

ARTICLE 1000: USE-SPECIFIC STANDARDS

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

District Groupings Used in this Section	
Agriculture	Agriculture
Residential	RR1, RR3, N4, and RRMH
Commercial	C3, CX
Industrial	I1, I2
Public	P1, P2, P3

SECTION 27-1001 GENERAL PROVISIONS**A. GENERALLY APPLICABLE STANDARDS**

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

1. A lot may contain more than one use.
2. Each of the uses may function as either a principal use or accessory use on a lot, unless otherwise specified.
3. Uses are either: /P/ permitted by-right in a district, /PR/ permitted by-right with use-specific standards, that may include separation requirements that are applicable across multiple districts as described in this section, or /PL/ permitted design parameters defined in specific zone districts, or /SR/ generally not permitted but an applicant may request special review to show that the use may be developed in a manner appropriate to the district.
4. Each use may have both indoor and outdoor facilities, unless otherwise specified.

B. USE TABLE ORGANIZATION

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

C. PRIMARY USE CLASSIFICATION GENERAL DESCRIPTIONS**1. Organization**

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

- (4) Industrial, Wholesale, and Storage
- (5) Agriculture
- (b) Where there are also groups of uses with a use type, the use type may also be organized into “use groups” and “use type subgroups” where there are a number of possible variations of a use type, such as residential dwellings or group living. This classification provides a systematic basis for assigning present and future land uses into appropriate zoning districts.
- (c) The use categories and use groups are described below for the purpose of providing a general description of each use category and use group along with examples of primary and some accessory uses that might be permitted within the category or group. Not all of these uses are permitted in every zone district. Accessory uses described in this section may also be allowed as primary uses in some zone districts. To determine which uses are permitted in which district, see Table 27-1000.1.

2. Residential Uses

- (a) Use Category Description: This is a category of uses offering habitation on a continuous basis of at least 30 days. The continuous basis is established by tenancy with a minimum term of one month or property ownership. This use category also includes group residential facilities.
- (b) Use Types
 - (1) Household Living: This use type is characterized by residential occupancy of a dwelling unit by one or more persons. Uses where tenancy may be arranged for a shorter period are not considered residential; they are considered to be a form of transient lodging.
 - (2) Group Living: This use type is characterized by residential occupancy of a structure by a group of people who do not meet the definition of "Household Living". Generally, group living structures have a common eating area for residents. The residents may receive care, training, or treatment, and caregivers may also reside at the site.

3. Public, Civic, and Institutional Uses

- (a) Use Category Description: This is a use category for public, quasi-public, and private uses that provide unique services that are of benefit to the public at-large.
- (b) Use Types
 - (1) Assembly: Civic and cultural assembly uses are permanent places where persons regularly assemble for religious worship or secular activities, and which are maintained and controlled by a body organized to sustain the religious or public assembly. Civic assembly uses include civic and social organizations such as private lodges, clubs, fraternities, and similar private membership organizations, as well as places of community assembly such as libraries and museums.
 - (2) Education: This use type includes institutions of learning that provide educational instruction to students. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care.
 - (3) Health Care and Social Assistance: This use type is characterized by activities focusing on medical services, particularly licensed public or private institutions that provide

primary health services and medical or surgical care to persons suffering from illness, disease, injury, or other physical or mental conditions. Accessory uses may include laboratories, outpatient, or training facilities, and parking, or other amenities primarily for the use of employees in the firm or building.

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

4. Commercial Uses

- (a) Use Category Description: This is a use category for any retail, consumer service, or office use.
- (b) Use Types
 - (1) Amusement and Recreation: This use type includes a broad array of commercial establishments that operate indoor or outdoor facilities or provide services to meet varied artistic, cultural, entertainment, and recreational interests of their patrons. Excluded are restaurants and bars that provide live entertainment in addition to the sale of food and beverages, which this Zoning Code categorizes as “eating and drinking establishments.”
 - (2) Animal Sales and Services: This use category groups uses related to animal care.
 - (3) Assembly, Entertainment and Trade: These commercial assembly uses include convention centers, theaters, stadiums, arenas, and wedding venues.
 - (4) Adult and Child Day Care: This use type includes adult day care and the range of child care services permitted by Montana law.
 - (5) Commercial Services: This use category includes uses that provide for consumer or business services and for the repair and maintenance of a wide variety of products. Personal services are also included, characterized by establishments that provide individual services related to personal needs such as barber shops or dry cleaners.
 - (6) Eating and Drinking Establishment: This is a use category for businesses that prepare or serve food or beverages for consumption on or off the premises, such as restaurants and bars, along with specialty food and beverage production such as coffee roasting and craft alcohol. Accessory uses may include outdoor seating, offices and parking.
 - (7) Financial Services: This use category includes establishments that have a primary purpose of: providing custody, loans, exchange, or issuance of money; extending credit; and transmitting funds, including via drive-in facilities and automatic teller machines.
 - (8) Lodging: Uses in this use type provide customers with temporary housing for an agreed upon term of less than 30 consecutive days; any use where temporary housing is offered to the public for compensation and is open to transient rather than permanent guests. This use type includes hotels, motels, short-term rentals, and bed and breakfast inns.

- (9) **Office:** This type includes uses where people are engaged primarily in on-site administrative, business, or professional activities. These uses are characterized by activities in an office setting that focus on the provision of off-site sale of goods or on-site information-based services, usually by professionals. Typical examples include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting, call centers, and similar offices. This category may also include laboratory services that are conducted entirely within an office-type setting. Accessory uses may include cafeterias, health facilities, parking or other amenities primarily for the use of employees in the firm or building.
- (10) **Parking, Commercial:** A use type that distinguishes primary commercial parking facilities from accessory parking.
- (11) **Retail Sales:** This is a use type for businesses involved in the sale, lease, or rental of new or used products to the general public. Such uses may include, but are not limited to: convenience food store, drug store, grocery store, hardware store, general merchandise store, garden supplies, furniture, home furnishings and equipment. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging or repair of goods for in-site sales.
- (12) **Vehicle and Sales and Services, Personal:** This use type includes a broad range of uses for the maintenance, sale, or rental of passenger motor vehicles and related equipment. Accessory uses may include incidental repair and storage and offices.

5. Industrial, Wholesale, and Storage

- (a) **Use Category Description:** This is a use category including uses that produce goods from extracted and raw materials or from recyclable or previously prepared materials, including the design, storage, and handling of these products and the materials from which they are produced.
- (b) **Use Types**
 - (1) **Industrial and Construction Services:** This use type is characterized by companies that are engaged in the repair or servicing of heavy machinery, equipment, products, or by-products, or the provision of heavy services including construction or contracting. Accessory activities and uses may include sales, offices, parking, and storage.
 - (2) **Industrial Manufacturing, Assembly, or Processing:** A use type including establishments involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, constructed, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished, and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, such activity is a subordinate part of sales. Relatively few customers come to the manufacturing site. Accessory activities may include retail sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, and caretaker's quarters.
 - (3) **Natural Resource Extraction:** This use type includes removal of resources from the ground.

- (4) **Warehousing and Wholesale Sales and Distribution:** This use type includes facilities used for the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking, and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on site or delivered to the customer. Warehousing does not include establishments that are retail membership clubs or that are predominately retail uses with associated warehouse storage space.
- (5) **Waste and Salvage:** This is a use category for uses that collect, store, process, or sell waste or salvage materials, or collect and process recyclable material, for the purpose of marketing or reusing the material in the manufacturing of new, reused, or reconstituted products.

6. Transportation, Utilities, and Communication

- (a) **Use Category Description:** This use group includes providers and uses that provide public and quasi-public services to individuals and the community in the following categories.
- (b) **Use Types**
 - (1) **Alternative Energy Production:** this is a use category that includes energy produced from resources that are regenerative, such as wind and solar energy.
 - (2) **Transportation:** this is a use category that includes uses involving public and private modes of transportation.
 - (3) **Utilities and Public Facilities:** This use type includes structures and locations for public or private lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and facilities for the generation of electricity. Utility uses may or may not have regular employees at the site and the services may be public or privately provided.
 - (4) **Wireless Communication Facilities:** This use type includes structures, locations, and equipment for the transmission of voice, data, image, or video programming.

7. Agricultural Uses

Use Category Description: This is a category of uses characterized by active and on-going agricultural uses, activities, and related uses.. An agricultural use, in general, means the use of land for the growing and production of field crops, livestock, aquatic, and animal products for the production of income. Other agricultural uses might include fruit and vegetable stands, livestock sales, wholesale nurseries, and stables. Lands in agricultural uses and districts may also be held for preservation and conservation purposes. The sale or service of agricultural products and equipment included in similar commercial use categories.

SECTION 27-1002 USES BY DISTRICT**A. USE TABLE**

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

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

B. INTERPRETATION**1. Classification of New or Unlisted Uses**

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

2. Uses Not Subject to Use Interpretation

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

- (a) Agricultural Uses
- (b) Industrial Services
- (c) Manufacturing, Processing, and Assembly
- (d) Waste and Salvage

3. Request for Use Interpretation

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

- (a) The Zoning Coordinator shall determine whether the proposed use is listed in the applicable use table as a use permitted by right, with prescribed conditions, or as a special use in any zoning district.
- (b) If the use is not addressed in the appropriate use table, the Zoning Coordinator shall select the use listed which most closely approximates the proposed use, using criteria such as:
 - (1) Appropriate use category in Section 27-1001.C;
 - (2) Conformance with the currently adopted growth policy and purpose of the zoning district in which the use is proposed;
 - (3) Types of equipment and/or processes to be used;
 - (4) Number of employees, visitors, or customers generated;
 - (5) Parking demands associated with the use; and
 - (6) Special public utility requirements for serving the proposed use type, including, but not limited to, electricity, water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures or infrastructure and communications towers or facilities;
- (c) Once a similar use is determined, the Zoning Coordinator shall issue a zoning determination letter and the proposed use shall comply with any conditions and review procedures that may apply to that use.
- (d) If, based on the criteria identified above, the Zoning Coordinator determines that a use can reasonably be determined to be similar to more than one use or category of uses, the Zoning Coordinator shall select the use or category of uses that provides the most exact, narrowest, and appropriate fit.
- (e) The determination as to whether a proposed use is similar in nature and class to another use within a district shall be considered an expansion of the use regulations, not a variance applying to a particular situation. The Zoning Coordinator shall keep a log of use interpretations and shall periodically submit zoning code amendments to revise this Zoning Code in keeping with the use interpretations.

4. Determination of Non-Similarity

- (a) The Zoning Coordinator may determine that a proposed use is not substantially similar to any use identified in Table 27-1000.1 because either:
 - (1) The potential impacts of the use, as identified in Section 27-1001.C.3, are significantly more impactful on the site, street, or neighborhood, than other permitted uses in the same use category and that the use would not otherwise be permitted without prescribed conditions or through a public review process; or
 - (2) There are no similar uses permitted on the site or in the applicable zone district;

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

5. Post-Decision Actions

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

Table 27-1000.1: Primary Uses in Base Zone Districts	AG		Residential			Commercial		Industrial			Public			Additional Standards	
	Key: P = Permitted, PL = Location Limits, PR = Applicable Use Restriction SR = Special Review														
	A	RR 1	RR 3	N4	RR MH	C3	CX	I1	I2	P1	P2	P3 Civ	P3 Ed		P3 Me d
Education															
School, College or University								SR			P	P	P		
School, Primary and Secondary	P	P	P	P	P	P	P				P	P	P		
School, Trade, Business, Technology, Vocational							P	P			P		P	PR	27-1004
Government and Public Safety															
Correctional Facilities								SR			SR				
Emergency Services						P	P	P	P	P	P	P	P	P	
Government Buildings and Offices						P	P	P	P	PR	P	P			27-1004
Government Facilities, Yards, and Storage						P	P	P	P	PR	P	P			27-1004
Health Care and Social Assistance															
Hospice Facility	P	P		P	P	P	P				P	P		P	
Hospital or Health Care Facility						P	P				P			P	
Office and Clinical Services						P					P		P	P	
Outpatient Center for Surgical Services						P								P	
Shelter							SR	SR	SR		PR	PR	PR	PR	27-1004
Parks and Recreation															
Arboretums/Botanic Gardens										P	P				
Zoo											PR				27-1004
COMMERCIAL															
Adult and Child Care															
Adult Day Care Center						P	P				P	P	P	P	27-1005
Day Care Center	SR	SR	SR	SR	SR	P	P				P	P	P	P	27-1005
Family Day Care Home	P	P	P	P	P						P	P	P	P	27-1005
Group Day Care Home	P	P	P	P	P	P	P				P	P	P	P	27-1005

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	A	RR 1	RR 3	N4	RR MH	C3	CX	I1	I2	P1	P2	P3 Civ		P3 Ed	P3 Me d
Amusement and Recreation															
Adult Entertainment							PR	PR	PR						
Amusement, Indoor															
Large (50,000 sf GFA or more)						P	P	P	P	P	P	P	P		
Small (less than 50,000 sf GFA)						P	P	P	P	P	P	P	P		
Amusement and Recreation, Outdoor															
Large (1 acre or more)						P	P	P	P	PR	P	PR	PR	PR	
Small (less than 1 acre)						P	P	P	P	PR	P	PR	PR	PR	
Casino, Large (10 or more gambling devices)						SR	SR	SR							
Animal Sales and Services															
Boarding/Kennel	PR	SR	SR			PR	PR								
General Sales and Services	P					P	P	P	P						
Shelter, Animal						P	P	P	P		P	P			
Veterinary															
Small Animal	P		SR			PR	P	P	P						
Large Animal	P		SR			PR	P	P	P						
Either with boarding	P		SR			PR	P	P	P						
Assembly, Entertainment and Trade								P	P						
Large (125,000 or more sf of exhibit space)	SR					P	P	P	P	SR	P	P	P	P	
Small (less than 125,000 sf of exhibit space)	SR					P	P	P	P	SR	P	P	P	P	
Commercial Service															
Broadcasting Stations and Studios						P	P	P	P						
Business Service						P	P	P							

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	A	RR 1	RR 3	N4	RR MH	C3	CX	I1	I2	P1	P2	P3 Civ	P3 Ed		P3 Me d
Cemetery/Crematorium						P	P	P			P				
Consumer Maintenance and Repair						P	P	P							
Personal Service						P	P					PR	PR	27-1005	
Studio or Instruction Service						P	P					PR	PR	27-1005	
Eating and Drinking Establishment															
No Alcohol															
Restaurant, without drive-thru						P	P	P			P	P	P	27-1005	
with drive-thru						PR	PR	P			P	P	P	27-1005	
Beer and Wine License, On-Premises Consumption															
Bar or Tavern						SR/PR	SR/PR	P						27-1005	
Craft Alcohol						P	P	P			P	P	P	27-1005	
Restaurant						P	P	P			P	P	P	27-1005	
All-Beverage License, On-Premises Consumption															
Bar or Tavern						SR	SR/PR	P						27-1005	
Craft Alcohol						P	P	P			P	P	P	27-1005	
Restaurant						P	P	P			P	P	P	27-1005	
Financial Services															
Financial Institution, no drive-thru						P	P				P	P	P	27-1005	
with drive-thru						P	P							27-1009	
Alternative Financial Services						P	P								
Lodging															
Boarding House						P									
Bed and Breakfast Inn	SR	SR	SR	SR	SR	P								27-1005	

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	A	RR 1	RR 3	N4	RR MH	C3	CX	I1	I2	P1	P2	P3 Civ		P3 Ed	P3 Me d
Campground/RV Park	SR	SR	SR	SR	SR	P	P	P		SR	SR				27-1005
Hotel/Motel						P	P								
Tourist Home Short-Term Rental		SR	SR	SR		PR	PR								27-1005
Office															
Business or Professional						P	P								
Research and Testing Laboratories						P	P	P	P						
Parking, Commercial															
Parking, primary use						P	P	P	P						
Retail Sales															
Retail, Agricultural							P	P							
Commercial Greenhouse						P	P	P							
Retail, Limited with drive-thru						P	P								27-1009
without drive-thru						P	P								
Retail, General with drive-thru						P	P								27-1009
without drive-thru						P	P								
Retail, Large-Format						P	P	P							
Vehicle Sales and Service, Personal															
Car Wash						P	P	P							
Vehicle Sales and Rental						P	P	P							
Outdoor Sales Lot						P	P	P							27-1005
Vehicle Maintenance and Repair, Minor (5,000 sf or less)						P	P	P							
Vehicle Maintenance and Repair, Major (> 5,000 sf)						P	P	P							
Vehicle Service Station, no convenience store						P	P	P							

