

****ATTENTION****

The City Council meeting will be held in a hybrid format that may include both in-person AND virtual attendance via Zoom. Unless they have cause to appear virtually, Councilmembers will attend the meeting in person in Council Chambers, fifth floor of City Hall, 316 N. 26th Street. In order to honor the Right of Participation and the Right to Know in Article II, Sections 8 and 9, of the Montana Constitution, the City of Billings and City Council are making every effort to meet the requirements of the open meeting laws.

Citizens are invited to:

- . Review the Agenda Packet on the City's website at: www.billingsmt.gov and click on "Your Government," "City Council," and "Agendas & Minutes".
- . View the meeting:
 - . On Community 7 TV - Channel 7 or Channel 507 -- Spectrum Cable. *(On evenings when there is a conflict with School District No. 2 Board meetings, the City Council meeting will be broadcast on Channel 8 - Spectrum Cable.)* Channel 7 or Channel 978 - TDS Fiber.
 - . Online at www.comm7tv.com and click on the "Watch Live" icon. Community 7 also has links to their Facebook page and YouTube channel.
 - . On the City's website at www.billingsmt.gov and click on "Watch Meetings Online" on the homepage.
 - . In-Person.

Citizens may submit public comment via the following methods:

- . Mail: City Clerk, P.O. Box 1178, Billings, MT 59103
- . Email: Council@billingsmt.gov.
 - . Emails received after 3:00 PM on the day of the meeting, may be posted on the Council's webpage the following day for public viewing.
- . Attend the meeting in person

Please contact Denise Bohlman, City Clerk, at bohlmand@billingsmt.gov, or at 406.657.8210, with any questions.



VISION STATEMENT:
"The Magic City: A diverse,
welcoming community
where people prosper and
business succeeds."

SPECIAL WORK SESSION AGENDA

COUNCIL CHAMBERS
316 N. 26th Street

MAY 5, 2026

5:30 P.M.

CALL TO ORDER: Mayor Nelson

PUBLIC COMMENT ON ALL ITEMS. This is the time to comment on any matter (Agenda or Non-Agenda) falling within the scope of the Billings City Council. You may only speak once for each item during the meeting.

Please note, the City Council cannot take action on any item of significant interest to the public that does not appear on the agenda. Comments are limited to three (3) minutes during each public comment period or as set by the Mayor. **Speaker sign-in required.** Please sign the roster at the cart located at the back of the Council chambers or at the podium.

AGENDA:

1. Billings 2045 Update - IPC Recommendation to Council Status and Zoning Amendments and Subdivision Amendments.

-Public Comment

2. FY2027 Departmental Budget Presentations.

- City Attorney
- Parks, Recreation, & Public Lands
- Fire Department

-Public Comment

PUBLIC COMMENT on "NON-AGENDA ITEMS". Speaker Sign-in required. *(Restricted to ONLY items not on this printed agenda. Comments are limited to 3 minutes or as set by the Mayor. Please sign the roster located at the back of the Council chambers or at the podium.)*

ADJOURN:

Note:

- This meeting is an "informal" meeting of the City Council. The content of the Agenda is subject to change at the meeting.
- In the event there is a Closed Executive Session, the sole purpose is to discuss litigation strategy. The other parties to the case(s) discussed are not public bodies or associations as described in Section 2-3-203(1) and (2), MCA. The meeting is closed, as allowed by Section 2-3-203(4) (a), MCA, "to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position" of the City of Billings.

City Council Special Session**Meeting Date:** 05/05/2026**Title:** Billings 2045 Update - IPC Recommendation to Council Status and Zoning Amendments and Subdivision Amendments**Presented by:** Wyeth Friday**Department:** Planning & Community Services**Division:** Planning**RECOMMENDATION**

There is no action as this is a Work Session but staff will provide an update to City Council on the Interim Planning Commission discussions and schedule for its recommendations, and preview the proposed amendments to the City Zoning regulations and proposed amendments to the City Subdivision regulations (See attached regulation amendment documents).

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

In 2023, the Montana State Legislature passed Senate Bill 382, the Montana Land Use Planning Act (MLUPA), codified in Title 76, Chapter 25 of the Montana Code Annotated. The intent of the Act is to provide a comprehensive land use planning system that promotes the health, safety, and welfare of the people of Montana. The Act outlines that a municipality with a population at or exceeding 5,000 located within a county with a population at or exceeding 70,000 in the most recent decennial census shall comply with the provisions. The Montana Land Use Planning Act mandates that municipalities develop and implement a Land Use Plan and Future Land Use Map (Billings 2045) to guide future development. Billings 2045 will serve as a comprehensive plan that addresses land use, economic development, housing, public services, and natural resources.

The Interim Planning Commission per MLUPA is the body that facilitates the local development process for Billings2045 and makes recommendations to the City Council on adoption of the Billings2045 components: Operational Land Use Plan, Future Land Use Map, proposed amendments to the City Zoning regulations and proposed amendments to the City Subdivision regulations. The IPC has met 13 times since May 2025 in its roll as community sounding board and subject matter experts as the Billings2045 process has advanced to the point of final draft documents for adoption.

The Interim Planning Commission per MLUPA is the body that facilitates the local development process for Billings2045 and makes recommendations to the City Council on adoption of the Billings2045 components: Operational Land Use Plan, Future Land Use Map, proposed amendments to the City Zoning regulations and proposed amendments to the City Subdivision regulations. The IPC met on April 29, 2026, reviewed the Billings2045 documents, heard public comment, but voted to delay making a recommendation to the City Council until its May 7 meeting. The IPC members has several items they asked for further information and clarification on before moving ahead with a recommendation to the Council. The items included:

- **Verification that the Future Land Use Map Land Use Categories provide enough land to accommodate the 26,200 housing units projected to be needed in Billings by 2045** - Staff has provided the attached Future Land Use Map Use Accommodation for Uses data sheet to demonstrate the capacity for Office, retail, Industrial and Housing that meets the projected needs for these uses in the next 20 years for Billings.
- **Clarification of the allowed locations of small neighborhood retail under the Urban Residential Land Use Category of zoning districts and the requirements for neighborhood retail locations in neighborhoods - at street corners, at block ends, etc.**
- Additional time to review the Future Land Use Map

Staff expects the Billings2045 Operational Plan will need amendments in the short term in specific areas to fine tune the planning documents and map, but the Montana Legislature has required adoption of the MLUPA components by May 17, 2026, and so the components before the City Council are set up to result in a planned first reading of the plan documents prior to May 17.

ALTERNATIVES

This is a Work Session so no specific Alternatives are provided. Staff expects to provide an overview of the status of the Interim Planning Commission review, discussions and meeting schedule for its recommendation to the City Council for May 11, and a preview of the proposed amendments to the City Zoning Regulations and City Subdivision Regulations to address the new processes and requirements of MLUPA.

FISCAL EFFECTS

There are no specific fiscal impacts associated with this item at this time. The Billings2045 effort has been funded by local funds and minimal grants over the past 3 fiscal years. There is some expectation of future savings in some efficiency with the administrative processes that MLUPA requires of local government for land development processes. However, that will be evaluated after the Billings2045 is in place per MLUPA and time has passed to experience the processes.

FLUM Use Accommodation Calculations
Zoning Regulation Amendments Redlined
Zoning Regulation Amendments Clean Version
Subdivision Regulation Amendments Redlined
Subdivision Regulation Amendments Clean Version

Future Land Use Map Use Accommodations for Office, Retail, Industrial and Housing for 20 Year Planning Horizon

Name	Provided Sqft (ac)	Vacant according to DOR	Category can provide	Median Density	Units
Urban Residential Limited (URL)	328,151,419.2sqft (7,533.32 ac)	124,161,681.6sqft (2850.36 ac)	Housing	5 units/ac	14,252 units
Urban Residential (UR)	573,984,021.6sqft (13,176.86 ac)	104,540,950.8sqft (2,399.93 ac)	Housing, Office, Retail	11 units/ac	26,399 units
Urban Residential Mixed (URM)	204,563,858.4sqft (4,696.14 ac)	62,817,004.8sqft (1,442.08 ac)	Housing, Office, Retail	18 units/ac	25,937 units
Urban Node (UN)	115,653,368.16sqft (2,655.036 ac)	21,697,671.6sqft (498.11 ac)	Housing, Office, Retail		
Commercial Mixed (CM)	106,244,146.8sqft (2,439.03 ac)	27,067,312.8sqft (621.38 ac)	Housing, Office, Retail, Industrial		
Downtown Urban (DU)	16,479,183.6sqft (378.31 ac)	1,294,603.2sqft (29.72 ac)	Housing, Office, Retail, Industrial		
Employment & Industrial (EI)	120,667,734sqft (2,770.15 ac)	10,590,307.2sqft (243.12 ac)	Industrial, Retail, Office		

Needed	
Industrial	2,256,700sqft (51.8 ac)
Office	1,083,900sqft (24.88 ac)
Retail	1,789,400sqft (41.08 ac)
Housing	26,200 units

ORDINANCE 26-_____

**AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THE
REGULATIONS IN ARTICLES 27-200, 27-400, 27-800, 27-1000, 27-
1300, 27-1500, 27-1600, and 27-1800 BE AMENDED TO CONFORM TO
MONTANA LAND USE PLANNING ACT PASSED BY THE 69TH
LEGISLATURE IN 2025, TO AMEND AND CLARIFY THE ZONING
REGULATIONS**

WHEREAS, Title 76, Chapter 25, MCA, known as the Montana Land Use Planning Act (“MLUPA”), enacted by the Montana Legislature during the 69th Legislative Session (2025), requires cities with populations of 5,000 or more to adopt a new land use plan and future land use map. Additionally, zoning codes and subdivision regulations must conform with MLUPA.

WHEREAS, pursuant to Section 76-25-301, MCA, a local government has the authority to and shall regulate the use of land in substantial compliance with its adopted land use plan by adopting zoning regulations; and

WHEREAS, sections of Chapter 27 of the Billings, Montana City shall be amended as set forth herein to conform to the current statutory requirements of MLUPA.

WHEREAS, MLUPA mandates ongoing public involvement in the development and adoption of land use policies and regulations, guided by a municipally adopted Public Participation Plan; and

WHEREAS, the Interim Planning Commission held public hearings on _____, 2026, and made a recommendation to the City Council to adopt the proposed amendments to the zoning regulations; and

WHEREAS, the City Council held a public hearing on May 11, 2026, in order to take public comment on the proposed amendments to the zoning regulations and to consider the Interim Planning Commission’s recommendations.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. Chapter 27 of the Billings, Montana City Code (BMCC) is amended as follows and any sections not amended herein shall remain in effect:

Sec. 27-102. Purpose.

- A. The zoning code, classifications, and the districts as herein set forth are in accordance with MCA 76-25-301, et seq., Municipal Zoning.
- B. This zoning code has been established in accordance with the ~~2016~~ City of Billings adopted growth policy Land Use Plan and ancillary and related policy documents, including but not limited to adopted neighborhood plans, area plans, and city council adopted policies related to growth and development of city services. The zoning code has been deemed necessary and developed with consideration, among other things, to the character of each zoning district and its peculiar suitability for particular uses, impacts on local facilities, services, preservation of natural resources, natural environment, or natural hazards. ~~to conserve the value of buildings, to stabilize property values, to preserve recreation and agriculture lands from conflict with urban development, to promote the interest of health, safety and general welfare, to secure safety from fire and to provide adequate open space for light and air, and to facilitate the economic provision of adequate transportation, water, sewers, schools, parks and other public requirements.~~ To achieve these goals, this zoning code shall govern the height and size of buildings and structures, the percentage of lots that may be occupied, the size of yards and open space, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes within the Billings city limits.
- C. The City of Billings City Council further declares these zoning regulations are adopted for the following specific purposes:
1. To promote and guide development consistent with the goals and objectives of the growth policy adopted land use plan, future land use map, and area plans;
 2. To prevent waste and inefficiency in land use;
 3. To encourage innovations in residential development and renewal so that the needs of the community for housing may be met by greater variety in type and design of dwellings and by conservation of open space; and
 4. To provide adequate land and space for the development of commercial and industrial uses and to encourage such developments in locations calculated to benefit the community at large and in a manner consistent with the goals and objectives of the growth policy adopted land use plan, future land use map, and area plans.

Sec. 27-105. Effective date and archived zoning code.

This zoning code shall become effective on ~~February 25, 2021~~ July 1, 2026. The zoning code that was effective immediately prior to this zoning code shall be retained and referred to as the archived zoning code. One copy of the archived zoning code shall remain of record in the planning and community services office and one copy shall be stored in the city clerk's office, either in hard copy or electronically. An unofficial public copy may also be maintained on the city's website.

Sec. 27-107. Transitional provisions.

- A. *Existing approvals.* This zoning code is not intended to abrogate or annul any building permit, certificate of occupancy, variance, or other lawful permit issued before the effective date of this zoning code. Applications and permits that have not achieved final approval as of the effective date of this zoning code shall be processed according to the provisions of this section.
- B. *Approved projects.*
1. *Validity.*
 - (a) Except for planned developments approved prior to the effective date of this zoning code, permits and approvals issued pursuant to the archived zoning code that are valid on the effective date of this zoning code shall remain valid until their expiration date. Projects with valid approvals or permits may be carried out in accordance with the development standards in effect at the time of approval, provided that the permit or approval is valid and has not lapsed.
 - (b) Where construction has started pursuant to a building permit validly issued by the City of Billings Building Division prior to the effective date of this zoning code, it may be completed under the regulations in effect at the time of issuance without regard to this zoning code; provided, that construction is begun within six (6) months of the effective date and diligently prosecuted to completion. Upon completion, the structure may be occupied under a City of Billings certificate of occupancy by the use for which originally designated, even if the structure or use is nonconforming under the terms of this zoning code.
 2. *Changes.* No provision of this zoning code shall require any change in the plans, construction, or designated use of any structure for which a building or planning permit has been issued prior to the effective date.
 3. *Extensions.* The decision-making body that granted the original approval may renew or extend the time of a previous approval if the project remains in compliance with the required standards or criteria for the original approval. Any extension granted shall not exceed the time specified for the extension of the specific permit approval in article 27-1600, ~~Administrative procedures~~.
- C. *Re-application.* Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.
- D. *Planned developments and master site plans approved prior to the effective date.*
1. Any planned development identified on the zoning map and approved prior to the effective date shall remain valid. Planned developments that refer to zone districts not included in this zoning code shall use the archived zoning code requirements. For example, a reference to an underlying zone district of "community commercial" shall refer to the use table, use standards, and other requirements for that zone district in the archived zoning code.

2. Planned development and master site plan approvals that predate the adoption of this zoning code shall be narrowly interpreted and are limited to the specified terms of approval. Where a term was not defined or a process not specified in the PD or MSP approval, the most closely similar provision of this zoning code shall be applied. For example, if a planned development does not specify a process for amendment, the process for amending planned development approvals in this zoning code will be used.

E. *Applications in progress.*

1. *Completed applications*

- (a) Complete applications submitted before the effective date and pending approval at the time of adoption of this zoning code may, at the applicant's option, be reviewed wholly under the terms of the previous zoning code. If approved, these projects may be carried out in accordance with the development standards in effect at the time of application. Any re-application for an expired permit shall meet the standards in effect at the time of re-application.
 - (b) Complete preliminary subdivision and check print certificate of survey applications submitted prior to the effective date of this zoning code shall continue to be processed as long as they are in compliance with the terms of the previous zoning code. The lots created may be conforming or nonconforming to the terms of this zoning code. The owner or agent may request written confirmation of conformance or non-conformance with this zoning code.
2. *No applications submitted.* Projects for which no application has been submitted and accepted as complete prior to the effective date shall be subject to all requirements and standards of this zoning code.
 3. *Lapsing.* Regardless of whether a completed application has been received prior to the adoption of this zoning code, any permit or approval issued following the adoption of this Code shall be subject to the lapsing provisions of section 27-1612.

F. *Lapsing of previous approvals.* If a development permit or approval was approved prior to the effective date of this zoning code and that type of permit or approval did not have a lapsing date, but this zoning code provides a lapsing date for that type of permit or approval, then the permit or approval shall be subject to lapsing under section 27-1612, but the lapsing periods set forth in section 27-1612 shall be deemed to begin running on the effective date of this zoning code, not the date of the prior permit or approval.

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

prior to approval of this zoning code, the shall provide written confirmation of the legal, conforming status of the use.

Sec. 27-202. - Official zoning map

- A. The boundaries of the zone districts are shown on the official zoning map which, together with all explanatory matter thereon, is ~~hereby~~ adopted separately by ~~resolution~~ reference and declared to be a part of this article. The official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and shall bear the words "the official zoning map of the City of Billings". Regardless of the existence of purported copies of the official zoning map which from time to time may be made or published, a copy of the official map shall be located in the offices of both the planning division and the Billings city clerk. An electronic version of the official map may be displayed on the City of Billings website or other online venue at the discretion of the city administrator.
- B. All references in this zoning code to the zoning map shall be construed as references to the official zoning map.
- C. Changes made in district boundaries shall be promptly entered on the zoning map after amendment by the city council. Amendments to the zoning map shall not become effective until entered on the map.
- D. No changes of any nature shall be made in the zoning map or matter shown thereon except in conformity with the provisions set forth in this zoning code. In the event the hard copy of the official zoning map is damaged or destroyed, a new version shall be printed and submitted to the city council for review. No such map shall have the effect of amending the official zoning map or any subsequent amendment thereof.

Section 27-302. District descriptions

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

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

residential use shall comprise not less than 50 percent of the total gross floor area on the lot or within the structure.

- B. *N2: Mid-century neighborhood residential.* The N2 district is intended to continue the existing character of the residential neighborhoods with single- and two-family homes developed during the middle of the twentieth century. This district may also be used for new neighborhoods designed with similar characteristics of the mid-century neighborhoods. These characteristics include homes wide on the lot, proportionate garages located in the front façade, low pitched roofs, and doors and windows on the front facades. Building and garage location are specified in the regulations, with basic parameters for front doors and windows. The principal residential use shall comprise not less than 50 percent of the total gross floor area on the lot or within the structure.
- C. *N3: Suburban neighborhood residential.* The N3 district is intended for residential neighborhoods primarily with single-family homes. Characteristics include wide lots and attached garages typically located on the front building façade, often greater than thirty-five (35) percent of the façade. Basic setback and height parameters apply. The principal residential use shall comprise not less than 50 percent of the total gross floor area on the lot or within the structure.
- D. *NX1: Mixed residential 1.* The NX1 district is intended to continue the character of the first neighborhoods with single-family, two-family, and small-scale multiple-family homes with three (3) to four (4) units. Multiple-family homes are intended to match the scale of the neighborhood single-family homes with characteristics such as building width, parking and garages location, roof design, and doors and windows on the front facades. The principal residential use shall comprise not less than 50 percent of the total gross floor area on the lot or within the structure.
- E. *NX2: Mixed residential 2.* The NX2 district is intended for small- and mid-scale multiple-family homes with three (3) to eight (8) units, in small neighborhood nodes. The buildings are oriented to the streets in walkable blocks with doors and windows on front facades and parking/garages located behind the buildings. The principal residential use shall comprise not less than 50 percent of the total gross floor area on the lot or within the structure.
- F. *NX3: Mixed residential 3.* The NX3 district is intended for large-scale multiple-family homes in larger neighborhood nodes. The buildings may include larger apartment buildings with more than eight (8) units per structure. The development may have an internal private street system for access throughout the larger node with walkable blocks. Buildings are oriented to the street with doors and windows on front facades and parking/garages located behind the buildings. Covered parking may include rows of canopies or enclosed garages. Common open space, shared recreational facilities, or central gathering spaces are generally provided for residents.

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

Section 27-303. Regulations applicable to all neighborhood districts.

All buildings must comply with the general regulations and the specific regulations per each district, unless otherwise expressly stated in this zoning code. See article 27-1500, Nonconformities, for existing buildings that do not fully conform to the district regulations.

- A. *Allowed uses.* Allowed uses and accessory uses are provided in article 27-1000.
- B. *Existing buildings.* Existing buildings are not required to meet these regulations except as defined in article 27-1500, Nonconformities.
- C. *Site access for lots.*
1. Access to residences must be from any public or approved private street right-of-way.
 2. All lots shall have one lot line located fully on a public or private street right-of-way, except one of every four (4) lots in the development may be located on a shared open space with access provided by private easement.
 3. Where there is an existing or planned alley system, lots shall be provided vehicle access from the alley. Lots with or without alley access may be provided a curb cut for vehicle access to the street pursuant to the city curb cut and driveway standards in BMCC section 6-1208.
- D. *Permanent structures.* All buildings constructed in any neighborhood district, except the RMH district, must be of permanent construction without a chassis, hitch, or wheels, or other features that would make the structure mobile, unless otherwise expressly stated in this code. Modular construction that meets state adopted building code is allowed.
- E. *Accessory structure regulations.*
4. Accessory structures are subject to article 27-1000, Use-specific standards, except as defined in the district site and structure regulations.
 5. Façade siding on accessory structures over two hundred (200) square feet in footprint must match the façade material and design of the principal structure to the maximum extent practicable.
- F. *Exceptions and exemptions.* The following exceptions and exemptions may apply to the district site and structure regulations. Use specific standards in article 27-1000 are still applicable.
1. *Administrative relief.* Article 27-1600 defines administrative relief applicable to the site and structure regulations. Additional administrative relief may be noted throughout this article.

2. Utility installations. The following structures are not required to comply with site and structure regulations applicable to a specific district.
 - (a) Wireless communications facilities and uses.
 - (b) Public and private utility stations, substations, and associated utility station facilities.
 3. Public, civic, and institutional uses. Public, civic, and institutional uses allowed in the district are required to meet the district site and structure regulations, except the following standards apply:
 - (a) The minimum dimension of any build-to zone shall be treated as a minimum setback.
 - (b) Minimum heights are not required. Heights above the maximum allowed may be approved through an administrative relief, based upon similar civic structures on similar lots in the surrounding neighborhood. See
 - (c) section 27-1614, Administrative relief.
 4. *Maximum height exceptions.*
 - (a) The maximum height limit shall not apply to spires, belfries, cupolas, antennas, water towers or tanks, chimneys or smokestacks, power transmission lines, cooling or elevator towers, or similar and necessary appurtenances not used for human occupancy.
 - (b) Buildings permitted in neighborhood districts may exceed the height limitations of the district through an approved application for administrative relief (section 27-1614) or through a variance (section 27-1627) for increases greater than allowed by administrative relief.
- G. *Trash, recycling, refuse locations.* For all buildings with five (5) or more units, all trash, recycling, and other refuse areas must be located and treated as follows:
1. Trash, recycling, and other refuse areas must be located in the rear yard of the lot.
 2. When no rear yard exists or when the rear yard is less than ten (10) feet in depth, trash, recycling, and other refuse areas may be located in the rear portion of an interior side yard.
 3. Trash, recycling, and other refuse areas may be located inside the building with access doors off the rear or interior side facade. Access doors may be located off a non-primary frontage facade with administrative relief per section 27-1614. Access doors must be opaque, screening a minimum of eighty (80) percent of the opening.
 4. See article 27-1200 for required screening of trash, recycling, and other refuse areas.

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

Table 27-300.2. Table of Allowed Encroachments.

