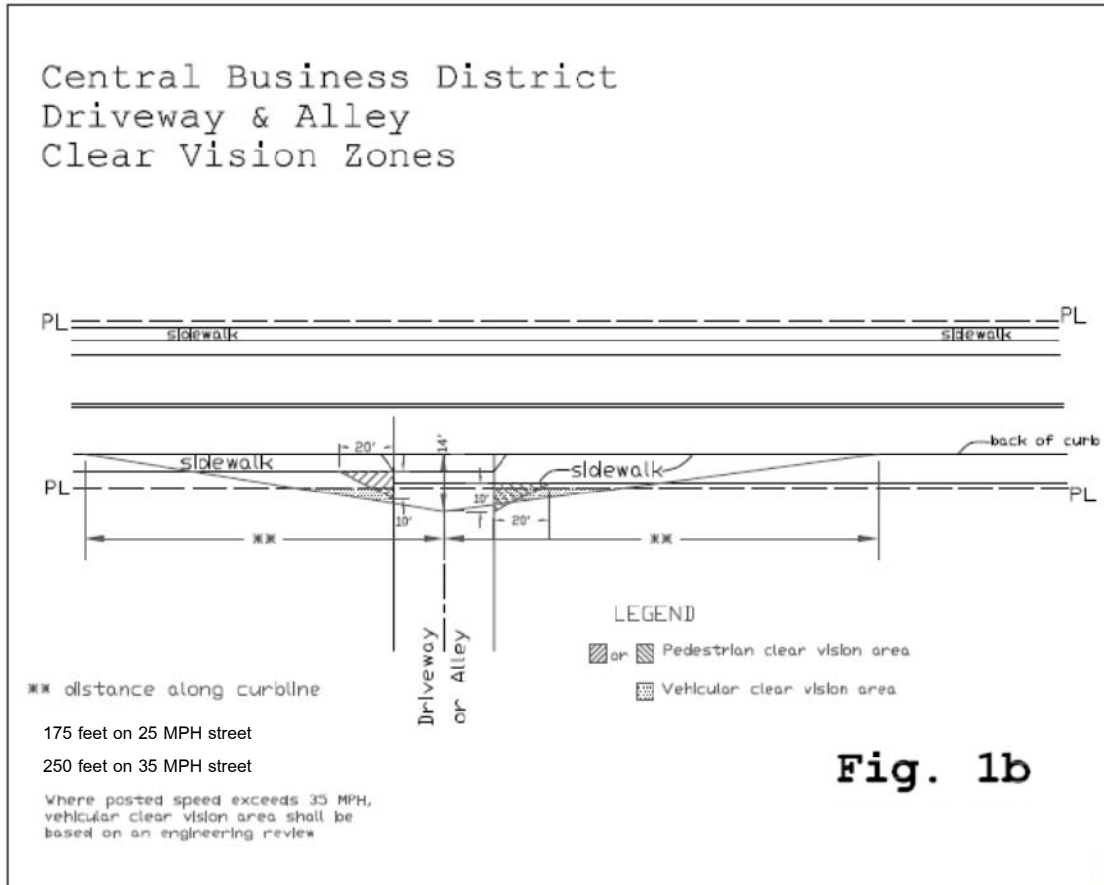
At the intersection of any alley or any driveway and a public street outside of the Central Business District, the illustrated clear vision area shall be maintained.



**ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS**

**FIGURE 1b. VISIBILITY AT ALLEY AND DRIVE APPROACHES**

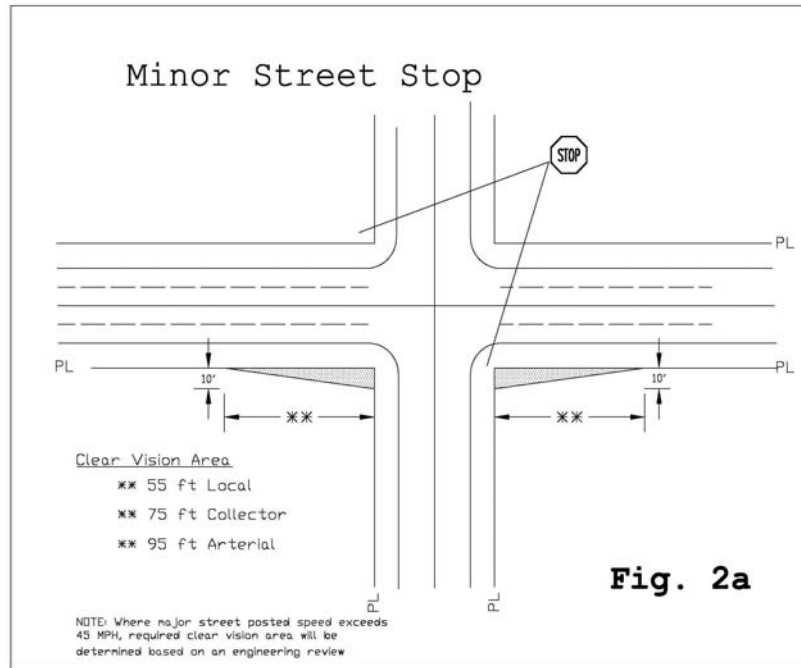
At the intersection of any alley or any driveway and a public street within the Central Business District, the illustrated clear vision areas shall be maintained. The clear vision area for alleys and driveways shall not apply to buildings or pertinent parts thereof within the Central Business District.



**ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS**

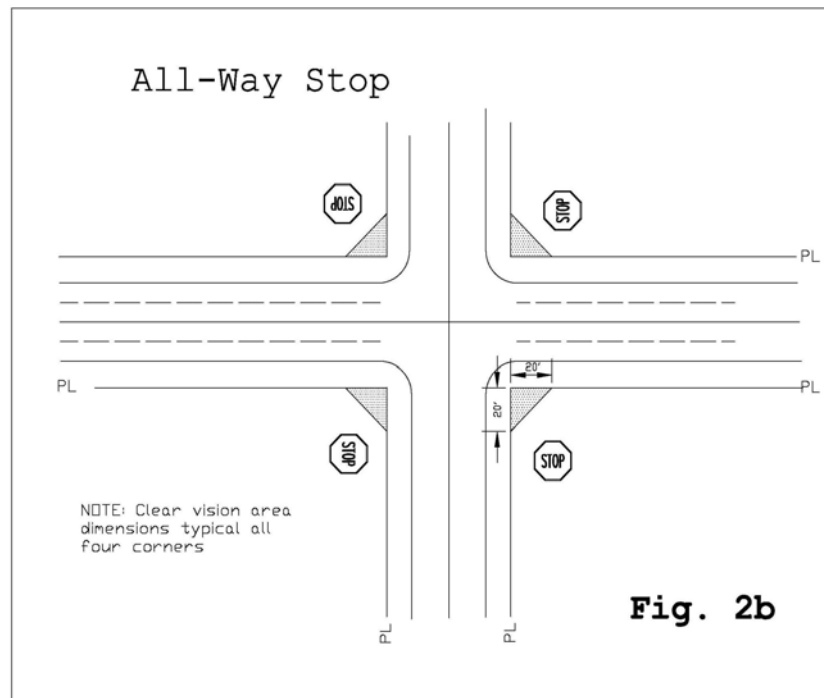
**FIGURE 2a. VISIBILITY AT INTERSECTIONS: MINOR STREET STOP CONTROL**

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



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

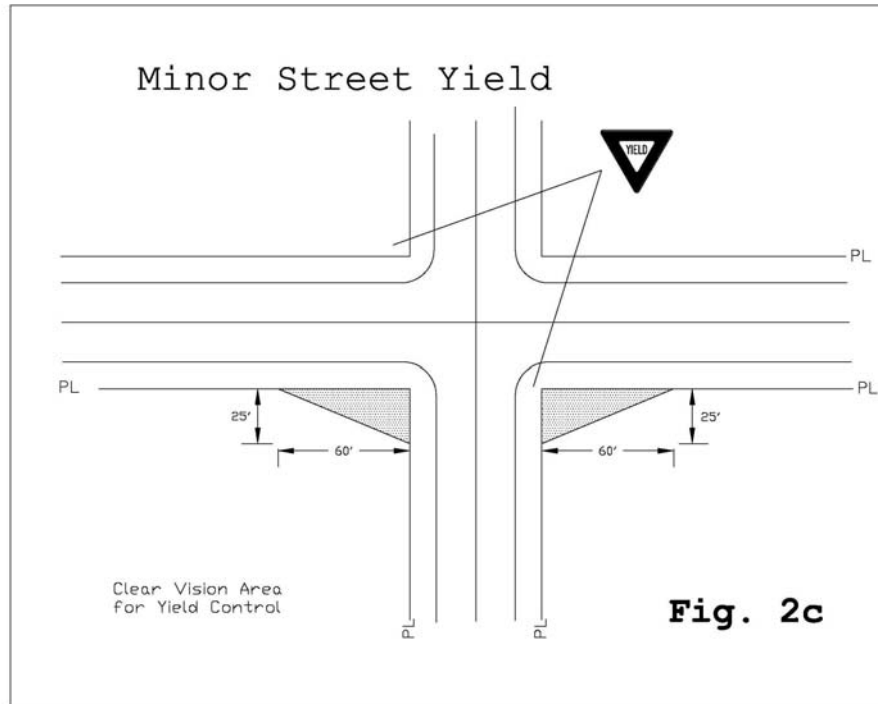
At any intersection where all approaches are controlled by stop signs the illustrated clear vision area shall be maintained.



**ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS**

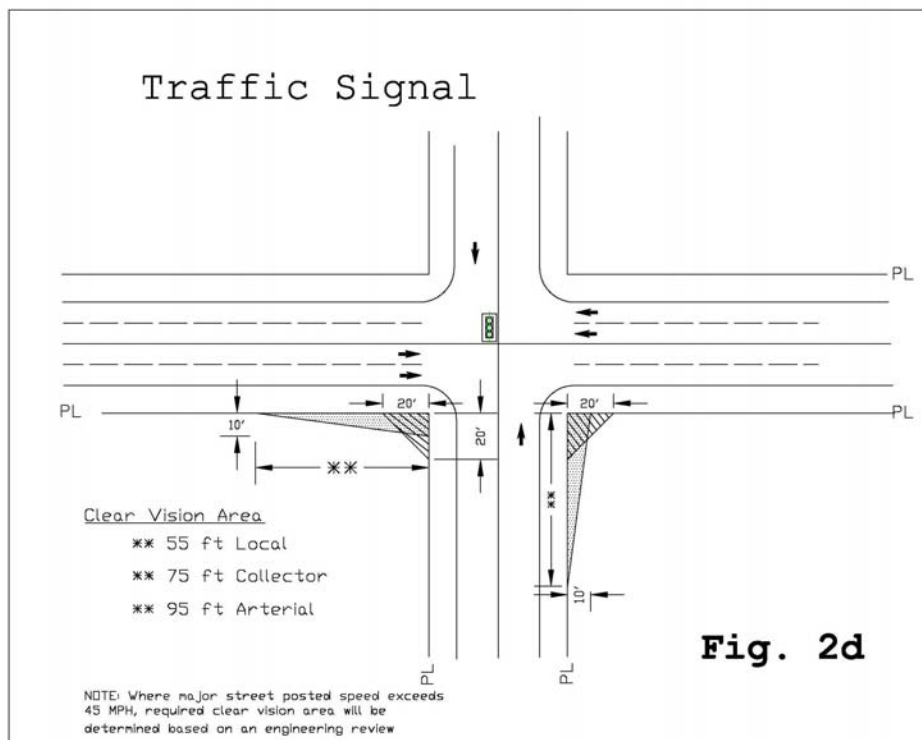
**FIGURE 2c. VISIBILITY AT INTERSECTIONS: YIELD CONTROL**

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



**FIGURE 2d. VISIBILITY AT INTERSECTIONS: TRAFFIC SIGNAL CONTROL**

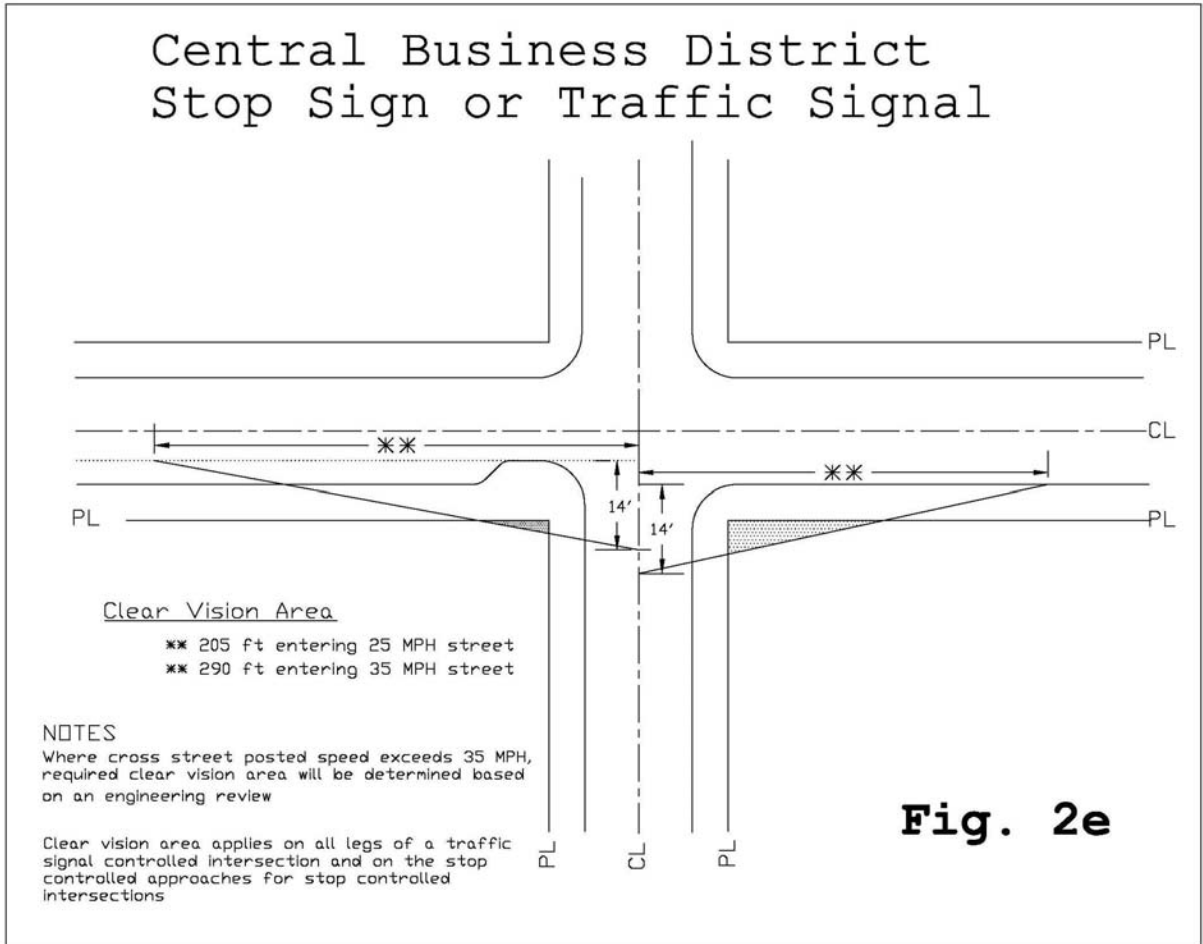
At any intersection where traffic is controlled by traffic signals the illustrated clear vision area shall be maintained.



ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

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

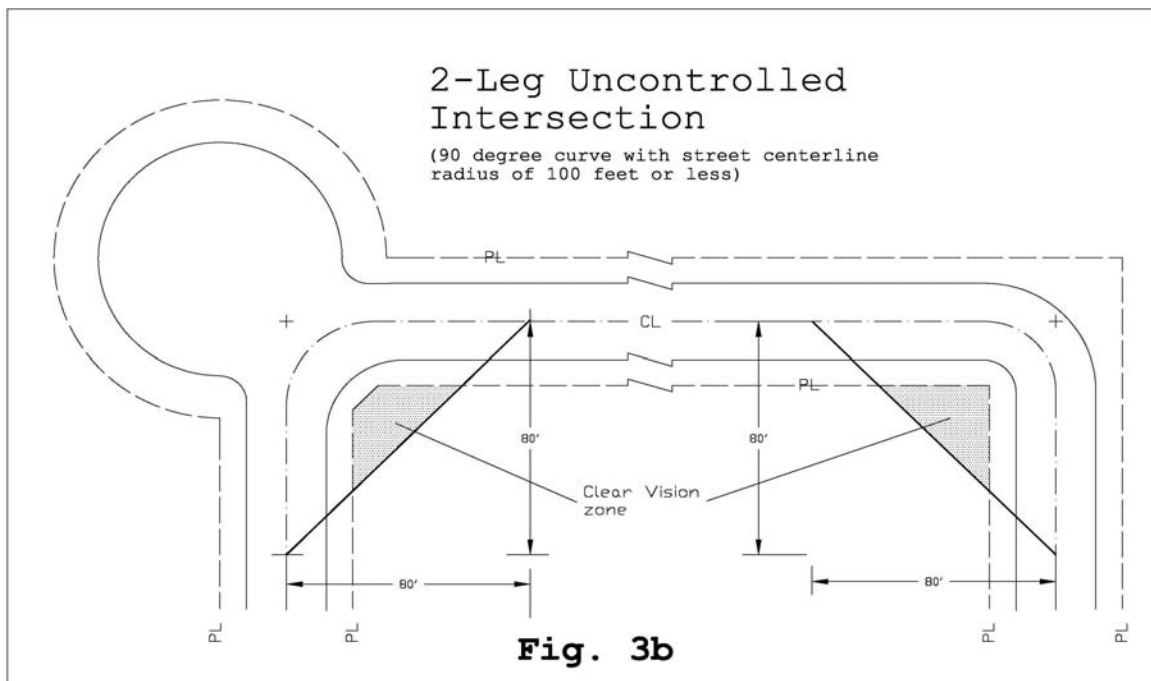
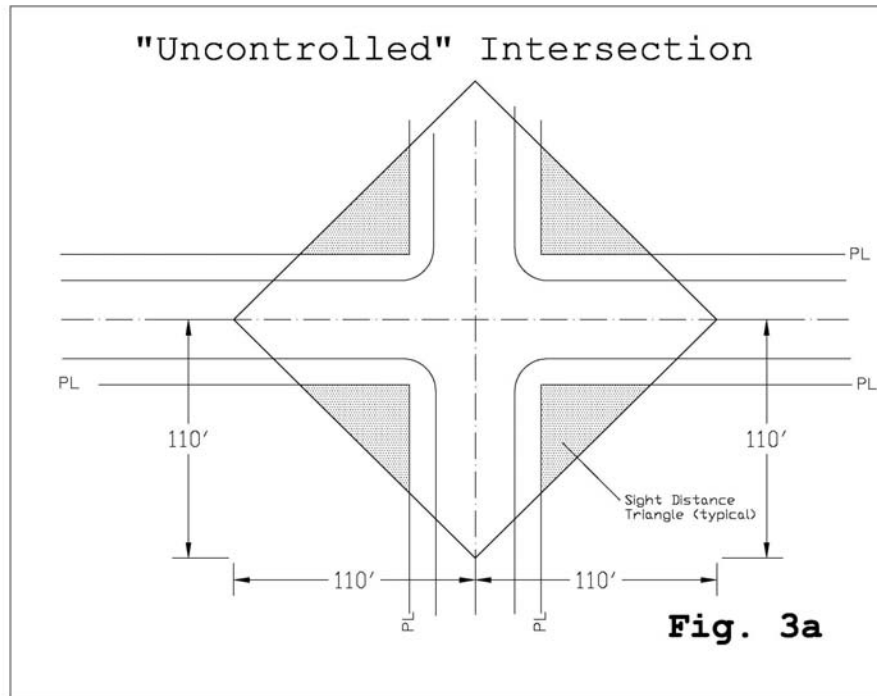
At any intersection within the Central Business District where traffic is controlled by stop signs or traffic signals the illustrated clear vision area shall be maintained.



**ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS**

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

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



ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

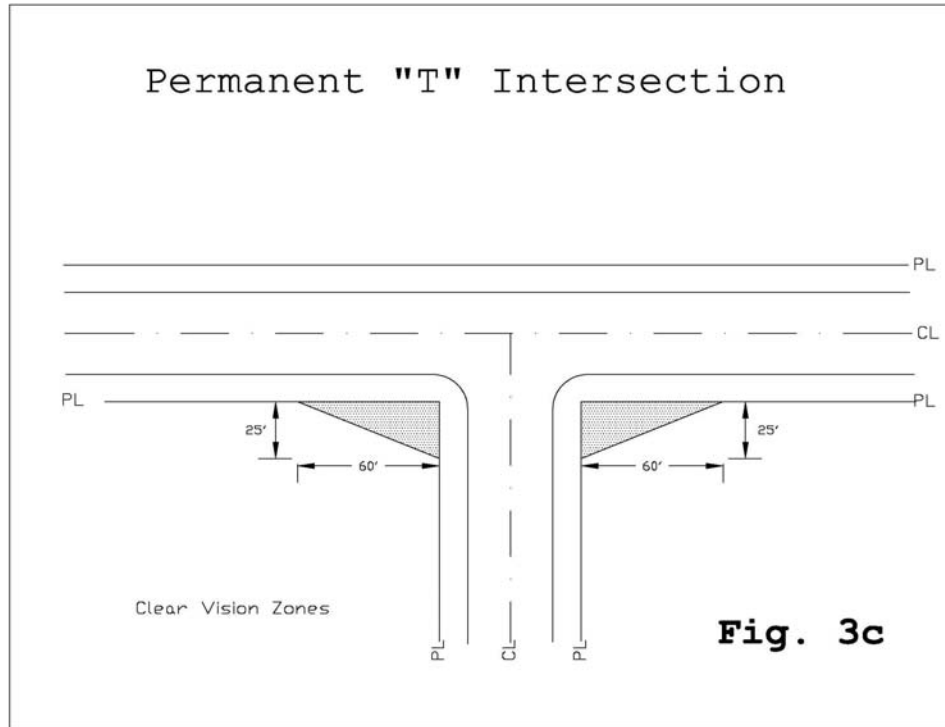
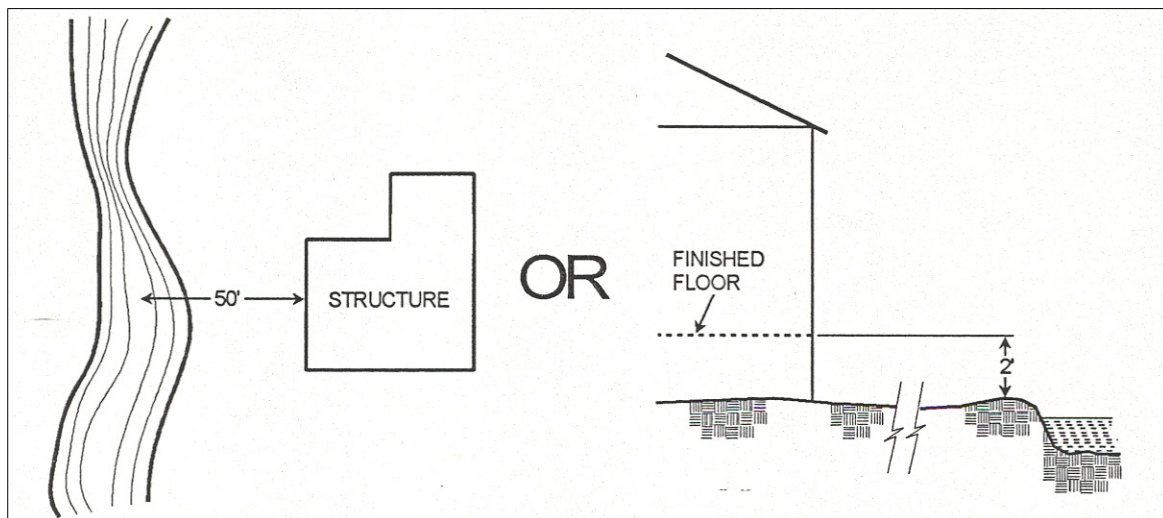


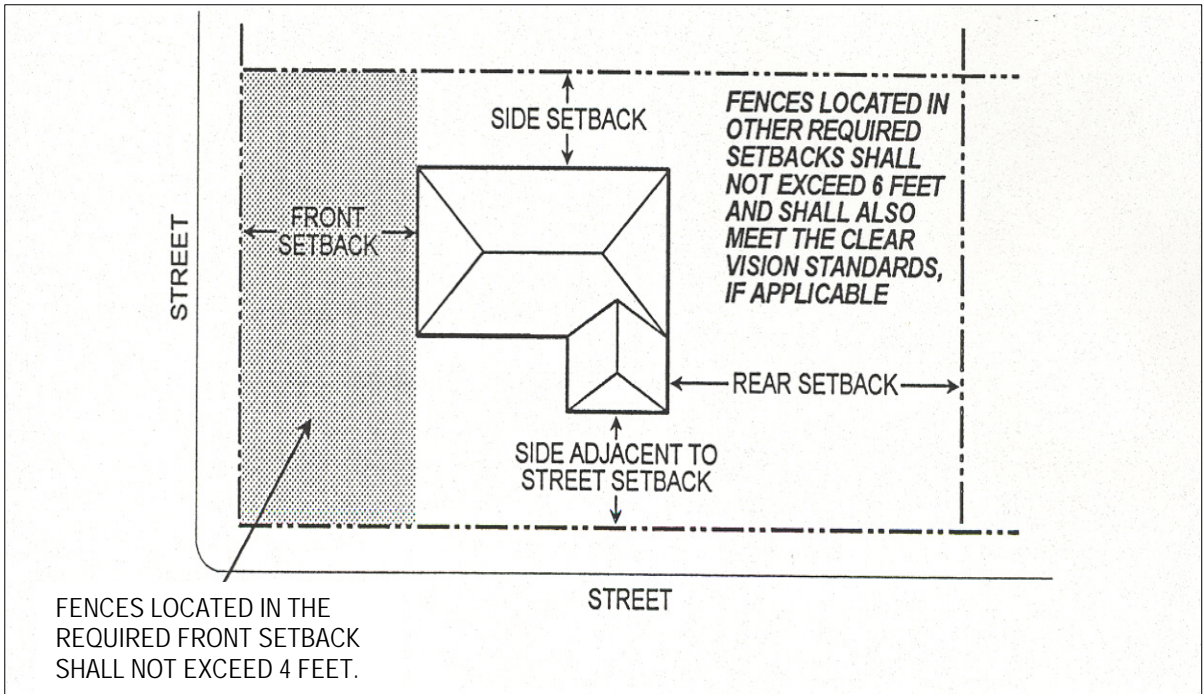
FIGURE 4. WATERCOURSE SETBACKS

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



ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

FIGURE 6. FENCE



## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

### SEC. 27-619. STANDARDS FOR AMATEUR RADIO ANTENNA SUPPORT STRUCTURES

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

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

- (7) No signage, other than required warning signs, or displays of any type shall be permitted on any amateur radio antenna support structure.
- (c) **Applicability.** All amateur radio antenna support structures and antennae located within the City of Billings and/or the Yellowstone County zoning jurisdiction whether upon private or public lands shall be subject to this section. This section shall apply to amateur radio antenna support structures and antennae upon state and federal lands to the extent of the city's and/or county's jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise. Only the following facilities shall be exempted from the application of this section.