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with convenience store						P	P	P								
INDUSTRIAL, WHOLESALE, AND STORAGE																
Industrial and Construction Services																
Auction House	SR						P	P	P							
Contractor Yard, General/Trade						P	P	P	P							
Heavy								P	P							
Grain Elevator	SR							P	P							
Industrial Sales and Services							P	P	P							
Truck, RV, and Heavy Equipment Rental, Sales, and Service						P	P	P	P							
Truck Stop/Wash							P	P	P							
Manufacturing, Assembly, or Processing																
Artisan/Craft						P	P	P	P						27-1006	
Limited						P	P	P	P							
General						SR	P	P	P							
Heavy								SR	P						27-1006	
Natural Resource Extraction																
Mining; Oil and Gas Field Services							P	P	P							
Construction Sand and Gravel Mining	SR					P	P	P	P							
Warehouse and Storage Services																
Outdoor Storage						PR	PR	PR	PR						27-1006	
Personal Self-Service Storage						PR	PR	PR	PR						27-1006	
Trucking and Transportation Service							P	P	P							

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Warehouse, Wholesale and Distribution							P	P	P						27-1006
Agricultural Products							P	P	P						
Chemical Products								PR	P						
Petroleum Products								PR	P						
Waste and Salvage															
Junk or Salvage Yard								SR	SR						
Household Hazardous Waste Collection Facility											P				27-1006
Recycling Processing Facility								P	P		P				
Solid Waste Facility/Landfill									SR		P				
TRANSPORTATION, UTILITIES, AND COMMUNICATIONS															
Transportation															
Airport Passenger Terminal											P				
Air Transportation Courier and Freight Services							P	P	P		P				
Bus or Taxi Maintenance and Parking Shed							P	P	P		P				
Bus/Public Transit							P	P	P		P				
Train Passenger Terminal							P	P	P		P				
Train/Railroad Freight Terminal, Switching Yard								P	P		P				
Utilities and Public Facilities															
Major								SR	P		P				
Minor (e.g., lift stations, substations, pump stations)	SR	SR	SR	SR	SR	P	P	P	P		P				
Offices, Buildings, Yards, and Land						P	P	P	P		P				
Energy Production															

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Solar Energy Facilities															
Tier 2								PR	PR						27-1007
Tier 3									SR						27-1007
Wind Energy Conversion Systems															
Tier 2								PR	PR						27-1007
Tier 3									SR						27-1007
Oil and Gas Refinery									P						
Wireless Communication Facilities															
Land Mobile Radio and Broadcast Antennae							SR	SR	SR						27-1007
Wireless Communication Facilities	PR	PR	PR	PR	PR	PR	PR	PR	P	PR	PR	PR	PR	PR	27-1007
AGRICULTURE															
Agriculture, Personal or Hobby															
Hobby Farm	P														
Livestock and Fowl	PR	PR	PR	PR	PR	PR									27-1008
Agriculture, Production															
Livestock	P		P					P	P						27-1008
Crops	P		P					P	P						
Auction Yard, Livestock	SR							P	P	P					
Commercial Feeding Yard, Livestock	P					SR	P	P	P						No dairy or poultry
Farm Stand	P	P	P			P									
Milling: Lumber, Plywood, and Shingles	SR					SR	P	P	P						
Services	SR					P	P	P	P						
Stable															

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Commercial	P	P				P	P								
Private	P														

SECTION 27-1003 STANDARDS FOR RESIDENTIAL USES

A. COMMUNITY RESIDENTIAL FACILITIES

Community residential facilities shall comply with all applicable Montana statutory requirements.

B. HOUSEHOLD LIVING

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

C. MANUFACTURED HOMES

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

D. RETIREMENT HOME OR VILLAGE

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

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

A. CIVIC ASSEMBLY

In P2 and P3 districts the following standards apply:

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

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

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

C. RELIGIOUS ASSEMBLY

1. Supplemental Special Review Standards:
 - (a) Religious assembly uses shall be reviewed as a special review use in all residential zones.
 - (b) Access shall be provided as follows: 1-200 seats shall have access from local or residential streets; 201-1000 seats shall have access from a collector street or higher; 1001 seats and over shall have access from an arterial street.
2. The following exemptions from the special review requirements shall only apply to those religious assembly uses that have previously been approved pursuant to a special review or that existed prior to November 3, 1972:

- (a) A religious assembly shall be allowed to remodel or expand without an additional special review provided that:
 - (1) The number of potential occupants is not increased by more than 10 percent, than the number that is currently allowed as measured by building occupancy rating;
 - (2) The gross floor area of the facility after such remodeling or expansion is not over 10 percent greater than the gross floor area originally occupied by the facility;
 - (3) The number of new parking stalls is not more than 10 percent greater than the original number of spaces; and
 - (4) All other applicable code requirements are met.
 - (b) If, at the time the original or subsequent special review was conducted and approved, the applicant submitted a master plan showing: (a) future additions to the structure(s); (b) future structure(s); and/or (c) future parking area(s), those future improvements may be constructed without additional special review where the improvements comply with the requirements of this Zoning Code. Minor modifications and expansions to the future improvements identified on the master plan may also be constructed without additional special review provided that such modifications and/or expansions to the master plan meet the provisions of subsection (a).
3. Site Standards
- (a) Uses accessory to the religious assembly shall meet the standards applicable to the use as if the use is a principal use. Uses accessory to a religious assembly use in a residential district, other than shelter facilities, may only operate between 7:00 AM and 10:00 PM by right.
 - (b) Parking for the religious assembly use, and any accessory use, shall be for the use that has the greatest parking requirement.

4. Shelter

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

D. SCHOOL: TRADE, BUSINESS, VOCATIONAL/TECHNICAL

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

E. SHELTER

In all P3 zone districts, a temporary or permanent shelter may be established within the campus.

F. ZOO

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

SECTION 27-1005 STANDARDS FOR COMMERCIAL USES

A. ADULT AND CHILD DAY CARE

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

B. ADULT ENTERTAINMENT

1. Purpose and Intent

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

2. Findings and Determinations

The Yellowstone County Commission hereby finds and determines that:

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

- (a) Sexually oriented business lend themselves to ancillary unlawful and unhealthy activities that are currently uncontrolled by the operators of the establishments. Further, there is currently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.
- (b) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located. See, e.g. Studies of the cities of Phoenix, Arizona; Indianapolis, Indiana; and Austin, Texas.
- (c) Sexual acts, including masturbation, sadomasochistic abuse, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos or live sex shows. See, e.g. *California v LaRue*, 409 U.S. 109, 111 (1972); See also Final Report of the Attorney General's Commission on Pornography (1986) at 377.
- (d) Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions. See, e.g. Final Report of Attorney Generals' Commission on Pornography (1986) at 367-77.

- (e) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses, for the purpose of engaging in sex within the premises of such sexually oriented businesses. See e.g. *Arcara v. Cloud Books Inc.* 478 U.S. 697, 698 (1986), see also Final Report of the Attorney General’s Commission on Pornography (1986) at 376-77.
- (f) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV- AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections, See, e.g. Study of Fort Meyers, Florida.
- (g) As of December 31, 1996, the total number of reported cases of AIDS in the United States caused by the human immunodeficiency virus (HIV) was 581, 429. See, e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (h) As of December 31, 1999, there have been 92 reported cases of AIDS in the State of Montana for the years 1997 through 1999.
- (i) The total number of cases of genital Chlamydia trachomatis infection in the United States reported in 1997 was 526,653, an 8% increase over the year 1996. See, e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (j) The total number of cases of early (less than one year) syphilis in the United States reported during the twelve year period 1985-1997 was 387,233. See, e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (k) The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,901,365 cases reported during the period 1993-1997. See e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (l) The Surgeon General of the United States, in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (m) According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts, See, e.g. Findings of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (n) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted therein are unhealthy, and, in part, because of the unregulated nature of the activities and the failures of the owners and operators of the facilities to self-regulate those activities and maintain those facilities. See, e.g. Final Report of the Attorney General’s Commission on Pornography (1986) at 377, and testimony to the Montana Senate Judiciary Committee February 9, 2001, in reference to SB399.
- (o) Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually oriented businesses where persons view “adult”

oriented films. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 377.

- (p) Studies show nude dancing in adult establishments increases prostitution, increases sexual assaults, and attracts other criminal activity. See, e.g., *Barnes v. Glen Theatre*, 501 U.S. 560, 583 (1991).
- (q) Nude dancing in adult establishments increases the likelihood of drug dealing and drug use. See, e.g., *Kev, Inc. v. Kitsap County*, 793 F.2d 1053, 1056 (9th Cir. 1986).
- (r) The findings noted in paragraphs numbered (a) through (q) raise substantial governmental concerns.
- (s) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (t) Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing illegal and unsanitary sexual activity occurring in adult establishments.
- (u) The general welfare, health, morals and safety of citizens in Yellowstone County will be promoted by enactment of this regulation.

3. Classification

Sexually oriented businesses are classified as follows:

- (a) Adult arcades;
- (b) Adult book stores or adult video stores;
- (c) Adult motels; and
- (d) Adult motion picture theaters.

4. Applicability

The provision of this section shall apply to all existing and future sexually oriented businesses. Pursuant to MCA 76-2-208 and Section 27-1500 of this Zoning Code, any such existing business that does not meet the zoning district restrictions or the distance limitations, may continue its existence as a nonconforming use; but such nonconforming use will be subject to curtailment by current state law and these regulations. If a sexually oriented business is nonconforming to these regulations and such use is discontinued or abandoned for a period of 30 consecutive days or more, the nonconforming status shall lapse and any subsequent use of the property shall conform to the regulations specified by this resolution for the district in which such land is located.

5. Location of Sexually-Oriented Businesses

- (a) A sexually oriented business shall not be operated within 1,000 feet of any of the following:
 - (1) A neighborhood, residential, or mixed-use zone.
 - (2) Any planned development zone that allows residential uses unless such zone is separated from the location of a sexually oriented business by an interstate highway.
 - (3) Land uses:
 - (i) Public library;
 - (ii) Public playground or park (for purposes of this section, publicly owned multiuse trails shall be deemed to be a park);

- (iii) Public or private school and its grounds, from pre-school through twelfth grade;
 - (iv) A state licensed community residential facility, family day care home, group day care home, day care center, religious assembly, or
 - (v) A religious institution.
- (b) A sexually oriented business shall not be located within 600 feet of another sexually oriented business.

6. Measurement of Distances

For purposes of this section, specified distances will be measured in a straight line, without regard to intervening structures, from the property line of the sexually oriented business to the property line of the preceding land uses or zoning districts.

7. Permitted Zones

- (a) In addition to the preceding requirements, sexually oriented businesses are permitted in the following zones only:
- (1) Heavy commercial (CX),
 - (2) Controlled industrial (I1), or
 - (3) Heavy industrial (I2).

8. Operating Standards

All sexually oriented businesses shall operate in accordance with the following:

- (a) No employee shall solicit business outside the building in which the business is located;
- (b) All live entertainment in sexually oriented businesses shall be performed on a platform or other exclusive area provided for such purpose, and no entertainer or performer shall be permitted to leave such platform or area while entertaining or performing. This platform or other exclusive area shall be constructed in such a manner as to keep the performers at least nine feet away from patrons;
- (c) Nudity and specified sexual activities while on the premises of a sexually oriented business, other than adult motel, shall be prohibited. Nothing in these regulations shall be construed to prohibit a person from appearing in a state of nudity while using a restroom. Restrooms may not contain video reproduction equipment or be used in any way to circumvent this Zoning Code;
- (d) No sexually oriented business shall operate between the hours of 12:01 am and 9:00 am;
- (e) No sexually oriented business, other than an adult motel, shall be located in any building where alcoholic beverages are dispensed or consumed; and
- (f) No minors shall be allowed in sexually oriented businesses.

9. Operating Standards that Pertain to Establishments that Exhibit Sexually Explicit Films, Videos or any Other Images

- (a) A sexually oriented business which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, other video reproduction that specified sexual activities or specified anatomical areas, shall comply with the following requirements:
- (b) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose, excluding restrooms. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations, excluding restrooms. The view required in this subsection must be direct line of sight from the manager's station;
- (c) No opening or holes of any kind shall exist between viewing booths/rooms or adult arcades;
- (d) No doors shall be allowed on viewing booths/rooms or adult arcades;
- (e) The premises shall be equipped with and have in continuous operation, while patrons are present, overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candle as measured at the floor level; and
- (f) All floor coverings and walls in viewing booths/rooms and adult arcades are to be constructed of nonporous, easily cleanable surfaces, with no rugs or carpeting.

10. Building Exterior Appearance

- (a) It shall be unlawful for an owner or operator of sexually oriented business to allow merchandise or activities of the establishment to be visible from outside the establishment.
- (b) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, words, lettering, photographs, silhouettes, drawings, or pictorial representations of any type except to the extent permitted by the provisions of this section.
- (c) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single monochromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:
 - (1) The establishment is part of a commercial multi-unit center; and
 - (2) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.
- (d) Nothing in this section shall be construed to require painting of an otherwise unpainted exterior portion of a sexually oriented business.

C. AMUSEMENT AND RECREATION

1. Size

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

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

2. P1 District

- (a) Amusement and recreation facilities located in P1 districts may be in either public or private ownership and may charge appropriate fees.
- (b) P1 district uses are limited to:
 - (1) Golf courses and driving ranges
 - (2) Sports fields
 - (3) Aquatic facilities

3. P2 and P3 District

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

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

D. ANIMAL SALES AND SERVICES WITH OUTDOOR FACILITIES

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

1. General Requirements

The facilities shall:

- (a) Only be used between the hours of 7:00 AM and 10:00 PM, and
- (b) Be located at least 25 feet from any residential district.

2. Kennel

- (a) All facilities located within 25 feet of any residential district, including pens, kennels, cages and exercise runs, shall be maintained within a completely enclosed, soundproof building so that, to the maximum extent feasible, noise and odor are not detectable off-premises.
- (b) Facilities in the CX, C3, I1, and I2 districts may have outdoor facilities, including runs and exercise areas, but these facilities must comply with Subsection D.2.(a) when located within 25 feet of a residential district.

3. Veterinary Services (with Boarding)

Small Animal Veterinary clinics or hospitals in the CX, C3, I1, and I2 districts may have outdoor facilities, including runs and exercise areas, but such outdoor facilities must be completely screened with a sight-obscuring fence. Boarded animals and animals under veterinary care must be accompanied at all times by staff while in the outdoor facility.

E. ASSEMBLY, ENTERTAINMENT AND TRADE

1. Size

- (a) Large entertainment and trade assembly facilities shall have 125,000 or more square feet of exhibit space.
 - (b) Small entertainment and trade assembly facilities shall have no more than 124,999 square feet of exhibit space.
- 2. P1 District**
Entertainment and trade assembly facilities located in P1 districts may be in either public or private ownership and may charge appropriate fees. These facilities require special review approval.
- 3. P2 and P3 District**
Entertainment and trade assembly facilities shall meet the following standards:
- (1) The facility and use of the facility shall be either secondary to or accessory to the primary use on the site or campus.
 - (2) The entertainment and trade assembly facility may be leased or loaned to off-site users or activities that are not directly supportive of the site or campus function.

F. BANK OR FINANCIAL INSTITUTION

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

- 1. The drive-through area shall be screened either by site perimeter landscaping or a landscape buffer, whichever is applicable pursuant to Section 27-1200, Landscaping.
- 2. Access to or across an alley shared by a mixed-use or commercial district and a residential district shall comply with the zone district site development requirements.

G. BAR AND TAVERN

1. Separation

- (a) Bars and taverns shall be separated from religious institutions, primary and secondary educational facilities, and public parks that contain a children’s playground or playfield (“protected use”) by at least 600 feet, measured from the exterior of the occupied building space of the bar or tavern to the property line of the lot that contains the protected use.
- (b) Bars or taverns shall also be separated from any residential district by at least 150 feet, measured from the exterior of the occupied building space of the bar or tavern to the property line of the lot in the residential neighborhood zone.
- (c) Properties may be granted a waiver from the 600-foot separation requirement if the County Commission finds that a physical barrier exists between the proposed use requiring the 600-foot separation. These barriers include, but are not limited to, the following:
 - (1) An arterial street with no existing or proposed signalized pedestrian crossing;
 - (2) A building or buildings that entirely obstruct the view between the separated uses; and
 - (3) No direct physical access exists between the separated uses.

The person applying for the special review must provide the governing body with proof that the proposed property or establishment meets one of the above described physical barriers or that other types of physical barriers exist that warrant the waiving of the 600-foot separation.

2. Outdoor Seating

Outdoor seating may be permitted as an accessory use regulated by Section 27-1008.O.

H. BED AND BREAKFAST INN

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

I. CAMPGROUND/RV PARK

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

J. CASINO

1. Determination of Casino Use

- (a) An establishment will be considered to either be a casino or have an accessory casino for the purpose of these regulations if any of the following characteristics apply:
 - (1) The establishment is referenced as a casino by signage, advertisement, or by name;
 - (2) A live card table is on the premises; and/or
 - (3) A gambling machine is on the premises.