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

- I. *Front entrances.* The following standards apply only when required by the site and structure regulations for the district. Front building entrances shall be emphasized, adding interest to the building façade, through one or more of the following design features:
1. *Roof or canopy.* The entrance is covered by a roof or canopy differentiating it from the overall building roof type.
 2. *Porch.* The entrance is through a porch.
 3. *Sidelights and transom.* Sidelights and/or transom windows are included abutting the entrance door.
 4. *Recessed or projecting bay.* The entrance is located in a separate bay of the building that is either recessed or projected from the front façade.
 5. *Other design.* Other designs adding emphasis and drawing attention to the entrance on the facade may be approved with section 27-1614, Administrative relief.
- J. *Arterial setbacks.* Minimum arterial setbacks as follows apply to all neighborhood districts:
1. No building or structure shall be erected or maintained within fifty (50) feet of the centerline of an arterial street. In addition, no required parking area or portion thereof, including driving aisles, shall be constructed or located within forty (40) feet of the centerline of an arterial street. Any new

construction that increases the number of required off-street parking spaces must locate these additional required parking spaces in areas that comply with these locational standards.

2. Approved signs and public use controls and systems, trees trimmed up eight (8) feet and canopies with at least eight (8) feet clearance, shall be permitted in this setback area. For the purpose of this subsection, canopies shall be defined as covers that are solely attached to and supported by the structure to which it is attached and which can be removed without destroying any part of that supporting structure. This shall only apply to canopies attached to the principal structure.
3. The designation of a street as an arterial shall be recommended by the city engineer, or in conformity with the most recent urban transportation plan.

Section 27-402. District descriptions.

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

- A. CBD: Central business district. The CBD district is the downtown mixed-use core intended to continue the existing character of the highly walkable downtown commercial corridors with storefronts and residential uses on the ground story and upper story lodging and office uses.
- B. DX: Downtown support. The DX district is intended primarily for use surrounding the (CBD) district and would accommodate highly walkable, higher intensity office and residential uses in support of the CBD.
- C. *CMU1: Corridor mixed-use.* The CMU1 district is intended to accommodate commercial and other uses along transportation corridors to promote development that is comfortably accessible via all modes of transportation, including motor vehicles, bicycles, and walking. Commercial uses in the CMU1 district may be somewhat larger in scale and more flexible than the neighborhood mixed-use district, including more auto-oriented uses such as gas stations. While ground stories along streets are intended for commercial uses, any story could accommodate residential and/or office uses. CMU1 districts shall be located within one thousand three hundred twenty (1,320) feet of an arterial or collector street intersection.
- D. *CMU2: Corridor mixed-use and commercial centers.* The CMU2 district is similar in intent to CMU1, supporting commercial and other uses along transportation corridors to promote development that is comfortably accessible via all modes of transportation, including motor vehicles, bicycles, and walking. CMU2 differs from CMU1 as it is meant to accommodate larger-scale commercial, warehouse-style buildings, and other uses in multiple buildings on larger, deeper parcels along corridors. While ground stories along streets are intended for commercial uses, any story could accommodate residential and/or office uses. CMU2 districts shall

be located within six hundred sixty (660) feet of an arterial or collector street and not adjacent to or sharing a property line with any existing city or county N, RR, RMH, RMH-R, or A district.

~~D~~.E. NMU: Neighborhood mixed-use. The NMU district is intended to accommodate a mix of uses, primarily located along neighborhood corridors, that are highly walkable and accessible to pedestrians. Includes ground story uses focused on daily needs primarily for adjacent neighborhood residents, such as corner stores, personal services, and small restaurants. Any story can accommodate residential and/or office uses. More intense uses located on blocks with less intense uses shall be located on block ends.

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

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

Section 27-802 Zoning Districts

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

A. Determination of PND type.

1. Table of PND types. Refer to Table 27-800.1 for available types of PNDs. The applicant must choose only one type of PND.
2. Multiple PND types. The applicant must meet the regulation for one type of PND, except as follows:
 - (a) For all sites up to twenty (20) acres, only one of the PND types will be allowed on the site.
 - (b) For developments over twenty (20) acres, multiple PND types are allowed as long as at least ten (10) acres is applied to any one type. The PND plan must show boundaries for each PND type.

Table 27-800.1. Types of Planned Neighborhood Districts.

Zoning Districts																
Requ	Types of PND	CM	CM	N	NO	NX	NX	NX	N1	N2	N3	RM	P1	P2	P3	
10	Mixed-Use MU PND Choose at least 2 districts: Pick 1 MU and Pick 1 NX or 1 N Min. % of net acres	L	L	P	P	P	P	L	P	P	P	P	R	P	P	
													2		3 buildings	
10	Mixed Residential MR PND Choose at least 2 districts: Pick 1 NX and Pick 1 N Min. % of net acres	-	-	L	P	P	P	P	P	P	P	P	R	P	P	
													2		3 buildings	
10	Neighborhood N PND Choose at least 2 N/NX districts Min. % of net acres	-	-	L	L	L	L	L	P	P	P	P	R	P	P	
													2		3 buildings	

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

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

L = Allowed but limited or specific development type regulations in section 27-802.

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

B. *General layout of new districts.*

1. *Location of CMU districts.*

- (a) CMU2 districts shall be located within six hundred sixty (660) feet of an arterial or collector street and not adjacent to or sharing a property line with any existing city or county N, RR, RMH, RMH-R, or A district.
- (b) CMU1 districts shall be located within one thousand three hundred twenty (1,320) feet of an arterial or collector street intersection ~~and must be separated from any existing city or county N, RR or A district by a public street or alley.~~
- (c) CMU districts areas shall be uninterrupted and continuous.

2. *General layout of PND districts.* ~~(a) The same districts shall face each other across streets, including existing districts. This requirement excludes existing Yellowstone County zone districts RR, A, RMH, RMH-R, or N4. Similar districts within the same district category (e.g., NX1 and NX2 districts) may be located adjacent to or across the street from the new districts.~~

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

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

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

3. *Minimum district mix regulations.*

- (a) Unless Table 27-800.1 indicates otherwise, each type of planned neighborhood development requires a combination of at least two (2) development zoning districts with a percentage mix of eight-eight (88) percent maximum and ten (10) percent minimum measured by total net parcel area, plus the minimum required open space (two (2) percent minimum). For example, an applicant with a 12-net acre lot may choose to create a Neighborhood PND (N-PND) with a mix of: (1) 10.56 acres (eight-eight (88) percent) N3, 1.2 acres (ten (10) percent) N2, and the required .24 acres of P1 open space.
- (b) Zoning district area minimums and maximums are set as a percentage of the total net parcel area.

C. *Mixed-use planned neighborhood development (MU-PND).* Mixed-Use PNDs are required to designate at least one MU district and at least one NX or N district, with other permitted districts, in addition to the P1 district as shown Table 27-800.1. Refer to Table 27-800.1 for the allowed zoning districts available for use in the MU-PND.

- 1. *MU District.* A maximum of eight-eight (88) percent of the total net MU-PND area may be designated for these zones.

2. All CMU2 districts must be within six hundred sixty (660) feet of an arterial or collector street intersection.
 3. *Additional districts.*
 - (a) Minimum required residential mix. At least one N or NX district shall be designated on a minimum of ten (10) percent of the net acreage.
 - (b) All P3 zones must accommodate at least three (3) buildings within the designated area.
 4. Other districts. Other districts are allowed per Table 27-800.1.
 5. P1 districts. Public and private open space types required in section 27-803 must be zoned P1.
- D. *Mixed residential planned neighborhood (MR-PND).* Mixed residential PNDs are required to provide two (2) zone districts in addition to the P1 district as shown in the locational requirements of Table 27-800.1. Refer to Table 27-800.1 for the allowed zoning districts available for use in the MR-PND.
1. *NX district.* One NX-category zone district is required and one N-category zone district is required. At least one of these districts must be ten (10) percent of the net acreage.
 2. *NMU district.* The NMU district is limited to nodes at local street intersections.
 3. *P1 districts.* Public and private open space types required in section 27-803 must be zoned P1.
 4. *Additional districts.*
 - (a) With more than ten (10) acres of residential districts, at least one of the following districts must be included with a minimum area of at least one-half acre of development: NX2 or NX3 district.
- E. *Neighborhood planned neighborhood (N-PND).* Neighborhood PNDs are required to provide two zone districts in addition to the P1 district as shown in Table 27-800.1. Refer to Table 27-800.1 for the allowed zoning districts available for use in the N-PND.
1. *NMU district.* The NMU district is limited to nodes at local street intersections. No more than four (4) local street intersections shall have an NMU zone district designated on two (2) or more block ends.
 2. *NO district.* The NO district may be designated at local street intersections.
 3. *Additional districts.*
 - (a) For all developments, at least two (2) N districts shall be designated. At least one of these districts must be ten (10) percent of the net acreage.

- (b) For developments over forty (40) acres, at least one NX district shall be designated with a minimum area of at least one acre of development.
- 4. *P1 Districts.* Public and private open space types required in section 27-803 must be zoned P1.

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 twenty (20) feet from the front facade.
 - 3. Permitted with use restrictions /PR/. These uses must comply with the use restrictions identified in this zoning code, including those restrictions included in this article and any use restrictions identified in the zone district where the uses is proposed to be located.
 - 4. Requires a special review /SR/. These uses require special review by the city zoning commission are not permitted uses in the districts in which they are listed but may be allowed as special exceptions subject to specific conditions. Uses permitted by special review must follow any applicable development standards associated with the use as well as meet the requirements of the special review.
 - 5. Uses that are not permitted are indicated by a blank space.
- B. *Interpretation.*
 - 1. *Classification of new or unlisted uses.* Every type of potential use cannot be addressed or foreseen in this zoning code. When a use is proposed that is not specifically listed in the applicable use table, the following procedures shall be applied.
 - 2. *Uses not subject to use interpretation.* The following categories of uses typically impose substantial impacts on a site, adjacent sites and structures, pedestrians or cyclists, the road network, or public infrastructure. Where a new use is proposed that is not identified in the applicable use table and that can be categorized into one of these categories, the applicant shall file an application for code amendment to determine if the use will be permitted.

Through this process, the city will have the opportunity to review and determine the impacts of the proposed use and establish any prescribed conditions that may be appropriate to allowing the use:

- (a) Agricultural uses.
- (b) Industrial services.
- (c) Manufacturing, processing, and assembly.
- (d) Waste and salvage.

3. *Request for use interpretation.* Requests for a use not prohibited in the previous section and not specifically addressed in any zoning district shall be submitted to the zoning coordinator for review, based on the following standards.

- (a) The zoning coordinator shall determine whether the proposed use is listed in the applicable use table as a use permitted by right, with prescribed conditions, or as a special use in any zoning district.
- (b) If the use is not addressed in the appropriate use table, the zoning coordinator shall select the use listed which most closely approximates the proposed use, using criteria such as:
 - (1) Appropriate use category in subsection 27-1001.C;
 - (2) Conformance with the currently adopted land use plan, future land use map, 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 subsection 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 fourteen (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.

Page left intentionally blank

C. Table 27-1000.1 Billings Primary Use Table.

Table 27-1000.1: Permitted Primary Uses	Residential							Mixed-Use and Commercial							Indust.		EBURD					Public					
	Key: P = Permitted, PL = Location Limits in Zone District, PR - Applicable Use Restrictions, SR = Special Review																										
Use Table	N3	N2	N1	NX1	NX2	NX3	RMH	NO	NMU	CMU ₁	CMU ₂	DX	CBD	CX	I1	I2	RSV _{MS}	RSV	CW	I3	IS	P1	P2	P3Ci _y	P3 _{Ed}	P3 _{Med}	Additional Standards
RESIDENTIAL																											
Households Living (du/structure)																											
1 du	P	P	P	P			P	P	P	P	P	P	P				P	P	P	P			PR	PR	PR	PR	27-1003
2 dus		P	P	P	P			P	P	P	P	P	P				P	P	P	P			PR	PR	PR	PR	27-1003
3—4 dus				P	P	<u>P</u>		P	P	P	P	P	P				P	P	P	P			PR	PR	PR	PR	27-1003
5 dus					P	P		P	P	P	P	P	P	P			P	P	P	P			PR	PR	PR	PR	27-1003
6—8 dus					P	P			P	P	P	P	P	P			PL	P	P	PL			PR	PR	PR	PR	27-1003
9+ dus						P				P	P	P	P	P			P	P	P	P			PR	PR	PR	PR	27-1003
Manufactured Home																											
Types <u>1</u> (Jan 1, 1990, or newer) <u>and 2 (all other) “Mobile Homes”</u>							P																				27-1003, RMH: 27-310 <u>Defs Section</u>
<u>Type 2 (all other) Manufactured/Factory built housing (on permanent foundations) – 1 du</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>				<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			<u>PR</u>	<u>PR</u>	<u>PR</u>	<u>PR</u>	<u>27-1003 Defs Sections</u>
<u>DUs less than 400 SF GFA (“Tiny Homes”) on permanent foundations</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>				<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			<u>PR</u>	<u>PR</u>	<u>PR</u>	<u>PR</u>	<u>27-1003 Defs Sections</u>
Group Household Living																											
Groups Recognized by Montana Statute																											
Comm. Res. Facility, Large (> 8 res.)	SR	SR	SR	SR	SR	P	SR	P	PL	PL	PL	P	PL				PL	P	P	PL	PL		P			P	27-1003
Comm. Res. Facility, Small (8 or fewer res.)	P	P	P	P	P	P	P	P	PL	PL	PL	P	PL				PL	P	P	PL	PL		P			P	27-1003
Independent Groups																											

Page left intentionally blank

Section 27-1008. Accessory uses.

A. General provisions.

1. Accessory use or structure. Accessory use or structure must be subordinate in both function and gross floor area to the principal use.
2. Time of construction or establishment. No accessory structure or use shall be constructed or established more than one hundred eighty (180) days prior to the time of completion of the construction or establishment of the principal structure or use to which it is accessory.
- 2.3. 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.

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. Accessory use or structure must be subordinate in both function and gross floor area to the principal use. 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.

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 (5) feet of any other building except as specified in this section.

D. Detached accessory residential structures.

1. Detached buildings for accessory residential uses (see subsection 27-1008.G for accessory dwelling unit requirements) greater than two hundred (200) square feet in size shall not exceed the principal building first story gross floor area on the lot or one thousand five hundred (1,500) square feet, whichever is less. Accessory use or structure must be subordinate in both function and gross floor area to the principal use.
2. The maximum total square footage in detached accessory structures in the N1, N2, N3 and RMH zone districts shall not exceed two thousand (2,000) square feet or the total principal building first story gross floor area on the lot, whichever is less. Accessory structure must be subordinate in both function and gross floor area to the principal use.

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 twenty (20) feet from the front facade.
3. Permitted with use restrictions /PR/. These accessory uses must comply with the use restrictions identified in this zoning code, including those restrictions included in this article and any use restrictions identified in the zone district where the uses is proposed to be located.
4. Requires a special review /SR/. These accessory uses are not allowed in the district but may be allowed through the special review process. Special review uses must follow any applicable development standards associated with the accessory use as well as meet the requirements of the special review.
5. Accessory uses that are not permitted are indicated by a blank space.

Table 27-1000.6: Accessory Uses	Residential							Mixed-Use and Commercial					Indust.	EBURD					Public								
	Key: P - Permitted, PL - Location Limits in Zone District, PR - Use Restrictions, SR - Special Review																										
Use Table	N3	N2	N1	NX1	NX2	NX3	RMH	NO	NMU	CMU1	CMU2	DX	CBD	CX	I1	I2	RSV MS	RSV	CW	13	IS	P1	P2	P3Civ	P3 Ed	P3 Med	Additional Standards
Residential																											
Accessory Dwelling Unit	SR P	PR PL P	PR PL P	PR PL P			PR PL P	P	P	P	P	P	P				P	P	P	P			PR	PR	PR	PR	27-1008
Employee/Caretaker Unit														PR	PR	PR					PR		P	P	P	P	27-1008
Home Occupation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	27-1008
Short-Term Rental (Guest Home)	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR			PR	PR	PR				PR	PR	PR	PR	27-1005
Shelter (accessory to religious institution)												PR	PR				PR	PR	PR	PR	PR						27-1004
Casino																											
Limited (1—3 gambling devices)									P	P	P	P	P	P	P	P	P	P	P	P	P						27-1005
Small (4—9 gambling devices)									P	P	P	P	P	P	P	P	P	P	P	P	P						27-1005
Communication and Satellite Facilities																											
Amateur Radio Support Towers	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PL	PL	P											27-1008
Satellite Antenna and Dishes	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	27-1008
Day Care Facilities																											
Day Care Center								P	P	P	P	P	P	P			P	P	P			P	P	P	P	P	27-1008
Family Day Care Home	P	P	P	P	P	P	P																				
Group Day Care Home	P	P	P	P	P	P	P																				

Page left intentionally blank

F. *Accessory day care facility.* A child or adult day care facility, including nursery and preschool, may be permitted as an accessory use to a public, civic, and institutional use, subject to compliance with applicable state and city regulations.

G. *Accessory dwelling units.*

1. *Applicability.*

~~(a) Accessory dwelling units (ADUs) are permitted by right in the N1 and N2 zone districts and are allowed by special review in the N3 zone district.~~

~~(b)~~ Accessory dwelling units ~~in applicable zones~~ are permitted on any parcel where a single dwelling unit is permitted or currently exists.

~~(c)~~ The minimum lot size for a lot that has both a primary dwelling unit and an accessory dwelling unit is three thousand (3,000) square feet.

2. *Ownership and occupancy.* ~~(a) The property owner shall live in either the primary or accessory dwelling unit, with one of the units serving as their principal residency for at least six months in a year. No third-party rentals shall occur in the owner-occupied unit.~~

~~(b) The property owner shall record a deed restriction with the Yellowstone County Recorder requiring owner-occupancy of the property. Evidence of recordation of the deed restriction shall be provided to the City of Billings Planning and 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 thirty (30) days of approval of the accessory dwelling unit. Evidence of such filing shall be submitted to the director within thirty (30) days of approval.~~

~~(d)~~(a) — The accessory dwelling unit shall not be sold separately or subdivided from the primary dwelling unit or lot.

3. *Dimensional standards and location.*

(a) One accessory dwelling unit is permitted per residential lot. The ADU shall be located on the same lot as the primary unit.

(b) Unless specifically addressed in this section, accessory dwelling units are subject to the dimensional regulations ~~for a principal building of~~ the underlying zone district; e.g., setback/yard requirements and building coverage.

~~(1) A detached accessory dwelling unit shall not cover more than thirty (30) percent of the available rear yard between the primary structure building line and the rear yard setback line.~~

~~(2) These standards do not apply to legally established detached garages that contain an accessory dwelling unit. Any expansion of a detached garage for conversion into an ADU shall comply with the appropriate setback and yard requirements for the detached garage.~~

~~(3) Maximum height for a new, detached accessory dwelling unit shall not exceed the height of the principal dwelling unit.~~

~~(4) The footprint of a detached accessory dwelling unit shall not exceed the footprint of the principal dwelling unit.~~

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

4. *Size.*

- (a) The gross floor area of an accessory dwelling unit attached or internal to the primary dwelling unit shall not exceed the gross floor area of the primary dwelling unit.
- (b) The maximum gross floor area of ~~aan detached~~ accessory dwelling unit shall be no more than eighty (80) percent of the gross floor area of the principal dwelling unit or ~~seven hundred fifty (750)~~ one thousand (1,000) square feet, whichever is less.

5. *Construction.*

- (a) Accessory dwelling units must contain a kitchen or a food prep area, bathroom, and sleeping area for the sole use of the unit.
- (b) Water and sewer service shall be provided. The principal unit and accessory unit may share utilities.
- (c) Mobile homes, ~~manufactured housin~~ 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)~~(b) — Accessory dwelling units shall have a separate entrance with a clearly labeled street address. Houses with an incorporated accessory dwelling unit may not create additional entrances facing the same street.

~~7. Parking. The accessory dwelling unit shall have at least one dedicated off-street parking space in addition to the parking required for the primary dwelling~~

~~unit. An exception to the parking requirement may be granted if it is demonstrated to planning staff that the additional parking space for the ADU is not feasible and/or on-street parking is available.~~

8.7 *Home occupations.* Home occupations are permitted in an accessory dwelling unit.

H. *Amateur radio support towers.*

1. *Applicability.*

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

2. *Standards.*

- (a) Amateur radio antenna support structures and antennas shall be located only within the rear yard and shall not be placed within any required setback and shall be located so as to minimize their impact on adjacent residential properties and adjacent rights-of-way while maintaining acceptable signal quality.
- (b) Amateur radio antenna support structures and antennas exceeding six (6) feet in height above grade (if ground-mounted) or above the roof or ridge of the building on which they are located (if building-mounted), shall require a building permit. With each building permit, the applicant shall submit evidence as is required to show that the device is adequately anchored, designed and/or constructed so as to safeguard the general public and/or adjacent property from damage in the event of failure of the device.
- (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 a.m. and ending at 9:00 p.m.
 - (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 a.m. and 11:00 p.m. 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 (8) square feet and eight (8) feet in height, and set back a minimum of five (5) feet from the front and side property lines. In all other zoning districts, signs shall comply with the permanent sign standards for the applicable zoning district.
- J. *Drive-through (thru) facility.* The following standards shall apply to businesses that contain a drive-through establishment, regardless if the drive-through is part of

another use (e.g., restaurant or financial institution) or if it is a stand-alone use (e.g., automatic teller machine).

1. *Location of services areas and use of audible electronic devices.*

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

K. *Electric vehicle charging station.*

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

L. *Employee/caretaker unit.* Employee/caretaker units in CX, I1, I2, and EBURD shall be limited to no more than two (2) residential units per ten thousand (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 (4) 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 five hundred (500) square feet or twenty-five (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 (5) 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 twelve thousand (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 (6) 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;
- (e) Uses involving the grooming, breeding, or boarding of animals; or
- (f) Uses involving marijuana including but not limited to the dispensaries, sales, cultivation, testing, manufacturing, transporting or temporary storage of marijuana.

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 five (5) feet to any side or rear property line.

4. *Maximum area.* The area of the outdoor kennel site shall be limited to ten (10) percent of the total area of the lot.

O. *Livestock and fowl.*

- 1. Livestock shall not be maintained in any zoning district located within the limits of the city except as provided in Table 27-1000.2 Accessory Uses.
- 2. Horses may be permitted in the city when located within a planned development that was specifically designed and approved to accommodate horses and/or equestrian centers.
- 3. Fowl, except chicken hens, shall not be maintained in any zoning district located within the city limits. Chicken hens may be kept within the limits of the city in residential zoning districts or on property used for single family residential purposes as provided in Table 27-1000.6, Accessory Uses, subject to limitations and permitting requirements in BMCC section 4-303, Rabbitry and chickens.

P. *Outdoor display and sales.*

1. *General provisions.*

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

continuous outside display of merchandise is permitted when the principal use of property is:

- (1) Lumber and construction materials;
 - (2) Vehicle and heavy equipment sales and rentals;
 - (3) RV and manufactured home sales and service;
 - (4) Wholesale and retail nurseries;
 - (5) Lawn and garden supply;
 - (6) Fueling stations;
 - (7) Retail or wholesale open twenty-four (24) hours; or
 - (8) Temporary uses and structures regulated by section 27-1009.
- (b) Display areas shall be located outside of drive aisles; required parking areas, including access; required landscape areas; and pedestrian ways.
 - (c) In addition to the outdoor display and sales area, store front sidewalks excluding any public sidewalks, shall be allowed for outdoor display and sales provided these outdoor display and sales areas comply with all provisions of applicable zoning ordinances, building codes, and other city codes and regulations.
 - (d) All outdoor display and sales areas shall be maintained in a neat, clean, orderly fashion to avoid pedestrian hazards and ensure personal safety.
 - (e) Display areas shall not exceed eight (8) feet in height unless a single unit of the merchandise exceeds eight (8) feet (e.g., RVs, manufactured homes, or trucks).
2. **EBURD.** Outdoor sales are limited to lots fronting on Boulevard Street Types (1st Avenue N, 4th Avenue N, and 6th Avenue N).