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

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

### SEC. 27-620. STANDARDS FOR WIRELESS COMMUNICATION FACILITIES

- (a) **Purpose.** The purpose of this section is to establish regulations for the siting of antenna support structures and antennae on public and private property. The goals of this section are to:
- (1) Encourage the location of antenna support structures in non-residential areas and minimize the total number of antenna support structures throughout the community;
  - (2) Strongly encourage the joint use of new and existing antenna support structures;
  - (3) Require wireless communication facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal;
  - (4) Require wireless communication facilities to be configured in a way that minimizes the adverse visual impact of the towers and antennae; and
  - (5) Enhance the ability of the providers of wireless communication services to provide such services to the community, as quickly, effectively, and efficiently as possible.
- (b) **Definitions.**
- (1) **Abandoned Antenna Support Structures:** Any antennae or antenna support structures that are not utilized or the provision of wireless communications services for a continuous period of six (6) months shall be considered abandoned.
  - (2) **Alternative antennae support structure:** An antenna support structure designed to shield, conceal or disguise the presence of antennae or towers and blend with the surrounding setting. Alternative structures may include, but are not limited to, unobtrusive architectural features on new or existing structures, utility poles, clock towers, flagpoles and church steeples. Examples of alternative antenna support structures are illustrated in subsection (o) of this Section.
  - (3) **Antenna:** Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennae, such as panels, microwaves dishes, and satellite dishes, and omnidirectional antennae, such as whip antennae but not including satellite earth stations.
  - (4) **Antenna support structure:** Any structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennae. Antenna support structures may include, but are not limited to, self-supporting lattice towers, guyed towers, or monopole towers. The term also includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative antenna support structures, and the like. The term includes the structure and any support thereto. Types of antenna support structures are illustrated in subsection (o) of this

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

Section. Land mobile radio and radio and television antenna support structures are regulated under section 27-621 of these regulations.

- (5) **Antenna Support Structure Height:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure including any attached antennae. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height. The height of roof-mounted antenna support structure height does not include the height of building on which they are mounted.
  - (6) **Wireless Communication Facility Antenna or Tower Farm:** An antenna or tower farm is a tract of land that contains no more than three (3) antenna support structures within seven hundred fifty (750) linear feet of each other. No antenna support structures located in tower farms shall exceed two hundred fifty (250) feet in height. Legal tracts must be adjacent to each other to be included in this definition.
  - (7) **Co-location:** The use of a wireless communications facility by more than one wireless communications provider.
  - (8) **Commercial Wireless Communications Services:** Licensed commercial wireless telecommunication services including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.
  - (9) **Equipment enclosure:** A structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies, and emergency generators.
  - (10) **Wireless Communication Facility:** An unstaffed facility for the transmission and/or reception of radio frequency (RF), microwave or other signals for commercial communications purposes, typically consisting of an equipment enclosure, an antenna support structure and one or more antennae. Amateur radio, land mobile radio, and commercial radio and television facilities are excluded from this definition.
  - (11) **FAA:** Federal Aviation Administration.
  - (12) **FCC:** Federal Communications Commission.
- (c) **Applicability.** All wireless communication facilities located within the City of Billings and/or the Yellowstone County zoning jurisdiction whether upon private or public lands shall be subject to this section. This section shall apply to wireless communication facilities upon state and federal lands to the extent of the city's and/or county's jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise. Only the following facilities shall be exempted from the application of this section.

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

- (1) Amateur radio stations and antenna support structures (See sections 27-305; 27-306 and 27-619, BMCC.)
  - (2) Antennae and antenna support structures for land mobile radio and radio and television (See sections 27-305, 27-306 and 27-621 BMCC).
  - (3) Pre-existing antenna support structures or antennae. Pre-existing antenna support structures and pre-existing antennae shall not be required to meet the requirements of this section, so long as said pre-existing antenna support structures have received all required approvals, permits and exceptions prior to adoption of this section. (See subsection H of this Section.)
- (d) **Commercial antenna support structures and antennae located in residential zoning districts.**
- (1) Antenna support structures and antennae shall be permitted as an allowed use in all residential zoning districts provided they meet all of the following criteria:
    - a. Alternative antenna support structures conforming to all applicable provisions of this Code and roof-mounted antennae that do not add more than twenty (20) feet to the total height of the building on which they are mounted shall be permitted as an allowed use only when located on school, government-owned utility, and other government sites.

Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in Sections 27-1503 and 27-1509 of these zoning regulations, or may be submitted to the Board of Adjustment for a hearing, whichever is the preference of the owner/agency. The Board of Adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with Sections 27-1505(c) or 27-1510(c), BMCC. The Board of Adjustment shall forward comments and recommendations to the affected government agency for their consideration.
    - b. Antennae co-located on existing or approved alternative antenna support structures or existing or approved antenna support structures that have previously received all required approvals and permits shall be permitted as an allowed use.
  - (2) Antenna support structures and antennae shall be permitted in the Agricultural-Open Space (AO) zoning district provided the following conditions and all applicable setback, lot coverage, and building (commercial equipment enclosures) height requirements are met:
    - a. Antenna support structures conforming to all applicable provisions of this Code shall be permitted when:
      - (1) Located on school, government-owned utility, and government sites and alternative antenna support structures or roof-mounted antennae are used. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

in Sections 27-1503 and 27-1509 of these zoning regulations, or may be submitted to the Board of Adjustment for a hearing, whichever is the preference of the owner/agency. The Board of Adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with Sections 27-1505(c) or 27-1510(c), BMCC. The Board of Adjustment shall forward comments and recommendations to the affected government agency for their consideration.

(2) Antenna support structures fifty (50) feet or less in height.

- b. Antenna support structures that are greater than fifty (50) feet in height shall be required to obtain special review approval.
- c. Antennae co-located on existing or approved alternative antenna support structures or existing or approved antenna support structures that have previously received all required approvals and permits shall be permitted as an allowed use.
- d. Wireless communication facility tower farms are permitted by special review.

(e) **Commercial antenna support structures and antennae located in commercial zoning districts**

- (1) Alternative antenna support structures shall be permitted as an allowed use in all commercial zoning districts.
- (2) Antenna support structures shall be permitted as an allowed use in all commercial zoning districts when located on school, government-owned utility, and other government sites.

Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in Sections 27-1503 and 27-1509 of these zoning regulations, or may be submitted to the Board of Adjustment for a hearing, whichever is the preference of the owner/agency. The Board of Adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with Sections 27-1505(c) or 27-1510(c), BMCC. The Board of Adjustment shall forward comments and recommendations to the affected government agency for their consideration.

- (3) Antennae co-located on existing alternative antenna support structures or existing antenna support structures which have previously received all required approvals and permits shall be permitted as an allowed use in all commercial zones.
- (4) Antenna support structures and antennae located in Residential Professional (RP), Neighborhood Commercial (NC), and Entryway Mixed Use (EMU) that do not meet the requirements of subsections 1, 2, and 3 shall be required to obtain special review approval. Wireless communication facility tower farms are not allowed in these zoning districts.

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

- (5) New antenna support structures erected in the Medical Corridor shall be required to follow the permit zoning approval procedures in Section 27-901, BMCC. Antennae may be placed on existing antenna support structures and alternative antenna support structures that have previously received all required approvals and permits and meet the provisions and requirements of these regulations, without obtaining permit zoning approval.
- (6) Antenna support structures and antennae located in Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI), South 27<sup>th</sup> Street, Central Business District (CBD), Entryway Light Commercial (ELC), Entryway General Commercial (EGC), Entryway Light Industrial (ELI) and Public (P) zoning districts shall be permitted as an allowed use provided that the towers meet the requirements subsections 1, 2, and 3, or:
  - a. Roof-mounted antenna that do not add more than twenty (20) feet to the total height of the building on which it is mounted shall be permitted as an allowed use. See additional requirements for roof-mounted antenna in (g)(10)b. of this section.
  - b. Antenna support structures fifty (50) feet in height or less shall be permitted as an allowed use.
  - c. Antenna support structures that are greater than fifty (50) feet in height shall be required to obtain special review approval.
  - d. Wireless communication facility tower farms are permitted with special review approval, except in the CBD and South 27<sup>th</sup> Street zoning districts.
- (7) All antenna support structures located in Heavy Industrial (HI) shall be permitted as an allowed use, including tower farms.
- (f) **Antenna support structures located in parks.** The presence of certain wireless communication facilities may conflict with the purpose of some city and county owned parks. Wireless communication facilities will be considered only following a recommendation by the City-County Planning Department; the City Parks, Recreation, and Cemetery Advisory Board or County Parks Board, and approved by the City Council or County Commission. Factors that will be considered include:
  - (1) Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use;
  - (2) Commercial recreation areas and major playfields; and,
  - (3) Park maintenance facilities.
- (g) **General requirements.** The requirements set forth in this section shall govern the location and construction of all wireless communications facilities governed by this section.
  - (1) *Building codes and safety standards.* To ensure the structural integrity of wireless communication facilities, the owner of a facility shall ensure that it is maintained in compliance with standards contained in applicable local building

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

codes and the applicable standards for such wireless communication facilities, as amended from time to time.

- (2) *Regulatory compliance.* All wireless communication facilities must meet or exceed current standards and regulations of the FAA, the FCC, and other local, state or federal agencies with the authority to regulate facilities governed by this ordinance. All wireless communication facilities must comply with all revised standards and regulations within the date established by the agency promulgating the standards or regulations.
- (3) *Setbacks:*
  - a. Antenna support structures adjacent to residential uses or zoning. Antenna support structures must be set back, from all property lines, a distance equal to one-half (½) the height of the structure from any off-site residential structure or residentially zoned lot. Accessory structures must maintain a minimum of a fifteen (15) foot setback from any lot line adjacent to a residential structure or residentially zoned lot, or the required setback of the zoning district where the antenna support structure is located, whichever is greater.
  - b. Commercial and industrial zoning setbacks. Antenna support structures and accessory facilities must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.
- (4) *Lot coverage and height:* Antenna support structures and accessory structures shall not exceed lot coverage requirements for the zoning district in which they are located. Accessory structures shall not exceed the height restrictions for the zoning district in which they are located.
- (5) *Fencing and buffering.*
  - a. Fencing. A chain link or solid wood fence, or masonry wall at least six (6) feet in height (eight (8) feet if razor or barbed wire is to be used) shall be constructed and maintained around the perimeter of the antenna support structure site. Climb-proof shields can be substituted for a fence or wall around the structure. Solid fences, at least six (6) feet in height, are required adjacent to residential uses and residentially zoned property.
  - b. Landscaping. For all facilities the following will be required: a continuous evergreen hedge at least four (4) feet in height when planted, shall be planted and maintained around the perimeter of the antenna support structure outside of the required fencing and spaced close together to provide a continuous visual screen. Shrubs shall also be planted and maintained around the guy anchors for visual screening purposes.