- (b) Uses with specialty liquor licenses, such as fraternal organizations, golf courses, and non-profit arts organizations are not casinos pursuant to this category.

2. Casino Classification

- (a) Casinos shall be classified based on the total number of gaming machines, as follows:
 - (1) Accessory Limited: 1 to 3 gaming machines located in the structure or on the site.
 - (2) Accessory Small: 4 to 9 gaming machines located in the structure or on the site.
 - (3) Primary/Large: 10 or more gaming machines located in the structure or on the site.
- (b) Accessory Limited or Accessory Small casinos may have or add one table game without changing the classification. Primary/Large casinos may include any number of table games.

3. Separation Distances

- (a) Primary/Large casinos shall be separated from religious institutions, primary and secondary educational facilities, and public parks that contain a children’s playground or playfield (“protected use”) by at least 600 feet, measured from the exterior of the occupied building space of the casino to the property line of the protected use.
- (b) Primary use casinos shall also be separated from any residential district by at least 350 feet, measured from the exterior of the occupied building space of the casino to the property line of the residential neighborhood district.
- (c) Properties may be granted a waiver from the 600-foot separation requirement if the County Commission finds that a physical barrier exists between the proposed use requiring the 600-foot separation. These barriers include, but are not limited to, the following:
 - (1) An arterial street with no existing or proposed signalized pedestrian crossing;
 - (2) A building or buildings that entirely obstruct the view between the separated uses; and
 - (3) No direct physical access exists between the separated uses.

The person applying for the special review must provide the governing body with proof that the proposed property or establishment meets one of the above described physical barriers or that other types of physical barriers exist that warrant the waiving of the 600-foot separation.

4. Landscaping

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

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

- 1. A craft alcohol establishment may not add another primary use, such as a casino, where the additional use’s separation requirements cannot be met.
- 2. Outdoor seating may be permitted as an accessory use regulated by Section 27-1008.O.

L. PERSONAL SERVICE

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

M. OUTDOOR SALES LOT

An outdoor sales lot as a primary use shall be designed and used in compliance with Section 27-1008.N, Outdoor Display and Sales.

N. RESTAURANT

1. Drive-Thru Service. Any persons desiring to use any premises or to erect, construct, or alter any new or existing building or structure for a restaurant drive-thru service shall satisfy the following criteria, based upon the adjoining zoning district(s).
 - (a) A drive-thru establishment that adjoins, including any location across an alley, residentially zoned property, is subject to special review.
 - (b) All other drive-thru establishments, including those which are located across a public street from residentially-zoned property, shall meet the following criteria:
 - (1) A traffic accessibility study shall be completed and approved by the City engineer; and
 - (2) The use shall comply with Section 27-1008.I.
2. Outdoor Seating
 - (a) Accessory outdoor seating is regulated in Section 27-1008.O.
 - (b) An eating or drinking establishment that was approved by special review that seeks to remodel or expand to add outdoor seating shall be required to meet the standards of Section 27-1008.O and obtain a separate special review approval.

O. SHORT-TERM RENTALS

[draft provided in separate document]

P. STUDIO OR INSTRUCTION SERVICE

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

SECTION 27-1006 STANDARDS FOR INDUSTRIAL, WHOLESALE, AND STORAGE USES

A. PERSONAL SELF-SERVICE STORAGE

1. Generally Applicable Standards

- (a) No business activity other than rental of storage units shall be conducted within a self-service storage unit.
- (b) Security fencing or gates shall be located behind any required landscaping area.
- (c) Security gates shall be located so that two vehicles awaiting entry do not stack into the public right of way or any pedestrian path. This may be reduced to one vehicle for facilities with fewer than 25 units or where security gates are only locked outside of normal business hours.
- (d) Exterior doors serving individual units shall not be oriented towards a public right of way unless located behind other structures.
- (e) Individual units accessed from outdoors shall be located at least 100 feet from a front or street side property line.

- (f) No self-service storage facility shall exceed 3 acres in size.

B. OUTDOOR STORAGE

1. All outside storage areas, whether permitted as a principal or accessory use, shall comply with the following standards. Outdoor storage does not include outdoor display and sales, which are addressed in Section 27-1008.
 - (a) **Type of Materials:** Storage shall be limited to goods and materials customarily stored outside and resistant to damage and deterioration from exposure to the elements. Outside storage shall include the parking/storage of vehicles to be serviced at a collision service or towing/wrecker service use and all parking/storage of vehicular equipment, such as farm or construction machinery or equipment and commercial delivery vehicles. The placement of storage vaults or shipping containers shall be regarded as outside storage, except as may be otherwise permitted by this Zoning Code.
 - (b) **Location:** When permitted as a principal or accessory use, outside storage shall comply with the following locational standards:
 - (1) Outside storage shall not be located in a front yard or street side yard between a primary structure and the street.
 - (2) Outside storage shall not obstruct or eliminate any required parking or loading space, access drive or fire lane; nor occupy any street right-of-way.
 - (3) Outside storage shall not be located within any required or established landscape area.
 - (c) **Secured Storage:** All outside storage, except for the storage of operable vehicles, shall be located within a secured area.
 - (d) **Screening:** Screening of all outdoor storage areas from right of way and adjacent properties shall be provided according to Section 27-1207, Utility and Service Area Screening.
 - (e) **Height:** Storage of stacked materials shall not exceed the height of the screening fence or eight feet, whichever is less. Individual items of greater height may be stored but may not exceed one-half the height of the principal building.
 - (f) **Surfacing:** Storage areas shall be surfaced as follows:
 - (1) Storage of goods and materials shall be conducted only on a paved surface or a County-approved all-weather surface that is maintained in a dust-free condition.
 - (2) The storage of vehicles, trailers, and equipment, which is normally intended to be mobile, whether self-propelled or towed, shall be conducted only on a surface that is provided in accordance with the requirements for parking areas.
2. **Shipping Containers Permanent Off-Chassis and On-Site**
 - (a) Permanent use, defined as placement for more than a year, is restricted to the following zoning districts: CX, C3, I1, and I2.
 - (b) Use
 - (1) Permanent shipping containers shall be used for storage purposes only.
 - (2) Permanent shipping containers shall not be permitted as a principal building.

- (3) Permanent shipping containers shall not be permitted to be rented or leased to a use not located on the same lot.
- (c) Quantity
 - (1) A maximum of one permanent shipping container per site shall be permitted on lots of one acre or less.
 - (2) One additional permanent shipping container per acre may be permitted for lots greater than one acre.
- (d) Dimensions: Permanent shipping containers shall not exceed the dimensions of 40 feet in length, eight feet in width, and 10 feet in height.
- (e) Exterior Appearance
 - (1) Permanent shipping containers shall be maintained in good condition free from structural damage, rust, and deterioration.
 - (2) Permanent shipping containers shall not be stacked vertically.
- (f) Signs: No signs or lettering shall be permitted on permanent shipping containers.
- (g) Location
 - (1) Permanent shipping containers shall meet all building setback requirements and shall be located on the rear half of the lot.
 - (2) Permanent shipping containers shall not be permitted in any parking areas, required buffers or setbacks.
 - (3) No permanent off-chassis shipping containers shall be permitted in loading areas.
- (h) Screening: All permanent shipping containers shall be screened from view from any public right-of-way or private street, and any residential use or residential zoning district according to Section 27-1207, Utility and Service Area Screening.
- (i) Site Plan: Businesses shall submit a site plan showing any permanent container and its relationship to the overall site. The plan shall indicate how the container meets all permanent requirements, including stormwater, traffic circulation, screening requirements, other development codes and technical standards, and inspection requirements.

SECTION 27-1007 STANDARDS FOR TRANSPORTATION, UTILITIES, AND COMMUNICATIONS

A. LAND MOBILE RADIO AND BROADCAST ANTENNAS AND ANTENNA SUPPORT STRUCTURES

1. Purpose. The purpose of this section is to establish regulations for the siting of broadcast facilities, including land mobile radio services and radio and television broadcast antennas, antenna support structures and associated equipment and buildings on public and private property. The goals of this section, developed with the assistance and participation of the Broadcast and Land Mobile Radio industry, are to:
 - (a) Encourage the location of broadcast facilities in non-residential areas and minimize the total number of antenna support structures throughout the community;

- (b) Strongly encourage the joint use of new and existing broadcast antenna support structures;
- (c) Require broadcast facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal;
- (d) Require broadcast facilities to be configured in a way that minimizes the adverse visual impact of antenna support structures and antennas; and
- (e) Enhance the ability of the providers of land mobile radio services and radio and television broadcast services to provide such services to the community, as quickly, effectively, and efficiently as possible.

2. Applicability

- (a) All land mobile radio service and radio and television broadcast antenna and antenna support structures located within the County zoning jurisdiction whether upon private or public lands shall be subject to this section. This section shall apply to broadcast antenna and antenna support structures upon state and federal lands to the extent of the County's jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise.
- (b) Pre-existing land mobile radio and radio and television broadcast antenna support structures and antennas shall not be required to meet the requirements of this section, except as provided under Subsection 27-1007.A.5, Nonconforming Broadcast Facilities.

3. Broadcast Antenna Support Structures and Antennas Located in Residential Zoning Districts

Land mobile radio and radio and television broadcast antenna support structures and antennas shall be permitted as an allowed use in all residential zoning districts provided they meet all of the following criteria:

- (a) Alternative broadcast antenna support structures conforming to all applicable provisions of this Zoning Code and roof-mounted antennas that do not add more than 20 feet to the total height of the building on which it is mounted shall be permitted as an allowed use only when located on school, government-owned utility, and other government sites.
- (b) Proposed antennas or antenna support structures that are contrary to this section are considered a land use contrary to zoning and are subject to the special review process, or may be submitted to the board of adjustment for a hearing, whichever is the preference of the owner/agency. The board of adjustment shall forward comments and recommendations to the affected government agency for their consideration.
- (c) Antennas co-located on existing or approved alternative broadcast antenna support structures or existing or approved broadcast antenna support structures, which have previously received, all required approvals and permits shall be permitted as an allowed use.

4. Broadcast Antenna Support Structures and Antennas Located in Commercial and Industrial Zoning Districts

- (a) Broadcast antenna support structures 50 feet in height or less shall be permitted as an allowed use.
- (b) Broadcast antenna support structures that exceed 50 feet in height or the maximum height limitations in the underlying zoning district, whichever is greater, may be permitted through special review.

- (c) Broadcast antenna or tower farms may be permitted by special review as shown in Table 27-1000.1, Permitted Uses.
- (d) All broadcast antenna support structures located in Heavy Industrial (I2) districts shall be permitted as an allowed use, including broadcast antenna or tower farms.
- (e) All broadcast facilities located within the boundaries of an approved or preexisting broadcast antenna or tower farm shall be permitted as an allowed use.

5. General Requirements

The requirements set forth in this section shall govern the location and construction of all land mobile radio service and radio and television transmission facilities governed by this section.

- (a) Building codes and safety standards: To ensure the structural integrity of broadcast facilities, the owner of a facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for such facilities.
- (b) Regulatory compliance: All broadcast facilities must meet current standards and regulations of the FAA, the FCC, and other local, state or federal agencies with the authority to regulate facilities governed by this section.
- (c) Setbacks
 - (1) Broadcast antenna support structures adjacent to residential uses or zoning: Broadcast antenna support structures must be set back, from all property lines, a distance equal to one-half (½) the height of the structure from any off-site residential structure or residentially zoned lot. Accessory structures, such as equipment enclosures or transmitter buildings, must maintain a minimum of a 15-foot setback from any lot line adjacent to a residential structure or residentially zoned lot, or the required setback of the zoning district where the antenna support structure is located, whichever is greater.
 - (2) Mixed-Use, commercial, and industrial zoning setbacks: Broadcast antenna support structures and accessory facilities must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.
 - (3) Broadcast facilities in broadcast antenna or tower farms: Antenna support structures and accessory facilities located in antenna or tower farms must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.
- (d) Lot coverage and height: Broadcast antenna support structures and accessory structures shall not exceed lot coverage requirements for the zoning district in which they are located. Building and equipment enclosures shall not exceed the height restrictions for the zoning district in which they are located.
- (e) Fencing and Buffering
 - (1) Fencing. A solid wood fence or masonry wall at least six feet in height (eight feet if razor or barbed wire is to be used) shall be constructed and maintained around the perimeter of the broadcast antenna support structure site. Climb-proof shields can be substituted for a fence or wall around the structure. Solid fences, at least 6 feet in height are required adjacent to residences and residentially zoned property. All AM broadcast

antenna support structures must be surrounded by a suitable fence as required by FCC regulations.

- (2) Landscaping adjacent to residential uses and/or residential zoning.
 - (i) For broadcast facilities located in a residential zoning district, adjacent to a residential use, or adjacent to a residentially zoned parcel, the following will be required: a continuous evergreen hedge at least 4 feet in height when planted, shall be planted and maintained around the perimeter of the antenna support structure outside of the required fencing and spaced close together to provide a continuous visual screen. Shrubs shall also be planted and maintained around the guy anchors for visual screening purposes. AM Broadcast stations are exempt from this requirement due to overriding FCC regulations regarding vegetation in ground radial systems.
 - (ii) A performance bond or letter of credit for 150 percent of the landscaping and fencing materials and labor costs shall be posted with the planning division to ensure the placement of required landscaping and fencing in accordance with section 27-1200.
- (3) Commercial landscaping. Landscaping requirements shall not apply to broadcast antenna support structures located in commercial or industrial zoning districts or approved broadcast antenna or tower farms.
- (f) Lighting: Broadcast antenna support structures shall not be artificially lighted unless required by the FAA or other local, state, or federal agency. Security lighting may be placed on a support structure no higher than 20 feet above ground. Cut-off security lights must be used in or adjacent to residential areas to prevent light spillage onto adjacent property.
- (g) Signage: Signage shall be limited to non-illuminated warning and equipment identification signs unless otherwise required by the FAA and/or FCC.
- (h) Maintenance
 - (1) Equipment at a broadcast facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.
 - (2) All property used for the siting of a broadcast antenna support structure or antenna shall be maintained, without expense to the County, so as to be safe, orderly, attractive, and in conformity with County codes including those regarding the removal of weeds and trash and landscape maintenance.
- (i) Visual impact/aesthetics
 - (1) Broadcast antenna support structures shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable local, state, or federal agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.
 - (2) If a broadcast antenna is installed on a structure other than a tower, the associated electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the related

equipment as visually unobtrusive as possible. Broadcast antennas and antenna support structures may be mounted on existing buildings that are 30 feet or more in height above the street grade.

- (3) Roof-mounted antennas and antenna support structures shall not add more than 20 feet to the total height of the building on which they are mounted. Roof-mounted equipment shall be made visually unobtrusive to match existing air conditioning units, stair, elevator towers or other background. Crow's nest antenna arrays are prohibited on rooftop structures.
- (4) Broadcast antennas or antenna support structures attached to new or existing structures shall be designed to blend with the structure's architecture and should be placed directly above, below or incorporated with vertical design elements of a structure.

6. Nonconforming Broadcast Facilities

Broadcast facilities in existence on the date of the adoption of these regulations, that do not comply with the requirements of these regulations, are subject to the following provisions:

- (a) Nonconforming broadcast facilities may continue their present use but may not be expanded without complying with these regulations, except as further provided in this section.
- (b) Nonconforming broadcast antenna support structures which are hereafter damaged and destroyed, by less than 50 percent of its replacement value, due to any reason or cause may be repaired and restored to their former use, location, and physical dimensions subject to obtaining a building permit and other necessary approvals thereof, but without otherwise complying with these regulations. If a broadcast antenna support structure is destroyed or damaged by 50 percent or more of its replacement the broadcast antenna support structure must be brought into compliance with these regulations.
- (c) The owner of any nonconforming broadcast antenna support structure may make minor modifications, as described in Section 27-1007.A.7, in order to improve the structural integrity of the structure, to allow the structure to accommodate co-located antennas, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of these regulations.

7. Classification of Modifications

Modifications of existing or broadcast facilities that meet the requirements of these regulations.

- (a) Minor modifications. Minor modifications to facilities permitted under these regulations shall be approved by the planning division so long as they comply with the original approved design. Minor modifications are as follows:
 - (1) The addition of one or more antenna arrays to any existing antenna support structure, so long as the addition of the antenna arrays add no more than 20 feet in height to the facility and the increase in height of the support structure is no greater than 10 percent.
 - (2) Placement of additional antennas, up to the number the antenna support structure was originally designed to accommodate, shall be considered a minor modification.
 - (3) Repairs to or replacement of existing antennas or feedlines or support members (such as guy wires) are not considered modifications under this part.

- (b) Major modifications. Major modifications to antenna support structures permitted under these regulations shall be approved through a special review. Major modifications are any that exceed the definition of minor modifications.