Q. *Outdoor and sidewalk seating.*

1. Eating and drinking establishments may provide accessory outdoor seating areas, including rooftop seating, that meet the following generally applicable criteria:
 - (a) Outdoor seating areas outside of the CBD may not occupy required landscape area, required parking spaces, or required parking area access aisles.
 - (b) An outdoor seating area exceeding twenty-five (25) percent of the indoor building floor area is counted as floor area for purposes of determining off-street parking and loading requirements.
 - (c) The use of mechanically produced sound, amplified sound, or live music shall only be permitted in conformity with the city's noise standards. Waivers or variances to the city's noise standards are not allowed for property within fifty (50) feet of any residential zone.

- (d) All outdoor uses shall be maintained free of garbage and other debris.
 - (e) The hours of operation for the outside seating shall be consistent with the hours of operation of the inside use.
 - (f) The outdoor seating area shall not obstruct any fire exit, fire escape, or other required ingress or egress.
2. Public sidewalk seating may be permitted by city engineering in compliance with the following conditions:
- (a) The area of occupancy must be abutting and contiguous to the restaurant in which food preparation, sanitation and related services for the sidewalk cafe will be performed.
 - (b) Sidewalk seating may not be enclosed by fixed walls, unless such walls are necessary to comply with requirements to serve alcohol, and shall be open to the air, except that it may have a canopy.
 - (c) There shall be a minimum width of four (4) 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 (5) feet from driveway and alleys, and ten (10) 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 section 22-400.

R. *Outside storage.*

- 1. *Intent.* Any use requiring accessory outside storage of material, equipment, or business-related supplies shall comply with the following standards. Outdoor storage does not include outdoor sales lots as regulated in subsection 27-1008.P.
- 2. *Generally applicable standards.*
 - (a) Any permitted outside storage shall be within an area enclosed with a sight obscuring fence at least six (6) feet in height that is architecturally compatible in color and design with the building.
 - (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 (6) feet in height. Chain link or other type of wire fencing is prohibited unless durable sight-obscuring inserts are installed. Fabric or cloth inserts are not permitted.

4. *EBURD.*

(a) Within the central works and 13th Street Main Street districts:

- (1) Outdoor storage areas shall be located in the rear or side yard of the lot.
- (2) Loose materials shall not be stacked higher than six (6) feet.
- (3) Loose materials shall at a minimum be stored in a three-sided shelter and shall be covered.
- (4) Materials shall be set back a minimum of five (5) feet from any lot line.
- (5) All outdoor storage areas shall be screened from view of adjacent parcels and vehicular rights-of-way using the side or rear buffer.

S. *Satellite antennas and dishes.* Before any satellite antenna is erected in any zoning district, the property owner(s) shall first obtain the applicable permits from the building official.

1. A building permit is not required for installation of satellite dish antennas which are four (4) feet or less in diameter.
2. All satellite dish antennas and the construction and installation thereof shall conform to the building and electrical codes adopted by the building division.
3. Satellite dish antennas shall meet all manufacturer's specifications, be of noncombustible and corrosive-resistant material, and be erected in a secure, wind-resistant manner.

T. *Shipping container storage.*

1. *Site requirements.* All accessory shipping container storage shall meet the following site standards:
 - (a) There shall be a principal structure on the property.
 - (b) The shipping containers are stored either:
 - (1) Behind the principal structure; or
 - (2) Shielded from view by a permanent enclosure that is at least eight (8) feet in height and sight-obscuring.
2. *Permanent accessory use.* In the CX, I1, I2, and EBURD districts, shipping containers may be used for permanent accessory storage for a period of more than one year.
3. *Temporary accessory use.*

- (a) In the NMU, CMU1, CMU2, and DX districts, shipping containers may be used for temporary accessory storage for a period of time not to exceed one year.
- (b) Shipping containers may be used for accessory storage for a period not to exceed three (3) months for business relocations and new business stocking.
- (c) Shipping containers may be used for accessory storage for a period of time not to exceed nine (9) months following a fire or other disaster.

U. *Solid waste.*

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

Section 27-1009. Temporary uses

A. *Temporary uses in nonresidential zoning districts.*

- 1. *Group 1 temporary uses.* This group shall be defined as temporary uses of property continuing for less than seventy-two (72) hours. Group 1 uses do not require a temporary use/structure permit from planning and community development. Uses in this group shall comply with the following:
 - (a) Such use shall be an allowed use in the underlying zoning district;
 - (b) Any temporary structure must be setback five (5) feet behind all property lines;
 - (c) No part of the temporary use or temporary structure shall block any defined clear vision area (subsection 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 seventy-two (72) hours but less than ninety-one (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 (5) feet behind all property lines;
 - (3) No part of the temporary use or temporary structure shall block any defined clear vision area per subsection 27-1802.H for driving aisles, drive approaches from streets, or at the intersection of streets or alleys;
 - (4) New access drives to public rights-of-way must be approved by the city engineering division;
 - (5) A business license for temporary uses located within the city limits must be obtained if required by BMCC chapter 13-400, Finance and revenue.
3. *Group 3 temporary uses.* This group shall be defined as temporary uses of property continuing for longer than ninety (90) days but less than one year and are required to obtain a temporary use permit from the planning and community services department.
- (a) The following temporary uses may be allowed in this temporary use group, but must be located in a district that allows the use, as specified in Table 27-1000.1, Primary Uses:
 - (1) Greenhouses or other similar seasonal-oriented uses, as determined by the zoning coordinator;
 - (2) Portable classrooms;
 - (3) Portable offices; or
 - (4) Other uses, such as carry-out food and/or beverage service.
 - (b) *Location restrictions.*
 - (1) Any group 3 temporary use/structure existing upon adoption of this chapter, which does not comply, depending upon its location, with the applicable city site development regulations, shall comply with such standards within one year from the date of the enactment of this section or any amendment thereto;
 - (2) Any new or relocated temporary use must be located on a site which complies, depending upon its location, with the applicable city site development regulations, including landscaping, surfacing and number of required off-street parking spaces;
 - (3) The structure shall be a factory-built structure and shall not have an axle(s). Temporary structures which do not comply with one or both of these requirement(s) and which exist as of February 25, 2021, 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 ten (10) by twelve (12) feet or one hundred twenty (120) square feet;
- (ii) Site circulation shall be approved by the city traffic engineer, along with the location of any drive-in window. This group of temporary uses shall be exempt from any special review requirements for drive-in service;
- (iii) The temporary use must provide the required number of paved off-street parking spaces. In addition, the temporary use shall not utilize any parking spaces that would make the principal use deficient in the required number of off-street parking spaces;
- (iv) Utilities to serve the temporary use shall be located underground or suspended overhead, in compliance with all applicable codes; and
- (v) All structures are subject to local, and state requirements and must obtain all relevant licenses before a temporary use/structure permit is issued.

(c) *Supplemental standards.*

(1) When submitting for a temporary use/structure permit, a group 3 use shall provide the following:

- (i) Existing site plan, including parking stalls and buildings;
- (ii) Proposed site plan, including location of temporary use and its relationship to existing site circulation and off-street parking spaces and driving aisles, including existing and proposed surfacing;
- (iii) Location of drive-in service, if applicable;
- (iv) Setbacks from property lines and arterial streets;
- (v) Size of temporary structure; and
- (vi) Proposed use of the temporary structure.

(2) The temporary use must provide sufficient space to accommodate the structure and paved off-street parking for customer and use-related vehicles;

(3) Clear vision standards set forth in section 27-615 shall be followed;

(4) Access to any public right-of-way must be approved by the city engineering division;

(5) It shall be the responsibility of the owner of the temporary structure to ensure that the structure is secured to withstand an eighty (80) miles

per hour (m.p.h.) wind load and to meet all applicable Americans with Disabilities Act (A.D.A.) and accessibility standards;

- (6) All group 3 temporary structures, regardless of size, which contain electrical wiring, and are placed on property within the city limits, shall have such electrical wiring permitted, inspected and approved by the city building division. ~~All temporary structures that exceed one hundred twenty (120) square feet, except greenhouses, shall have the structure permitted, inspected and approved by the city building division or labeled as a factory-built structure by the State Building Codes Bureau prior to issuance of a temporary use/structure permit.~~ A temporary use/structure permit shall be obtained by the owner and a business license, if required, shall be obtained by the operator. Such temporary use/structure permit shall be valid for a period of not more than one year. An annual renewal may be given by the zoning coordinator, provided that the use complies with the above requirements.

4. Group 4 temporary uses. This group shall be defined as temporary uses continuing for up to one year and are required to obtain a temporary use permit from the planning and community services department. This group is specifically for mobile vendors, including food or retail vendors -designed to change locations frequently throughout the year.

(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) Uses, such as carry-out food and/or beverage service.
- (2) Retail sale of goods

(b) Location restrictions.

(1) Any group 4 temporary use shall comply with the following criteria:

- (i) Mobile vendors located on private property must include written permission from the property owner to utilize the site.
- (ii) Sites for these uses are subject to master site plan process and approval.;
- (iii) All mobile vendors are subject to local and state requirements and must obtain all relevant licenses before a temporary use permit is issued.

(c) Supplemental standards.

(1) When submitting for a temporary use permit, a group 4 use shall provide the following:

- i. Written confirmation of approval from the health department
- ii. Proposed type of mobile vendor

iii. Signed declaration to comply with all City, State and Federal requirements for mobile vending services.

iv. A business license for temporary uses located within the city limits must be obtained if required by BMCC chapter 13-400, Finance and revenue.

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 sixty-one (61) days and are required to obtain a temporary use permit from the planning and community services department.

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

- (a) The sale must be conducted on 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 subsection 27-1802.H;
- (e) New access to any public right-of-way must be approved by the city engineering division; and
- (f) All signage and temporary structures must be removed at the time the temporary use has ceased on the property.

C. *Temporary uses and structures.*

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

- (a) Equipment, materials and structures include any items procured by a contractor that are necessary to complete the approved construction project including, but not limited to:
 - (1) Heavy equipment, pipe, fittings, manholes, and the appurtenances;
 - (2) Gravel, sand, soil, concrete mix, forms, lumber and similar materials;
 - (3) Traffic control devices and stacked pallets of materials; and
 - (4) Modular offices and equipment sheds.
 - (b) Staging and storage of equipment and materials shall be conducted in a safe, neat and orderly manner at all times;
 - (c) Any such equipment, materials and structures shall be removed upon completion of the construction project; and
 - (d) No such structure shall be used for living or sleeping purposes.
2. *Other temporary structures.* Temporary structures not used for construction or equipment sheds may be allowed when the following criteria are met:
- (a) For group 3 uses, the structure shall meet the applicable setbacks for the zone in which it is located, including arterial setbacks as found in sections 27-303, 27-403, and 27-602;
 - (b) The structure shall meet the clear vision standards set forth in subsection 27-1802.H;
 - (c) No such structure shall be used for living or sleeping purposes;
 - (d) The use of the structure shall comply with subsections 27-1009.A.3(b) and 27-1009.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 27-1009.A.3(b); and
 - (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 27-1009.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 bond, in an amount set by city council resolution from time to time, for each location with the planning and community services department to ensure timely removal of the use and/or structure.
3. Group 4 temporary uses shall provide details and proof of permission to park at any location.

Section 27-1301. General applicability.

A. Off-street parking required.

1. Minimum off-street parking in any district other than CBD or EBURD shall be provided pursuant to this section at the time of erection of any building or structure. ~~or at the time of any change in occupancy of any building or structure.~~
- 1.2. A change in use of an existing building or structure, where such change does not include an expansion or enlargement of said building or structure, shall not require a change to its minimum off-street parking requirement. This standard also applies to vacant buildings.
- 2.3. No minimum off-street parking is required in the CBD or EBURD zone districts except as specifically provided in this section. Where off-street parking is provided, it shall meet the standards of this section.
- 3.4. Required off-street parking areas must be used for parking only. Automobile sales, storage, and other uses are prohibited unless specifically permitted by another section of this zoning code.

B. Expansion, enlargement, and nonconformities.

1. Whenever any building is enlarged in height or in ground coverage, off-street parking shall be provided for the expansion or enlargement in accordance with the requirements of article 27-1100, Proportionate compliance.
2. Changes to the size or location of existing off-street parking areas in NX, NO, NMU, and CMU districts shall be done in a manner that brings the parking area into greater compliance with the zone district site standards. See article 27-1500, Nonconformities.
3. Nothing in this section shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings even though those uses or buildings are nonconforming, provided that the new parking can be provided in compliance with this section and the requirements of the zone district.

- C. *Zone district groupings.* When reference is made to a group of zone districts, the following individual districts shall be included:

District Groupings Used in this Section	
Residential	All N districts, RMH
Mixed-Use	All NX districts, NO, NMU, All CMU districts
Commercial	C3, CX
Industrial	I1, I2
Public	All P districts
EBURD	All EBURD districts

Section 27-1302. Calculation of required parking.

A. *Required parking.*

1. Required off-street parking spaces shall be provided in conformance with Table 27-1300.1, Off-Street Parking Standards, unless modified by article 27-1100, Proportionate compliance.
2. In the case of mixed uses, the total requirements for the various uses shall be computed separately unless the joint use provisions of section 27-1304 apply.

B. *Calculation of required parking.*

1. When determination of the number of parking or loading spaces results in a requirement of a fractional space, any fraction shall be rounded up and counted as one parking space.
2. When there are multiple structures on a lot or multiple uses in a structure, parking shall be calculated separately for each different use area in a building or on a site, including all accessory uses.
3. Parking spaces required on a per-employee basis shall be based on the maximum number of employees on duty and/or residing on the premises at any one time.
4. Parking spaces required based on the number of beds in a facility shall be calculated based on the number of beds accommodated in the design capacity of the facility.
5. When the standards use seating as a unit of measurement, all calculations shall be based on the number of fixed seats. If fixed seats are not provided, then parking shall be determined at a rate of one space per four (4) occupants unless otherwise specified in Table 27-1300.1, Off-Street Parking Standards.
6. When the standards use the number of occupants as a unit of measurement, all calculations shall be based on the maximum occupant load, as determined by the adopted building code.

Table 27-1300.1. Off-Street Parking Standards.

Use	Required Parking
RESIDENTIAL	
Households Living (dwelling unit/structure)	
Dwelling, single unit, detached and attached	~~2 per du~~ <u>1 per du</u>
Dwelling, multiple unit structure	1 per du
Dwelling unit in a mixed-use structure	1 per du
~~Dwelling unit under 1,200 SF GFA~~	~~No required minimum~~ <u>1/2 space per du</u>
~~Dwelling unit, deed-restricted affordable~~	~~No required minimum~~
~~Accessory dwelling unit~~	~~Section 27-1008 (ADU standards)~~
Manufactured Home (Class A, B, C)	~~2 per du~~ <u>1 per du</u>
Group Household Living	
Comm. Res. Facility, Large	2 + 1 per 5 beds
Comm. Res. Facility, Small	Dwelling, single unit
~~Comm. Res. Facility, Assisted Living Facility (Small or Large)~~	~~No required minimum~~
Fraternity/Sorority House	1 per 2 sleeping rooms or 1 per 3 beds, whichever is greater
Group Living Facility	2 + 1 per 5 beds
Retirement Home or Village	1 to 6 units: 0.5 space/du 7 to 18 units: 0.33 space/du Over 18 units: 0.25 spaces/du Minimum of 5 spaces
Travel Trailer Park/ Campground	1 space per campsite/RV site
PUBLIC, CIVIC, AND INSTITUTIONAL	
Assembly	
General Assembly	1 per 4 seats in assembly area or 1 per 100 SF GFA in assembly area without seats
Libraries and Museums	1 per 1,000 SF GFA for museum and art gallery; 1 per 333 SF GFA for library
Education	
School, College or University	1 per 400 SF GFA
School, Primary and Secondary	Elementary School: 2 per classroom Middle School: 2 per classroom High School: 6 per classroom and 1 per 300 SF GFA additional enclosed floor space
School, Trade, Business, Vo/Tech	1 per 300 SF indoor GFA
Government and Public Safety	
All	1 per 300 SF GFA of space used by the public + 1 per 600 SF GFA of space not used by the public
Health Care and Social Assistance	
Adult Day Care	1 per 400 SF GFA plus 2 stacking spaces at drop-off area for adult day care in mixed-use or non-residential districts
All Healthcare, unless otherwise specified	1 per 2 beds based on maximum capacity + 1 per 350 SF GFA for areas that are not patient rooms. Healthcare facilities without patient rooms apply the 1 per 350 SF GFA standard.
Parks and Recreation	
Arboretums/Botanic Gardens/Zoos	1 per 4 occupants at capacity

Golf Course/Swimming Pool (Public)	Golf: 4 per hole plus 2.5 per 1,000 sf GFA in clubhouse; Pool: subsection 27-1302.D
Public Parks and Playgrounds	Subsection 27-1302.D
Public Recreation Facilities	Subsection 27-1302.D; Playfields (soccer, baseball, etc.) shall have minimum of 20 spaces per field
COMMERCIAL	
Amusement and Recreation	
Amusement & Recreation, Indoor	6 per 1,000 SF GFA
Amusement & Recreation, Outdoor	1 per 4 occupants at capacity
Adult Entertainment	1 per 200 SF GFA
Casino, Large	1 per 150 SF GFA
Animal Sales and Services	
Boarding/Kennel	1 per 400 SF GFA
General Sales and Services	1 per 400 SF GFA
Shelter	1 per 800 SF GFA
Veterinary, all	1 per 400 SF GFA (indoor only)
Assembly, Entertainment and Trade	
All assembly	1 per 4 seats in assembly area or 1 per 100 SF GFA in assembly area without seats
Child Care	
All child care	~~1 per 400 SF GFA + 2 stacking spaces at drop-off area for child care in mixed-use or non-residential districts~~ No required minimum
Commercial Service	
Broadcasting Stations and Studios	1 per 400 SF GFA
Business Service	1 per 400 SF GFA
Crematory, Funeral Services	1 per 50 SF chapel area, minimum 2
Cemetery	1 per 50 SF chapel area, minimum 2
Consumer Maintenance and Repair	1 per 400 SF GFA
Personal Service	1 per 400 SF GFA
Studio or Instruction Service	1 per 400 SF GFA
Eating and Drinking Establishment	
Restaurant	1 per 150 SF GFA
Without interior seating	As determined by the zoning coordinator
Bar or Tavern	1 per 150 SF GFA
Craft Alcohol	1 per 150 SF GFA
Financial Services	
Financial and Alternative Financial	1 per 300 SF GFA
Lodging	
Boarding	1 per guest room
Bed and Breakfast Inn	2 + 1 space for each guest room
Campground/RV Park	1 per campsite/RV site
Hotel/Motel	1 per room + 1 per 300 SF meeting or restaurant and bar area
Short-Term Rental	Parking assigned to dwelling unit
Office	
Business or Professional	1 per 350 SF GFA

Medical doctor or dental clinics	Medical, dental or optical: 1 per 222 SF GFA; Professional therapy (mental health, physical, occupational, or similar): 1 per 250 SF GFA
Research and Testing Laboratories	1 per 400 SF GFA
Parking, Commercial	
Commercial, primary use	n/a
Retail Sales	
Retail (all unless otherwise specified)	1 per 200 SF GFA for the first 2,000 SF + 1 per 300 SF GFA over 2,000 sq. ft. up to 100,000 SF total GFA
Retail, large format	Retail standard up to 50,000 SF GFA then 1 per 1,000 SF GFA. If part of the structure is warehouse, apply the retail standard and Table 27-1300.2 to the areas in each use.
Retail, Extended Display Floor	1 per 1,000 SF GFA
Commercial Greenhouse/Nursery	1 per 1,000 SF GFA
Outdoor Sales Lot	1 per 1,000 SF GFA sales area
Vehicle Sales and Service, Personal	
Car Wash	
Fueling Station, with or without convenience store	1 per 200 SF GFA for the first 2,000 SF + 1 per 300 SF GFA over 2,000 sq. ft.
Vehicle Sales and Rental	Sales: 1 per 1,000 SF GFA used by general public plus storage of cars for sale Rental: 1 per 250 SF GFA used by general public plus storage of cars for rent
Vehicle Maintenance and Repair	1 per 250 SF GFA
INDUSTRIAL, WHOLESALE, AND STORAGE	
Industrial and Construction Services	
All	Table 27-1300.2
Manufacturing, Assembly, or Processing	
All	Table 27-1300.2
Natural Resource Extraction	
All	1 per site
Warehouse and Storage Services	
All	Table 27-1300.2
Waste and Salvage	
All	Table 27-1300.2
TRANSPORTATION, UTILITIES, AND COMMUNICATIONS	
Alternative Energy Production	
Solar Power Array, large/commercial	1 per site
Wind Energy Conversion Systems, large/commercial	1 per site
BioMass Conversion Systems, large/commercial	1 per site
Transportation	
Bus or Taxi Maintenance and Parking Shed	Subsection 27-1302.D
Airport Passenger Terminal	Subsection 27-1302.D
Bus/Public Transit Terminal	Subsection 27-1302.D
Train Passenger Terminal	Subsection 27-1302.D
Train/Railroad Freight Terminal, Switching Yard	Subsection 27-1302.D
Utilities and Public Facilities	
Major	Table 27-1300.2

Minor (e.g., lift stations, substations, pump stations)	Table 27-1300.2
Offices, Buildings, Yards, and Land	Table 27-1300.2
Pipelines (except natural gas)	n/a
Transmission and Distribution Lines	n/a
Wireless Communication Facilities	
Amateur Radio, greater than 100' high	1 per site
Land Mobile Radio and Broadcast Antennae	1 per site
Wireless Communication Facilities	Subsection 27-1302.D

- C. *Parking for industrial and warehouse uses.* Uses that reference this subsection in Table 27-1300.1, shall provide the minimum number of parking spaces identified in Table 27-1300.2. The total number of required spaces is cumulative based on the variety of different functions present in a single structure or lot.

Table 27-1300.2. Parking for Industrial, Wholesale, and Storage Uses.