A performance bond or letter of credit for one hundred fifty percent (150%) of the landscaping and fencing materials and labor costs shall be posted with the Planning Department, prior to building permit approval,

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

to ensure the placement of required landscaping and fencing in accordance with Section 27-1110, BMCC.

- c. *Commercial landscaping.* Landscaping requirements shall not apply to antenna support structures located in the Heavy Industrial (HI) zoning district.
  - d. *Exceptions for City Airport Airfield Area.* If federal safety and security standards within the city airport's airfield area prevent an antenna support structure from being fenced or landscaped, items (5)(a) and (5)(b) will not apply. Documentation of these standards must be submitted with the building permit or special review applications.
- (6) *Lighting.* Antenna support structures shall not be artificially lighted unless required by the FAA or other local, state, or federal agency. If the FAA requires safety lighting, the use of red beacons is preferred to flashing strobe lights. Security lighting on site may be mounted up to twenty (20) feet high on the tower, and shall be directed towards the ground to reduce light pollution, prevent off-site light spillage, and avoid illuminating the tower. Cut-off security lighting must be used adjacent to residential uses or residentially zoned lots. When incorporated into the approved design of the facility, light fixtures used to illuminate sports fields, parking lots, or similar areas may be included in the facility.
- (7) *Signage.* Signage shall be limited to non-illuminated warning and equipment identification signs.
- (8) *Co-location.*
- a. Antenna support structures should be designed in all respects to accommodate both the applicant's antennae and antennae for at least two (2) additional comparable antennae if the antenna support structure is over one hundred (100) feet in height or for at least one (1) additional comparable antennae if the tower is between fifty (50) feet and one hundred (100) feet in height.
  - b. All new antennae must co-locate on existing or approved antenna support structures or alternative antenna support structures unless it can be demonstrated co-location is not feasible as provided for in (k)(7) of this section.
- (9) *Maintenance.*
- a. Equipment at a wireless communication facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.
  - b. All property used for the siting of an antenna support structure or antenna shall be maintained, without expense to the city and/or county,

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

so as to be safe, orderly, attractive, and in conformity with city and/or county codes including those regarding the removal of weeds, trash, and landscape maintenance.

(10) *Visual impact/aesthetics.*

- a. Wireless communication facilities shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable local, state, or federal agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.
- b. If an antenna is installed on a structure other than a tower, the antenna and associated electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible. Antennae and antenna support structures may be mounted on existing buildings that are thirty (30) feet or more in height above the street grade.
- c. Roof-mounted antennae and antenna support structures shall not add more than twenty (20) feet to the total height of the building on which they are mounted. Roof-mounted equipment shall be made visually unobtrusive to match existing air conditioning units, stair, elevator towers or other architectural elements. Only monopole antennae support structures with omni-directional (whip) or low profile single-directional (panel) shall be installed on building roofs. Examples of acceptable designs are shown in subsection (o) of this section. Crow's nest antennae arrays are prohibited on roof-top structures.
- d. Wireless communication facilities attached to new or existing structures shall be designed to blend with the structure's architecture and should be placed directly above, below or incorporated with vertical design elements of a structure.
- e. Wireless communication facilities shall be located as to minimize their visibility and not be placed within historic or scenic view corridors as designated by the Billings City Council or the Yellowstone County Commission, or by any state or federal law or agency.

(11) *Antenna support structure separation.* All antenna support structures over fifty (50) feet in height, regardless of the zoning district in which the structure is located, shall be located at least one (1) mile from any other antenna support structure that is over fifty (50) feet. Up to three (3) antenna support structures located within an approved wireless communication facility tower farm shall be located at least one (1) mile from any other tower farm.

Exceptions to the terms of subsection (g)(11) may be granted by the governing body during the special review process when it is found that no existing or approved antenna support structure within the required separation distance of

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

the proposed site can accommodate the applicant's proposed antenna or a critical need exists for the proposed location and it is technically infeasible to locate or co-locate structures at or beyond the required separation distance.

- (h) *Nonconforming wireless communication facilities.* Antenna support structures and/or facilities in existence on the date of the adoption of these regulations, that do not comply with the requirements of these regulations, (nonconforming antenna support structures) are subject to the following provisions:
  - (1) Nonconforming antenna support structures may continue their present use, but may not be expanded or increased in height without complying with these regulations, except as further provided in this section.
  - (2) Nonconforming antenna support structures which are hereafter damaged and destroyed, by less than fifty (50) percent of its replacement value, due to any reason or cause may be repaired and restored to their former use, location, and physical dimensions subject to obtaining a building permit and other necessary approvals thereof, but without otherwise complying with these regulations. If an antenna support structure is destroyed or damaged by more than fifty (50) percent of its replacement the antenna support structure must be brought into compliance with these regulations.
  - (3) The owner of any nonconforming antenna support structure may make minor modifications in order to improve the structural integrity of the facility, to allow the facility to accommodate co-located antennae or facilities, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of these regulations.
- (i) *Modifications of existing wireless communication facilities that meet the requirements of these regulations.*
  - (1) *Minor modifications.* Minor modifications to facilities permitted under these regulations shall be approved by the City-County Planning Department so long as they comply with the original approved design. Minor modifications are as follows: the addition of more antenna arrays to any existing antenna support structure, so long as the addition of the antenna arrays add no more than twenty (20) feet in height to the facility and the increase in height of the support structure is no greater than ten (10) percent. Placement of additional antennae, up to the number the antenna support structure was originally designed to accommodate, shall be considered a minor modification.
  - (2) *Major modifications.* Major modifications to antenna support structures permitted under these regulations shall be approved through a special review. Major modifications are any that exceed the definition of minor modifications.
- (j) *Abandonment.* Wireless communications facilities will be considered abandoned if they are unused by all providers at the facility for a period of six (6) months. Determination of abandonment shall be made by the City-County Planning Department, which shall have the right to request documentation from the facility owner regarding

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

support or antenna usage. Upon abandonment, the facility owner shall have ninety (90) days to:

1. Re-use the facility, or transfer the facility to another owner who will re-use it; or
2. Dismantle the facility. If the facility is not removed within ninety (90) days of abandonment, the city and/or county may remove the facility at the facility and/or property owner's expense. If the facility is removed, city and/or county approval of the facility will expire.

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

(k) *Special Review submittal requirements.* The applicant of new wireless communication facilities shall provide the following documentation for review by the City-County Planning Department:

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

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

1. Other pertinent features as determined by the Zoning Coordinator or Development Review Committee.
- (3) Area map showing the property boundaries of adjacent property and the location of existing buildings.
- (4) Inventory of existing and approved sites. Each applicant for one or more antenna support structure shall provide to the City-County Planning Department a map showing the locations and service area of existing and approved antenna support structures operated or utilized by the applicant, including specific information on the location, height, and design of each antenna support structure. The City-County Planning Department shall maintain an inventory of existing and approved antenna support structures, including specific information about the location, height, and design of each antenna support structures. The city may share such information with other persons, organizations or governmental authorities.
- (5) Documentation of minimum light requirements from the FAA or other local, state or federal agency for the antenna support structure and/or antennae. Where applicable, applicant will provide documentation of the FAA airspace review and a copy of comments from the FAA.
- (6) When the applicant is a wireless service provider, proof that the applicant is licensed by the FCC to provide the wireless communication services that the proposed facility is designed to support.
- (7) Availability of suitable existing or approved antenna support structures. No new antenna support structure shall be permitted unless the applicant clearly demonstrates, in writing, to the reasonable satisfaction of the City-County Planning Department that no existing or approved antenna support structure within the required separation distance of the proposed site can accommodate the applicant's proposed antenna. Closer separation distances may be approved if the applicant clearly demonstrates a critical need for the alternative location and the infeasibility of locating or co-locating wireless communication facility at or beyond the required separation distance. Evidence submitted to demonstrate that no existing or approved structure can accommodate the applicant's proposed antenna must include a discussion of the following items, if relevant.
  - a. No existing or approved antenna support structures are located within the geographic area required to meet the applicant's engineering requirements.
  - b. Existing or approved antenna support structures are not of sufficient height to meet the applicant's engineering requirements.
  - c. Existing or approved antenna support structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment and cannot be reinforced to provide sufficient structural strength.