8. Abandonment

Broadcast facilities will be considered abandoned if they are unused by all providers at the facility for a period of 6 months. Determination of abandonment shall be made by the planning division which shall have the right to request documentation from the facility owner regarding support or antenna usage. Upon abandonment, the facility owner shall have 90 days to:

- (a) Re-use the facility or transfer the facility to another owner who will re-use it; or
- (b) Dismantle the facility. If the facility is not removed within 90 days of abandonment, the County may remove the facility at the property owner's expense. If the facility is removed, County approval of the facility will expire. If the facility owner is unable to remove the facility within the 90 days due to unusual circumstances, the planning division may grant the facility owner an additional 90 days in which to comply with the requirements of this section.

9. Nuisances

Broadcast facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the 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.

B. SOLAR ENERGY FACILITIES

1. Applicability

- (a) These standards apply to the establishment of any new photovoltaic or solar thermal SEF within the County. Concentrated solar power systems are prohibited.
- (b) An SEF established prior to the effective date of this Zoning Code shall not be required to meet the requirements of this Zoning Code, however:
 - (1) Physical modification or alteration to an existing SEF that materially alters the size, type or components of the SEF shall be subject to this Zoning Code. Only the modification or alteration is subject to this Zoning Code;
 - (2) Substantial conformance review determinations are not major amendments to a project's existing permits; and
 - (3) Routine operation and maintenance or like-kind replacements do not require a zoning compliance permit.

2. Tier Descriptions

Solar energy facilities are divided into three tiers that describe the intensity and impact of the use on the property and adjacent properties.

- (a) Tier 1: Accessory Solar Energy Facilities meet the following criteria:
 - (1) Is an accessory use on the site that provides energy primarily for on-site use; and
 - (2) Can be building-mounted or ground-mounted, which may include: rooftop systems, building-integrated solar (e.g., shingle, hanging solar, canopy, new technology), or covered permanent parking or other hardscape areas.

- (b) Tier 2: Intermediate Solar Energy Facilities meet the following criteria:
 - (1) Is the primary use on the site or a secondary use that exceeds the size criteria for a Tier 1 SEF.
 - (2) Provides energy for on-site or off-site use, and
 - (3) Can be building-mounted or ground-mounted and may include rooftop systems, building-integrated solar, and covered permanent parking or other hardscape areas.
- (c) Tier 3: Large-Scale Solar Energy Facilities are large-scale, primary or secondary SEFs that provide energy for on-site or off-site use.

3. Standards for Ground-Mounted SEFS

- (a) Size: The maximum footprint for a ground-mounted SEF shall be as follows:
 - (1) Tier 1:
 - (i) Residential and mixed-use districts: 2,000 sf or 25% of the lot size, whichever is less.
 - (ii) Agricultural, commercial, industrial, and public districts: 4,000 sf or 25% of the lot size, whichever is less.
 - (2) Tier 2:
 - (i) I1 district: up to 10 acres.
 - (ii) I2 district: up to 20 acres.
 - (3) Tier 3: Maximum size determined through special review process.
- (b) Height: The maximum height for a ground-mounted SEF shall be as follows:
 - (1) Residential districts: 10 feet
 - (2) All other districts: 20 feet
- (c) Setbacks: Ground-mounted SEFs shall comply with the following setback standards:
 - (1) All SEFs shall meet the setback requirements of the individual zone district where located.
 - (2) Tier 2 SEFs in commercial and industrial districts shall provide 100-foot minimum setback between the edge of the SEF installation boundary and any residential district.
 - (3) Tier 1 and Tier 2 SEFs may not be located between the front building line and the street.

4. Standards for Building-Mounted SEFS

- (a) Height
 - (1) Tier 1 SEFs shall be subject to the maximum height for zone district or a maximum of five feet above the height of the roofline, whichever is less. Additional height may be requested through the special review process.
 - (2) Tier 2 SEFS shall be subject to the maximum height for the zone district or a maximum of 10 feet above the height of the building, whichever is greater. Additional height may be requested through the special review process.

5. Permit Required

- (a) The following permit requirements are applicable to SEF systems. Complete permit submission requirements and processes are provided in Section 27-1600.
- (1) /P/ Permitted Use
 - (2) /SR/ Special Review
 - (3) /X/ Prohibited

Table 27-1000.x: SEF Permit Requirements (County)

Zone District	Tier 1 Accessory	Tier 2 Intermediate	Tier 3 Large-Scale
A	P	X	X
RR1, RR3, N4	P	X	X
RRMH	P	X	X
C3	P	X	X
CX	P	X	X
I1-2	P	P	SR
P1	--	X	X
P2, P3	P	X	X

- (b) Submission Requirements for Tier 2 and Tier 3 SEFs: Tier 2 zoning compliance permit and Tier 3 special review SEF applications shall include the following information:
- (1) A landscape plan showing that all areas occupied by the facility that are not utilized for access to operate and maintain the installation shall be planted and maintained with a naturalized grass or other vegetation for the purpose of soil stabilization or other methods approved by the zoning coordinator.
 - (2) A storm water management plan showing existing and proposed grading and drainage demonstrating no net increase in runoff.
 - (3) A maintenance plan for the continuing maintenance of the SEF, which may include, but not be limited to, planned maintenance of vegetation or ground cover, equipment maintenance, and plans for cleaning of solar panels if required.
 - (4) A decommissioning plan with the information required in Section 27-1007.B.8.
- (c) Following approval, all permit holders are required to submit an annual compliance statement that confirms that the system is still active and compliant with the permit and that provides current owner and emergency contact information. This requirement shall not preclude the County from undertaking a separate compliance report, where confirmation of data provided by the facility's operator is desired.

6. Generally Applicable Standards

- (a) Off-Site Facilities: When the SEF is located on more than one parcel, there shall be proper easement agreement or other approved methods for the notification of all impacted parties.
- (b) Septic System Avoidance: The SEF shall not be located over a septic system, leach field area or identified reserve area unless approved by the Department of Environmental Quality;
- (c) Conform to Development Standards for Underlying Zone: The SEF shall be ground mounted, or when located on structures, the SEF shall conform to the development standards for a principal structure in the zone in which such facilities and structures are to be located, except as otherwise provided herein.
- (d) If lighting is required, it shall be activated by motion sensors, fully shielded and downcast type where the light does not spill onto the adjacent parcel or the night sky.
- (e) The site shall comply with Section 27-1200, Landscaping.
- (f) The facility shall be enclosed by a six-foot tall fence (eight feet if razor or barbed wire is used), barrier, or other appropriate means designed to prevent or restrict unauthorized persons or vehicles from entering the parcel(s). Fences or barriers shall incorporate wildlife friendly design. No barrier shall be required where projects employ full-time security guards or video surveillance.
- (g) Signs: Signs on SEFs are prohibited. Permanent or temporary commercial signs (including flags, streamers, or decorative items), are prohibited from being displayed on any SEF equipment. As appropriate and for emergency and safety purposes, SEF equipment shall display identification of the manufacturer, facility owner and/or operator, and an emergency contact number.

7. Abandonment

- (a) Applicability
 - (1) An SEF, other than a Tier 1 system, that ceases to produce electricity on a continuous basis for 12 months shall be considered abandoned unless the property owner or facility operator demonstrates by substantial evidence satisfactory to the County that there is no intent to abandon the facility.
 - (2) A property owner or facility operator with an abandoned system shall follow the decommissioning plan to remove the system. If the system was approved without a decommissioning plan, the property owner or facility operator shall remove all equipment and facilities and restore the site to original condition upon abandonment.
 - (3) Facilities deemed by the County to be unsafe and facilities erected in violation of this section shall also be subject to this section.

(b) Determination of Abandonment

- (1) Based on the information provided in an annual compliance statement or verified zoning complaint, the zoning coordinator shall have the right to request documentation and/or affidavits from the property owner regarding the system's usage and shall make a determination as to the date of abandonment or the date on which other violation(s) occurred. The zoning coordinator shall submit the documentation and coordinator's findings to the County Commission, property owner, and facility operator and schedule a public hearing for a determination of abandonment.
- (2) Upon a determination of abandonment or other violation(s), the County shall send a notice to the property owner and facility operator, indicating that the responsible party shall remove the SEF and all associated facilities, and remediate the site to its approximate original condition within a reasonable timeframe established by the County, unless the County determines that the facilities must be removed in a shorter period to protect public safety. Alternatively, if the violation(s) can be addressed by means short of removing the SEF and restoration of the site, the County may advise the property owner and facility operator of such alternative means of resolving the violation(s).
- (3) If the property owner or facility operator does not comply, the County may remove the SEF and restore the site and may thereafter:
 - (i) Draw funds from the bond, security, or financial assurance that was established during permitting, and
 - (ii) Initiate judicial proceedings or take other steps authorized by law against the responsible parties to recover only those costs associated with the removal of structures deemed a public hazard.

8. Decommissioning

- (a) A decommissioning plan, compliant with MCA 75-26-301 where applicable, shall be prepared for Tier 2 and Tier 3 applications and submitted with zoning compliance permit or special review application. The plan shall address the following:
 - (1) Defined conditions upon which decommissioning will be initiated (e.g., end of land lease, no power production for 12 months, etc.)
 - (2) Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations, and restoration of property to condition prior to development of the SEF. This shall include a revegetation plan. The applicant may propose retaining some site improvements, such as roads and infrastructure, subject to landowner consent and County approval.
 - (3) Timeframe for completion of decommissioning activities, not to exceed one year.
 - (4) Description and copy of any lease or any other agreement with landowner regarding decommissioning.
 - (5) Name and address of person or party responsible for decommissioning.
 - (6) Plans and schedule for updating this decommissioning plan.

- (7) A professional engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the escrow agent with which the resources shall be deposited. The decommissioning plan shall also include an agreement between the applicant and the County that:
 - (i) The financial resources for decommissioning shall be in the form of a surety bond or letter of credit and shall be deposited in an escrow account with an escrow agent acceptable to the County.
 - (ii) The County shall have access to the escrow account funds for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within one year of the end of project life, inoperability of individual WECS turbine, or facility abandonment. Escrow funds may be used for administrative fees and costs associated with decommissioning.
 - (iii) The County is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.
 - (iv) The County is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the County's right to seek reimbursement from applicant, operator, or their successor(s) for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by applicant, operator, or their successor(s), or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce the lien.
- (8) Before final electrical inspection, provide evidence that the decommissioning plan was recorded with the Yellowstone County Clerk and Recorder.

C. WIRELESS COMMUNICATION FACILITIES (WCFs)

1. Purpose

The purpose of this section is to establish regulations for the siting of antenna support structures and antennas on public and private property. The goals of this section are to:

- (a) Provide for the managed development and installation, maintenance modification, and removal of wireless communications infrastructure with the fewest number of wireless communications facilities (WCFs) to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;
- (b) Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including but not limited to camouflage design techniques and undergrounding of the equipment associated with WCFs;
- (c) Encourage the deployment of smaller, less intrusive WCFs to supplement existing larger WCFs;
- (d) Encourage the use of wall-mounted panel antennas;
- (e) Encourage roof-mounted antennas only when wall-mounted antennas will not provide adequate service or are not otherwise feasible;
- (f) Encourage the location of antennas and towers in non-residential areas and minimize the total number of antenna support structures throughout the community;

- (g) Strongly encourage the co-location of WCFs on new and existing antenna support structures;
- (h) Require wireless communication facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal;
- (i) Require wireless communication facilities to be configured in a way that minimizes the adverse visual impact of the towers and antennas; and
- (j) Enhance the ability of the providers of wireless communication services to provide such services to the community, as quickly, effectively, and efficiently as possible.

2. Applicability

All wireless communication facilities located on private land within the County zoning jurisdiction shall be subject to this section. This section shall apply to wireless communication facilities upon state and federal lands to the extent of the 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.

- (a) Amateur radio stations and antenna support structures that are owned and operated by a federally licensed amateur radio station operator or are exclusively receive-only antennas, provided that the requirements that the height be no more than the distance from the base of the antenna to the property lines is met.
- (b) Antennas and antenna support structures for land mobile radio and radio and television, regulated in Section 27-1007.A.
- (c) Pre-existing WCFs:
 - (1) Any WCF for which a permit has been properly issued prior to the adoption of this Zoning Code (____, __, 2020) and for which no changes will be made shall not be required to meet the requirements of this section.
 - (2) Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of Section 27-1007.C.5, General Requirements.

3. Criteria for Major and Minor Modifications and Substantial Change

- (a) Major WCF Modification:
 - (1) An alteration of an existing WCF for any purpose that meets the criteria for substantial change.
 - (2) The calculation for modifications shall be cumulative over time following the initial approval of the WCF. No such modification shall be permitted if the support structure will exceed 50 feet or the zoning district height, whichever is applicable.
- (b) Minor WCF Modification:
 - (1) An alteration of an existing exterior telecommunications facility or co-location of additional facilities with an existing exterior telecommunications facility in any zone that does not meet or exceeds the thresholds for a major modification, the calculation for which shall be cumulative over time, following the initial approval of the telecommunications facility.

- (2) No such modification shall be permitted if the modification to the structure will cause the structure to exceed the height limit for the zoning district by more than 10 percent.
- (c) Substantially Change: a modification that changes the physical dimensions of an eligible support structure so that after the modification the structure meets any of the following criteria:
 - (1) For towers:
 - (i) Other than alternative tower structures, the modification increases the height of the tower by more than 10 percent; for other eligible support structures, it increases the height of the structure by more than 10 percent or more than 10 feet, whichever is greater;
 - (ii) The modification involves adding an appurtenance to the body of the tower that would protrude from the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance to the body of the structure that would protrude from the side of the structure by more than six feet;
 - (2) For any eligible support structure:
 - (i) The modification involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
 - (ii) The modification entails any excavation or deployment outside the current site;
 - (iii) The modification would defeat the concealment elements of the eligible support structure. A change that would undermine the concealment elements of this structure will be considered to defeat the concealment elements of the structure;
 - (iv) The modification does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs (I), (II), and (III) of this definition.
 - (3) For base stations that are not surrounded by a screening wall, the modification involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10 percent larger in height or overall volume than any other existing, individual ground cabinet associated with the structure;
 - (4) For purposes of determining whether a substantial change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height are measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.

4. General Requirements

The requirements set forth in this section shall govern the location and construction of all wireless communications facilities governed by this section.

- (a) Regulatory compliance. All wireless communication facilities must meet or exceed current standards and regulations of the FAA, the FCC, and other local, state or federal agencies with the authority to regulate facilities governed by this section. All wireless communication

facilities must comply with all revised standards and regulations within the date established by the agency promulgating the standards or regulations. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF at the WCF owner's expense.

(b) Setbacks

(1) Antenna support structures adjacent to residential uses or zoning. Antenna support structures must be set back, from all property lines, a distance equal to one-half ($\frac{1}{2}$) the height of the structure from any off-site residential structure or residentially zoned lot. Accessory structures must maintain a minimum of a 15-foot setback from any lot line adjacent to a residential structure or residentially zoned lot, or the required setback of the zoning district where the antenna support structure is located, whichever is greater.

(2) Setbacks in commercial and industrial districts. 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) 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.

(d) Fencing and buffering.

(1) Fencing. A chain link or solid wood fence, or masonry wall at least six feet in height (eight feet if razor or barbed wire is used) shall be constructed and maintained around the perimeter of the antenna support structure site. Climb-proof shields can be substituted for a fence or wall around the structure. Solid fences, at least six feet in height are required adjacent to residential uses and residentially zoned property.

(2) Landscaping. For all facilities the following will be required: a continuous evergreen hedge at least four feet in height when planted, shall be planted and maintained around the perimeter of the antenna support structure outside of the required fencing and spaced close together to provide a continuous visual screen. Shrubs shall also be planted and maintained around the guy anchors for visual screening purposes. This requirement may be waived through Section 27-16xx, Administrative Relief, where the site does not have access to water.

A performance bond or letter of credit for 150 percent of the landscaping and fencing materials and labor costs shall be posted with the planning division, prior to building permit approval, to ensure the placement of required landscaping and fencing in accordance with Section 27-1200.

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

(e) Lighting. Antenna support structures shall not be artificially lighted unless required by the FAA or other local, state, or federal agency.

(1) If the FAA requires safety lighting, the use of red beacons is preferred to flashing strobe lights. Security lighting on site may be mounted up to 20 feet high on the tower and

shall be directed towards the ground to reduce light pollution, prevent off-site light spillage, and avoid illuminating the tower.