Use or Activity		Minimum Required
Office or administrative area		1 per 300 GFA
Indoor sales area		1 per 200 GFA
Retail		Table 27-1300.1
Assembly, vehicular service, or manufacturing area:	First 1—3,000 SF of floor area:	1 per 200 GFA
	Additional SF over 3,000 calculated as follows:	
	3,001—5,000 SF of floor area	1 per 500 GFA
	5,001—10,000 SF of floor area	1 per 750 GFA
	10,001 or more SF of floor area	1 per 1,250 GFA
Indoor storage or warehousing area		1 per 1,000 GFA or 1 per employee on largest shift
Outdoor sales, display, or storage area (3,000 SF or less)		1 per 750 GFA
Outdoor sales, display, or storage area (more than 3,000 SF)		1 per 1,000 GFA

- D. *Uses with variable parking demand.* Uses that reference this subsection in Table 27-1300.1 have widely varying parking demand characteristics, making it difficult to establish a single parking standard. Upon receiving a development application for a use subject to this subsection, the planning and community services director, with input from the engineering division, shall apply the parking standard specified for the listed use that is deemed most similar to the proposed use or establish minimum parking standards on the basis of a parking study prepared by the applicant. Such a study shall include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE) Parking Generation, or other acceptable estimates as approved by the zoning administrator, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study shall document the source of data used to develop the recommendations.
- E. *ADA accessible parking.* All parking lots shall provide the minimum number of accessible parking spaces required by the federal Americans with Disabilities Act

(ADA). All accessible parking spaces shall meet the design and location requirements of the Americans with Disabilities Act (ADA). Accessible parking spaces shall be counted toward the minimum number of spaces required in Tables 27-1300.1. and 27-1300.2.

F. *Maximum number of parking spaces.*

1. *Calculation.* The maximum permitted number of parking spaces shall be determined as follows:

Table 27-1300.3. Maximum Parking.

Number of spaces required	Parking May not Exceed the Minimum Number of Spaces Permitted by More than:
<u>0</u>	<u>20 spaces</u>
1 to 50	20%
51—500	10%
501 or more	50 spaces

2. *Maximum surface parking calculation exceptions.* For the purpose of calculating parking requirements, the following types of parking spaces shall not count against the maximum surface parking requirement:
 - (a) Accessible parking;
 - (b) Vanpool and carpool parking;
 - (c) Spaces with electrical vehicle charging stations, up to a maximum of two (2) per fifty (50) parking spaces;
 - (d) Parking spaces which are used seasonally (March 1 through November 1) to provide bicycle parking;
 - (e) On-street parking adjacent to the lot or lots on which the parking is located; and
 - (f) Structured parking, underground parking, and parking within, above, or beneath the building(s) it serves.
3. *Site specific standards.*
 - (a) There is no limitation on the number of parking spaces provided when the spaces exceeding the minimum are located in a parking garage or similar structure.
 - (b) Any paved areas adjacent to parking lots, excluding drive aisles, access points, and permanent loading, storage, sales, rental or service areas, shall be considered to provide parking even if no parking spaces are delineated by pavement marking.
4. *Maximum surface parking waiver request.*
 - (a) Requests to exceed the maximum surface parking requirement shall be accompanied by a written justification demonstrating how the maximum number of parking spaces specified in Table 27-1300.3 is insufficient for

the proposed development. The written justification must include an analysis of current parking supply and conditions, an assessment of the ability of existing supply to meet existing peak demand, a projection of future demand, and must demonstrate consideration and evaluation of alternative parking management practices (e.g., shared parking, shuttle, valet, etc.).

- (b) A waiver to the maximum surface parking requirement may be allowed by the planning and community services director in situations that meet all of the following criteria:
 - (1) The proposed development has unique or unusual characteristics such as high sales volume per floor area or low turnover, that create a parking demand that exceeds the maximum ratio and that typically does not apply to comparable uses;
 - (2) The parking demand beyond the maximum parking standard cannot be accommodated by on-street parking, shared parking with nearby uses, or by increasing the supply of spaces that are exempt from the maximum ratio;
 - (3) The request is the minimum necessary increase from the standards; and
 - (4) The applicant can provide all of the design requirements for excess parking.
- 5. *Design requirements for excess surface parking.* An applicant that receives a parking waiver to provide parking that exceeds the maximum number of permitted parking spaces permitted in Table 27-1300.3 shall be required to include additional internal landscaping as described below:
 - (a) Parking lot landscaping shall comply with the internal landscaping standards in article 27-1200, Landscaping.
 - (b) In addition to the landscaping standards in article 27-1200, Deciduous trees and shrubs shall be provided in the quantities outlined in Table 27-1300.4 for parking that exceeds the maximum limit. Any required additional landscaping shall be distributed throughout the site.

Table 27-1300.4. Additional Landscaping Requirement for Excess Surface Parking.

Number of Spaces Over Maximum Parking Limit	Number of Deciduous Trees (2-inch Caliper)	Number of Deciduous Shrubs (5-Gallon)
0—5	0	4
6—10	1	8
11—15	2	12
16—20	3	16
21+	1 per 4 spaces over maximum	1 per space over maximum

- (c) Where the maximum number of parking spaces in the DX or CMU1 districts is exceeded, the applicant may provide, as an alternative to the additional landscaping standards in a lump sum payment of five hundred dollars (\$500.00) per space for each space over the maximum to the Boulevard Tree Cost Share Program in lieu of installation.

G. Bicycle parking.

1. Applicable design standards.

- (a) When required, bicycle parking must comply with the City of Billings Bicycle Parking Guidelines (referred to APBP: Association of Pedestrian and Bicycle Professionals), available at the planning division offices or on-line at the City of Billings Webpages on Transportation Planning.
- (b) In mixed-use, commercial, and public districts all short-term racks shall be located within fifty (50) feet of the primary entrance of the building served by the rack(s) and shall be visible when facing that primary entrance.

2. When required.

- (a) Bicycle parking shall be provided in Table 27-1300.5. Where the amount of required parking is not specified in Table 27-1300.5, the requirements of the Billings Bicycle Parking Guidelines shall apply.

Table 27-1300.5. Bicycle Parking.

Zone District	Required Bicycle Parking
Residential Districts	
N1, N2, N3, NX1	None
NX2	None required, long-term parking recommended.
NX3	Short-term parking required per APBP. Long-term parking recommended.
Mixed-Use and Commercial Districts	
CBD	Pay into bike parking fund for number of short-term racks required by APBP.
DX	Short-term parking required per APBP. Long-term parking recommended.
CMU1	Min. 1 short-term rack per building.
CMU2	Min. 1 short-term rack per building.
NMU	Short-term parking required per APBP. Long-term parking recommended.
NO	Short-term parking required per APBP. Long-term parking recommended.
CX	Min. 1 short-term rack per building.
EBURD	Min. 1 short-term rack per building.
Public Districts	
P1	Short-term parking required per APBP. Long-term parking recommended when park is expected to be main work place for one or more employees. Subsection 27-1302.G.1(b) is not applicable when primary use is outdoor space.
P2	Short-term parking required per APBP. Long-term parking recommended.
P3	Short-term parking required per APBP. Long-term parking recommended.

Section 27-1504. Nonconforming uses.

A. *Continuation of use.*

1. Nonconforming uses may be continued so long as the use remains otherwise lawful.
2. Any nonconforming use may be extended throughout any parts of a building designed for such use that existed as of the effective date of this zoning code, but no such use shall be extended to occupy any land outside such building.

B. *Continuation of structure specific to use.* No existing structure specific to a nonconforming use shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in conjunction with changing to a conforming use.

C. *Discontinuance.*

1. *Compliance with code.*

- (a) When a nonconforming use is replaced with a conforming use, the nonconforming use is considered terminated and may not be resumed.
- (b) Any structure specific to the use, or structures and land in combination specific to the use, in or on which a nonconforming use is replaced by a permitted use shall be brought into compliance with the zone district in which the structure(s) is located and the nonconforming use may not be resumed.

2. *Abandonment.*

- (a) When a nonconforming use is abandoned for twelve (12) months or more it shall be considered terminated.
- (b) When a nonconforming use of a structure specific to a use, or structures and land in combination specific to a use, is abandoned for twelve (12) months or more, the structure, or structures and premises in combination, shall be brought into conformance with the applicable zone district regulations and the nonconforming use may not be resumed.

3. *Demolition, destruction, or obsolescence.*

- (a) Where nonconforming use status applies to: (1) a structure specific to a use (such as a gas station), or (2) structure and land in combination specific to a use, (such as an automobile dealership) removal or destruction of the structure shall presumptively eliminate the nonconforming status of the land and reconstruction shall be done in compliance with this zoning code.
 1. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty (50) percent of the replacement cost of the at time of destruction.
 2. The operation of a nonconforming residential use located in an N1-4, NX1-3, RMH, NMU, CMU1, CMU2, CX, I1, DX, CBD, EBURD, or

Public zone district shall not be terminated regardless of the amount of damage or destruction suffered by the structure in which the use is operated.

3. The operation of a nonconforming non-residential structure specific to a use or structure and land in combination specific to a use shall be terminated unless the property owner seeks special review approval (see section 27-1623) to reestablish the destroyed structure or structure and land within six (6) months of the date of the event(s) that caused the destruction. In addition to the decision criteria in subsection 27-1623.D, the zoning commission and city council shall also consider:

- a. Whether changes, over time, to the surrounding area or neighborhood make reestablishment of the structure and use or structure, land and use detrimental to nearby residents or property values;
- b. Whether the use and specific structure or use, specific structure and land became nonconforming because of the actions of the property owner; or
- c. Whether the use and structure or use, structure and land were subject to distance requirements ("separated use") from other uses ("protected uses") and became nonconforming only when a protected use in a structure specific to that use (such as a religious assembly in its own building) or structure and land specific to that use (such as a primary school) were established within the distance restricted area after the documented establishment of the separated use.

- (b) *Obsolete or substandard non-residential structure.* The right to operate and maintain any nonconforming use shall terminate and shall cease to exist whenever the non-residential structure in which the use is operated and maintained becomes obsolete or substandard under any applicable city, state or federal code and the cost of placing such structure in lawful compliance with the applicable ordinance exceeds fifty (50) percent of the replacement cost of such structure on the date that the building official determines such structure is obsolete or substandard; provided, however, that in determining the replacement cost of any structure, there shall not be included therein the cost of land or any factors other than the structure itself.

D. *Ambiguity in allowable uses. Any ambiguity or uncertainty in the zoning regulations as to whether a nonconforming use is allowed or whether the use was allowed when it commenced shall be interpreted in favor of the nonconforming use.*

Section 27-1601. Overview of procedural requirements.

A. *Organization.* The administration of zoning processes and permits is divided into two (2) categories: commonly applicable procedures (sections 27-1603 to 27-1613) and specific procedures (sections 27-1614 to 27-1628). Both are described in this section.

1. *Commonly applicable procedures.*

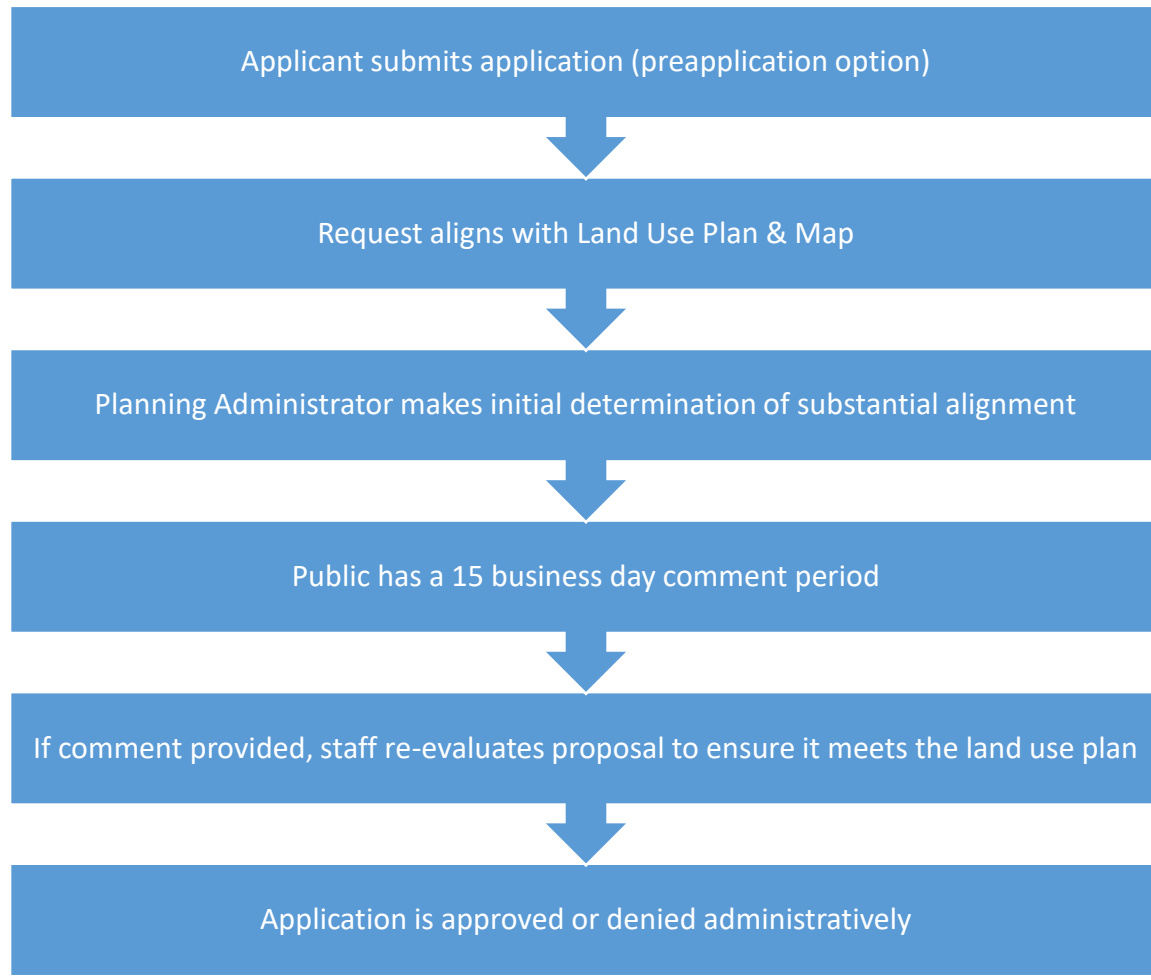


Fig. 27-1600.A. Commonly Applicable Procedures.

The following requirements are common to many of the procedures contained in this zoning code. Applications are typically processed in accordance with the steps shown in Figure 27-1600.A. Additional details may be included in each specific procedure.

Timelines for review are outlined in zoning applications. All review timelines may be extended if there are extenuating circumstances.

(a) Section 27-1603, Pre-Application meeting.

(b) Section 27-1604. ~~Neighborhood meeting.~~ Reserved

- (c) Section 27-1605, Application submission meeting.
 - (d) Section 27-1606, Procedures for complete applications with changed status.
 - (e) Section 27-1607, Staff review, ~~referral, and recommendation determination, and authority.~~
 - (f) Section 27-1608, Public notice requirements.
 - (g) Section 27-1609, ~~Review and decision-making bodies.~~ Reserved
 - (h) Section 27-1610. Action by review and decision-making bodies.
 - (i) Section 27-1611, Post-review actions.
 - (j) Section 27-1612. ~~Lapsing and extension of approvals.~~ Reserved
 - (k) Section 27-1613, Other permits and approvals still necessary.
2. *Specific procedures.* Sections 27-1614 to 27-1628 provide the application-specific requirements for review and submission of each type of application or permit available:
- (a) Section 27-1614, Administrative relief.
 - (b) Section 27-1615, Classification of newly annexed area.
 - (c) Section 27-1616, Appeal of administrative decision.
 - (d) Section 27-1617, Code interpretation.
 - (e) Section 27-1618, Landscape plan.
 - (f) Section 27-1619, Master site plan.
 - (g) Section 27-1620, Permits.
 - (h) Section 27-1621, Short-term rentals.
 - (i) Section 27-1622, Sign permit.
 - (j) Section 27-1623, Special review uses.
 - (k) Section 27-1624, Temporary use permit.
 - (l) Section 27-1625, Wind and solar facilities.
 - (m) Section 27-1626, Wireless communication facilities.
 - (n) Section 27-1627, Variance.
 - (o) Section 27-1628, Zone change.
- B. *User's guide.* The zoning coordinator may compile the requirements for application contents, forms, fees, submission materials, and review schedule in a user's guide, which shall be made available to the public. The zoning coordinator may amend and update the user's guide from time to time.

Section 27-1602.- ~~Reserved.~~ Summary of specific application steps.

~~Table 27-1600.1 summarizes the application procedures in this zoning code and identifies whether pre-application and neighborhood meetings are required. Exceptions to these general rules apply and may be specified in the regulations for the individual procedure.~~

~~Table 27-1600.1. Summary of Application Steps.~~

	Section	Application Process							Review and Determination			
		Pre-Application Meeting	Neighborhood Meeting	Application Submission Meeting	Referral Review	Staff Review	Public Notice Required	Public Hearing Required	Staff	Zoning Commission	City Council	District Court (DC) or Board of Appeals
		Key: O Optional, R Required, — Not Applicable							Key: R Review, RR Review and Recommend, D Decision, A Appeal, — Not Applicable			
Project Application Type												
Administrative Relief	27-1614	—	—	R	—	R	—	—	D	—	—	BOA
Class. Newly Annexed Area	27-1615	O	O	R	R	R	R	R	R	RR	D	DC
Planned Development (PD)	27-700	R	R	R	R	R	R	R	R	RR	D	DC
Planned Neighborhood Development (PND)	27-800	R	R	R	R	R	R	R	R	RR	D	DC
Special Review	27-1623	O	R	R	R	R	R	R	R	RR	D	DC
Variance	27-1627	O	O	R	R	R	R	R	R	—	BOA	DC
Zone Change	27-1628	O	R	R	R	R	R	R	R	RR	D	DC
Permits												
Fence	27-1620	O	—	R	—	R	—	—	D	—	—	BOA
Landscape Plan	27-1618	O	—	R	—	R	—	—	D	—	—	BOA

Master Site Plan	27-1619	Q	—	R	R	R	—	—	D	—	—	BOA
Proportionate Compliance	27-1620	Q	—	R	—	R	—	—	D	—	—	BOA
Short-Term Rental	27-1621	Q	—	R	—	R	—	—	D	—	—	BOA
Sign/Temporary Sign	27-1622	Q	—	R	—	R	—	—	D	—	—	BOA
Temporary Use	27-1624	Q	—	R	R	R	—	—	D	—	—	BOA
Wind and Solar Facilities	27-1625	Q	—	R	—	R	—	—	D	—	—	BOA
Wireless Communication	27-1626	Q	—	R	—	R	—	—	D	—	—	BOA
Code Administration												
Appeal of Admin. Decision	27-1616	—	—	R	—	R	R	R	R	—	BOA	DG
Code Interpretation	27-1617	—	—	R	—	R	—	—	D	—	—	BOA
Zoning Text Amendment	27-1628	—	—	—	R	R	R	R	R	RR	D	DG

Section 27-1603. Pre-application meeting.

A. Purpose.

1. The purpose of the pre-application meeting is to provide an opportunity for the applicant and the city to discuss the development concept prior to the application submission for a project or permit in order to:
 - (a) Determine the required application(s) and, if necessary, the timing of multiple application submittals (i.e., whether they may be processed concurrently or must be processed sequentially);
 - (b) Provide the applicant with application materials and inform the applicant of submittal requirements;
 - (c) Provide the applicant with an estimated time frame for the review process;

- (d) Discuss generally compliance with the code's zoning, use, density, development, and design standards, and attempt to identify potentially significant issues regarding compliance;
 - (e) ~~Discuss the need for any neighborhood meetings and public notice requirements; and Discuss general compliance with the City's adopted Land Use Plan, Montana Code Annotated Title 76, Chapter 25, Part 2.~~
 - (f) Engage the applicant in conversation with other departments or agencies to discuss potential significant issues prior to application submittal.
2. Pre-application meetings are informational for the applicant and are not open to the public.
- B. *Applicability.*
- 1. *Pre-application meeting recommended.* Any applicant may request a pre-application meeting prior to submitting most development applications. The pre-application meeting is designed to help the applicant understand the development review and approval process.
 - 2. *Pre-application meeting required.* Pre-application meetings are required for some application types, as noted in the specific application section.
- C. *Record and effect.*
- 1. The city is not responsible for making or keeping a summary of the general topics discussed at the pre-application conference.
 - 2. A pre-application meeting is advisory only and does not constitute or effect approval of any aspect or item of an application.

Section 27-1604. Reserved. Neighborhood meeting.

~~A.—Purposes. The purposes of a neighborhood meeting are to: inform neighboring property owners of the details of a proposed development, identify how the developer intends to meet the standards contained in this zoning code, and to allow the applicant to receive preliminary public comment on the proposal.~~

~~B.—Applicability.~~

- ~~1.—When a neighborhood meeting is required by this zoning code, the applicant or applicant's agent shall conduct a pre-application neighborhood meeting to explain the proposed development and receive comment from the surrounding property owners.~~
- ~~2.—An applicant may voluntarily conduct a neighborhood meeting prior to submission of any application.~~

~~C.—Notice.~~

- ~~1.—The applicant shall provide written notice of the date, time, and location of the pre-application neighborhood meeting to:~~

- ~~(a) Persons on the surrounding property owner list provided by the city;~~
- ~~(b) Additional persons, businesses, or property owners as identified by the city; and~~
- ~~(c) The planning and community services department.~~
- ~~2. The written notification shall be mailed at least seven (7) calendar days prior to the scheduled meeting. The written notification shall include the information required for public notice as listed in subsections 27-1608.B.1, B.2, and B.3.~~
- ~~3. Courtesy electronic notice of the neighborhood meeting shall also be provided to any affected neighborhood organizations that request notification from the planning and community services department. Planning staff is not responsible for verifying or correcting email addresses provided by a neighborhood organization and failure of a neighborhood organization or individual member to receive notice does not affect the validity of the neighborhood meeting.~~

~~D. Meeting.~~

- ~~1. The pre-application neighborhood meeting shall be conducted at a location that is within two (2) radius miles of the subject parcel. The meeting may be scheduled after 5:00 p.m. on a weekday or on a weekend day between 8:00 a.m. and 7:00 p.m.~~
- ~~2. The pre-application neighborhood meeting shall be conducted at least seven (7) calendar days but no more than sixty (60) calendar days prior to the submittal of the proposed development application to the planning and community services department.~~
- ~~3. The applicant shall obtain a roster of the names of the persons who attend the pre-application neighborhood meeting and make a record of the minutes of the meeting.~~

~~E. Written summary and effect.~~

- ~~1. The applicant shall provide the zoning coordinator with a written summary or minutes of the neighborhood meeting with the completed application.~~
- ~~2. The written summary or notes shall include a list of those in attendance, a summary of the issues discussed, comments by those in attendance and the applicant's response, and any other comments the applicant deems appropriate.~~

Section 27-1605. Application submission.

A. Authority to file.

- 1. *Property owner application.* Unless otherwise specified in this zoning code, the person having legal authority to take action according to the approval sought shall file an application for a project review or approval under this zoning code. The person is presumed to be one of the following: (1) the record owner, (2) purchaser under a sale or option to purchase, or (3) the duly authorized agent of the record owner. Agents may only submit applications where the owner

indicates consent in writing on the application or other legal documentation (such as a sale contract).