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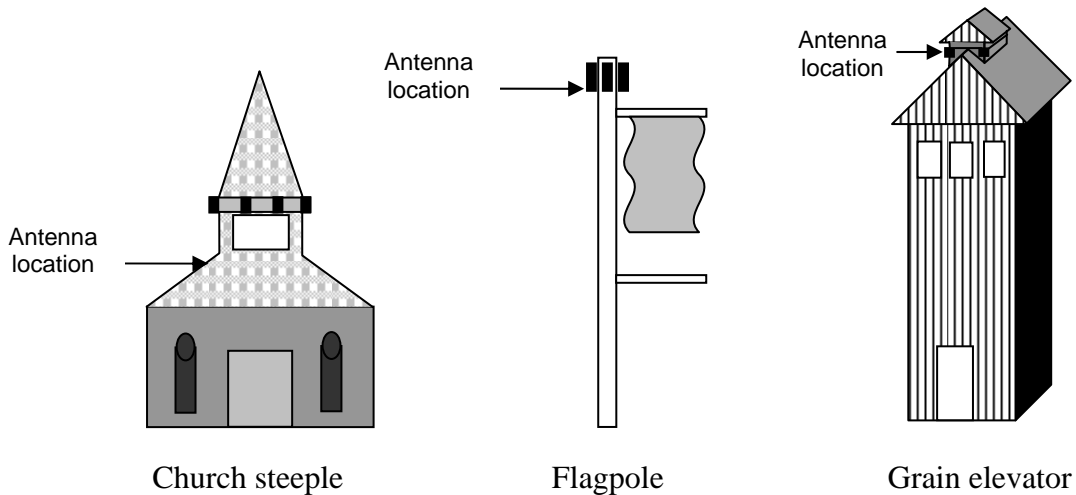
- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing or approved antenna support structures, or the antenna on the existing or approved antenna support structures would cause interference with the applicant's proposed antenna.
  - e. The fees or costs required to share an existing or approved antenna support structure or to adapt an existing or approved antenna support structures for sharing are unreasonable. Costs below new tower development are presumed reasonable.
  - f. Property owners or owners of existing or approved antenna support structures are unwilling to accommodate the applicant's needs.
  - g. The applicant demonstrates that there are other limiting factors that render existing or approved antenna support structures unsuitable.
- (8) Co-location agreement. If co-location is feasible, the owner of the antenna support structure shall certify, prior to permit approval, that the owner will accept for co-location any FCC licensed wireless communication provider using compatible technology on commercially reasonable terms up to the antenna support structure's capacity to accommodate additional antennae. The applicant shall also include a statement on how requests for co-locators will be processed.
- (9) Effect of surrounding property values. The applicant must submit information that substantiates there will be no adverse effects on surrounding property values resulting from the proposed facility.
- (1) Special review uses.
- (1) A request for a special review shall be initiated by application to the City-County Planning Department and handled in accordance with the special review procedure provided in section 27-1503 and 27-1509 of these zoning regulations. The Billings City Council or Yellowstone County Commission may issue special review approval under these sections provided they have determined that the requirements of these regulations have been satisfied and, further, that the benefits of and need for the proposed wireless communication facilities are greater than possible depreciating effects and damage to neighboring properties.
  - (2) In granting special review approval, the Billings City Council or Yellowstone County Commission may impose additional conditions to the extent determined necessary to buffer or otherwise minimize adverse effects of the proposed wireless communication facilities on surrounding properties.
  - (3) Expiration of special review approval.
    - a. A building permit must be applied for within six (6) months of special review approval and the project shall be completed within one (1) year from the date the special review is granted by the City Council or County Commission. For the purpose of these regulations, the term standard of construction shall be defined as the installation of a

**ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS**

permanent foundation for the antenna support structure. The City Council and/or County Commission may grant one (1) six (6) month extension of the period to start construction upon written request by the applicant.

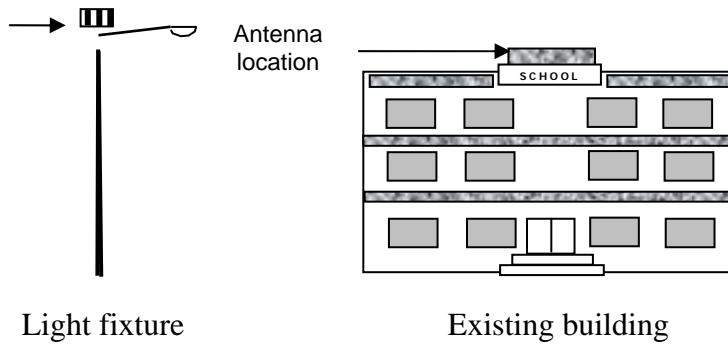
- b. The City Council or County Commission shall not approve an extension unless the development plan is brought into conformance with any relevant zoning regulations that have been amended subsequent to the original approval and unless the applicant provides adequate evidence that construction is able to begin within the time period sought. This evidence shall include, but not be limited to, the acquisition of any or all required government approvals and project financing, the City Council or County Commission may as a condition of approval of a special review establish the period of time such special review may remain in effect.
- (m) Appeals. Appeals from any decision of the City-County Planning Department may be taken by any person aggrieved or any official of the city or county affected by the decision of the City-County Planning Department. Such appeal shall be to the City and/or County Board of Adjustment pursuant to Section 27-1506 or Section 27-1511 of the City of Billings and Yellowstone County Unified Zoning Regulations.
- (n) Nuisances. Wireless communication facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the city and/or county noise regulations, shall not be operated so as to cause the generation of heat that adversely affects a building occupant and shall not be maintained or operated in such a manner as to be a nuisance.
- (o) Wireless Communication Facilities. Illustrated examples.

(1) Alternative Antenna Support Structures

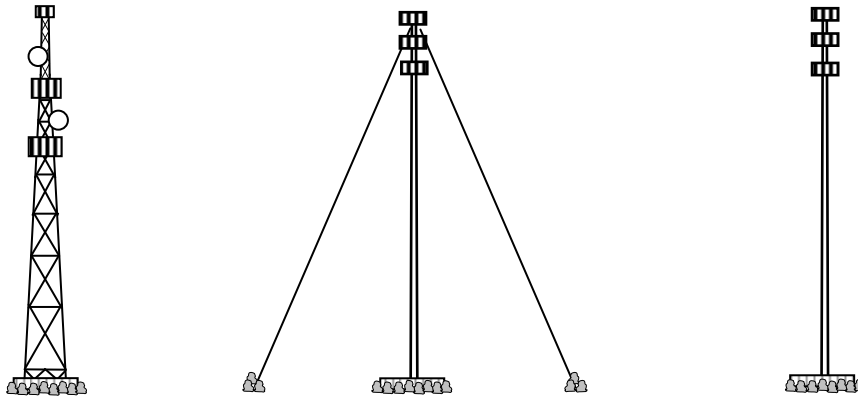


Antenna location

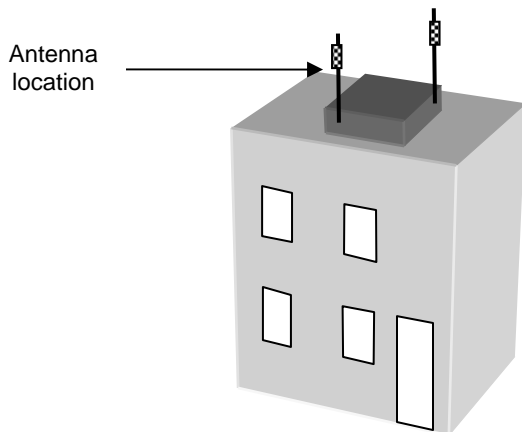
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(2) Antenna Support Structures



(3) 3. Roof-mounted Antenna Support Structures and Antennae



## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

### SEC. 27-621 STANDARDS FOR LAND MOBILE RADIO AND RADIO AND TELEVISION BROADCAST ANTENNAE AND ANTENNA SUPPORT STRUCTURES

- (a) *Purpose.* The purpose of this section is to establish regulations for the siting of broadcast facilities, including land mobile radio services and radio and television broadcast antennae, antenna support structures and associated equipment and buildings on public and private property. The goals of this section, developed with the assistance and participation of the Broadcast and Land Mobile Radio industry in Yellowstone County, are to:
- (1) Encourage the location of broadcast facilities in non-residential areas and minimize the total number of antenna support structures throughout the community;
  - (2) Strongly encourage the joint use of new and existing broadcast antenna support structures;
  - (3) Require broadcast facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal;
  - (4) Require broadcast facilities to be configured in a way that minimizes the adverse visual impact of antenna support structures and antennae; and
  - (5) Enhance the ability of the providers of land mobile radio services and radio and television broadcast services to provide such services to the community, as quickly, effectively, and efficiently as possible.
- (b) *Definitions.* For the purposes of this section, the terms used shall be defined as follows:
- (1) **AM:** Amplitude-modulated broadcasting in the frequency band 535-1, 705 Kilohertz.
  - (2) **Antenna/ antenna support structure height:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure including any attached antennae. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.
  - (3) **Broadcast antenna:** A ground-, building- or tower-mounted antenna operated as a land mobile radio service or as a broadcast radio and/or television service as defined by the Federal Communications Commission (FCC) under Code of Federal Regulations and subsequent title amendments;
    - Title 47, PART 90 (47 CFR § 90) – PRIVATE LAND MOBILE RADIO SERVICES,
    - Title 47, PART 73 (47 CFR § 73) - RADIO BROADCAST SERVICES, which includes AM, FM, and Television Services, and
    - Title 47, PART 74 (47 CFR § 74) - EXPERIMENTAL RADIO, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES.