- (2) 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.
- (f) Signage. Signage shall be limited to non-illuminated warning and equipment identification signs.
- (g) Co-location
- (1) Antenna support structures should be designed in all respects to accommodate multiple antennas. If the antenna support structure is over 100 feet in height, it should be designed to include both the applicant's antenna(s) and at least two additional comparable antennas. If the tower is between 50 and 100 feet tall it should be designed for at least one additional comparable antenna.
 - (2) All new antennas must co-locate on existing or approved antenna support structures or stealth communication facilities. Applicants may request a waiver from the co-location requirement through the special review process. Applicants must demonstrate that co-location is not feasible because there is no existing or approved antenna support structure within the required separation distance of the proposed site can accommodate the applicant's proposed antenna or a critical need exists for the proposed location and it is technically infeasible to locate or co-locate structures at or beyond the required separation distance.
- (h) Maintenance
- (1) Equipment at a wireless communication facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.
 - (2) All property used for the siting of an antenna support structure or antenna shall be maintained, without expense to the County, so as to be safe, orderly, attractive, and in conformity with County codes including those regarding the removal of weeds, trash and landscape maintenance.
- (i) Visual impact/aesthetics
- (1) Wireless communication facilities shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable local, state, or federal agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.
 - (2) If an antenna is installed on a structure other than a tower, the antenna and associated electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible. Antennas and antenna support structures may be mounted on existing buildings that are 30 feet or more in height above the street grade.

- (3) Roof-mounted antennas and antenna support structures shall not add more than 20 feet to the total height of the building on which they are mounted. Roof-mounted equipment shall be made visually unobtrusive to match existing air conditioning units, stair, elevator towers or other architectural elements. Only monopole antenna support structures with omni-directional (whip) or low profile single-directional (panel) shall be installed on building roofs. Examples of acceptable designs are shown in subsection (o) of this section. Crow's nest antenna arrays are prohibited on roof-top structures.
- (4) Wireless communication facilities attached to new or existing structures shall be designed to blend with the structure's architecture and should be placed directly above, below or incorporated with vertical design elements of a structure.
- (5) Wireless communication facilities shall be located as to minimize their visibility and not be placed within historic or scenic view corridors as designated by the County Commission or by any state or federal law or agency.
- (j) Antenna support structure separation: All antenna support structures over 50 feet in height, regardless of the zoning district in which the structure is located, shall be located at least one mile from any other antenna support structure that is over 50 feet. Up to three antenna support structures located within an approved wireless communication facility tower farm shall be located at least one mile from any other tower farm.
- (k) Abandonment and Removal: If a WCF has not been in use for a period of three months, the owner of the WCF shall notify the County of the non-use and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is not operated for a continuous period of six months shall be considered abandoned. The County, in its sole discretion, may require an abandoned WCF to be removed. The owner of the WCF shall remove the same within 30 days of receipt of written notice from the County. If the WCF is not removed within 30 days, the County may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired. Additionally, the County, in its sole discretion, shall not approve any new WCF application until the applicant who is also the owner or operator of any such abandoned WCF has removed such WCF or payment for such removal has been made to the County.
- (l) Hazardous Materials

No hazardous materials shall be permitted in association with WCFs, except those necessary for the operation of the WCF and only in accordance with all applicable law governing such materials.

5. Commercial Antenna Support Structures and Antennas Located in Residential Zoning Districts

- (a) Minor modifications: Antennas co-located on existing or approved stealth communication facilities or existing or approved antenna support structures which have previously received all required approvals and permits shall be permitted as an allowed use.
- (b) New support structures and major modifications: antenna support structures and antennas shall be permitted as an allowed use in all residential zoning districts provided they meet all of the following criteria:
 - (1) Stealth communication facilities conforming to all applicable provisions of this Zoning Code and roof-mounted antennas that do not add more than 20 feet to the total height

of the building on which they are mounted shall be permitted as an allowed use only when located on school, government-owned utility, and other government sites. Proposed antennas or antenna support structures that are contrary to this section must be requested as a land use contrary to zoning through the special review process or may be submitted to the board of adjustment for a hearing, whichever is the preference of the owner/agency.

6. Commercial Antenna Support Structures and Antennas Located in Commercial and Industrial Zoning Districts.

- (a) Minor modifications: Antennas co-located on existing stealth communication facilities or existing antenna support structures which have previously received all required approvals and permits shall be permitted as an allowed use in all commercial zones.
- (b) New support structures and major modifications shall be considered as follows:
 - (1) Stealth communication facilities shall be permitted as an allowed use in all commercial zoning districts.
 - (2) Antenna support structures shall be permitted as an allowed use in all commercial zoning districts when located on school, government-owned utility, and other government sites. Proposed antennas or antenna support structures that are contrary to this section must be requested through the special review process.
 - (3) Antenna support structures and antennas located in CX, C3, I1, I2, and P zoning districts shall be permitted as an allowed use provided that the towers meet the requirements subsections 6(b)(1) or 6(b)(2) or the following:
 - (i) Roof-mounted antenna that do not add more than 20 feet to the total height of the building on which it is mounted shall be permitted as an allowed use. See additional requirements for roof-mounted antenna in Subsection 4(j)(2).
 - (ii) Antenna support structures 50 feet in height or less shall be permitted as an allowed use.
 - (iii) Antenna support structures that are greater than 50 feet in height shall be required to obtain special review approval.
 - (iv) Wireless communication facility tower farms are permitted with special review approval, except in the P3 zoning districts.
 - (4) All antenna support structures located in I2 shall be permitted as an allowed use, including tower farms.

7. Antenna Support Structures Located in Parks

The presence of certain wireless communication facilities may conflict with the purpose of some County owned parks. Wireless communication facilities will be considered only following a recommendation by the planning division; the city parks, recreation, and cemetery advisory board, and approved by the County Commission. Factors that will be considered include:

- (a) Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use;
- (b) Commercial recreation areas and major playfields; and,
- (c) Park maintenance facilities.

8. Small Cell WCF

The following standards apply in those zones where small cell telecommunications facilities are allowed as a permitted use.

- (a) An antenna may be installed on existing exterior support structures, but the installation of taller poles or new overhead wiring to accommodate the antennas will not be permitted without a special review approval.
 - (1) An antenna may be installed at least 20 feet from the ground in a residential zone or on an existing residential support structure or support structure on privately owned land, or 15 feet from the ground in a commercial or mixed-use zone or on an existing commercial structure or support structure on privately owned land.
 - (2) An antenna may be mounted on the wall of a building facing the rear lot line at a height of at least 20 feet in a residential zone or when mounted on a residential building, or 15 feet in a commercial or mixed-use zone or when mounted to a commercial building.
- (b) An antenna must not be installed on or within 60 feet of a single-family dwelling unit and must not be installed on the front façade of any residence.
- (c) Cable connecting the antennas to the equipment box shall be contained inside the pole or support structure or shall be flush mounted and covered with a metal, plastic or similar material cap matching the color of the pole or structure on which it is installed, properly secured and maintained by the applicant.
- (d) Related unstaffed equipment cabinets may be located within a building, an equipment cabinet outside a building, an equipment cabinet on a rooftop, or an equipment room within a building.
 - (1) Such related equipment shall have a maximum square footage of 10 square feet with a maximum height of two feet and must be so located and installed in accordance with the applicable setback and other requirements of the zone in which the property is classified.
 - (2) A related unstaffed equipment cabinet may be installed on a rooftop of a building on privately owned land which is at least 15 feet in height, provided it and all other roof structures do not occupy more than 25 percent of the roof area.
- (e) The applicant shall provide proof that it is a licensed provider and will comply with all applicable federal, state, and County laws and regulations, including those regarding wireless communications services.
- (f) An antenna and equipment box must be installed as a stealth telecommunications facility on a property within a Historic District or that has been designated by the County as a Historic Resource, and the Historic District Commission must review such an application.
- (g) Public property. A private small cell telecommunications antenna may be located on the exterior of public property or attached to an existing support structure owned or operated by the County and shall be a permitted use in all zones.
- (h) All such small cell telecommunications antennas shall be located and designed to minimize visual impact on surrounding properties and from public streets.
- (i) No signs are permitted in connection with any small cell telecommunications antenna.

- (j) No lights are permitted on any monopole or antenna unless required by the FCC, the FAA, or the County.
- (k) No more than one building, pole, or other support structure containing a small cell telecommunications facility or co-located facility is permitted on a lot or parcel of land, or for parcels larger than a half-acre, per half-acre of land.

9. Nonconforming Wireless Communication Facilities

Antenna support structures and/or facilities in existence on the date of the adoption of these regulations that do not comply with the requirements of these regulations are considered nonconforming antenna support structures and are subject to the following provisions:

- (a) Nonconforming antenna support structures may continue their present use but may not be expanded or increased in height without complying with this section.
- (b) Nonconforming antenna support structures which are damaged and destroyed, by less than 50 percent of its replacement value, due to any reason or cause may be repaired and restored to their former use, location, and physical dimensions subject to obtaining a permit but without otherwise complying with this section. If an antenna support structure is destroyed or damaged by more than 50 percent of its replacement value, the antenna support structure must be brought into compliance with these regulations.
- (c) The owner of any nonconforming antenna support structure may make minor modifications in order to improve the structural integrity of the facility, to allow the facility to accommodate co-located antennas or facilities, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of this section.

10. Abandonment

Wireless communications facilities will be considered abandoned if they are unused by all providers at the facility for a period of six months. Determination of abandonment shall be made by the planning division, which shall have the right to request documentation from the facility owner regarding support or antenna usage. Upon abandonment, the facility owner shall have 90 days to:

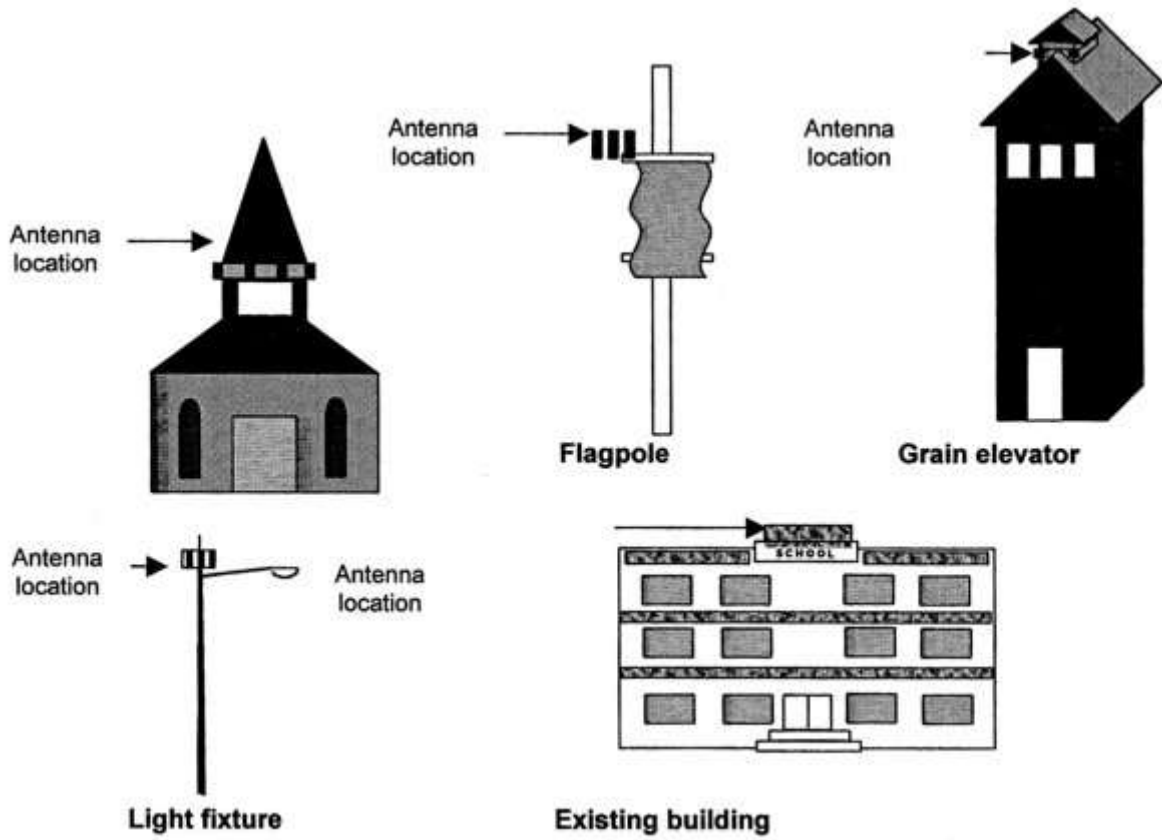
- (a) Re-use the facility, or transfer the facility to another owner who will re-use it; or
- (b) Dismantle the facility. If the facility is not removed within 90 days of abandonment, the County may remove the facility at the facility and/or property owner's expense. If the facility is removed, County approval of the facility expires.
- (c) If the facility owner is unable to remove the facility within the 90 days due to unusual circumstances, the planning division may grant the facility owner an additional 90 days in which to comply with the requirements of this section.

11. Nuisances

Wireless communication facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the 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.

12. Wireless Communication Facilities, Illustrated Examples

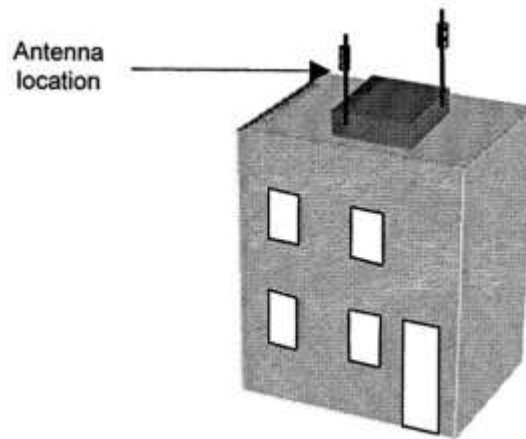
(a) Stealth communication facilities:



(b) Antenna support structures:



- (c) Roof-mounted antenna support structures and antennas:



13. Minor Modification Procedures

- (a) Minor modifications to facilities permitted under these regulations shall be approved by the planning division so long as they comply with the original approved design.
- (b) Timeframe for Review. Subject to the tolling provisions of subparagraph (c). below, within 60 days of the date on which an applicant submits an application seeking approval under this section, the County shall approve the application unless it determines that the application is not covered by this subsection, or otherwise in non-conformance with applicable codes.
- (c) Tolling of the Timeframe for Review. The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the County and the applicant, or in cases where the zoning coordinator determines that the application is incomplete:
- (1) To toll the timeframe for incompleteness, the County must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application;
 - (2) The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the County's notice of incompleteness; and
 - (3) Following a supplemental submission, the County will notify the applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in Subsection 13.(c)(1). In the case of a second or subsequent notice of incompleteness, the County may not specify missing information or documents that were not delineated in the original notice of incompleteness.
 - (4) Failure to Act. In the event the County fails to act on a request for minor modification, within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The request becomes effective when the applicant notifies the County

in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

- (5) Interaction with Telecommunications Act Section 332(c)(7). If the County determines that the applicant's request is not a request for minor modification, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC's Shot Clock order, will begin to run from the issuance of the County's decision that the application is not a request for minor modification. To the extent such information is necessary, the County may request additional information from the applicant to evaluate the application under Section 332(c)(7) reviews.
- (d) In the event that after submittal of the application, or as a result of any subsequent submittals, applicant modifies the proposed facilities modification described in the initial application, the application as modified will be considered a new application subject to commencement of a new application review period; provided that, applicant and the approval authority may, in the alternative, enter into a mutually agreeable tolling agreement allowing the County to request additional submittals and additional time that may be reasonably necessary for review of the modified application.

(e) Decision

The approval authority shall review a minor modification application to determine if the proposed facilities modification is subject to this section, and if so, if the proposed facilities modification will result in a substantial change to the physical dimensions of an eligible support structure.

- (1) Within 60 days of the date on which the County receives a minor modification application, less any time period that may be excluded under the tolling provisions of this section or a tolling agreement between the applicant and the approval authority, the approval authority shall approve the application and contemporaneously issue a minor modification permit unless the approval authority determines that the application is not subject to this section, or the proposed facilities modification will substantially change the physical dimension of an eligible support structure.
- (2) Denial. A minor modification application shall be denied upon determination by the approval authority that the proposed facilities modification is not subject to this section or will substantially change the physical dimensions of an eligible support structure. A proposed facilities modification will substantially change the physical dimensions of an eligible support structure if it meets any of the substantial change criteria. A denial of a minor modification application shall set forth in writing the reasons for the denial and shall be provided to the applicant.
- (3) Deemed Approved Application. An application that has been deemed approved shall be and constitute the equivalent of a minor modification permit, except as may be otherwise determined by a court of competent jurisdiction, and shall be subject to generally applicable enforcement and compliance requirements in the same manner as a minor modification permit issued pursuant to this section.
- (f) Term of Minor Modification Permit. A minor modification permit issued pursuant to this section, and any deemed approve application, shall be valid for a term of 180 days from the date of issuance, or the date the application is deemed approved.

14. New Support Structure and Major Modification Procedures

Applications for new support structures and major modifications to existing antenna support structures permitted under these regulations shall be approved through a special review. Major modifications are any modifications that exceed the definition of minor modifications and constitute a substantial change per Section 27-1007.C.3.