2. *City application.* A request for action pursuant to the zoning code that is submitted on behalf of the city shall be initiated by the appropriate managing agency (e.g., engineering or parks department). Requests made by elected or appointed bodies with the authority to request a change or other action pursuant to this zoning code shall be initiated by a vote of that body and then processed by the zoning coordinator.
- B. *Application submission requirements.* All applications for all permits and approvals, or modifications of permits or approvals, pursuant to this section ~~and article 27-1600~~ shall be submitted in accordance with the application submittal schedule, required forms, and required numbers of copies of each document (if any), established and revised from time to time by the zoning coordinator.
- C. *Concurrent applications.*
1. Where an applicant seeks approval of two (2) different requests for the same parcel simultaneously, the applicant shall submit all necessary documents, plans, maps, and other required information in accordance with the provisions relating to both of the submitted applications and pay all appropriate fees for both applications.
 2. Whenever two (2) or more different application types are being processed simultaneously and this zoning code provides different time frames for review or decision-making, all related applications and approvals shall be completed within the longest time frame applicable to any of the relevant procedures.
- D. *Fees.*
1. *Generally.* Application fees for each type of application shall be established by resolution from time to time by the city council to defray estimated staff costs and expenses of processing applications pursuant to this zoning code.
 2. *Initial application.* The required application fee shall be paid by the applicant at the same time any application is filed. Application fees are generally non-refundable unless otherwise specified on the application form.
 3. *Changes to complete applications.* In addition to fees set forth in the city fee schedule, the following fees shall apply to actions taken on a complete application:
 - (a) *Withdrawn application.* All fees are forfeited in the event the city has incurred any expense related to the application. If the application is refiled within one hundred eighty (180) calendar days a resubmittal fee must be paid. The submission fee shall be paid again in full if the application is resubmitted after six (6) months.
 - (b) *Continuance of application.* Payment of fees may be required to cover the cost of additional notice.

- (c) *Reapplication.* Payment of fees shall be required for a reapplication where a previous application has been denied.
- (d) *Modification or revision of approved site plan.*
 - (1) *Minor modifications.* An application for administrative relief and payment of the associated fee is required.
 - (2) *Major modifications.* Any requested modifications that do not qualify for administrative relief shall be considered major modifications. A new application is required along with the associated application fee.

E. *Submittal waivers.*

- 1. At or following an application submission meeting, the zoning coordinator may agree to waive specific project submittal requirements, in order to reduce the burden on the applicant and tailor the requirements to the information required to review a specific application.
- 2. The zoning coordinator may waive such requirements where the applicant has made an itemized, written request identifying the specific submission items to be waived and why, and the zoning coordinator finds the following:
 - (a) The applicant shows good cause for the requested waiver;
 - (b) The project size, complexity, anticipated impacts, or other factors support a waiver;
 - (c) The waiver does not compromise a proper and complete review; and
 - (d) The information is not material to describing the proposal or demonstrating compliance with approval criteria.

F. *Determination of completeness.*

- 1. *Complete application required.* All applications must be complete prior to any processing by the city. A complete application includes all of the submittal information identified on the application form and any items or exhibits requested by the zoning coordinator that are consistent with the standards and requirements of this zoning code. A complete application is also accompanied by the applicable fee.
- 2. *Application submission meeting.* ~~Planning staff~~Zoning Coordinator shall ~~meet~~ confer with applicants to review all applications and permit requests to determine if the application includes all material required by the applicable application submittal schedule (including required supporting material) in sufficient detail to evaluate the application and determine whether it complies with the requirements of this zoning code. A completeness determination will be made during the application submittal meeting.

~~G. *Submission timing for public hearing schedule.* All applications to be considered in a public hearing in a specific month must be received on or before the first Monday of the previous month. For example, an applicant desiring public hearings in June would have to submit a complete application by the first Monday of May.~~

Section 27-1606. Procedures for complete applications with changed status.

A. *Inactive application.*

1. An inactive application is any application for which the city has requested additional information or revisions, and the applicant has not fully provided this information within sixty (60) calendar days.
2. Inactive applications shall not receive further review and shall be considered withdrawn by the applicant and shall be terminated by the city without further notice. Time of delay shall commence on the date on which the city requests additional information.

B. *Withdrawn application.*

1. ~~Prior to public notice~~, An applicant may withdraw an application by providing written notice to the zoning coordinator of the applicant's intent to withdraw the application. After such withdrawal, no further city action on the application shall take place.
 - ~~2.(b)~~ A zone change, special review or variance application may be withdrawn at any time prior to ~~the publication of the legal advertisement for the public hearing before the city zoning commission or city board of adjustment~~administrative review. ~~A withdrawn zone change application may be refiled after a 120-day waiting period.~~ There is no mandatory waiting period for a withdrawn ~~special review or variance~~application.
 - ~~3.(c)~~ To re-initiate review, the applicant shall re-submit the application with a new application fee payment, and the application shall in all respects be treated as a new application for purposes of review and scheduling.
- ~~2.—Following public notice.~~
- ~~(a) No application may be amended or modified after the legal advertising has been published.~~
 - ~~(b) After legal notice for the city zoning commission or board of adjustment has been published, the request for withdrawal shall be submitted in writing to the planning and community services department office at least twenty-four (24) hours prior to the first or only public hearing.~~
 - ~~(c) The city zoning commission or board of adjustment may allow withdrawal of an application, after advertisement of the public hearing has been published, by a majority vote of the members present. After the city zoning commission hearing, a request for withdrawal shall be submitted to the city clerk and shall be submitted by the property owner or authorized agent, as listed on the application. The city council shall have exclusive authority to act on any request for withdrawal after notice of the zoning commission recommendation has been published.~~
- ~~C.—Postponement.~~ The applicant may request an application be postponed to a future scheduled public hearing date.

- ~~1. Request submitted prior to public notice. The request must be in writing, either by mail or email, and the request must be received by the zoning coordinator prior to date of publication of the notice of public hearing.~~
- ~~2. Request submitted following public notice. If the request is received by the zoning coordinator on or after the date of publication of the notice of public hearing, the applicant must attend the public hearing to request the application be postponed to a future scheduled public hearing date.~~
- ~~D. Application termination. 1. If the zoning coordinator determines the applicant is not taking affirmative steps to advance a postponed application for a final determination or the applicant requests that an application be postponed for a second time, the zoning coordinator may declare the application terminated.~~
- ~~2. No further processing of such application shall occur and the application fees shall be forfeited.~~
- ~~3. Any re-submittal of the application shall be treated as a new application for purposes of review, scheduling, and payment of application fees.~~

Section 27-1607. Staff review, ~~referral, and recommendation~~ determination, and authority.

A. Staff review.

1. Upon submission of an application, the zoning coordinator shall review the application and accompanying documentation to determine whether the information included in the application is sufficient for the review and decision-maker(s) to evaluate the application against the approval criteria of the procedure or permit requested.
2. The zoning coordinator, upon receiving a complete application, shall also do the following:
 - (a) Consult with other departments of the city and relevant external agencies to fully evaluate the impact of the proposal upon public facilities and services including but not limited to schools, drainage, traffic and related facilities;
 - (b) Study each application with reference to its appropriateness and effect on existing and proposed land use, and references to the adopted growth policy-land use plan and future land use map as outlined in MCA 76-25-305.~~(c) In the case of a protest petition filed in the matter of any application for zone change, determine the validity of such petition; an~~
 - ~~(dc)~~ Prepare written findings and conclusions for submission to the city zoning commission the determination for in support of the approval or denial, which report shall be a matter of public record.

B. Staff report.

1. Staff shall make reasonable efforts to reconcile and consolidate all referral comments, including those obtained through neighborhood outreach, and shall incorporate the evaluation against applicable review criteria, as well as consistency with the adopted land use plan and future land use map.

~~Staff shall use best efforts to reconcile and compile all referral comments, including comments collected from any neighborhood outreach, into a single written report.~~

2. The preliminary report shall incorporate the responses and comments from reviewing agencies, shall report whether the development application complies with all applicable standards, and shall specify any areas of possible noncompliance.
3. Where the application includes technical information that requires expert analysis outside of that provided by staff, the city may contract with a technical expert to review the application and charge the consultant's fees to the applicant. The city shall notify the applicant if expert analysis will be necessary and will discuss the estimated fee with the applicant prior to engaging the expert. Technical information subject to outside expert analysis shall be limited to those issues outside of the scope of typical planning and community services department review. Outside technical experts will not be hired for routine site, structural, use, or transportation issues.
4. The preliminary report shall also identify any need for any required plan modifications, additional information, or technical reports to supplement the mandatory submittal requirements.
5. Staff may ~~recommend~~require conditions for approvals for applicable application types (e.g., special reviews and variances) to mitigate any adverse impacts from the development proposal or any changes necessary to bring the application into compliance with the provisions of this zoning code. Zone change applications may not be conditioned.

C. Zoning coordinator.

1. The zoning coordinator has the authority to administer the provisions of this chapter for the City of Billings and all responsibilities as assigned or delegated by the planning and community services director. The zoning coordinator may delegate this work to other personnel in the planning and community services department.
2. The zoning coordinator shall supervise and effectuate the processing of applications for amendments to the official zoning map, special review applications, requests for variances, and other applications under the terms of this chapter.

D. Zoning enforcement officer. It shall be the duty of the zoning coordinator to be the enforcement officer for the zoning regulations. The zoning coordinator is hereby given the authority to enforce the provisions of this chapter for the City of Billings. The zoning coordinator may delegate this work to other personnel in the planning and community services department.

Section 27-1608. Public notice requirements.

A. General applicability.

1. The provisions in this Section 27-1608 shall expire July 1, 2027.
2. Applications for development approval shall comply with the Montana Code Annotated and the provisions of this section with regard to public notification. The required notice for each application type is identified in Table 27-1600.12. Application-specific notification instructions are located in the section for the specific application types.

Table 27-1600.12: Required Public Notice

	Section	Mailed	Published	Posted	Electronic via email	Agenda/ Website
		Key: O Optional, R Required, — Not Applicable				
Project Application Type						
Administrative Relief	27-1614	—	—	—	—	—
Classification of Newly Annexed Area	27-1615	R	R	R	R	R
Planned Development (PD)	27-700	R	R	R	R	R
Planned Neighborhood Development (PND)	27-800	R	R	R	R	R
Special Review	27-1623	R	R	R	R	R
Variance	27-1627	R	R	R	R	R
Zone Change	27-1628	R	R	R	R	R
Permits						
Fence	Public notice is not required for permit review.					
Landscape Plan						
Master Site Plan						
Proportionate Compliance						
Short-Term Rental						
Sign/Temporary Sign						
Temporary Use						
Wind and Solar						
Wireless Communication						
Zoning Compliance Permit						
Code Administration						
Appeal of Administrative Action	27-1616	R	R	R	R	R
Code Interpretation	27-1617	—	—	—	—	—
Zoning Text Amendment	27-1628	—	R	—	R	R

- ~~2. No public notice under this section shall be made for incomplete applications per subsection 27-1605.F, or for applications requiring additional revisions and review per subsection 27-1607.A. Applications that remain incomplete or~~

~~requiring revision after the posting deadline in the sections identified in Table 27-1600.2 shall be removed from the applicable meeting agenda and placed on the next available meeting agenda.~~

- B. *Content.* Notices, when required by this section or a specific application type, shall, ~~whether by publication or written,~~ meet the general requirements of notice provided by the city and provide the following information:

1. Address or location of the property subject to the application and the name, address, email, and telephone number of the applicant or the applicant's agent;

~~2. Date, time, and place of the public hearing;~~

~~3.2.~~ Description of the nature, scope, and purpose of the application or proposal including a description of the development plan and, where appropriate, the classification or change sought;

~~4.3.~~ Notification about where the public may view the application.

~~4. Deadline for review of the application and submittal of public comments.;~~

~~5. State that the public may appear at the public hearing;~~

~~6. All meetings are held in buildings and locations that comply with accessibility standards according to the Americans with Disabilities Act (ADA). A TTY number for the hearing impaired, 406-657-3079, is available upon request;~~

~~7. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three (3) calendar days prior to the hearing. Please notify the planning clerk at 406-247-8610.~~

- C. *Types of notice.*

~~1. Agenda notice. Agenda notice shall be posted and published on the city's website a minimum of forty-eight (48) hours prior to a meeting.~~

~~2.1. Published notice.~~ Where Table 27-1600.2~~1~~ requires published notice, the notice containing the content listed in subsection 27-1608.B above shall be provided in a newspaper of general circulation twice as provided in MCA 7-1-4127(7)(a). ~~at least fifteen (15) calendar days in advance of the date of the city zoning commission, board of adjustment, or city council public hearingtwice.~~

~~12.3.~~ *Mailed notice.*

- (a) Where ~~Table 27-1600.2~~ a project application type requires mailed notice, the city shall:

~~(1) Notify the applicant and/or the applicant's agent of the city zoning commission public hearing of the date, time, and place of such hearing at least five (5) calendar days prior to the date.~~

~~(2)~~(1) Notify adjacent property owners and other interested parties as provided in the specific application type. Mailed notice shall be

provided to the property owner whose name appears on the last tax record of the property subject to notice. Unless otherwise specified, mailed notice shall be ~~provided~~ not less than fifteen (15) ~~calendar business~~ days ~~in advance of the date of the hearing~~.

- (b) Failure of any individual addressee of such letter of notification to receive the same shall not in any way invalidate or affect subsequent action on the application and such requirement shall not be construed as a legal precedent to the official approval.
- ~~(c) Written notice to property owners shall be required only for the initial presentation of the proposed development at a public hearing. Additional mailed notice shall not be required where the application is not decided at the initial public hearing.~~
- ~~(d) If the hearing is deferred or continued at the applicant's request, the applicant shall be responsible for paying any additional fees for the purposes of re-notifying adjacent property owners.~~

34. Posted notice.

- (a) Where posted notice is required, ~~the applicant~~ planning staff shall place notice of the ~~public hearing~~application on the ~~property subject~~subject property to the application ~~at least fifteen (15) calendar days in advance of the date of public hearing~~ fifteen (15) business days prior to final determination of an application.
- (b) Notice signs shall be clearly visible from the public right-of-way. On large parcels, interior parcels, or parcels that are difficult to see from the exterior boundary lines, additional posted signs, as may be necessary to reasonably ensure that notice is provided around the property, may be required by the zoning coordinator.
- (c) At least one sign must be placed on the property's frontage so that it may be seen from the abutting street. If the property has two (2) streets frontages and both frontages are more than three hundred (300) feet long, a sign shall be posted on both frontages.
- ~~(d) Reposting. If the decision-making body continues the meeting or public hearing at which the application is being considered to a later date, or if the decision-making body decides to consider the application at any time other than that specified on the notification signs, the zoning coordinator shall update the existing signs with the new date.~~
- ~~(ed)~~ Sign removal.
 - ~~(1) The city shall remove signs after fifteen (15) business days have been completed. Notice signs shall be removed by the applicant within five (5) calendar days after the meeting or public hearing for which they were required.~~
 - ~~(2) No person other than the applicant, applicant's agent, or city staff shall erect, remove, or alter such signs.~~

~~45.~~ *Courtesy notice.*

- (a) The city may, as a courtesy, provide notice to any persons or organization in the city or Yellowstone County, or to any governmental, public, or quasi-public organization regarding any matter related to this zoning code that may be of interest to ~~of~~ that person or organization, or on any matter on which any such person or organization has requested notice.
- (b) Courtesy notice may be provided in any appropriate manner, including electronically, and may be directed to an organization through its leadership for distribution rather than to the entire membership.
- (c) The failure of the city to send courtesy notice or the failure of any resident or property owner to receive such notice shall not affect the validity of any city action with respect to an application.

~~6-5.~~ *Constructive notice.*

- (a) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice may include, but are not limited to errors in legal descriptions, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to the affected parties.
- (b) Failure of one or more individual parties to receive written notice shall not invalidate subsequent action.
- ~~(c) If questions arise at a review hearing regarding the adequacy of notice, the decision-making authority shall direct the zoning coordinator to make a formal finding as to whether there was substantial compliance with the notice requirements of this zoning code, and such finding shall be made available to the decision-making authority prior to final action on the request.~~
- ~~(d)~~(c) When city records document the publication, mailing, or posting of notices as required by this section, it shall be presumed that notice of ~~a public hearing was an~~ an application submittal was given as required by this section.

Section 27-1609. – ~~Reserved~~Review and decision-making bodies.

~~A.~~ City council.

- ~~1. Powers and duties. The city council shall have the following powers and duties:~~
 - ~~(a) To review and decide on amendments to this zoning code or the future land use map, including any related PND plan.~~
 - ~~(b) To review and decide on major amendments to approved PND preliminary plans.~~
 - ~~(c) To review and decide on special review applications.~~

- ~~2.—Membership and procedures. The membership and procedures for the city council are established in Chapter 2 of the Billings Montana City Code.~~

~~B.—City zoning commission.~~

- ~~1.—Created. There is hereby created a City of Billings Zoning Commission to consist of five (5) members residing on property, any part of which lies within the limits of the City of Billings. The members are to be appointed by the mayor, subject to confirmation by the city council, for a term of three (3) or four (4) years and the terms of the members shall be staggered, as determined in the discretion of the mayor, to coincide with the election cycle of city council wards so that a minimum number of terms shall expire in any one year.~~
- ~~2.—Attendance. The members of the city zoning commission are required to attend all publicly advertised city zoning commission meetings. Members shall notify the zoning commission chairperson and zoning coordinator of any absence in advance of the meeting that will be missed. The presence of three (3) members shall constitute a quorum.~~
- ~~3.—Duties.~~
 - ~~(a) The city zoning commission shall have the authority to exercise all powers granted to the commission by MCA 76-2-307 and as amended from time to time.~~
 - ~~(b) In particular, the city zoning commission shall recommend the boundaries of the various zone districts and appropriate regulations to be enforced therein, and to hold public meetings and make recommendations to the city council on all requests to amend, supplement, change, modify or repeal the regulations, restrictions and boundaries in the zoning districts.~~
 - ~~(c) The city council shall not hold its public hearing or take any action until it has received a final report from the zoning commission.~~

~~C.—City board of adjustment.~~

- ~~1.—Created. There is hereby created for the City of Billings, a board of adjustment as provided by statute, consisting of seven (7) members appointed by the mayor, with the consent of the city council. The terms of each member shall run concurrent to that of the mayor's term. Vacancies shall be filled for the unexpired terms of any members whose terms are interrupted for any reason.~~
- ~~2.—Proceedings.~~
 - ~~(a) The board of adjustment shall schedule regular meetings, along with special meetings which may also be called by the chairperson. The chairperson may cancel the regularly scheduled meeting if no matters are pending for the board's consideration. The chairperson, or in his/her absence, the acting chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.~~
 - ~~(b) The board of adjustment shall keep minutes of its proceedings, showing the vote of each member, or if absent or failure to vote, indicating such~~

~~fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and shall be filed in the office of the Billings planning and community services department.~~

~~(1) The official minutes of the board's proceedings shall be signed by the chairperson or acting chairperson.~~

~~(2) The decision of the board shall become effective immediately, unless otherwise directed by the board.~~

~~3. Powers and duties. The board of adjustment shall have the following powers:~~

~~(a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or interpretation of this chapter or of any ordinance adopted pursuant thereto; and~~

~~(b) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.~~

~~(c) The Billings board of adjustment does not have the authority to hear or decide on special review requests to this zoning code.~~

~~(d) If the board of adjustment fails to act on a matter that is before it or scheduled to be before it for any reason other than on motion duly continuing the matter, the applicant may deem the matter be denied and may immediately proceed by appeal.~~

~~D. Zoning coordinator.~~

~~1. The zoning coordinator has the authority to administer the provisions of this chapter for the City of Billings and all responsibilities as assigned or delegated by the planning and community services director. The zoning coordinator may delegate this work to other personnel in the planning and community services department.~~

~~2. The zoning coordinator shall supervise and effectuate the processing of applications for amendments to the official zoning map, special review applications, requests for variances, and other applications under the terms of this chapter. Further it shall be the zoning coordinator's responsibility to present any applications or requests to the appropriate board or commission.~~

~~3. The zoning coordinator shall also aid the various boards, commissions, and departments in transmitting recommendations to the city council and to otherwise promote procedural regularity in the administration of this chapter.~~

~~E. Zoning enforcement officer. It shall be the duty of the zoning coordinator to be the enforcement officer for the zoning regulations. The zoning coordinator is hereby given the authority to enforce the provisions of this chapter for the City of Billings. The zoning coordinator may delegate this work to other personnel in the planning and community services department.~~

Section 27-1610. Action by review and decision-making bodies.

- A. ~~Administrative Ministerial~~ decisions. For procedures where the zoning coordinator serves as the decision-making authority, the zoning coordinator shall make a decision according to the following steps:
1. *Review.*
 - (a) The zoning coordinator shall review the application for conformance with all applicable provisions of this zoning code and adopted land use plan and future land use map.
 - (b) Within the timeframe specified by the application type, or fifteen (15) calendar days of the filing date if no timeframe is specified, the zoning coordinator shall approve or deny the application and provide written notification of the decision to the applicant. If an application is denied, the written notification shall include the reasons for denial.
 2. *Review criteria.* ~~When the zoning coordinator has the authority to decide an application, except in the case of an interpretation, the application shall be reviewed against the applicable provisions of this zoning code. To be approved, a~~An application shall be fully consistent with the standards of this zoning code unless administrative relief is concurrently approved to allow specified deviation from applicable standards. ~~An administrative ministerial~~ approval may include instructions and clarifications regarding compliance with this zoning code, but shall not be approved with conditions that require action beyond the specific requirements of this zoning code.
- ~~B. City zoning commission. The zoning commission shall review and take action upon each application in accordance with the provisions of this article and after a public hearing at which the application has been legally advertised.~~
- ~~1. The zoning coordinator shall present each application, together with the staff report, to the zoning commission.~~
 - ~~2. The zoning commission may, by a majority vote of the members present, delay action to the next available public meeting of the commission, and such delay shall be deemed to be without prejudice to the applicant.~~
 - ~~3. A report of the commission's recommendation and the zoning coordinator's findings and conclusions shall be submitted to the city council.~~
 - ~~4. The zoning commission shall make a written recommendation to the city council to:~~
 - ~~(a) Zone changes: Grant or deny the application;~~
 - ~~(b) Special review applications: Grant, condition, or deny the application;~~
 - ~~(c) Request to withdraw an application after the zoning commission's hearing: allow or refuse withdrawal.~~
 - ~~5. The zoning commission shall submit its recommendations and, where appropriate, conditions in writing along with a statement indicating its reasons~~

~~for the recommendation to grant, condition, deny, or allow withdrawal of the amendment within fifteen (15) calendar days following the public hearing.~~

~~C. *City council action.* Before taking any action on an application, the city council shall first consider the written findings and recommendations of the zoning commission. The city council shall:~~

- ~~1. Approve the application, either as submitted for zone change applications, or with conditions for special review applications;~~
- ~~2. Deny the application;~~
- ~~3. Allow withdrawal of the application; or~~
- ~~4. Delay the application to a future council meeting date certain.~~

Section 27-1611. Post-review actions.

A. *Successive applications.* No application for zone change, special review, or variance on the same request nor one involving the same tract shall be permitted within one year of an application denial.

B. *Amendments.*

1. All substantial changes, modifications, removal, or release of the provisions of an approved application that do not qualify for administrative relief under subsection 27-1614.C.2 shall be considered amendments of the application. Amendments shall include, but are not ~~be~~ limited to, changes in use, access, layout, any condition of approval, any change resulting in significant increased off-site impacts, and similar changes as determined by the zoning coordinator.
2. For purposes of review and scheduling, proposed amendments are treated as new applications subject to the applicable procedures and review criteria set forth in this article unless otherwise noted in the specific review procedures.