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- (4) **Broadcast antenna support structure:** Any structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennae. Antenna support structures may include, but are not limited to, self-supporting lattice towers, guyed towers, or monopole towers. In this section, the term applies to land mobile radio service and broadcast radio and television transmission antenna support structures. The term includes the structure and any support thereto.
  - (5) **Broadcast antenna or tower farm:** A tract of land that contains three (3) or more broadcast or land mobile radio service antenna support structures, any two are spaced no more than seven hundred fifty (750) linear feet of each other. Legal tracts must be adjacent to each other to be included in this definition. The term is inclusive of all antenna support structures, equipment enclosures, buildings and any additions thereto.
  - (6) **Broadcast facilities** An unstaffed facility for the transmission and/or reception of radio signals for communications purposes, typically consisting of an equipment building or enclosure, an antenna support structure and one or more antennae. This definition applies exclusively to land mobile radio fixed systems, and radio and television broadcast transmission facilities.
  - (7) **FAA:** Federal Aviation Administration.
  - (8) **FCC:** Federal Communications Commission.
  - (9) **Land Mobile Radio Service (LMRS):** A mobile service between base stations and land mobile stations or between land mobile stations as defined in Title 47, PART 90 (47 CFR § 90) – Private Land Mobile Radio Services.
- (c) *Applicability.* All land mobile radio service and radio and television broadcast antenna and antenna support structures located within the City of Billings and/or the Yellowstone County zoning jurisdiction whether upon private or public lands shall be subject to this ordinance/resolution. This ordinance/resolution shall apply to broadcast antenna and antenna support structures upon state and federal lands to the extent of the city's and/or county's jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise.
- Pre-existing land mobile radio and radio and television broadcast antenna support structures and antennae shall not be required to meet the requirements of this ordinance/resolution, except as provided under section 27-621 G, "Nonconforming broadcast facilities".
- (d) *Broadcast antenna support structures and antennae located in residential zoning districts.*
- (1) Land mobile radio and radio and television broadcast antenna support structures and antennae shall be permitted as an allowed use in all residential zoning districts provided they meet all of the following criteria:
    - a. Alternative broadcast antenna support structures conforming to all applicable provisions of this Code and roof-mounted antennae that do

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

not add more than twenty (20) feet to the total height of the building on which it is mounted shall be permitted as an allowed use only when located on school, government-owned utility, and other government sites. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in Sections 27-1503 and 27-1509 of these zoning regulations, or may be submitted to the Board of Adjustment for a hearing, whichever is the preference of the owner/agency. The Board of Adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with Sections 27-1505(c) or 27-1510(c), BMCC. The Board of Adjustment shall forward comments and recommendations to the affected government agency for their consideration.

- b. Antennae co-located on existing or approved alternative broadcast antenna support structures or existing or approved broadcast antenna support structures, which have previously received, all required approvals and permits shall be permitted as an allowed use.
- (2) Broadcast antenna support structures and antennae shall be permitted in the agricultural-open space (AO) zoning district provided the following conditions and all applicable setback, lot coverage, and building (commercial equipment enclosures) height requirements are met:
- a. Broadcast antenna support structures conforming to all applicable provisions of this Code shall be permitted when:
    - (1) Located on school, government-owned utility, and government sites and alternative antenna support structures or roof-mounted antennae are used. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in Sections 27-1503 and 27-1509 of these zoning regulations, or may be submitted to the Board of Adjustment for a hearing, whichever is the preference of the owner/agency. The Board of Adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with Sections 27-1505(c) or 27-1510(c), BMCC. The Board of Adjustment shall forward comments and recommendations to the affected government agency for their consideration.
    - (2) Broadcast antenna support structures fifty (50) feet or less in height.
  - b. Broadcast antenna support structures that are greater than fifty (50) feet in height shall be required to obtain special review approval.
  - c. Broadcast antennae co-located on existing or approved alternative broadcast antenna support structures or existing or approved broadcast antenna support structures that have previously received all required approvals and permits shall be permitted as an allowed use.
  - d. Broadcast antenna or tower farms are permitted by special review.

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- (e) Broadcast antenna support structures and antennae located in commercial zoning districts.
  - (1) Broadcast antenna support structures fifty (50) feet in height or less shall be permitted as an allowed use.
  - (2) Broadcast antenna support structures that exceed 50 feet in height or the maximum height limitations in the underlying commercial and industrial zoning districts as indicated in section 27-306, BMCC (whichever is greater) are permitted by special review.
  - (3) Broadcast antenna or tower farms are permitted by special review, except in the CBD and South 27th Street zoning districts.
  - (4) All broadcast antenna support structures located in heavy industrial (HI) shall be permitted as an allowed use, including broadcast antenna or tower farms.
  - (5) All broadcast facilities located within the boundaries of an approved or preexisting broadcast antenna or tower farm shall be permitted as an allowed use.
- (f) *General requirements.* The requirements set forth in this section shall govern the location and construction of all land mobile radio service and radio and television transmission facilities governed by this section.
  - (1) Building codes and safety standards. To ensure the structural integrity of broadcast facilities, the owner of a facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for such facilities.
  - (2) Regulatory compliance. All broadcast facilities must meet current standards and regulations of the FAA, the FCC, and other local, state or federal agencies with the authority to regulate facilities governed by this section.
  - (3) *Setbacks:*
    - a. Broadcast antenna support structures adjacent to residential uses or zoning. Broadcast antenna support structures must be set back, from all property lines, a distance equal to one-half ( $\frac{1}{2}$ ) the height of the structure from any off-site residential structure or residentially zoned lot. Accessory structures, such as equipment enclosures or transmitter buildings, must maintain a minimum of a fifteen (15) foot setback from any lot line adjacent to a residential structure or residentially zoned lot, or the required setback of the zoning district where the antenna support structure is located, whichever is greater.
    - b. Commercial and industrial zoning setbacks: Broadcast antenna support structures and accessory facilities must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.
    - c. Broadcast facilities in broadcast antenna or tower farms: Antenna support structures and accessory facilities located in antenna or tower

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farms must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.

- (4) *Lot coverage and height:* Broadcast antenna support structures and accessory structures shall not exceed lot coverage requirements for the zoning district in which they are located. Building and equipment enclosures shall not exceed the height restrictions for the zoning district in which they are located.
- (5) *Fencing and buffering.*
  - a. *Fencing.* A chain link or solid wood fence, or masonry wall at least six (6) feet in height (eight (8) feet if razor or barbed wire is to be used) shall be constructed and maintained around the perimeter of the broadcast antenna support structure site. Climb-proof shields can be substituted for a fence or wall around the structure. Solid fences, at least six (6) feet in height are required adjacent to residences and residentially zoned property. All AM broadcast antenna support structures must be surrounded by a suitable fence as required by FCC regulations.
  - b. *Landscaping adjacent to residential uses and/or residential zoning.* For broadcast facilities located in a residential zoning district, adjacent to a residential use, or adjacent to a residentially zoned parcel, the following will be required: a continuous evergreen hedge at least four (4) feet in height when planted, shall be planted and maintained around the perimeter of the antenna support structure outside of the required fencing and spaced close together to provide a continuous visual screen. Shrubs shall also be planted and maintained around the guy anchors for visual screening purposes. AM Broadcast stations are exempt from this requirement due to overriding FCC regulations regarding vegetation in ground radial systems.

A performance bond or letter of credit for one hundred fifty percent (150%) of the landscaping and fencing materials and labor costs shall be posted with the Planning Department to ensure the placement of required landscaping and fencing in accordance with Section 27-1110, BMCC.
  - c. *Commercial landscaping.* Landscaping requirements shall not apply to broadcast antenna support structures located in Agricultural-Open Space, commercial or industrial zoning districts or approved broadcast antenna or tower farms.
  - d. *Exceptions for City Airport Airfield Area.* If federal safety and security standards within the city airport's airfield area prevent a broadcast antenna support structure from being fenced or landscaped, items (5)(a) and (5)(b) will not apply. Documentation of these standards must be submitted with the building permit or special review applications.
- (6) *Lighting.* Broadcast antenna support structures shall not be artificially lighted unless required by the FAA or other local, state, or federal agency. Security

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lighting may be placed on a support structure no higher than twenty feet above ground. Cut-off security lights must be used in or adjacent to residential areas to prevent light spillage onto adjacent property.

- (7) *Signage.* Signage shall be limited to non-illuminated warning and equipment identification signs unless otherwise required by the FAA and/or FCC.
- (8) *Maintenance.*
  - a. Equipment at a broadcast facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.
  - b. All property used for the siting of a broadcast antenna support structure or antenna shall be maintained, without expense to the city and/or county, so as to be safe, orderly, attractive, and in conformity with city and/or county codes including those regarding the removal of weeds, trash and landscape maintenance.
- (9) *Visual impact/aesthetics.*
  - a. Broadcast antenna support structures shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable local, state, or federal agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.
  - b. If a broadcast antenna is installed on a structure other than a tower, the associated electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the related equipment as visually unobtrusive as possible. Broadcast antennae and antenna support structures may be mounted on existing buildings that are thirty (30) feet or more in height above the street grade.
  - c. Roof-mounted antennae and antenna support structures shall not add more than twenty (20) feet to the total height of the building on which they are mounted. Roof-mounted equipment shall be made visually unobtrusive to match existing air conditioning units, stair, elevator towers or other background. Crow's nest antennae arrays are prohibited on rooftop structures.
  - d. Broadcast antenna or antenna support structures attached to new or existing structures shall be designed to blend with the structure's architecture and should be placed directly above, below or incorporated with vertical design elements of a structure.