D. WIND ENERGY CONVERSION SYSTEMS (WECS)

1. Applicability

- (a) These standards apply to the construction of any new WECS within the County.
- (b) A WECS legally established or permitted prior to the effective date of this Zoning Code shall not be required to meet the requirements of this Zoning Code, however:
 - (1) Physical modification or alteration to an existing WECS that materially alters the size, type or components of the WECS shall be subject to this Zoning Code. Only the modification or alteration is subject to this Zoning Code;
 - (2) Substantial conformance review determinations are not major amendments to a project's existing permits; and
 - (3) Routine operation and maintenance or like-kind replacements do not require a permit.

2. Wind Energy Conversion System Tier Descriptions

- (a) Tier 1: Accessory Wind Energy Conversion Systems meet the following criteria:
 - (1) Is designed to supplement other electricity sources as an accessory use to existing facilities, wherein the power generated is used primarily for on-site consumption, and
 - (2) Consists of one or more wind turbines, which may be roof-mounted;
- (b) Tier 2: Intermediate Wind Energy Conversion Systems meet the following criteria:
 - (1) Is the primary use on the site or is a secondary use that exceeds the criteria for a Tier 1 WECS,
 - (2) Consists of one or more wind turbines, all of which are ground-mounted, and
 - (3) Is designed primarily to serve a local load.
- (c) Tier 3: Large-Scale Wind Energy Conversion Systems for Commercial Generation meet the following criteria:
 - (1) Consists of one or more wind turbines, and
 - (2) Has a total facility rated capacity of greater than 1 MW.

3. Standards for Ground-Mounted WECS

- (a) Size: The maximum footprint for a ground-mounted WECS shall be as follows:
 - (1) Tier 1:
 - (i) Residential and mixed-use districts: 2,000 sf or 25% of the lot, whichever is less
 - (ii) Agricultural, commercial, industrial, and public districts: 4,000 sf or 25% of the lot, whichever is less.
 - (2) Tier 2:

- (i) I1 district: up to 10 acres
- (ii) I2 district: up to 20 acres
- (3) Tier 3: Maximum size determined through special review process.

(b) Height

- (1) Towers: The following height standards are applicable to WECS towers:

Table 27-1000.x: WECS Tower Height, Maximum

Zone District	Lot Size	Tier 1	Tier 2	Tier 3
Agriculture	Less than 5 acres	80 feet	100 feet	Not permitted
	5 acres or more	100 feet	200 feet	Not permitted
RR1, RR3, N4, RRMH P1, P2, P3	Up to 20,000 sf	Height determined by available setback	Not permitted	Not permitted
	20,000 to 43,560 sf	80 feet	80 feet	Not permitted
	Over 1 acre	100 feet	100 feet	Not permitted
NO, NMU, C3, CX	All	80 feet	Not permitted	Not permitted
I1, I2	Up to 20,000 sf	Height determined by available setback	Not permitted	Not permitted
	20,000 to 43,560 sf	80 feet	200 feet	Not permitted
	1 to 4.99 acres	200 feet	200 feet	Not permitted
	5 acres or more	200 feet	No limit [1]	No limit [1]

(c) Setbacks

- (1) Tower locations shall comply with zone district setbacks and any of the additional setback standards identified in this section. Ground-mounted Tier 1 and Tier 2 WECS may not be located between the front building line and the street.
 - (i) Towers shall be setback a minimum of 0.5 x total height from any primary structure.
 - (ii) The owner of a primary structure on the same lot as a Tier 1 or Tier 2 tower may waive this setback as applied to that lot and apply a reduced setback of 0.25 x total height.
 - (iii) The setback may not be waived for primary structures on an adjacent lot.
 - (iv) All new primary structures shall be located at least 0.5 x total height from an existing tower.
 - (v) No further setback waivers are permitted, nor may this requirement be waived or varied by the zoning coordinator or board of adjustment.
- (2) Towers shall be setback a minimum distance equal to 500 feet or 0.5 x the total height (tower plus extended blade), whichever is higher, from:
 - (i) All property lines,

- (ii) Any overhead utility lines, and
 - (iii) Any public roadway right-of-way.
- (3) Guy cables and other support devices shall be setback at least 10 feet from all property lines and occupied buildings. Guy cables must be marked and clearly visible to a height of six feet above the guy cable anchors.
 - (4) The setback shall be measured from the centerline of the turbine and applied in a diameter around the tower.
- (d) Tower Separation: At a minimum, there shall be a separation between towers of not less than 3 times the rotor diameter.
- (e) Clearance: The minimum height of the lowest position of the rotor blade shall be at least 30 feet above the ground and 30 feet above the highest existing structure or tree within a 250 foot radius.

4. Standards for Building-Mounted WECS

- (a) A Tier 1 building-mounted WECS shall be subject to the maximum building height specified for the district or a maximum of 30 feet above the height of the building to which it is attached, whichever is greater. Additional height may be requested through the special review process.
- (b) The maximum number of Tier 1 building-mounted WECS permitted by district type is:
 - (1) Residential, mixed-use, commercial, and public districts: Two per primary structure, one per accessory structure
 - (2) Industrial districts: no limit, may be mounted on primary or accessory structures.

5. Permit Required

- (a) Applicable Permit Types: The following permit requirements are applicable to WEC systems. Complete permit submission requirements and processes are provided in Section 27-1600.
 - (1) /P/ Permitted Use
 - (2) /SR/ Special Review
 - (3) /X/ Prohibited

Table 27-1000.5: WECS Permit Requirements

Zone District	Tier 1 (Accessory)	Tier 2 (Primary Use)	Tier 3 (Large Commercial)
A	P	X	X
RR1, RR3, N4	P	X	X
RRMH	P	X	X
CX, C3	P	X	X
I1, I2	P	P	SR
P1, P2, P3	P	X	X

- (b) Submission Requirements for Tier 2 and Tier 3 WECS

- (1) Tier 2 zoning compliance permit and Tier 3 special review WECS applications shall include the following information:
 - (2) Approved net metering agreement(s) and copies of applications to or approved permit from applicable state and federal agencies.
 - (3) A landscape plan showing that all areas occupied by the facility that are not utilized for access to operate and maintain the installation shall be planted and maintained with a native shade tolerant grass or other vegetation for the purpose of soil stabilization or other methods approved by the zoning coordinator.
 - (4) A storm water management plan showing existing and proposed grading and drainage demonstrating no net increase in runoff.
 - (5) A preliminary transportation plan describing ingress and egress to the proposed project site to deliver equipment and provide access during and after construction. Such plan shall describe any anticipated improvements to existing roads, bridges, or other infrastructure, as well as measures which will be taken to restore damaged or disturbed access routes following construction.
 - (6) An environmental assessment that analyzes the impact of the proposed project regarding on-site and site-adjacent floodways, riparian corridors, open water, wildlife migration routes, protected habitat, protected plant species, and other environmentally sensitive areas as identified by the County, State, or federal government, along with proposed mitigation recommendations.
 - (7) A decommissioning plan per Section 27-1007.D.11.
- (c) Following approval, all permit holders are required to submit an annual activity statement that confirms that the system is still active and compliant with the permit and that provides current owner and emergency contact information. This requirement shall not preclude the County from undertaking a separate compliance report where confirmation of data provided by the facility's operator is desired.

6. Safety and Installation

WECS facilities shall be developed in a manner that utilizes sound engineering practices and considers public safety in regard to the potential hazards that may be created to adjacent properties, public infrastructure, communities, aviation, etc. The following lists public safety matters that shall be addressed and implemented in the development of the WECS facility:

- (a) WECS facilities shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI") and the Institute of Electrical and Electronics Engineers ("IEEE") and the National Electrical Code (NEC). Concurrently with permits for construction, the Applicant(s) shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL"), Det Norske Veritas ("DNV"), Germanischer Lloyd Wind Energie ("GL"), or an equivalent third party.
- (b) WECS facilities shall comply with applicable FAA regulations and comply with conditions regarding WECS facility installation established by affected airports. If approved by the FAA, all WECS facilities shall implement a FAA approved Aircraft Visual Warning System (AVWS) that allows for the use of aircraft warning lights to be minimized.

- (c) Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind turbine structure. No WECS shall be permitted which lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.
- (d) All WECS structures must be unclimbable by design or protected by anti-climbing devices. All climbing apparatus shall be removed from the lower 10 feet of the tower, or ladder access shall be restricted.
- (e) Appropriate warning signage (e.g., “Danger, High Voltage”) shall be placed where it is clearly visible by persons standing near the tower base or other ground-mounted electrical equipment.
- (f) All electrical and control equipment shall be safely and appropriately enclosed from unintentional access by means such as lockable equipment cabinetry, enclosed tower with lockable access door, or similar.
- (g) All access doors on towers shall be locked or fenced.

7. Design

- (a) Color: When not conflicting with colors required by the Federal Aviation Administration or other federal agencies, the WECS facility shall remain painted or finished in the color that was originally applied by the manufacturer. Bright, luminescent, or neon colors are prohibited.
- (b) Signal Interference
 - (1) No WECS facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antennas for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.
 - (2) No WECS facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link’s operation.
- (c) Location and Views: WECS Facility structures shall be located to make maximum use of existing terrain, vegetation and structures for the purposes of maintaining the viewshed. The site shall comply with Section 27-1200, Landscaping.
- (d) Lighting: WECS Facilities, including buildings and structures, shall not be artificially lighted except to the extent requires by FAA regulations. Minimal ground level security lighting is permitted.
- (e) Shadow Flicker: WECS facilities shall be designed so that there is no significant shadow flicker at an adjacent property, measured at the nearest wall of inhabited structures, unless waived in writing and recorded against the property by the landowner in the Yellowstone County Clerk’s office.
- (f) Sound:

- (1) Sound produced by the turbine under normal operating conditions, as measured at the property line of any adjacent property improved with a dwelling unit at the time of the issuance of the zoning certificate, shall not exceed 55 dBA for any period of time.
 - (2) The 55 dBA sound level may be exceeded during short-term events out of the owner's control such as utility outages and/or severe wind storms.
 - (3) The noise level generated by a WECS must also not increase ambient sound levels by more than 3 dBA at any sensitive noise receptors, including residences, hospitals, libraries, schools, and places of worship, within 2,500 feet of the site property line.
- (g) Signs: WECS facilities shall not display commercial permanent or temporary signs (including flags, streamers, or decorative items) on any WECS equipment. As appropriate for emergency and safety purposes, WECS equipment shall display identification of the turbine (or other equipment) manufacturer, facility owner and/or operator, and an emergency contact number.
- (h) Outdoor Storage: Except during construction, re-construction or decommissioning, outdoor storage is not permitted within the project boundary.
- (i) Underground Lines: Intra-project power lines having a voltage of 34,500 volts or less shall be buried unless the applicant can sufficiently demonstrate that burying the lines will violate other guidelines, standards or applicable law. The actual installed burial depth of underground wiring shall be verified by the developer of the WECS facility. The developer shall provide certification from the installing contractor of the actual installed burial depth of all underground wiring. Such certification shall be under the penalty of perjury. The collection system may be placed overhead adjacent to County roadways, near substations or points of interconnection to the electric grid or in other areas as necessary.

8. Maintenance and Inspections

- (a) All WECS must be maintained in operational condition meeting all of the requirements of this section and other permit conditions at all times, subject to reasonable maintenance and repair outages.
- (b) The County may elect to have a WECS inspected for structural and operational integrity by a Montana licensed professional engineer. The County has the right to enter the premises of the wind energy facility at any reasonable time to inspect the WECS. The County will give at least 24 hours' notice of its intent to inspect the WECS.

9. Transfer and Replacement

- (a) If ownership or operation of a WECS changes, the new owner or facility operator must present full contact information and proof to the County that all required bonds and insurance policies remain in full force a minimum of 30 days prior to the transfer of ownership.
- (b) Any replacement of or modification or alteration to a WECS, excluding regular maintenance and repair, requires an amendment to the original approval, which amendment shall not be unreasonably withheld.
- (c) Replacement of a WECS may occur without County approval when there will be:
 - (1) No increase in the total height of the WECS,

- (2) No change in the location of the WECS,
- (3) No additional lighting on the WECS, except to the extent required by the FAA, and
- (4) No increase in noise produced by the WECS.

10. Abandonment

(a) Applicability

- (1) A WECS, other than a Tier 1 system, that ceases to produce electricity on a continuous basis for 12 months shall be considered abandoned unless the property owner or facility operator demonstrates by substantial evidence satisfactory to the County that there is no intent to abandon the facility.
- (2) A property owner or facility operator with an abandoned system shall follow the decommissioning plan to remove the system. If the system was approved without a decommissioning plan, the property owner or facility operator shall remove all equipment and facilities and restore the site to original condition upon abandonment.
- (3) Facilities deemed by the County to be unsafe and facilities erected in violation of this section shall also be subject to this section.

(b) Determination of Abandonment

- (1) Based on the information provided in an annual compliance statement or verified zoning complaint, the zoning coordinator shall have the right to request documentation and/or affidavits from the property owner or facility operator regarding the system's usage and shall make a determination as to the date of abandonment or the date on which other violation(s) occurred. The zoning coordinator shall submit the documentation and coordinator's findings to the property owner, facility operator, and county commission and schedule a public hearing for a determination of abandonment.
- (2) Upon a determination of abandonment or other violation(s), the County shall send a notice hereof to the property owner and facility operator, indicating that the responsible party shall remove the WECS and all associated facilities, and remediate the site to its approximate original condition within a reasonable timeframe established by the County, unless the County determines that the facilities must be removed in a shorter period to protect public safety. Alternatively, if the violation(s) can be addressed by means short of removing the WECS and restoration of the site, the County may advise the property owner and facility operator of such alternative means of resolving the violation(s).

(c) If the property owner or facility operator does not comply, the County may remove the WECS and restore the site and may thereafter:

- (1) Draw funds from any bond, security or financial assurance established as part of the permitting process, or
- (2) Initiate judicial proceedings or take other steps authorized by law against the responsible parties to recover only those costs associated with the removal of structures deemed a public hazard.

11. Decommissioning

- (a) A decommissioning plan, compliant with MCA 75-26-301 where applicable, shall be prepared and submitted with zoning compliance permit or special review application. The plan shall address the following:
- (1) Defined conditions upon which decommissioning will be initiated (e.g., end of land lease, no power production for 12 months, etc.)
 - (2) Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations and restoration of property to condition prior to development of the WECS. This shall include a revegetation plan. The applicant may propose retaining some site improvements, such as roads and infrastructure, subject to landowner consent and County approval.
 - (3) Timeframe for completion of decommissioning activities, not to exceed one year.
 - (4) Description and copy of any lease or any other agreement with landowner regarding decommissioning.
 - (5) Name and address of person or party responsible for decommissioning.
 - (6) Plans and schedule for updating this decommissioning plan.
 - (7) A professional engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the escrow agent with which the resources shall be deposited. The decommissioning plan shall also include an agreement between the applicant and the County that:
 - (i) The financial resources for decommissioning shall be in the form of a surety bond or letter of credit to be deposited in an escrow account with an escrow agent acceptable to the County.
 - (ii) The County shall have access to the escrow account funds for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within one year of the end of project life, inoperability of individual WECS turbine, or facility abandonment. Escrow funds may be used for administrative fees and costs associated with decommissioning.
 - (iii) The County is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.
 - (iv) The County is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the County's right to seek reimbursement from applicant, operator, or their successor(s) for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by applicant, operator, or their successor(s), or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce the lien.
- (b) Before final electrical inspection, provide evidence that the decommissioning plan was recorded with the Yellowstone County Clerk and Recorder.

SECTION 27-1008 AGRICULTURAL USES

A. LIVESTOCK AND FOWL

1. Where Permitted

Livestock may be maintained in any zoning district as provided in Table 27-1000.6.

2. Standards by Zone District

- (a) Livestock and/or fowl permitted in agricultural or residential zoning districts shall comply with the standards in Subsection A.3(a), below.
- (b) Livestock and/or fowl may be allowed in commercial or industrial zoning districts when the standards of Subsection A.3(b) are met, regardless of the lot size. However, if the number of animals requested exceeds the allowed limit in below Subsection M.3(b), then the property must conform to the uses allowed by right or through special review, as shown in Table 27-1000.1, Primary Uses.