C. *Modification of approvals.*

1. *Application.* If, at any time, the owner of land with an existing development approval desires to modify the terms of that approval or the conditions attached to that approval, the owner shall submit a written application requesting such revision.
2. *Review and determination of major/minor modification status.* Applications for modification shall be reviewed by the zoning coordinator to determine whether the proposed modifications constitute a major or minor revision to the existing approval.
 - (a) Minor modifications are those that qualify for administrative relief pursuant to section 27-1614 or modification to an application that was approved administratively.
 - (b) Major modifications are those that do not qualify for administrative relief pursuant to section 27-1614, request for modification to a special review approval, or request for modification to a condition established by the city council.

3. ~~Action by decision-making body.~~

~~(a) Applications for minor modifications shall be treated as applications for administrative relief.~~

~~(b) The zoning coordinator may require that an application for administrative relief be treated as an application for a major modification if the zoning coordinator determines that the application raises a significant public controversy in which numerous parties other than the owner of the property may want to offer testimony. Applications for major modifications shall be treated as new applications for an approval of the same type being modified, unless the zoning coordinator determines that an application for modification is an issue of public policy or is not consistent with an approved preliminary plan or plat for the property, as applicable. If so, the zoning coordinator shall inform the applicant that a new application will need to be submitted.~~

4. ~~Effect of modification.~~ If approved, the modification shall then supersede the previous approval, and subsequent development on the property shall be in accord with the amended approval.

Section 27-1612. Lapsing and extension of approvals.

Approvals granted under this zoning code terminate if unused by the applicant after a reasonable period of time.

A. Lapse.

~~1. Administrative approval and permits.~~

Except where a different timeframe is provided in a specific procedure or application approval, an ~~administrative~~ approval or permit granted under this zoning code shall lapse and shall become void one year following the date of final approval unless, prior to the expiration date, a building permit based upon such approval is issued and construction is commenced and pursued toward completion.

~~2. Approvals subject to public hearing.~~

~~(a) A zone change is not subject to lapsing.~~

~~(b) Any approval made through a public hearing process shall not lapse pursuant to this section unless the approval was not a zone change and the city council, or board of adjustment established a specific time limit for the approval.~~

B. Extension.

1. An approval that is subject to lapsing may be extended one time by the zoning coordinator for a period of time not to exceed six (6) months. Applicants who require a second extension shall make the second extension request of the body that issued the original approval, which may also be a second request to the zoning coordinator if the zoning

coordinator issued the original approval. The total time approved for extensions may not exceed one year.

2. All requests for extensions should be submitted to the zoning coordinator in writing at least thirty (30) calendar days prior to the expiration of approval.
 - (a) An extension request shall include payment of required fees and written description of the reasons for the applicant's inability to comply with the specified deadlines, listing any changes in the character of the neighborhood, any changes to the adopted land use plan, future land use map growth policy or this zoning code that have occurred since approval of the permit/plan as these changes affect the permit/plan, and the anticipated time schedule for completing the review project and/or the specific project.
 - (b) Additional review of the permit/plan may result in additional conditions.
3. If an approval lapses at the end of an extension period, the applicant may re-submit a new application, subject to the fees and regulations in effect at the time of re-submittal, for the same project.

Section 27-1613. Other permits and approvals still necessary.

- A. *City permits and approvals.* The approval of any application pursuant to this zoning code shall not relieve the applicant of the requirement to apply for and receive any other permits or approvals required from the city, prior to development (such as building permits, certificates of occupancy, subdivision approval, and any similar permits or approvals). Any such later permits and approvals shall be consistent with the terms and provisions of any approval granted pursuant to this zoning code.
- B. *Other permits and approvals.* The approval of any application pursuant to this zoning code shall not relieve the applicant of the requirement to apply for and receive any and all other permits or approvals from Yellowstone County, State of Montana, or federal government or from other local entities with jurisdiction over the property.

Section 27-1614. Administrative relief.

- A. *Applicability.*
 1. Administrative relief allows the modification of an existing numeric dimensional standard to accommodate site-specific or minor construction issues.
 2. Administrative relief is applicable to new development, redevelopment, and major façade changes.
 3. Administrative relief may be requested either as part of an original application or as a modification to an existing approval.
- B. *Authority.* Administrative relief may be requested by an applicant qualified to request a primary development approval or amendment.

C. *Procedures.*

1. *Common procedures.* Procedures for review and decision of an administrative relief application are established in sections 27-1602 through 27-1613. They are summarized here for applicant convenience.
2. *Specific procedures.* All applications for administrative relief shall identify the specific issue that the administrative relief is intended to address and how the administrative relief will resolve that issue:
 - (a) A request for administrative relief prior to construction shall be submitted with the project site plan application. Where the site plan is submitted in conjunction with a primary application, such as a special review request, that ~~request will be is decided by the city council, the request for administrative relief shall also be decided by that body. For example, if an administrative relief request is submitted with a rezoning application, the city council will also decide on the administrative relief in conjunction with to the application.~~
 - (b) A request for administrative relief to address a minor construction issue shall be submitted with the approved project site plan, a written description of the minor construction issue, and an amended drawing of that part of the site for which the administrative relief is requested.

D. *Permitted types of administrative relief.*

1. N1-3, NX1-3, RMH, NO, NMU, CMU1, CMU2, DX, and EBURD districts. An applicant may request the following adjustments through administrative relief:
 - (a) The location of the building may be adjusted within a five-foot area from any minimum yard requirement or build-to zone width/location, except a side or rear yard setback may only be reduced to three (3) feet from a five-foot minimum through administrative relief.
 - (b) EBURD: Up to ten (10) percent increase in total impervious coverage, not to exceed the total amount of permitted impervious plus semi-pervious coverage. Compliance with stormwater regulations is required.
 - (c) Up to ten (10) percent decrease in front lot line coverage.
 - (d) Additional height of any story up to two (2) feet, as long as the overall building height does not exceed the allowable height of all floors at their maximum permitted height, or provided, that the total modification shall not increase the applicable building or structure height by more than ten (10) percent of the otherwise maximum height in the zone, nor add another habitable story or mezzanine.
 - (e) Up to ten (10) percent decrease in front façade window and door coverage or a ten (10) percent increase in blank wall limitation for corner side facades. Up to twenty-five (25) percent of the front façade window and door required area (square feet) may apply to use alternative materials for windows or doors, including but not limited to spandrel glass, architectural glass block, faux door/window openings or similar installations. Any

approved administrative relief will not significantly reduce visibility into and out of the structure.

- (f) Lot coverage. In any zone, modifications of the lot coverage requirement; provided, that the total modification shall not increase the applicable coverage to more than ten (10) percent of the otherwise maximum lot coverage in the zone.
 - (g) Fence heights and materials. In any zone, modifications of the maximum fence height requirement; provided, that the total modification shall not increase the applicable fence height maximum in any yard by more than ten (10) percent. Fences greater than seven (7) feet in height will need a building permit. Fence materials not listed in subsection 27-1209.E may be requested through this process.
 - (h) Parking. In any zone, a decrease in the number of required off-street parking spaces of not more than fifty (50) percent when total required spaces are at least ten (10) spaces. In any zone, allow more than the maximum number off-street parking stalls as provided in subsection 27-1302.F.
 - (i) Location of accessory structure. In any zone, allow location of an accessory structure in a side yard.
 - (j) Reduction or variations in required landscaping as provided in subsection 27-1618.E.4.
2. CBD, CX, I1, I2, P1-3, PD districts. An applicant may request the following adjustments through administrative relief:
- (a) Setbacks. In any zone, modifications of the front, side, or rear yard setback requirement; provided that the total modification shall not reduce the applicable setback(s) by more than ten (10) percent of the zone district requirement or five (5) feet, whichever reduction is larger.
 - (b) Lot coverage. In any zone, modifications of the lot coverage requirement; provided, that the total modification shall not increase the applicable coverage to more than ten (10) percent of the otherwise maximum lot coverage in the zone.
 - (c) Structure heights. In any zone, modifications of the building or structure height requirement; provided, that the total modification shall not increase the applicable building or structure height by more than ten (10) percent of the otherwise maximum height in the zone, nor add another habitable story or mezzanine.
 - (d) Fence heights and materials. In any zone, modifications of the maximum fence height requirement; provided, that the total modification shall not increase the applicable fence height maximum in any yard by more than ten (10) percent. Fences greater than seven (7) feet in height will need a building permit. Fence materials not listed in subsection 27-1209.E may be requested through this process.

- (e) Parking. In any zone, a decrease in the number of required off-street parking spaces of not more than fifty (50) percent when total required spaces are at least ten (10) spaces. In any zone, allow more than the maximum number off-street parking stalls as provided in subsection 27-1302.F.
 - (f) Deviations from final planned development maps. In any planned development zone, deviations to planned development maps which are consistent with the requirements of the planned development approval, conditions of approval, or development standards of the underlying zoning district.
 - (g) Location of accessory structure. In any zone, allow location of an accessory structure in a side yard.
 - (h) Reduction or variations in required landscaping as provided in subsection 27-1618.E.4.
3. Administrative relief may not:
- (a) Create, intensify, or expand any nonconformity with maximum or minimum requirements of the zoning district;
 - (b) Permit uses other than those permitted in the zone district;
 - (c) Reduce the effectiveness of approved transitional screening, buffering, landscaping, and/or open space; or
 - (d) Expand the area or type of signage approved.
- E. *Decision criteria.* To approve a request for administrative relief, the zoning coordinator shall make and record findings that all of the following provisions are met:
- 1. The proposed use, structure, or activity is permitted in the underlying zone district;
 - 2. There are special circumstances existing on the property for which the application is made related to size, shape, area, topography, surrounding conditions, and location that do not apply generally to other property in the same area and zone district;
 - 3. The special circumstances have not been created by the applicant; and
 - 4. The impact of the administrative relief is internal to the subject property.
- F. *Review and decision-making.* Requests for administrative relief are processed as an administrative decision pursuant to subsection 27-1610.A.

Section 27-1615. Classification of newly annexed area.

~~A. All procedures except annexation by petition. Annexations of land into the City of Billings may be undertaken pursuant to several statutory procedures. When a parcel of land is annexed to the city under any procedure except annexation by~~

~~petition, the appropriate zone(s) may be determined by reference to Article 27-800, Planned Neighborhood Development or by using the following criteria:~~

- ~~1. The zoning coordinator will determine the most appropriate zone district. If the county zone district is an identical zone district in the city, the zone district shall remain the same upon annexation. If the county zone district has an analogous city zone district, the zoning coordinator will ensure the analogous city zone district has similar allowed uses, use standards, site and building standards. For property that has an established use that will continue or expand upon annexation, the zoning coordinator will ensure the zone district selected matches the existing and continued use. The landowner shall have adequate opportunity to provide input, but the final zone district classification shall be made by the zoning coordinator.~~
- ~~2. Upon determination of a substantially different zone district from the county zone district, the zoning coordinator shall follow the procedure in section 27-1628 - Zone change, staff review, referral, and recommendation, except that the report, findings and conclusions shall be submitted to the city council prior to or concurrently with the services report that is required by the annexation statutes.~~
- ~~3. A public hearing on the substantially different zone district shall be held concurrently with the public hearing on the annexation before the city council, provided that the hearing shall not be sooner than fifteen (15) calendar business days after notice of the proposed zone has been given.~~
- ~~4. If the substantially different zone district is not approved by the city council, the land shall not be annexed to the city.~~

~~B. *Annexation by petition.* When the proposed annexation is by petition pursuant to MCA Title 7, Chapter 2, Part 46 (Section 7-2-4601, et seq.), the zoning coordinator shall determine whether the section 27-800, Planned Neighborhood Development, process is applicable, in which case the petitioner shall also submit an application for PND approval. If not the zoning coordinator will use the criteria and process in subsection A.1 above to allow the petitioner to submit a zone change not using the PND process.~~

- ~~1. All fees shall be paid by petitioner upon filing the application for zoning.~~
- ~~2. Upon filing the application, the zoning coordinator shall follow the procedure set forth in subsection A.2 above.~~
- ~~3. If no application is filed or the application is denied, the land shall not be annexed to the city.~~

A. Annexations of land into the City of Billings may be undertaken pursuant to several statutory procedures provided in Title 7, Chapter 2, Parts 42 through 47, MCA. When a parcel of land is annexed to the city, the appropriate zone(s) may be determined by reference to the adopted land use plan and future land use map.

- B. As required by section 76-25-301(1)(c), MCA, City Council shall review and consider the proposed annexation in conjunction with the land use plan and future land use map.
- C. As required by section 76-25-301(1)(c), MCA, the planning administrator shall review and consider the zoning regulations for the property to be annexed pursuant the land use plan and future land use map when determining the appropriate zoning designation.
- D. The joint public process authorized in section 76-25-306, MCA, fulfills the notice and any public hearing requirements for a proposed annexation that may be required in Title 7, Chapter 2, Parts 42 through 47, MCA.
- E. All fees must be paid by the petitioner.
- F. If no application is filed or the application is denied, the land shall not be annexed into the city.

Sec. 27-1616. - Appeal of administrative decision.

- A. ~~*Applicability.* Any administrative decision made in the interpretation or application of this zoning code may be appealed to the board of adjustment~~
 - 1. For a challenge to the adoption of or amendment to a land use plan, zoning regulation, or zoning map, a petition setting forth the basis for the challenge must be presented to the district court within 30 days of the date of the resolution or ordinance adopted by the governing body.
 - 2. Any final administrative land use decision, including but not limited to approval or denial of a zoning permit, imposition of a condition on a zoning permit or plat, approval or denial of a variance from a zoning, or interpretation of land use regulations or map may be appealed by the applicant or any aggrieved person.
- B. *Authority.* Appeals may be to the BOA may be taken made by any person aggrieved ~~or by any officer, department, or board of the city affected by any decisions of the administrative office made under the terms of this zoning code.~~ party as outlined within Montana Code Annotated Title 76, Chapter 25, Part 5.
- C. ~~*Procedures.*~~
 - 1. ~~*Common procedures.* The procedures for appeal of an administrative decision are identified in Table 27-1600.1 and are summarized here for applicant convenience.~~
 - 2. ~~*Specific procedures.*~~
 - (a) ~~Such appeal shall be taken within sixty (60) calendar days of the issuance of a final administrative decision. An applicant who wishes to appeal a verbal administrative decision may request that the decision be provided to the applicant in writing and the appeal timeframe will start on the date after the written decision has been signed.~~

~~(b) — The staff member from whom the appeal is taken shall transmit the decision record to the BOA. The decision record shall include all of the information relied upon in making the decision.~~

~~(c) — The BOA shall:~~

~~(1) — Fix a reasonable time for the hearing of appeal, not to exceed sixty (60) calendar days; and~~

~~(2) — Give public notice of the hearing, as well as mailed notice to the parties in interest.~~

~~(d) — At the hearing, any party may appear in person or by agent or attorney.~~

~~D. — Stay of proceedings.~~

~~1. — An appeal stays all proceedings in furtherance of the action appealed from except as provided in section D.2. No further action will be taken by the planning division on the initial application or request while the administrative decision is being appealed.~~

~~2. — The city may decide not to stay activities related to the application while the administrative decision is being appealed where a stay would cause imminent peril to life or property, determined as follows:~~

~~(a) — The appeal is filed;~~

~~(b) — The staff member from whom the appeal is taken certifies to the BOA that by reason of facts stated in the appeal, a stay would, in that officer's opinion, cause imminent peril to life or property;~~

~~(c) — In such cases, proceedings shall not be stayed other than by a court of record upon application to same and notice to the officer from whom the appeal is taken and on due cause shown.~~

~~E. — Decision criteria. In reviewing an administrative decision, the BOA shall have all the powers of the office from whom the appeal is taken. An appeal may be sustained only if the BOA finds that the administrative decision was made in error.~~

~~F. — Review and decision making.~~

~~1. — The BOA may, in conformity with the provisions of this zoning code, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination as ought to be made.~~

~~2. — The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any appeal.~~

~~3. — The BOA shall render a decision within thirty five (35) calendar days of the completion of the hearing.~~

~~G. — Judicial appeal. Appeal of a BOA decision to a Montana court of record is governed by MCA 76-2-327.~~

~~1. The petition must set forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality.~~

~~2. The petition shall be presented to the court within thirty (30) calendar days after the filing of the decision of the BOA.~~

~~H. *Reapplication.* If an application for an administrative review is denied by the BOA and not approved for reconsideration, another application appealing the original administrative decision shall not be filed within a period one year from the date of denial.~~

Section 27-1617. Code interpretation.

A. *Applicability.*

1. The zoning coordinator is authorized to provide a written interpretation of the contents and requirements of this zoning code.
2. Interpretations may be requested for a provision of this zoning code subject to a proposed or current application, hearing, or appeal.

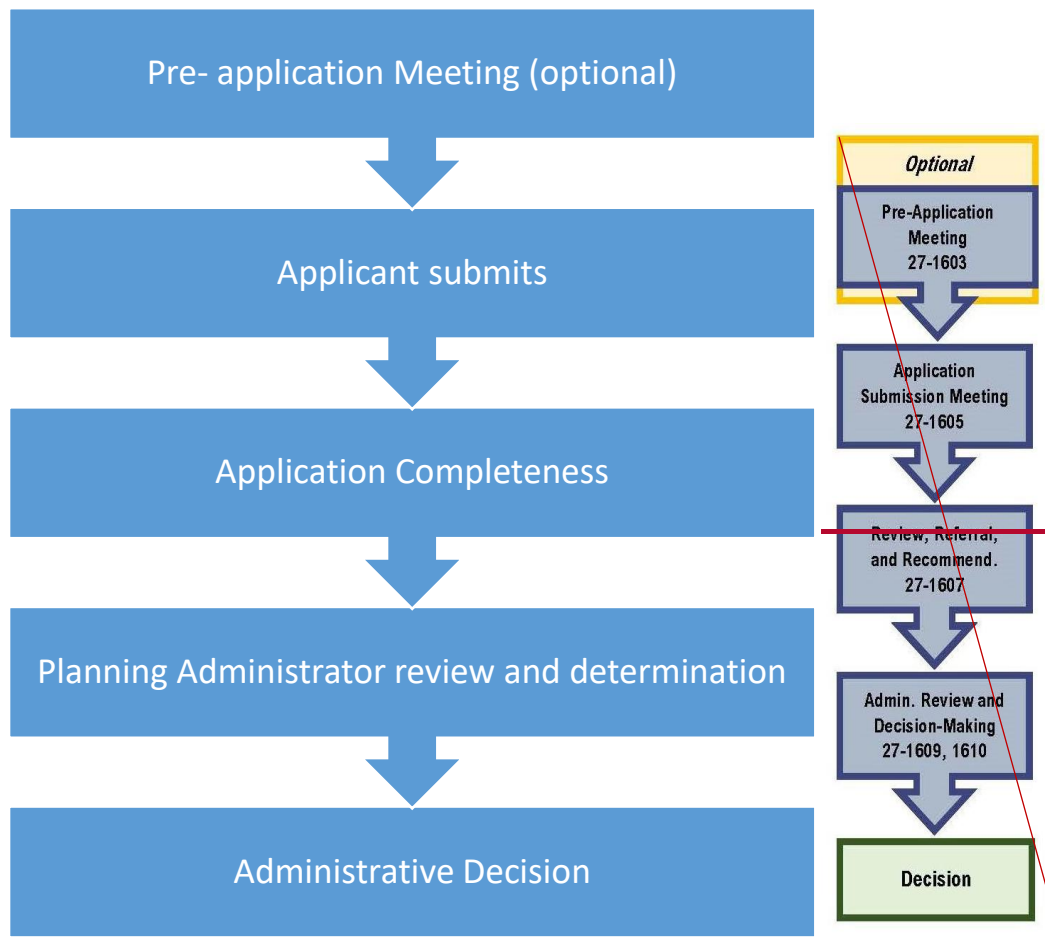


Figure. 27-1617.A. Code Interpretation

3. The zoning coordinator may also provide a property-specific code interpretation in the form of a zoning code clarification that identifies whether specific regulations in this zoning code are applicable to the subject property.
- B. *Authority.* An interpretation may be requested by any:
1. Applicant;
 2. Person affected by an action proposed pursuant to this zoning code; or
 3. Any city departments or other governmental agencies that may be subject to the provisions of this zoning code.
- C. *Procedures.* Common procedures for a code interpretation are identified in Figure 27-1617.A ~~Table 27-1600.1 and are~~ summarized here for applicant convenience.
- D. *Rendering of interpretation.* After the application for request for interpretation has been determined complete, the zoning coordinator shall render an interpretation pursuant to subsection 27-1610.A, Administrative determinations.
- E. *Official record.* The zoning coordinator shall maintain an official record of all interpretations, which shall be available for public inspection during normal business hours.

Section 27-1618. Landscape plan.

- A. *Applicability.* Landscaping in compliance with this zoning code shall be required for any new construction, and expansion of existing structures. All plans submitted in support of a building permit or zoning compliance permit shall include a landscape plan where required. No landscape plan submittal is required for any one- or two-family building permit applications except those located within a development covered by a master site plan approval (section 27-1619). Any building permit for a one- or two-family dwelling within a master site plan approved location shall indicate on the site plan the landscaping required by the approved master site plan.
- B. *Authority.* A landscape plan may be submitted for review by a property owner or the property owner's agent, including the landscape professionals described in subsection 27-1618.C.

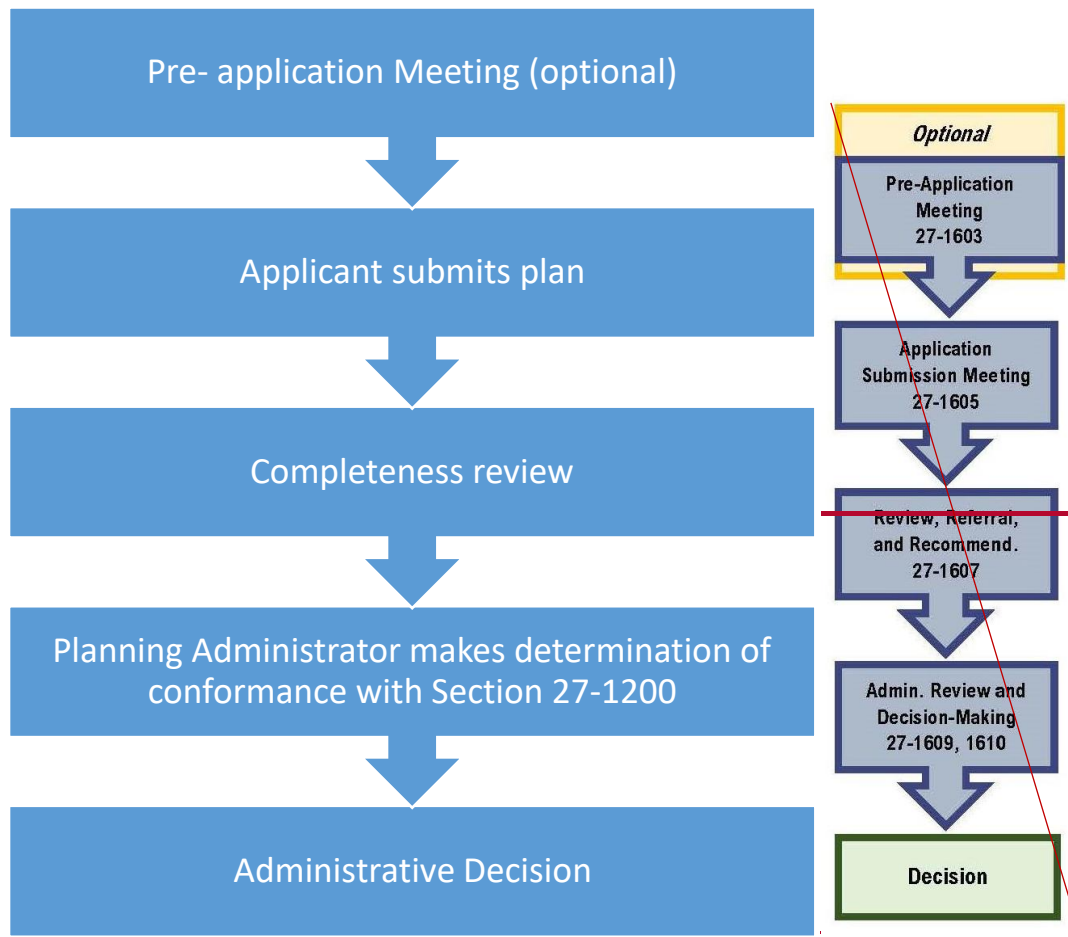


Figure 27-1618.A. Landscape Plan

C. Procedures.

1. *Common procedures.* Common procedures for landscape plan review are identified in Table 27-1600.1 and are summarized here for applicant convenience.
2. *Specific procedures.* Landscape plans shall be prepared as follows:
 - (a) Lots of one and one-half (1.5) acres or larger: The plan shall be prepared by a Montana licensed landscape architect.
 - (b) Lots smaller than one and one-half (1.5) acres: The applicant is encouraged to work with a nurseryman or landscape design professional to meet the requirements of this article.