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

- (g) *Nonconforming broadcast facilities.* Broadcast facilities in existence on the date of the adoption of these regulations that do not comply with the requirements of these regulations, are subject to the following provisions:
- (1) Nonconforming broadcast facilities may continue their present use, but may not be expanded without complying with these regulations, except as further provided in this section.
  - (2) Nonconforming broadcast antenna support structures which are hereafter damaged and destroyed, by less than fifty (50) percent of its replacement value, due to any reason or cause may be repaired and restored to their former use, location, and physical dimensions subject to obtaining a building permit and other necessary approvals thereof, but without otherwise complying with these regulations. If a broadcast antenna support structure is destroyed or damaged by fifty (50) percent or more of its replacement the broadcast antenna support structure must be brought into compliance with these regulations.
  - (3) The owner of any nonconforming broadcast antenna support structure may make minor modifications in order to improve the structural integrity of the structure, to allow the structure to accommodate co-located antennae, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of these regulations.
- (h) *Modifications of existing or broadcast facilities that meet the requirements of these regulations.*
- (1) *Minor modifications.* Minor modifications to facilities permitted under these regulations shall be approved by the City-County Planning Department so long as they comply with the original approved design. Minor modifications are as follows:
    - a. The addition of one or more antenna arrays to any existing antenna support structure, so long as the addition of the antenna arrays add no more than twenty (20) feet in height to the facility and the increase in height of the support structure is no greater than ten (10) percent.
    - b. Placement of additional antennae, up to the number the antenna support structure was originally designed to accommodate, shall be considered a minor modification.
    - c. Repairs to or replacement of existing antennae or feedlines or support members (such as guy wires) are not considered modifications under this part.
  - (2) *Major modifications.* Major modifications to antenna support structures permitted under these regulations shall be approved through a special review. Major modifications are any that exceed the definition of minor modifications.
- (i) *Abandonment.* Broadcast facilities will be considered abandoned if they are unused by all providers at the facility for a period of six (6) months. Determination of abandonment shall be made by the City-County Planning Department which shall have

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

the right to request documentation from the facility owner regarding support or antenna usage. Upon abandonment, the facility owner shall have ninety (90) days to:

- (1) Re-use the facility or transfer the facility to another owner who will re-use it;  
or
  - (2) Dismantle the facility. If the facility is not removed within ninety (90) days of abandonment, the city and/or county may remove the facility at the facility and/or property owner's expense. If the facility is removed, city and/or county approval of the facility will expire. If the facility owner is unable to remove the facility within the ninety (90) days due to unusual circumstances, the City-County Planning Department may grant the facility owner an additional ninety (90) days in which to comply with the requirements of this section.
- (j) *Special Review Submittal requirements.* The applicant of new broadcast facilities shall provide the following documentation for review by the City-County Planning Department:
- (1) A map to scale showing the service area of the proposed broadcast facility.
  - (2) A site/landscaping plan showing the following items:
    - a. North arrow.
    - b. The location and dimensions of all vehicular points of ingress and egress, drives, alleys and streets.
    - c. Property boundaries and lot line dimensions.
    - d. The locations and dimensions of all existing and proposed buildings, structures, and improvements including those that will be removed. All information must be labeled.
    - e. Setbacks from all property boundaries for existing and proposed structures and buildings.
    - f. Centerline and names of major and minor arterial streets relevant to the application.
    - g. Elevation drawing of proposed broadcast facility including the antenna support structure, antenna platforms and associated equipment enclosures.
    - h. Latitude, longitude and height of proposed antenna support structures.
    - i. Location of artificial light sources and the areas of illumination.
    - j. Applications for tower farms shall include items a through h and a general overall development plan showing the location of future structures and equipment enclosures.
    - k. Detailed landscaping plan of the site when applicable.
    - l. Other pertinent features as determined by the Zoning Coordinator or Development Review Committee.

## ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS

- (3) Area map showing adjoining property boundaries and the location of existing buildings within a distance equal to the required setbacks as set forth in section (f)(3).
  - (4) Documentation of minimum light requirements from the FAA or other local state or federal agency for the antenna support structure and/or antennae. Where applicable, applicant will provide documentation of the FAA airspace review and a copy of the comments provided by the FAA. Where an application has been filed with the FAA for the services proposed and decision on minimum light requirements by the FAA is still pending, submittal of a copy of the proposed application shall be sufficient to meet the requirements of this paragraph.
  - (5) When the applicant is a land mobile radio service provider, or a radio or television broadcaster, proof must be provided that the applicant is licensed by the FCC to provide the services that the proposed facility is designed to support or the applicant must prove the necessary application have been filed with the FCC and/or FAA for the services proposed, together with proof all filing fees have been paid.
- (k) *Special review uses*
- (1) A request for a special review shall be initiated by application to the City-County Planning Department and handled in accordance with the special review procedure provided in section 27-1503 and 27-1509, BMCC of these zoning regulations. The Billings City Council or Yellowstone County commission may issue special review approval under these sections provided they have determined that the requirements of these regulations have been satisfied.
  - (2) In granting special review approval, the Billings City Council or Yellowstone County Commission may impose additional conditions to the extent determined necessary to buffer or otherwise minimize adverse effects of the proposed broadcast facilities on surrounding properties.
  - (3) Expiration of special review approval.
    - a. A building permit must be applied for within six (6) months of a special review approval and the project shall be completed within one (1) year from the date the special review is granted by the city council or county commission. For the purpose of these regulations, the term standard of construction shall be defined as the installation of a permanent foundation for the antenna support structure. The city council and/or county commission may grant one (1) six (6) month extensions of the period to start construction upon written request by the applicant.
    - b. The city council or county commission shall not approve an extension unless the development plan is brought into conformance with any relevant zoning regulations that have been amended subsequent to the original approval and unless the applicant provides adequate evidence that construction is able to begin within the time period sought. This

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evidence shall include, but not be limited to, the acquisition of any or all required government approvals and project financing, the city council or county commission may as a condition of approval of a special review establish the period of time such special review may remain in effect.

- c. Small increases in the height of existing antenna support structures approved by special review may be approved by the City-County Planning Department on an administrative basis provided that the increase in the height of the antenna support structure is ten (10) percent or less.
  - d. Special review approvals for broadcast antenna or tower farms shall not expire until such time as all facilities within the boundaries of the antenna or tower farm have been abandoned.
- (l) *Appeals.* Appeals from any decision of the City-County Planning Department may be taken by any person aggrieved or any official of the city affected by the decision of the City-County Planning Department. Such appeal shall be to the city and/or county board of adjustment pursuant to section 27-1506 and/or section 27-1511 BMCC.
- (m) *Nuisances.* Broadcast facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the city and/or county noise regulations, shall not be operated so as to cause the generation of heat that adversely affects a building occupant and shall not be maintained or operated in such a manner as to be a nuisance.

## **ARTICLE 27-600. SUPPLEMENTARY GENERAL PROVISIONS**

### **Sec. 27-622. NEW CONDOMINIUMS, TOWNHOMES, TOWNHOUSES AND MULTI-UNIT DEVELOPMENTS**

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

Prior to filing a condominium, townhome, townhouse Declaration of Unit Ownership with the County Clerk and Recorder, or applying for building permits for the multi-unit development, the owner(s) shall submit to the Planning Division:

- (1) A City approved master site plan showing the dimensions of the lot(s) containing the condominium, townhome, townhouse units or multiple commercial units and the location and dimensions of all buildings containing the units.
- (2) A copy of the Declaration of Unit Ownership if creating a condominium, townhome or townhouse.

Only after determining that the condominium, townhome or townhouse or multi-unit development project has a City approved master site plan, as required in Section 1 above, that complies with the applicable zoning district requirements, and supplementary general provisions, site development, building and fire safety regulations as per Sections 6-1200, 14-300, 27-622, and 27-623 of the Billings Municipal Code will the Planning Division issue a condominium Certificate of Compliance or approve a building permit.

For condominiums, townhome or townhouse the Certificate of Compliance will be filed with the County Clerk and Recorder prior to recording the Declaration of Unit Ownership. The Certificate shall state:

- (1) The legal description of the property.
- (2) The condominium, townhome or townhouse units are exempt from 76-3-203, MCA because they comply with zoning, or in the case of new development, comply with zoning based on the City approved master site plan.
- (3) Any changes to the City approved Master Site Plan must be reviewed by the City through the Planning Division.

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### **SEC. 27-623. COUNTY ZONING COMPLIANCE PERMIT**

A Zoning Compliance Permit is only required for properties that are located outside the limits of the City of Billings but within the Unincorporated Jurisdictional Area.

No change of land use may be made; or no building or other structure shall be erected, moved, enlarged, rebuilt, added to, or structurally altered without first having received a Zoning Compliance Permit issued by the Zoning Coordinator or his/her designee, who shall determine that the permit is issued in compliance with the regulations set forth in this Resolution/Ordinance. The review of a Zoning Compliance Permit application shall be limited only to a review of the applicable zoning regulations and shall not constitute a review of compliance with any applicable building codes. A separate sign permit is required prior to the erection of any sign.

Each application for a Zoning Compliance Permit shall be accompanied by a site plan, building elevations and any other information requested by the Zoning Coordinator to adequately review the proposed project. Additionally, commercial projects require submittal of a landscaping plan and a site plan showing off-street parking, loading, etc. The Board of County Commissioners may set an application fee by Resolution for review of a Zoning Compliance Permit. The Zoning Coordinator or his/her designee may waive the submittal requirements for some of the above mentioned plans. Zoning Compliance Permits are valid for a period of six (6) months from the date of approval and may be extended for an additional six (6) months with written approval from the Zoning Coordinator.