3. Use Standards

- (a) Livestock and/or fowl are permitted on lots that are 2.5 net acres or less in size provided that all of the following regulations are satisfied.
 - (1) One livestock and/or fowl unit is allowed per 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) In addition to the above regulations, project animal(s) are allowed, but shall be limited to one 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 be allowed to remain on the property for no more than six months during any 12-month period. Breeding projects shall be exempt from this time limit.
 - (4) All accessory structures used for the purpose of housing, keeping, or sheltering livestock or fowl shall be setback a distance of 50 feet from any property line and 50 feet from any dwelling.
 - (i) 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 Agriculture (A) zoning district.
 - (ii) See the applicable zone district for the allowed maximum size of detached accessory structures.
- (b) Livestock and/or fowl are permitted on lots that are 2.51 to 9.99 net acres in size provided that all of the following regulations are met.
 - (1) One livestock and/or fowl unit per one 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 livestock and/or fowl unit per four acres of land devoted exclusively to the raising of the animal(s), on 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) are allowed, but shall be limited to one livestock or fowl unit per youth actively enrolled in F.F.A., 4-H or other similar types of programs. Project animals are required to be supplementally fed and shall be

allowed to remain on the property for no more than six months during any 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 100 feet from any property line and 50 feet from any dwelling.
 - (i) 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 Agriculture (A) zoning district.
 - (ii) See the applicable zone district 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.

4. Calculation of Livestock and Fowl Units

Livestock and fowl units shall be calculated as follows. Units for animals not included in this list shall be determined by the zoning coordinator.

Livestock Class	Livestock Units	Livestock Class	Livestock Units
Cow - Mature	1.00	Ram - Mature	.25
Cow with calf	1.00	Goat - Mature	.25
Bull - Mature	1.00	Goat with kid	.25
Bull - Yearling	.50	Kid - Weaned or under 6 months	.25
Calf - Weaned or under 6 months	.50	Bison - Mature	2.00
Steer - One year or older	1.00	Bison with calf	2.00
Heifer - One year or older	1.00	Bison calf - Weaned or under 6 months	1.50
Horse - Mature	1.50	Hog - Mature	.25
Horse with colt	1.50	Hog - Weaned	.10
Colt - Weaned	1.00	Llama	1.00
Ewe - Mature	.25	Fowl Class	Fowl Units
Ewe with lamb	.25	Hens, roosters or ducks	.25 each
Lamb - Weaned or under 6 months	.25	Turkeys or geese	.50 each

SECTION 27-1009 ACCESSORY USES

A. GENERAL PROVISIONS

1. Time of Construction or Establishment

No accessory structure or use shall be constructed or established more than 180 days prior to the time of completion of the construction or establishment of the principal structure or use to which it is accessory.

2. Interpretation of Unidentified Accessory Uses and Structures

The zoning coordinator shall evaluate applications for accessory uses that are not identified in this section on a case-by-case basis. If the request meets the criteria identified below, the zoning coordinator is authorized to determine the most similar, and thus most appropriate accessory use category and apply the regulations for the similar accessory use to the application.

- (a) The definition of "accessory use" in this section, and the general accessory use standards and limitations established in this section;
- (b) The purpose and intent of the district in which the accessory use is located;
- (c) Potential adverse impacts the accessory use or structure may have on other lots, compared with other accessory uses permitted in the district; and
- (d) The compatibility of the accessory use with other principal and accessory uses permitted in the district.

B. COMPLIANCE WITH THIS ZONING CODE

1. All accessory uses and structures shall be subject to the dimensional requirements of the zone district in which they are located except as specifically provided in this section. In the case of any conflict between the accessory use/structure standards of this section and any other requirement of this Zoning Code, the more restrictive standards shall control.
2. Accessory uses shall comply with all standards of this Zoning Code applicable to the principal use with which they are associated. Parking requirements shall be met for both the principal use and any accessory use when operating at the same time.

C. LOCATION

1. The accessory use or structure shall be conducted or located on the same lot(s) as the principal use.
2. No accessory building shall be erected in any required setback nor within five feet of any other building except as specified in this section.

D. DETACHED ACCESSORY RESIDENTIAL STRUCTURES

1. Detached buildings for accessory residential uses in the N4 and R-RMH zones shall not exceed the principal building first story gross floor area on the lot or 2,000 square feet, whichever is less. In the RR1 and RR3 zone districts detached buildings for accessory residential uses shall not exceed 3,000 square feet. See 27-1009.G for Accessory Dwelling Unit requirements.
2. The maximum total square footage in detached accessory structures in the N4 and R-RMH zone districts shall not exceed 3,000 square feet and in the RR1 and RR3 zones shall not exceed 5,000 square feet.
3. There are no size limitations for accessory structures in the A zone district.

E. ACCESSORY USE TABLE

Table 27-1000.6, Accessory Uses, identifies the accessory uses that may be permitted in each district subject to applicable standards.

1. Permitted /P/. These accessory uses are permitted by-right in the zone districts in which they are listed. Permitted accessory uses are required to comply with applicable use-specific standards identified in this article.
2. Permitted in upper stories/back of structure /PL/. These accessory uses are permitted by-right in the districts in which they are listed, provided that the accessory uses are located in the upper stories of a structure. These accessory uses may also be located in the ground story provided that they are located beyond a depth of at least 20 feet from the front facade.
3. Permitted with use restrictions /PR/. These accessory uses must comply with the use restrictions identified in this Zoning Code, including those restrictions included in this article and any use restrictions identified in the zone district where the uses is proposed to be located.
4. Requires a special review /SR/. These accessory uses are not allowed in the district but may be allowed through the special review process. Special review uses must follow any applicable development standards associated with the accessory use as well as meet the requirements of the special review.
5. Accessory uses that are not permitted are indicated by a blank space.

Table 27-1000.6: Accessory Uses	Ag	Residential				Commercial	Industrial		Public					Additional Standards	
	Key: P = Permitted, PL = Location Limits in Zone District, PR –Use Restrictions, SR – Special Review														
Use Table	A	RR1	RR3	N4	RRMH	C3	CX	I1	I2	P1	P2	P3 Civ	P3 Ed	P3 Med	
Residential															
Accessory Dwelling Unit	PR	SR	SR	SR											27-1009
Employee/Caretaker Unit								PR	PR		PR	PR	PR	PR	27-1009
Guest Home Short-Term Rental	PR	PR	PR	PR											27-1009
Home Occupation	P	P	P	P	P										27-1009
Casino															
Limited (1-3 gambling devices)						P	P	P	P						27-1005
Small (4-9 gambling devices)						P	P	P	P						27-1005
Day Care Facilities															
Day Care Center						P	P			P	P	P	P	P	27-1009
Family Day Care Home		P	P	P	P										27-1009
Group Day Care Home		P	P	P	P	P	P								27-1009
Electric Vehicle Charging Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	27-1009
Eating and Drinking Establishment															
No Alcohol															
Restaurant, no drive thru						P	P	P			P	P	P	P	
With drive-thru						P	P	P			P	P	P	P	27-1005
Beer and Wine, On-Premises Consumption															
Bar or Tavern						SR	PR	PR							27-1005
Craft Alcohol						P	P	P			P	P	P	P	27-1005
Restaurant						P	P	P			P	P	P	P	
All Beverage, On-Premises Consumption															
Bar or Tavern						SR	PR	PR							27-1005
Craft Alcohol						P	P	P			P	P	P	P	27-1005

Table 27-1000.6: Accessory Uses	Ag	Residential				Commercial	Industrial		Public					Additional Standards	
	Key: P = Permitted, PL = Location Limits in Zone District, PR –Use Restrictions, SR – Special Review														
Use Table	A	RR1	RR3	N4	RRMH	C3	CX	I1	I2	P1	P2	P3 Civ	P3 Ed	P3 Med	
Restaurant						P	P	P			P	P	P	P	
Greenhouse, noncommercial	P	P	P	P	P	P									
Kennel, Private	P	P	P	P	P										27-1009
Outdoor Uses															
Outdoor Sales Lot						SR	P	P							27-1009
Outdoor and Sidewalk Seating						P	P			P	P	P	P	P	27-1009
Outdoor Storage						PR	PR	P	P						27-1009
Park/Playground	P	P	P	P	P	P	P			P	P	P	P	P	
Solar Energy Facility, Tier 1	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	27-1007
Stable, Private	P	P	P	P	P	P	P								
Wind Energy Conv. System, Tier 1	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	27-1007
Wireless Communication															
Amateur Radio, less than 100' high	PR	PR	PR	PR	PR	PR	PR	PR	PR		PR				27-1009
Greater than 100' high	SR	SR		SR		SR	SR	SR	PR						27-1009
Wireless Communication Facilities		PR	PR	PR	PR	PR	PR	PR	P		PR	PR	PR	PR	27-1007
Urban Agricultural/Hobby Farm															
Beekeeping															
Community Garden	P	PR	PR	PR	PR					PR	PR	PR	PR	PR	27-1009
Fowl (chicken hens)	P	PR	PR	PR	PR										27-1009

F. ACCESSORY DAY CARE FACILITY

A child or adult day care facility, including nursery and preschool, may be permitted as an accessory use to a Public, Civic, and Institutional Use, subject to compliance with applicable state and County regulations.

G. ACCESSORY DWELLING UNITS

1. Applicability

- (a) Accessory dwelling units (ADUs) are permitted conditionally in A zone districts and are allowed by Special Review in N4, RR1, and RR3 zone districts.
- (b) Accessory dwelling units in applicable zones are permitted on any parcel where a single dwelling unit is permitted or currently exists.
- (c) The minimum lot size for a lot that has both a primary dwelling unit and an accessory dwelling unit is 3,000 sq. ft.

2. Ownership and Occupancy

- (a) The property owner shall live in either the primary or accessory dwelling unit, with one of the units serving as their principal residency for at least six months in a year. No third party rentals shall occur in the owner-occupied unit.
- (b) The property owner shall record a deed restriction with the Yellowstone County Clerk and Recorder requiring owner-occupancy of the property. Evidence of recordation of the deed restriction shall be provided to the Planning & Community Services Department.
- (c) Conditions of approval, as determined by the Director, shall be filed for record with the County Recorder as deed restrictions within 30 days of approval of the accessory dwelling unit. Evidence of such filing shall be submitted to the Director within 30 days of approval.
- (d) Accessory dwelling units in N4 zone districts shall not be sold separately or subdivided from the primary dwelling unit or lot.

3. Dimensional Standards and Location

- (a) One accessory dwelling unit is permitted per residential lot. The ADU shall be located on the same lot as the primary unit.
- (b) Unless specifically addressed in this section, accessory dwelling units are subject to the dimensional regulations for a principal building of the underlying zone district; e.g., setback/yard requirements and building coverage.
 - (1) A detached accessory dwelling unit shall not cover more than 30 percent of the available rear or side yard between the primary structure building line and the rear or side yard setback line. Accessory dwelling units built in the N4 zone district shall only be permitted to build in the rear yard between the primary structure building line and the rear yard setback line.
 - (2) These standards do not apply to legally established detached garages that contain an accessory dwelling unit. Any expansion of a detached garage for conversion into an ADU shall comply with the appropriate setback and yard requirements for the detached garage.

- (3) Maximum height for a new, detached accessory dwelling unit shall not exceed the height of the principal dwelling unit.
- (4) The footprint of a detached accessory dwelling unit shall not exceed the footprint of the principal dwelling unit.
- (c) An existing accessory structure whose height or setback(s) does not meet the requirements for a dwelling in the zone district may be converted into an accessory dwelling unit, but the structure may not be altered in any manner that would increase the degree of non-conformity.

4. Size

- (a) The gross floor area of an accessory dwelling unit attached or internal to the primary dwelling unit shall not exceed the gross floor area of the primary dwelling unit.
- (b) The maximum gross floor area of a detached accessory dwelling unit shall be no more than 80 percent of the gross floor area of the principal dwelling unit or 750 square feet, whichever is less.
- (c) On lots greater than 20000 square feet, the maximum gross floor area of a detached accessory dwelling unit shall be no more than 80 percent of the gross floor area of the principal dwelling unit or 1000 square feet, whichever is less.

5. Construction

- (a) Accessory dwelling units must contain a kitchen or a food prep area, bathroom, and sleeping area for the sole use of the unit.
- (b) Water and sewer service shall be provided through individual well or septic systems or a water and sewer district. The water and sewer district shall determine whether principal dwelling units and accessory dwelling units can share utilities.
- (c) Mobile homes, manufactured housing, recreational vehicles, travel trailers, and any other wheeled or transportable structure shall not be used as accessory dwelling units.
- (d) A new street address for a new ADU is required to assist in emergency response.

6. Design

- (a) Accessory dwelling units may be incorporated within or added onto a principal dwelling unit, garage, or other accessory structure, or may be built as a separate, detached structure on a lot where a single-family dwelling exists or will exist.
- (b) An ADU, either detached or an extension of an existing structure, shall be designed to maintain the architectural design, style, appearance, and character of the primary structure, including compatibility with the neighborhood.
- (c) Accessory dwelling units shall have a separate entrance with a clearly labeled street address. Houses with an attached or internal accessory dwelling unit may not create additional entrances facing the same street in N4 zone districts.

7. Parking

In N4 districts the accessory dwelling unit shall have at least one dedicated off-street parking space in addition to the parking required for the primary dwelling unit. An exception to the parking requirement may be granted if it is demonstrated to planning staff that the additional

parking space for the ADU is not feasible and/or on-street parking is available without negatively impacting the neighborhood.

8. Home Occupations

Home occupations are permitted in an accessory dwelling unit.

H. AMATEUR RADIO SUPPORT TOWERS

1. Applicability

- (a) All amateur radio antenna support structures and antennas located within the 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 antennas upon state and federal lands to the extent of the County's jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise.
- (b) Only the following facilities shall be exempted from the application of this section. Pre-existing amateur radio antenna support structures and pre-existing amateur radio antennas shall not be required to meet the requirements of this section, so long as said pre-existing antenna support structures and antennas have received all required approvals, permits and exceptions prior to adoption of this section.

2. Standards

- (a) Amateur radio antenna support structures and antennas shall be located only within the rear yard and shall not be placed within any required setback and shall be located so as to minimize their impact on adjacent residential properties and adjacent rights-of-way while maintaining acceptable signal quality.
- (b) Amateur radio antenna support structures and antennas exceeding six feet in height above grade (if ground-mounted) or above the roof or ridge of the building on which they are located (if building-mounted), shall require a building permit. With each building permit, the applicant shall submit evidence as is required to show that the device is adequately anchored, designed and/or constructed so as to safeguard the general public and/or adjacent property from damage in the event of failure of the device.
- (c) It is recommended that amateur radio antenna support structures be designed, installed, and maintained to blend into the surrounding environment through the use of color and alternative designs, except in instances where the color is dictated by the FAA.
- (d) In accordance with the FCC's preemptive ruling PRB1, 101 FCC 2d 952 (1985), antenna support structures erected for the primary purpose of supporting amateur radio antennas may exceed the height limitations of the underlying zoning as indicated in Table 27-1000.1, Primary Uses.
- (e) Attachments to amateur radio antenna support structures, such as guy wires and antenna wires, shall not cross any property line or any existing or proposed easement.
- (f) No lighting shall be permitted on any amateur radio antenna support structures except as mandated by the FAA.
- (g) No signage, other than required warning signs, or displays of any type shall be permitted on any amateur radio antenna support structure.

I. COMMUNITY GARDENS

1. Locations

- (a) Community gardening is permitted on rooftops that are structurally capable of supporting the garden.
- (b) Community gardening is permitted in public parks and P districts.

2. Use Standards

- (a) The site shall be designed and maintained so that water and fertilizer will not drain to adjacent property.
- (b) A minimum three-foot wide, clearly marked entrance path shall be provided from a public right-of-way to the garden.
- (c) The on-site sale of community garden products is prohibited except when permitted as an approved temporary use.
- (d) The use of motorized equipment is restricted to hours beginning at 7:00 AM and ending at 9:00 PM.
- (e) An on-site trash storage container must be provided and located as close as practicable to the rear lot line or, when located on a lot with other uses, the rear side of the community garden. Compost bins or piles must also be located in the same location. Trash must be removed from the site at least once a week.
- (f) The keeping of animals is prohibited unless the community garden is located in a zone district that permits animals.
- (g) Within a residential zoning district, operating hours for community garden activities are restricted to between 5:00 AM and 11:00 PM daily.
- (h) Customary accessory uses are regulated in the accessory use section.

3. Signs

Community gardens in residential zones shall be restricted to one, non-illuminated identification sign not exceeding eight square feet and eight feet in height and set back a minimum of five feet from the front and side property lines. In all other zoning districts, signs shall comply with the permanent sign standards for the applicable zoning district.

J. DRIVE-THROUGH (THRU) FACILITY

The following standards shall apply to businesses that contain a drive-through establishment, regardless if the drive-through is part of another use (e.g., restaurant or financial institution) or if it is a stand-alone use (e.g., automatic teller machine).

- 1. Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments located within 50 feet of any residential zone district shall not be audible beyond the subject property line.
- 2. All drive-through areas, including but not limited to menu boards, stacking lanes, trash receptacles, loudspeakers, drive up windows, and other objects associated with the drive-through area shall be located in the side or rear yard of a property to the maximum extent feasible, and shall not cross, interfere with, or impede any public right-of-way.