D. Decision criteria. The zoning coordinator may approve a landscape plan upon a finding that the application meets all of the following criteria, as applicable:

1. The landscape plan conforms to all requirements of this article and is consistent with the currently adopted land use plan and future land use map growth policies and any other applicable plans.

2. The landscape design includes the installation of a diversity of species and sizes of vegetation with preference given to locally naturalized vegetation.
3. Preservation of existing, locally naturalized vegetation is incorporated into the landscape design.
4. No plant materials or landscape features are situated in such a manner so as to inhibit clear sight areas established in subsection 27-1802.H or otherwise create a traffic hazard.
5. The facilities for watering and drainage are adequate to ensure the landscape area is maintained and that no soil, bark, mulch, gravel, stone, or similar materials are allowed to wash off the landscape area into parking areas, driveways, public streets, sidewalks, gutters, or storm drainage facilities.

E. *Post approval.*

1. *Site specific and binding.* Approved landscape plans shall be binding upon the applicants and their successors, transferees, and assigns. No planning division approval of a certificate of occupancy shall be issued for any building or structure where landscaping has not been provided and continued in accordance with the required and approved landscape plan, or any approved modifications thereto, or the plan has not been guaranteed through a performance bond or approved security as provided below.
2. *Landscaping installed within one year of issuance of building permit.*
 - (a) All landscaping and screening material, organic and inorganic, shall meet the standards of section 27-1210 and be in place prior to the issuance of a certificate of occupancy. Irrigation systems shall be fully functional at the same time as the completion of the landscape planting. This requirement shall be verified by the submission of a final, as-installed landscaping plan by the party responsible for the creation of the landscape plan that is submitted with the certificate of occupancy application.
 - (b) If the timing of the project and seasonal limitations prevent planting prior to issuance of the certificate of occupancy, security as described in this section may be provided and the planting period may be extended accordingly.
3. *Security required.*
 - (a) When the timing of a project delays the installation of the landscaping, a performance bond or letter of credit in an amount of one hundred fifty (150) percent of the landscaping materials and labor costs that does not expire for at least one year from the date of issuance shall be posted with the planning and community services department to ensure the placement of the required landscaping.
 - (b) The property shall be inspected by the zoning coordinator to make sure that the required landscaping has been planted before release of the security bond or letter of credit.

4. *Administrative relief.* Administrative relief is provided to add flexibility in the application of a specific landscaping regulation when a standard is inapplicable or inappropriate to a specific use or design proposal. Administrative relief may be applied up to a total of ten (10) individual landscape standards for any site. The application shall follow the procedures in section 27-1614, Administrative relief.

(a) *Policies.*

- (1) The planning division recognizes that the specific landscape requirements in article 27-1200 cannot and do not anticipate all possible landscape situations. In addition, the planning division recognizes that there may be landscape proposals which conform to the purpose, intent and objectives of the landscape regulations, but were not anticipated in the specific regulations. Therefore, the planning division may grant administrative relief in the event of these situations and proposals.
- (2) The reasonable development of a site may require the granting of administrative relief to some of the requirements. Although all of the categories of landscape requirements are considered important, the planning division generally assigns the following priorities for compliance with the landscape requirements:
 - i. First, adjacent residential uses should be buffered;
 - ii. Second, an attractive appearance of the project should be provided along adjacent streets by landscaped setbacks and trees;
 - iii. Third, the parking areas and building elevations which form major public views of the project should be visually softened and enhanced by trees and other plantings.
- (3) Compliance with the requirements, such as the third priority above, should not be "forced" into a site design. For both visual effect and ease of maintenance, relatively few, but larger landscaped areas, which are integrated with the other elements of the site design, are generally encouraged. In addition, relatively numerous and smaller landscaped areas, which are not integrated with the other elements of the site design, are generally discouraged.
- (4) However, the granting of administrative relief should not always mean that a requirement is reduced without compensation. For example, the granting of a reduced bufferyard depth should be compensated by the planting of additional trees, shrubs or other plants.

(b) *Application.*

- (1) A written request for administrative relief shall be submitted following the procedures in section 27-1614. The written request shall include a justification in terms of the findings necessary to grant administrative

relief. The written request with decision shall be attached to the plan or retained in the applicable file, as appropriate.

- (2) The zoning coordinator must make all of the following findings in order to grant administrative relief:
 - i. The strict application of the regulation in question is unreasonable given the development proposal or the measures proposed by the applicant or that the property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same general area and such conditions will not allow a reasonable use of the property in its current zone in absence of relief;
 - ii. The intent of the landscaping section and the specific regulation in question is preserved;
 - iii. The granting of the administrative relief will not result in an adverse impact upon surrounding properties; and
 - iv. Proportional compliance is not appropriate for the location and development planned.
- (3) The zoning coordinator shall render a decision on the request within thirty (30) calendar days of receipt of the request and all required information. An appeal of the zoning coordinator's decision may be made ~~made to the board of adjustment PC with jurisdiction over the property, within thirty (30) calendar days after the decision. At this time, the appeal will be put on the agenda for the next board of adjustment PC meeting which allows for the required public notice. in accordance with section 27-1616.~~

Sec. 27-1619. Master site plan.

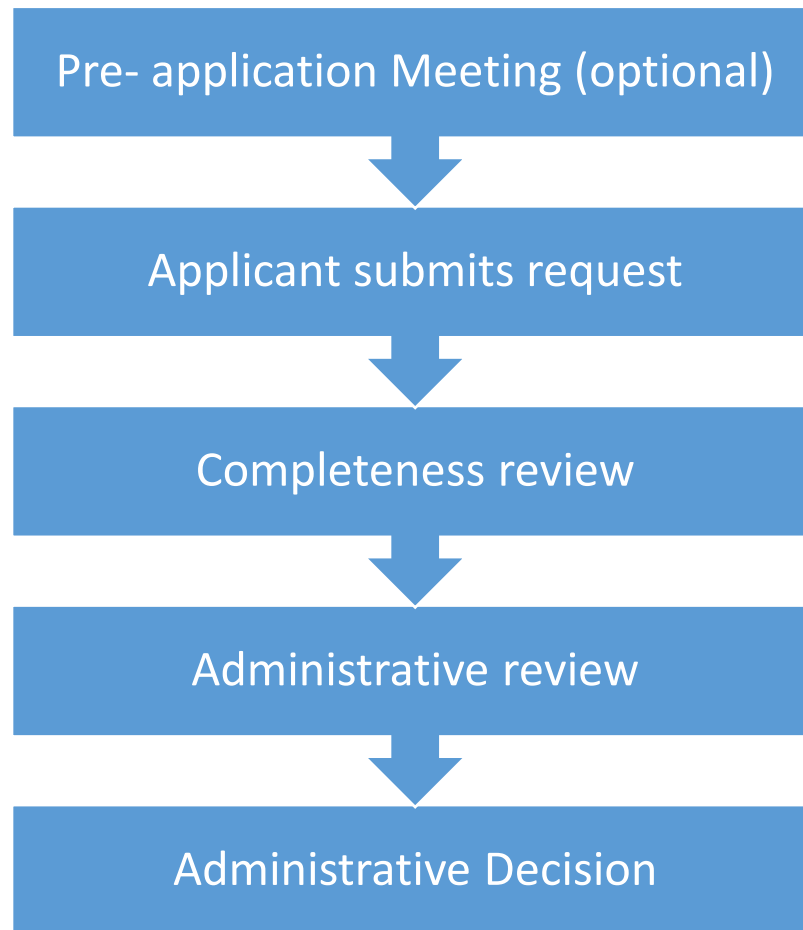


Figure 27-1619.A. Master Site Plan

- A. *Applicability.* The purpose of this section is to set forth the procedures and criteria for review and approval of master site plans when two (2) or more buildings share common facilities on an undivided lot. The purpose of master site plan review is to confirm that development is consistent with the requirements of this zoning code and with all previously approved plans applicable to the property.
- B. *Authority.* A request for master site plan approval may be submitted by a property owner or owner's agent.
- C. *Procedures.* Common procedures for master site plan review are identified in Table 27-1600.1 and are summarized here for applicant convenience.
- D. *Decision criteria.* The master site plan shall be reviewed against the following criteria:
 - 1. The master site plan is consistent with any prior approvals, including any conditions that may have been placed on such approvals, and
 - 2. The master site plan conforms with all applicable requirements of this zoning code, or with all applicable requirements as modified by a request for a minor code adjustment.

- E. *Review and decision-making.* A master site plan is subject to administrative approval and shall be reviewed as follows:
1. Within sixty (60) calendar days following the submittal of a complete application, the zoning coordinator shall approve or deny the application, unless the applicant consents in writing to an extension of the review period. The review period clock stops when corrections or revisions are required and begins again once the additional information or modified complete plans are received. Failure of the applicant to timely respond to the corrections or request for additional information does not trigger subsection 2.
 2. In the event that review exceeds ninety (90) calendar days, the applicant may seek immediate approval from the planning director.

F. *Effect.*

1. Approved master site plans shall be binding upon the property owner(s) and their successors, transferees, and assigns.
2. No permit shall be issued for any building, structure, or use that does not conform to an approved master site plan.
3. No building, structure, use or other element of the approved master site plan shall be modified without amending the master site plan.
4. All buildings, structures and uses shall remain in conformance with the approved master site plan or be subject to enforcement action.

- G. ~~Appeal process. An appeal to the BOA may be made by any applicant aggrieved by a denial of a master site plan application. An applicant who has requested review based on cured circumstances but is again denied may appeal the administrative denial in section 27-1616, Appeal of administrative decision.~~

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

~~I.~~

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

- ~~H. Appeal process. An appeal to the BOA may be made by any applicant aggrieved by a denial of a master site plan application. An applicant who has requested review based on cured circumstances but is again denied may appeal the administrative denial in-pursuant to section 27-1616, Appeal of administrative decision.~~

H.U.1 Post-approval actions.

1. *Expiration.*
 - (a) Approved master site plans shall expire one year after approval if a building permit has not been issued or the approved use has not been established. Where a master site plan expires due to the passage of this time period, new site plan review documents must be submitted for approval in the same manner as an original application for development review.
 - (b) An extension not to exceed one year may be granted by the zoning coordinator.
2. *Modifications to master site plans.* The holder of an approved site plan may request a minimal modification to the document, or the conditions of approval, by submitting amended documents to the zoning coordinator.

Section 27-1620. Permits.

- A. *Applicability.* The zoning coordinator may review and decide upon applications for the following administrative permits. Some of these permits have additional review and approval requirements included in this section; a cross reference to those section is provided in the right-hand column.

Permit Type	Additional Procedural Standards
Fences	None
Landscape Plan	Section 27-1618
Master Site Plan	Section 27-1619
Proportionate Compliance	None
Short-Term Rental	Section 27-1621
Sign/Temporary Sign	Section 27-1622
Temporary Use	Section 27-1624
Wind and Solar	Section 27-1625
Wireless Communication	Section 27-1626

Table 27-1620. Permit Types

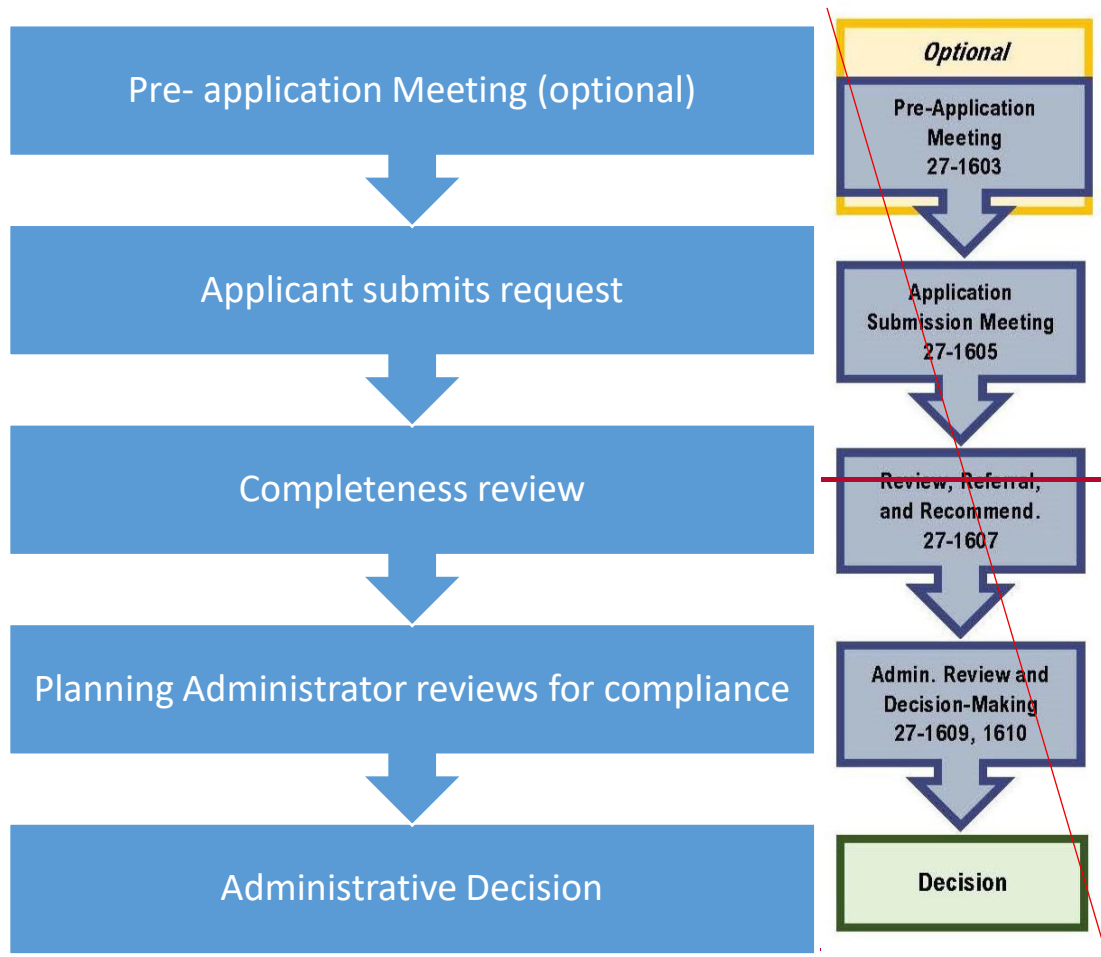


Figure 27-1620.A. Permit process

- B. *Authority.* Permit applications may be submitted by a property owner or owner's agent.
- C. *Procedures.* Common procedures for permit review are identified in Table 27-1600.1 and are summarized here for applicant convenience.
- D. *Review and decision-making.* Permit applications shall be decided pursuant to the requirements of subsection 27-1610.A. Permit-specific procedural requirements identified in this article shall be applicable.

Section 27-1621. Short-term rental permits.

Short-term rental (STR) permits are processed through section 27-1620, Permits, with the following additional requirements:

- A. *Application contents.* In addition to any other information prescribed by the zoning coordinator, an application for a short-term rental permit shall include the following information:
 1. Contact information for the owner (person, trust, or corporation) of the property.

2. Contact information for the owner's local contact person, who has authority to fix any problems or violations of this chapter, who is available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the city and any person staying at the property.
 3. Attestation and agreement to comply with the requirements of this section.
 4. Identification of all dwelling units that will be rented on a short-term basis.
 5. The URL (i.e., the website address) for any and all advertisements of the short-term rental of the property.
 6. Proof of building code compliance for single family attached and detached units. If seeking a short-term rental permit in a multifamily structure that is not a multi-unit attached single family structure that complies with building code standards for townhomes, proof of ownership of entire building must be provided with the application.
- B. *Duration and renewal.*
1. Short-term rental permits shall be issued for one year and must be renewed annually.
 2. An application to renew a short-term rental permit should be received by the zoning coordinator not less than thirty (30) calendar days prior to the expiration of the short-term rental permit.
- C. *Review criteria.* The zoning coordinator shall review a new or renewal application for a short-term rental permit for compliance against the criteria listed below. The zoning coordinator may deny a short-term rental application or renewal application if any of the following issues are found:
1. The property has any unresolved code enforcement violations, including issues unrelated to the short-term rental.
 2. The property is not in compliance with all applicable zoning code requirements, any permit requirements, or where applicable, any fire, building and safety, or other relevant laws and ordinances.
 3. The applicant has knowingly made any false, misleading, or fraudulent statements of material fact in the application, or in any report or statement required to be filed that is related to the application.
 4. The property that is the subject of the application is not available for immediate rental on a short-term basis consistent with the requirements of these regulations.
 5. The property owner's business license is not current.
- D. *Effect of denial.*
1. If an application for a new or renewal short-term rental permit is denied, the zoning coordinator may not approve a new application for that applicant and location for a 30-day period after the denial unless the

zoning coordinator determines that the reason for the denial has been cured or no longer exists.

2. An applicant who has requested review based on cured circumstances but is again denied, may appeal the administrative denial ~~to the board of adjustment. Please see~~in pursuant to section 27-1616, Appeal of administrative decision.

E. *Revocation.*

1. The zoning coordinator may revoke a short-term rental permit if any of the issues identified in the subsection 27-1621.C review criteria are substantiated during the term of permit.
2. The zoning coordinator shall give written notice of the pending revocation to the permit holder and any named local manager or long-term tenant listed on the permit. The permit holder will have thirty (30) calendar days to bring the property into compliance.
3. A permit holder who is in violation is prohibited from taking any further or future reservations.
4. If a short-term rental permit is revoked, the short-term rental of the property must cease immediately and the unit shall not be rented for a period of thirty (30) calendar days from the date of revocation unless the zoning coordinator determines that the reason for the revocation has been cured or no longer exists.

Section 27-1622. Sign permit.

A. *Applicability.*

1. *Permanent sign permit.*

- (a) Except as otherwise provided in this article, it shall be unlawful for any person to erect, construct, enlarge, move or convert any permanent sign in the city or cause the same to be done, without first obtaining a sign permit for each sign from the zoning coordinator as required by this article.
- (b) A sign permit shall be required for each group of signs on a single supporting structure installed simultaneously. Thereafter, each additional sign erected on the structure must have a separate sign permit.

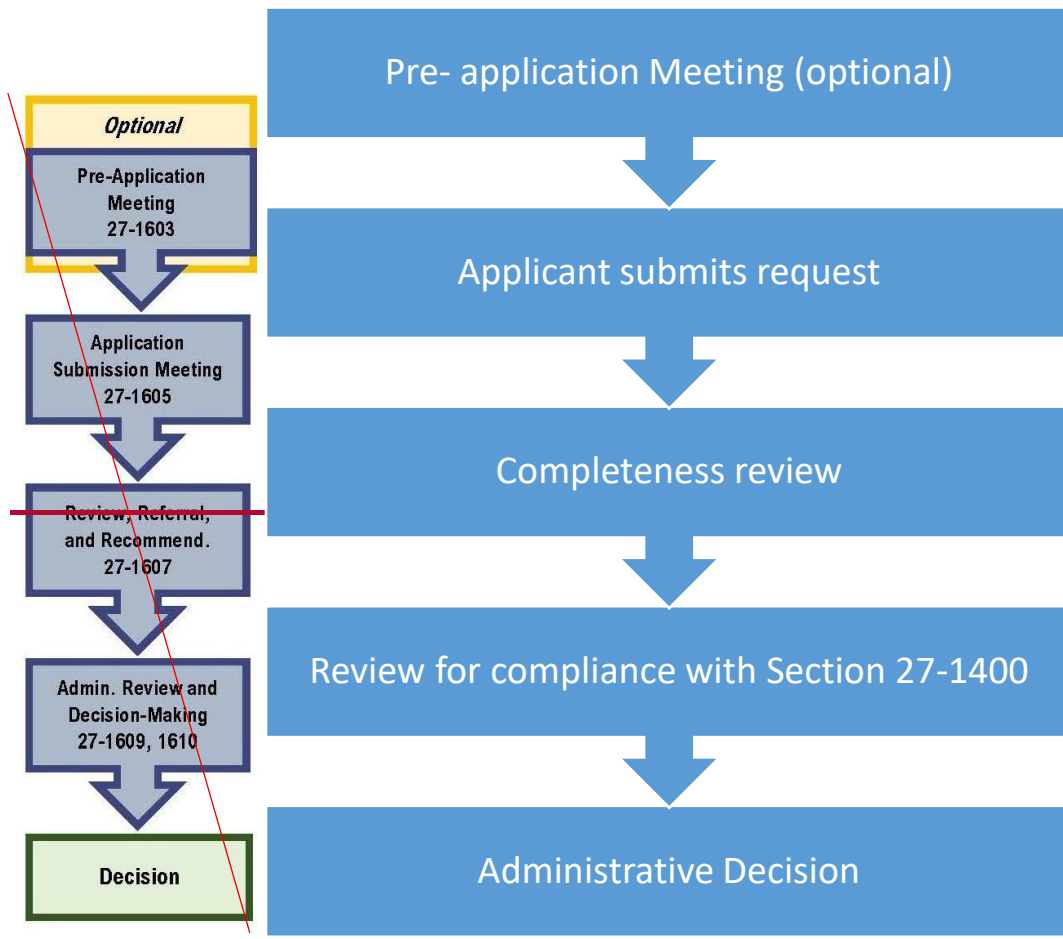


Figure 27-1622.A. Sign process

- (c) These directives shall not be construed to require any permit for a change of copy on any sign, nor for the repainting, cleaning and other normal maintenance or repair of a sign or sign structure for which a permit has previously been issued, so long as the sign or sign structure is not modified in any way.
2. *Temporary sign permit required.* Application for a temporary sign permit shall be made to the zoning coordinator by the owner or person entitled to possession of the property or business on which the temporary sign is to be located and shall be upon the form prescribed by the zoning coordinator.
 3. *Illegal signs.* No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.