K. ELECTRIC VEHICLE CHARGING STATION

1. This section is not intended to regulate the charging of electronic vehicles within a personal garage associated with a dwelling unit or charging stations that may be placed within the public right of way by the County.
2. An electric vehicle charging station shall comply with the following use-specific standards:
 - (a) The charging station shall be associated with an approved off-street parking space.
 - (b) Equipment associated with a charging station shall be located to not impede pedestrian movement or create trip hazards within the right of way or any pedestrian pathway.

L. EMPLOYEE/CARETAKER UNIT

Employee/caretaker units in I1, I2, and the P districts shall be limited to no more than two residential units per 10,000 square feet of gross building floor area.

M. HOME OCCUPATIONS

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

1. Standards of Operation

- (a) The home occupation should not generate traffic before 7:30 a.m. or after 8:00 p.m.
- (b) The occupation should not generate, on average, more than four vehicle trips to the residence during any hour.
- (c) Uses not listed may be allowed with written approval from the Zoning Coordinator if they meet the intent of this section and will conform to all of the restrictions of this section.
- (d) No person shall be employed other than the residents of the dwelling.
- (e) The occupation shall be conducted entirely within the dwelling or an accessory building.
- (f) The floor area devoted to the occupation shall not exceed 500 square feet or 25 percent of the total ground area occupied by the buildings, whichever is less.
- (g) The occupation shall not produce light, noise, vibration, glare, fumes, odors, electrical interference, etc., which is inconsistent with the character of the residential area.
- (h) There shall be no sign advertising or calling attention to the home occupation on the premises.
- (i) There shall be no display, evidence or activity apparent from the exterior of the lot which would indicate that the premises are being used for any purpose other than that of a dwelling.
- (j) There shall be no group instruction, assembly or activity for greater than five persons.
- (k) One business vehicle that is associated with the home occupation may be parked or stored on the premises. Vehicles rated at more than 12,000 GVW must be stored in a different location.
- (l) There shall be no outside storage of materials or equipment related to the home occupation, except the one allowed business vehicle.

2. Uses Permitted with Business License

- (a) Home Office

- (1) Administrative or professional offices
 - (2) Internet or direct sales distribution
- (b) Home Instruction
- Individual tutoring or lessons in art, dance, music, swimming, or similar activities are permitted, provided that a maximum of six students per day shall be permitted at the premises.

3. Uses Permitted with Planning Administrative Review

The preparation of items for off-site display and sale, including, for example, ceramics dressmaking/sewing, jewelry, food products, printmaking, and other types of individual, small-scale craft or artisan manufacturing.

4. Prohibited Uses

The following types of uses will not be approved as home occupations:

- (a) Uses involving large or oversized goods or materials;
- (b) Automobile, lawn mower, or other engine repair, welding, or machine shops unless the service is offered only at the customer's location (mobile service);
- (c) Uses where other employees visit the site, such as operating/dispatch offices for contractors, offices for businesses having employees who are not occupants;
- (d) Uses involving more than household quantities of volatile liquids or materials; or
- (e) Uses involving the grooming, breeding, or boarding of animals.

N. KENNEL, OUTDOOR (PRIVATE)

1. Accessory Use

- (a) All outdoor kennels must be established as an accessory use to a single-family residential use.
- (b) In multifamily and RMH districts, outdoor kennels shall only be allowed when accessory to a single or two-unit development that is permitted within the district.

2. Location

Accessory structures or enclosures used for the kennel must be located only in the rear yard of the site.

3. Setback

The setback of any accessory structure or enclosure associated with the kennel shall be no closer than 5 feet to any side or rear property line.

4. Maximum Area

The area of the outdoor kennel site shall be limited to 10 percent of the total area of the lot.

O. OUTDOOR DISPLAY AND SALES

1. General Provisions

- (a) Outside display and sale of merchandise is permitted only if the merchandise is related to the principal use of the property. Merchandise shall be removed each night into an enclosed structure except that the continuous outside display of merchandise is permitted when the principal use of property is:

- (1) Lumber and construction materials,
 - (2) Vehicle and heavy equipment sales and rentals,
 - (3) RV and manufactured home sales and service,
 - (4) Wholesale and retail nurseries,
 - (5) Lawn and garden supply,
 - (6) Fueling stations,
 - (7) Retail or wholesale open 24 hours, or
 - (8) Temporary uses and structures regulated by Section 27-1010.
- (b) Display areas shall be located outside of drive aisles; required parking areas, including access; required landscape areas; and pedestrian ways.
 - (c) In addition to the outdoor display and sales area, store front sidewalks excluding any public sidewalks, shall be allowed for outdoor display and sales provided these outdoor display and sales areas comply with all provisions of applicable zoning ordinances, building codes, and other County codes and regulations.
 - (d) All outdoor display and sales areas shall be maintained in a neat, clean, orderly fashion to avoid pedestrian hazards and ensure personal safety.
 - (e) Display areas shall not exceed eight feet in height unless a single unit of the merchandise exceeds eight feet (e.g., RVs, manufactured homes, or trucks).

P. OUTDOOR AND SIDEWALK SEATING

1. Eating and drinking establishments may provide accessory outdoor seating areas, including rooftop seating, that meet the following generally applicable criteria:
 - (a) Outdoor seating areas may not occupy required landscape area, required parking spaces, or required parking area access aisles.
 - (b) An outdoor seating area exceeding 25% of the indoor building floor area is counted as floor area for purposes of determining off-street parking and loading requirements.
 - (c) The use of mechanically produced sound, amplified sound, or live music shall only be permitted in conformity with the County's noise standards. Waivers or variances to the County's noise standards are not allowed for property within 50 feet of any residential zone.
 - (d) All outdoor uses shall be maintained free of garbage and other debris.
 - (e) The hours of operation for the outside seating shall be consistent with the hours of operation of the inside use.
 - (f) The outdoor seating area shall not obstruct any fire exit, fire escape, or other required ingress or egress.
2. Public sidewalk seating may be permitted in compliance with the following conditions:
 - (a) The area of occupancy must be abutting and contiguous to the restaurant in which food preparation, sanitation and related services for the sidewalk cafe will be performed.

- (b) Sidewalk seating may not be enclosed by fixed walls, unless such walls are necessary to comply with requirements to serve alcohol, and shall be open to the air, except that it may have a canopy.
- (c) There shall be a minimum width of four feet of clear, unimpeded sidewalk remaining for pedestrians between the curb and the area of sidewalk seating.
- (d) The sidewalk seating shall be located a minimum of five feet from driveway and alleys, and ten feet from intersections.
- (e) All curbs, alleys, sidewalks and public rights-of-way adjacent to the sidewalk seating shall be kept in a clean and orderly condition.
- (f) All outdoor seating shall be maintained free of garbage and other debris.
- (g) An encroachment permit may be required, as provided for in BMCC 22-400.

Q. OUTSIDE STORAGE

1. Intent

Any use requiring accessory outside storage of material, equipment, or business-related supplies shall comply with the following standards. . Outdoor storage does not include outdoor sales lots as regulated in Section 27-1009.N.

2. Generally Applicable Standards

- (a) Any permitted outside storage shall be within an area enclosed with a sight obscuring fence at least six feet in height that is architecturally compatible in color and design with the building.
- (b) Storage areas shall be located outside of drive aisles; fire lanes; required parking areas, including access; required landscape areas; and pedestrian ways.
- (c) Chain link or other type of wire fencing is prohibited unless durable sight-obscuring inserts are installed. Fabric or cloth inserts are not permitted.

3. Junk Storage

Junk, partially or completely dismantled vehicles, or salvaged materials shall not be stored in any commercial zone outside a building; except that automobile repair shops may store such materials either enclosed within a building or an area having a sight obscuring fence at least six feet in height. Chain link or other type of wire fencing is prohibited unless durable sight-obscuring inserts are installed. Fabric or cloth inserts are not permitted.

R. SOLID WASTE

- 1. Solid waste storage facilities in mixed use, commercial, and industrial zone districts shall be located within an area enclosed with a sight obscuring fence or wall that is architecturally compatible in color and design with the building. Solid waste storage in public alleys is not subject to this requirement.
- 2. Chain link or other type of wire fencing is prohibited unless durable sight-obscuring inserts are installed. Fabric or cloth inserts are not permitted.
- 3. The public works department shall approve the solid waste storage facility for minimum opening, accessibility, and other criteria deemed necessary for the removal of solid waste from the site.

SECTION 27-1010 TEMPORARY USES

A. TEMPORARY USES IN NONRESIDENTIAL ZONING DISTRICTS

1. Group 1 Temporary Uses

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

- (a) The use shall be an allowed use in the underlying zoning district;
- (b) Any temporary structure must be setback five feet behind all property lines;
- (c) No part of the temporary use or temporary structure shall block any defined clear vision area (Section 27-1802.H) for driving aisles, drive approaches from streets, or at the intersection of streets or alleys;

2. Group 2 Temporary Uses

This group shall be defined as temporary uses of property continuing for longer than 72 hours but less than 91 days and are required to obtain a temporary use/structure permit from the planning and community services department.

- (a) The following temporary uses may be allowed in this temporary use group: carnival, circus, seasonal sales, or other similar uses.
- (b) Supplemental Standards

Uses in this group shall comply with the following:

- (1) Such use shall be an allowed use in the underlying zoning district;
- (2) Any temporary structure must be setback five feet behind all property lines;
- (3) No part of the temporary use or temporary structure shall block any defined clear vision area per Section 27-1802.H for driving aisles, drive approaches from streets, or at the intersection of streets or alleys;
- (4) New access drives to public right-of-ways must be approved by the County Public Works department.

3. Group 3 Temporary Uses

This group shall be defined as temporary uses of property continuing for longer than 90 days but less than one year and are required to obtain a temporary use permit from the planning and community services department.

- (a) The following temporary uses may be allowed in this temporary use group, but must be located in a district that allows the use as specified in Table 27-1000.1, Primary Uses:
 - (1) Greenhouses or other similar seasonal-oriented uses (as determined by the Zoning Coordinator);
 - (2) Portable classrooms;
 - (3) Portable offices; or
 - (4) Other uses, such as carry-out food and/or beverage service.
- (b) Location restrictions:

- (1) Any Group 3 temporary use/structure existing upon adoption of this Zoning Code that does not comply with the applicable County site development regulations, shall comply with such standards within one year from the date of the enactment of this section or any amendment thereto;
 - (2) Any new or relocated temporary use must be located on a site which complies with the applicable County site development regulations, including landscaping, surfacing, and number of required off-street parking spaces;
 - (3) The structure shall be a factory-built structure and shall not have an axle(s). Temporary structures which do not comply with one or both of these requirement(s) and which exist as of _____ [insert date], shall be deemed legal nonconforming structures and may continue to be used as a temporary structure, provided the temporary use and structure complies with all other requirements of this section; and
 - (4) Temporary uses as listed in subsection 3(a)(4) shall also comply with the following criteria:
 - (i) Maximum size of the structure shall be 10 x 12 feet or 120 square feet;
 - (ii) Site circulation shall be approved by the 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;
 - (iii) The temporary use must provide the required number of paved off-street parking spaces. In addition, the temporary use shall not utilize any parking spaces that would make the principal use deficient in the required number of off-street parking spaces;
 - (iv) Utilities to serve the temporary use shall be located underground or suspended overhead, in compliance with all applicable codes; and
 - (v) All structures are subject to local, and state requirements and must obtain all relevant licenses before a temporary use/structure permit is issued.
- (c) Supplemental standards:
- (1) When submitting for a temporary use/structure permit, a Group 3 use shall provide the following:
 - (i) Existing site plan, including parking stalls and buildings;
 - (ii) Proposed site plan, including location of temporary use and its relationship to existing site circulation and off-street parking spaces and driving aisles, including existing and proposed surfacing;
 - (iii) Location of drive-in service, if applicable;
 - (iv) Setbacks from property lines and arterial streets;
 - (v) Size of temporary structure; and
 - (vi) Proposed use of the temporary structure.
 - (2) The temporary use must provide sufficient space to accommodate the structure and paved off-street parking for customer and use-related vehicles;
 - (3) Clear vision standards set forth in section 27-615 shall be followed;

- (4) Access to any public right-of-way must be approved by the County Public Works Director;
- (5) It shall be the responsibility of the owner of the temporary structure to ensure that the structure is secured to withstand an 80 miles per hour (m.p.h.) wind load and to meet all applicable Americans with Disabilities Act (A.D.A.) and accessibility standards;
- (6) All Group 3 temporary structures, regardless of size, which contain electrical wiring, and are placed on property within the County limits, shall have such electrical wiring permitted, inspected and approved by the city building division. All temporary structures that exceed 120 square feet, except greenhouses, shall have the structure permitted, inspected and approved by the city building division or labeled as a factory-built structure by the State Building Codes Bureau prior to issuance of a temporary use/structure permit. A temporary use/structure permit shall be obtained by the owner and a business license, if required, shall be obtained by the operator. Such temporary use/structure permit shall be valid for a period of not more than one year. An annual renewal may be given by the zoning coordinator, provided that the use complies with the above requirements..

B. TEMPORARY USES IN RESIDENTIAL ZONING DISTRICTS

In any residential district, the temporary use of land for uses listed below may be allowed for a period not to exceed 61 days and are required to obtain a temporary use permit from the planning and community services department.

1. Seasonal Sales

The sales of seasonal items including but not limited to holiday decorations in residential zoning districts shall be allowed when all of the following restrictions are met:

- (a) The sale must be conducted on the premises of a religious institution, school, or other tax exempt organization; and
- (b) The site shall provide sufficient space to accommodate the seasonal sales and off-street parking for customer and other sale related vehicles.

2. Roadside Stands

The sale of flowers or produce at temporary roadside stands shall be allowed when all of the following restrictions are met:

- (a) Only items which are produced on the premises may be sold on the premises;
- (b) Any structure used must be portable and removed after the temporary use/structure has ceased operation.
- (c) The use must provide sufficient space to accommodate the stand and off-street parking for customer and other sale related vehicles;
- (d) No structure, either temporary or permanent, nor any parking area shall be located within any public right-of-way and shall meet the clear vision standards set forth in Section 27-1802.H;
- (e) New access to any public right-of-way must be approved by the public works department; and
- (f) All signage and temporary structures must be removed at the time the temporary use has ceased on the property.

C. TEMPORARY USES AND STRUCTURES

1. Construction Equipment, Sheds, and Materials

The temporary staging and storage of equipment and materials and use of buildings or modular structures for offices or equipment sheds during construction projects may be permitted in any zoning district. A temporary use/structure permit is not required if the equipment, materials and structures are part of an approved construction project. In addition, all equipment, materials and structures shall meet the following criteria:

- (a) Equipment, materials and structures include any items procured by a contractor that are necessary to complete the approved construction project including, but not limited to:
 - (1) Heavy equipment, pipe, fittings, manholes, and the appurtenances;
 - (2) Gravel, sand, soil, concrete mix, forms, lumber and similar materials;
 - (3) Traffic control devices and stacked pallets of materials; and
 - (4) Modular offices and equipment sheds.
- (b) Staging and storage of equipment and materials shall be conducted in a safe, neat and orderly manner at all times;
- (c) Any such equipment, materials and structures shall be removed upon completion of the construction project; and
- (d) No such structure shall be used for living or sleeping purposes.

2. Other Temporary Structures

Temporary structures not used for construction or equipment sheds may be allowed when the following criteria are met:

- (a) For Group 3 uses, the structure shall meet the applicable setbacks for the zone in which it is located, including arterial setbacks as found in section 27-XXX;
- (b) The structure shall meet the clear vision standards set forth in section 27-1802.H;
- (c) No such structure shall be used for living or sleeping purposes; and
- (d) The use of the structure shall comply with subsections 27-1010.A.3(b) and 27-1010.A.3(c), whichever is applicable.
- (e) A temporary use/structure permit shall be obtained for each location by the owner for Group 2 and Group 3 uses as defined in subsection 27-1010.A.3(b).
- (f) A temporary use/structure permit shall be obtained for each location by the owner for seasonal sales and roadside stands in residential and noncommercial zoning districts as defined in subsection 27-1010.B.

3. Time Limit Established

The zoning coordinator shall establish the time period that a building or modular structure can be used on a temporary basis. This time period shall coincide with the temporary use/structure permit time period established under above subsection (b) or (c), whichever is applicable. The structure shall be removed when the temporary use is discontinued or the permit has expired. An extension for the renewal of the temporary structure permit only, may be granted by the zoning coordinator, if it is found that unusual and/or extraordinary circumstances exist.

D. TEMPORARY USE/STRUCTURE PERMIT REQUIRED

1. Before any Group 2 or Group 3 temporary use or structure is established, the property owner shall obtain a temporary use/structure permit for each location from the zoning coordinator or his/her designee.
2. For Group 3 temporary uses, the temporary use permit holder shall post a \$1,500.00 bond for each location with the planning and community services department to ensure timely removal of the use and/or structure.