B. Authority.

1. A sign permit may be requested by a property owner, tenant, or an owner or tenant's agent.

2. No person shall erect, construct or maintain any sign upon any property or building without the consent of the owner or person entitled to possession of the property or building if any, or their authorized representatives.
- C. *Procedures.* Common procedures for sign permit review are identified in Table 27-1600.1 and are summarized here for applicant convenience.
- D. *Decision criteria.* The sign permit shall be reviewed against the following criteria:
1. The sign permit is consistent with any prior approvals, including any conditions that may have been placed on such approvals; and
 2. The sign permit conforms with all applicable requirements of this zoning code, specifically article 27-1400, Signs, or with all applicable requirements as modified by a request for administrative relief or variance.
- E. *Review and decision-making.*
1. The zoning coordinator shall issue a permit for the erection, construction, enlargement, or relocation of a sign within the city when an application has been properly made and the sign complied with all appropriate laws and regulations.
 2. For temporary signs, the zoning coordinator shall establish area/height allowance and shall specify where the temporary sign is to be located, taking into consideration the required clear vision triangle in subsection 27-1802.H and the applicable zone district setback requirements.
- F. *Appeal.*
- ~~1. Appeal may be taken to the board of adjustment from the zoning coordinator's denial of a sign permit. An applicant who has requested review based on cured circumstances but is again denied, may appeal the administrative denial pursuant to section 27-1616, Appeal of administrative decision.~~
 - ~~2. The zoning coordinator's failure to either formally grant or deny a sign application within twenty (20) calendar days of the determination of a complete application shall be grounds for appeal to the board of adjustment.~~
- G. *Post-approval action.*
1. *Revocation.* The zoning coordinator may, in writing, suspend or revoke a permit under provisions of this section whenever the permit was issued on the basis of a misstatement of fact or fraud.
 2. *Permit expiration.* Every sign permit issued by the zoning coordinator shall become null and void if installation is not commenced within 120 calendar days from the date of permit issuance.

Section 27-1623. Special review uses.

- A. *Applicability.*

- Each zoning district is primarily intended for a predominant type of use as identified in Table 27-1000.1. There are also a limited number of specific uses subject to special review that may or may not be appropriate in a particular district, depending upon all the circumstances of the individual use on the site and in context with surrounding development. Consideration of these uses includes examination of the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets, and potential environmental effects, and whether specific conditions can be applied to mitigate the potential negative impacts of the use. Special review uses are special exceptions to the general terms of this zoning code.

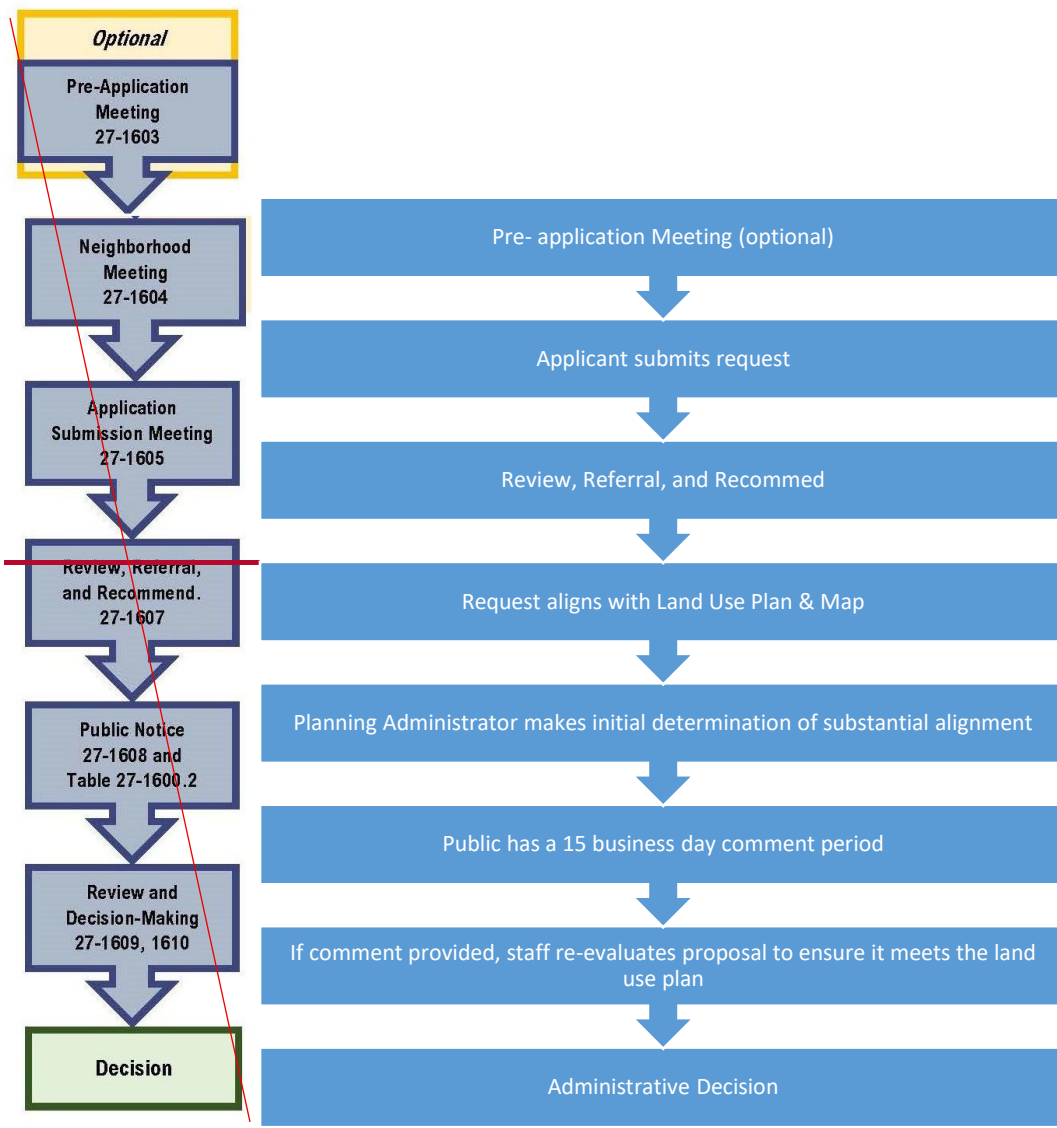


Figure 27-1623.A. Special Review Process

- It is the intent of this section to provide a system of special review of such uses so that the community is assured that the uses are compatible with their

locations and with surrounding land uses, and will further the purpose of this zoning code and the objectives of the city growth policies.

3. Only those uses identified as special review uses in Table 27-1000.1 may be approved pursuant to these procedures. If the zoning coordinator determines that a desired use is not included within the definition of a use listed as a special review use in Table 27-1000.1, and the use is not otherwise authorized by another provision of the zoning code, then the desired use may only be approved if:

- (a) This zoning code is amended to add the specific use to the district containing the subject property, or
- (b) The subject property is rezoned to a district where the use is listed as a permitted or special review use.

B. *Authority.* An application for a special review may be filed by the property owner, contract purchaser, or an owner or applicant's authorized agent.

C. *Procedures.*

1. *Common procedures.* Common procedures for special review are identified in Table 27-1600.1 and are summarized here for applicant convenience.
2. *Specific procedures.*

~~(a) A neighborhood meeting is required per section 27-1604.~~

~~(b)~~ Notice shall be provided as follows (This section 27-1623.C.2.(a) shall expire July 1, 2027):

- (1) *Publication.* Notice of the application shall be advertised in a newspaper of general circulation at least fifteen ~~(15) calendar days in advance of the date of the public hearing twice~~

(2) *Mail.*

- a. The applicant and/or applicant's authorized agent shall be mailed notice of the public hearing date, time and place at least five (5) calendar days prior to the date;
- b. All the property owners within three hundred (300) feet of the exterior boundaries of the tract subject to the special review shall be mailed notice at least fifteen (15) calendar days in advance of the time, date, place and proposed use.
 - i. Where the subject property is within three hundred (300) feet of the city limits, the mailed notice area will be six hundred (600) feet.
 - ii. Where special review uses are subject to a separation requirement from other uses, the maximum separation distance will be the mail notice area.
 - iii. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet if the zoning

coordinator determines that the proposed use would be such as to have a substantial environmental impact on the surrounding land uses;

- (3) *Posted.* Place notice of the public comment period ~~hearing~~ on the property subject to the special review ~~at least fifteen (15) calendar days in advance of the public hearing. Additional posting may be required by the zoning coordinator for large parcels. t~~
- (c) The staff report for a special review use shall contain the following information:
 - (1) A summary of the comments received from the interdepartmental/agency review;
 - (2) Findings for each of the decision criteria listed in this section;
 - (3) A preliminary list of conditions if approval is recommended; and
 - (4) A recommendation to approve the application, approve it with conditions, or deny the application.
- D. *Decision criteria.* The zoning coordinator ~~zoning commission~~ shall only recommend approval or conditional approval ~~and the city council shall only approve or conditionally~~ for ~~approve~~ a special review request if:
 1. The special review use is consistent with the city's adopted land use plan and future land use map ~~growth policy~~ and applicable neighborhood plans, if any;
 2. The establishment, maintenance, or operation of the special review use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
 3. The site for the proposed use is adequate in size and topography to accommodate the use while meeting the other requirements of this zoning code, including zone district dimensions, landscaping requirements, and parking;
 4. The special review use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
 5. The special review use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
 6. Conditions necessary to protect the public health, safety, and general welfare can be established, including but not limited to conditions on:
 - (a) Regulation of the use;
 - (b) Special setbacks, buffers, or screening;
 - (c) Surfacing of parking areas;
 - (d) Street, alley, or service road dedications, improvements, or bonds;
 - (e) Regulation of points of vehicular ingress and egress;

- (f) Regulation of signs;
 - (g) Regulation on the performance of the site, including noise, vibration, and odors;
 - (h) Regulation of the hours of activities;
 - (i) Timeframe for development;
 - (j) Duration of use;
 - (k) Update to existing structures or sites to bring the facility closer to compliance with the current building or site development standards including but not limited to signage, landscaping, parking lot landscaping, doors and windows on the street facades of buildings, or other site and building standards; and
 - (l) Other relevant conditions that will ensure the orderly development of the site.
7. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;
 8. Adequate measures have been or will be taken to provide ingress and egress to minimize traffic congestion in public streets; and
 9. The special review use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the city council.

E. *Review and decision-making.*

1. ~~City zoning commission~~ Zoning coordinator.
- (a) The ~~zoning commission~~ zoning coordinator shall consider each application in accordance with the provisions of this section, ~~and at a public hearing at which time the application has been legally advertised.~~
 - (b) The ~~zoning commission~~ zoning coordinator shall ~~make a recommendation to the city council to:~~
 - (1) Approve the application;
 - (2) Conditionally approve the application;
 - (3) Deny the application.
 - ~~(c) Prior to closure of the public hearing, the zoning commission may also grant a request of the applicant to:~~
 - ~~(1) Allow the withdrawal of the application; or~~
 - ~~(2) Allow a delay not to exceed sixty (60) days.~~
 - ~~(3) Only one delay request from the applicant will be granted by the zoning commission.~~

- ~~(d) The zoning commission on its own motion, may continue the public hearing to a date certain, in response to a finding for any of the decision criteria in subsection 27-1623.D., that requires additional information from the applicant. Only one continuance, not to exceed sixty (60) days, on its own motion can be considered by the zoning commission.~~
- ~~(e) Recommendations from the zoning commission shall be based on findings of fact for each criterion and shall be transmitted to the applicant or applicant's agent, and the city council within fifteen (15) calendar days of the conclusion date of the public hearing before the commission.~~
- ~~(f) The recommendation of the zoning commission shall be published in a newspaper of general circulation.~~

~~2. City council action.~~

- ~~(a) At least fifteen (15) calendar days after the first publication of notice of the zoning commission recommendations, a public hearing shall be held by the city council.~~
- ~~(b) Before taking any action on an application for a special review use, the city council shall first consider the findings and recommendations of the zoning commission.~~
- ~~(c) The city council shall:~~
 - ~~(1) Approve the application;~~
 - ~~(2) Conditionally approve the application;~~
 - ~~(3) Deny the application;~~
 - ~~(4) Allow withdrawal of the application;~~
 - ~~(5) Delay the application for a period not to exceed thirty (30) calendar days; or~~
 - ~~(6) Refer the application back to the zoning commission for an additional public hearing based on a determination that 1) new information has been submitted that the applicant and public has not had a reasonable opportunity to examine and comment on, or 2) new information has been presented that was never submitted or considered by the zoning commission or staff. A city council referral back to the zoning commission will require publication of a new legal ad, posting of the property and mailing to the surrounding property. A referral back to the commission under this section requires a sixty (60) percent majority vote of the present and voting members of the council and may only be done once by the city council.~~
- ~~(d) Administrative determination shall be based on findings of fact for each criterion. If the application is approved, the applicant shall be notified in writing within ten (10) calendar-business days of the approval. The notification shall include:~~

- (1) Identification of any conditions of approval;
 - (2) Automatic termination date; and
 - (3) Notification that permit issuance is contingent upon compliance with the conditions of approval.
- (e) If the application is denied, it shall constitute a determination that the applicant has not shown that the decision criteria required for special review use approval have been satisfied. A decision to deny shall include the following:
- (1) A statement that the application is denied;
 - (2) A description of the project, including acreage and proposed use characteristics;
 - (3) Findings for each of the decision criteria;
 - (4) A statement indicating that a denial does not limit the applicant's ability to resubmit a revised application for consideration;
 - (5) A statement that the decision may be appealed to a court of competent jurisdiction; and
 - (6) The date of the decision.

F. *Requirements of approval.*

1. All of the conditions imposed by the special review use approval:
 - (a) Constitute restrictions running with the land use;
 - (b) Apply, are binding upon, and must be adhered to by the property owner and any successors, transferees, or assigns;
2. The right to building and occupancy permits are contingent upon the fulfillment of all conditions imposed by the special review use approval.

G. *Amendment to approved special review uses.* Uses that have been approved pursuant to a special review ~~by the city council~~, may be allowed to expand or remodel without an additional special review, provided that the expansion or remodeling meets all of the following criteria:

1. The gross floor area of the remodeled or expanded establishment is not over ten (10) percent greater than the gross floor area originally occupied by the special review use;
2. The number of potential occupants is not increased by more than ten (10) percent over the number that is currently allowed;
3. The number of new parking stalls is not more than ten (10) percent greater than the original number of spaces; and
4. All other requirements of this zoning code and/or the BMCC are met.

H. *Expiration of approval.*

1. *Non-establishment.* A special review use shall expire one year after the date of issuance unless substantial work has commenced pursuant to the approval and continues in good faith to completion.
2. *Non-use.* If a special review use has been established but ceases to operate for more than six (6) months, the special review approval shall expire.

Section 27-1624. Temporary use permit.

Temporary uses are processed through section 27-1620, Permits.

Section 27-1627. Variances.

A. Applicability.

1. The ~~board of adjustment (BOA)~~ zoning coordinator shall have the authority to grant a variance from the terms of this zoning code in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the Code would result in unnecessary hardship.
2. The variance process may not be used to:
 - (a) Waive, modify or amend any definition or use classification;
 - (b) Waive, modify or otherwise vary any of the review and approval procedures of this zoning code; or;
 - (c) Waive, vary, modify or otherwise override a condition of approval or requirement imposed by another authorized board or commission.

B. Authority. A request for variance may be filed by a property owner or the owner's agent.

C. Procedures.

1. *Common procedures.* Common procedures for variances are identified in Table 27-1600.1 and are summarized here for applicant convenience.

2. *Specific procedures.*

- (a) Notice shall be provided as follows (This section 27-1627.C.2.(a) shall expire July 1, 2027):

- (1) *Published.* ~~(Place notice in a newspaper of general circulation at least fifteen (15) calendar days in advance of the date set for the public hearing; twice. Notice of the application shall be advertised in a newspaper of general circulation twice as provided in MCA 7-1-4127(7)(a).~~

- (2) *Mailed.*

- a. ~~Notify the owner of the property and/or owner's agent at least five (5) calendar days in advance of the hearing date;~~

- ~~ba.~~ Notify the property owners within one hundred fifty (150) feet of the exterior boundaries of the subject property;
- (3) *Posted.* Place a notice on the property ~~at least fifteen (15) calendar days prior to the hearing date for the public comment period.~~
- D. *Decision criteria.* Before the ~~BOA~~ zoning coordinator grants a variance, it shall determine:
1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;
 2. That a literal interpretation of the provisions of this zoning code would deprive the applicant of rights commonly enjoyed by other tracts in the same district;
 3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this zoning code to other land in the same district;
 4. That the granting of the variance will be in harmony with the general purpose and intent of this zoning code and with the growth policies;
- E. *Review and decision-making.*
- ~~1.—Whenever the city board of adjustment grants an application for a variance, the minutes shall specifically state the criteria upon which the variance is granted.~~
- ~~2.1.~~ In granting any variance, the ~~BOA~~ zoning coordinator may prescribe appropriate conditions and safeguards in conformity with this zoning code. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this zoning code.
- ~~3.2.~~ The ~~BOA~~ zoning coordinator shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance.
- ~~4.3.~~ Under no circumstances shall the ~~zoning coordinator~~ BOA grant a variance to allow a use not permissible under the terms of this chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.
- F. *Post-approval action.* A request for changes in conditions of approval of a zoning variance must be processed as a new variance application, including the requirements for fees and notices and hearings.
- G. *Transferability.* Zoning variance approval runs with the land and is not affected by changes of tenancy, ownership, or management.
- H. *Reapplication.* If an application for a variance is denied by the zoning coordinator ~~BOA~~ and not approved for reconsideration, another application shall not be filed within a period one year from the date of denial.

Section 27-1628 Zone change

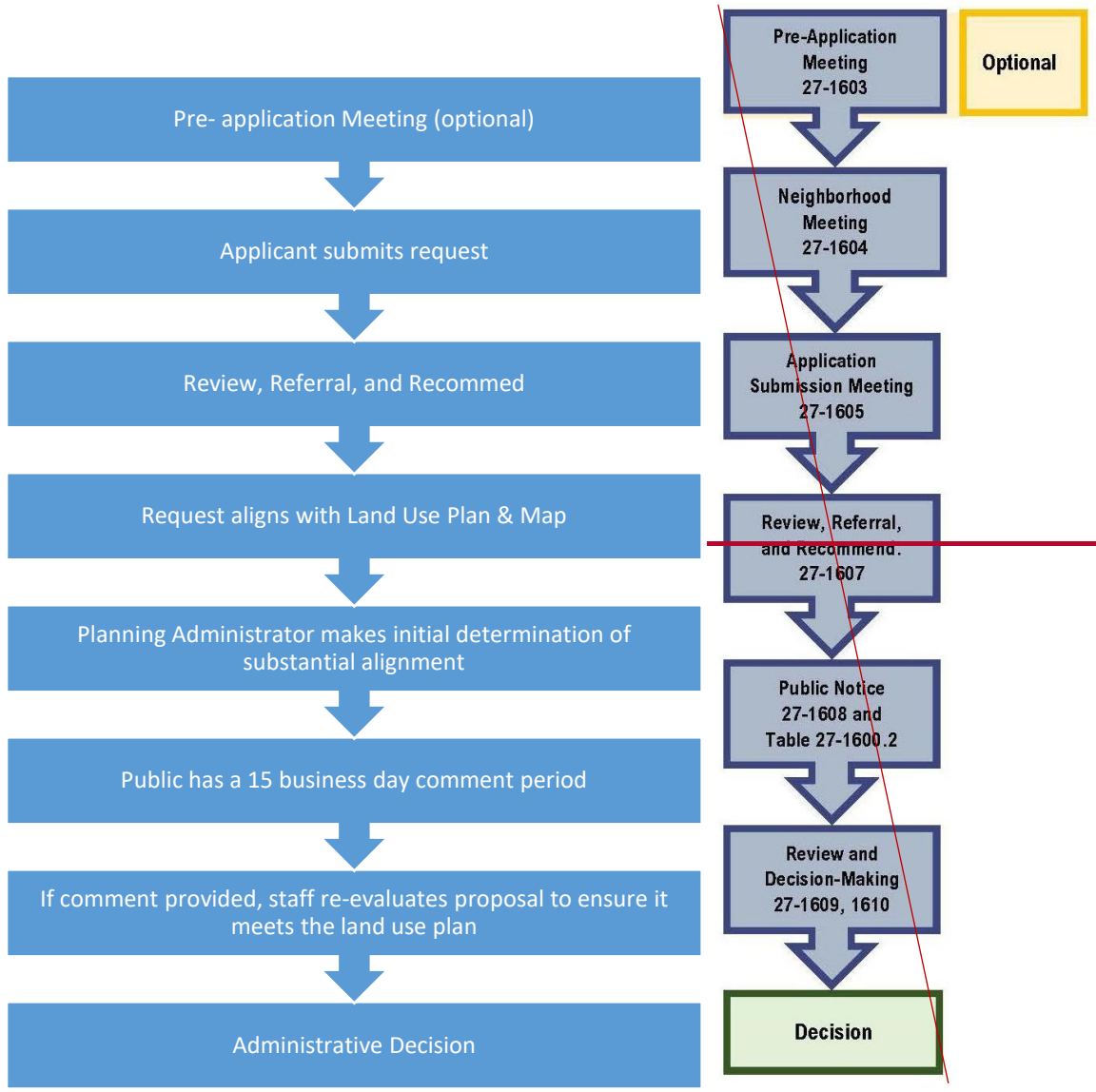


Figure 27-1628.A. Zone change

A. *Purpose.* This zoning code, including the official zoning map, may be amended by the city council.

B. *Initiation of zone change.*

1. ~~Text and map amendments.~~ Proposals to amend the text of this zoning code (text amendment) or zoning map, may ~~be initiated by the city council, the Planning Commission, or the Yellowstone County Board of Planning~~ be made in accordance with MCA 76-25-304 or as it is amended from time to time.

~~2. Zone change (map amendment). Unless initiated by the city council, all applications for zone change must be submitted by the owner of the subject property, the contract purchaser, or the authorized agent of the owner.~~

C. Procedures.

1. *Common procedures.* Common procedures for review and decision of a zone change application are identified in Table 27-1600.1 and are summarized here for applicant convenience.
2. *Specific procedures.*

~~(a) A pre-application neighborhood meeting is required per section 27-1604.~~

~~(1) The applicant shall provide a signed statement affirming the pre-application neighborhood meeting was conducted in conformance with the requirements of subsection 27-1604(b)(3), and the zone change application is based on material presented at the meeting. The signed statement shall include a copy of the meeting notice, any written materials provided to the surrounding property owners, a brief synopsis of the meeting results, a roster of the persons attending the meeting and audio or written minutes of the meeting.~~

~~(ba)~~ Until July 1, 2027, Nnotice of a zone change application shall be provided as follows:

(1) *Publication.* Notice of the application shall be advertised in a newspaper of general circulation ~~at least fifteen (15) calendar days in advance of the date of the public hearing. twice as provided in MCA 7-1-4127(7)(a).~~

(2) Mailed notice shall be provided to the applicant and/or applicant's authorized agent; and

a. Where the subject property is equal to or more than six hundred (600) feet to exterior coterminous city limits: All property owners within a 300-foot radius. Where the subject property is less than six hundred (600) feet to exterior coterminous city limits: All property owners within one thousand three hundred twenty (1,320) feet. Coterminous city limits do not include unincorporated islands within the city limits.

b. PD zone change: All property owners within one thousand three hundred twenty (1,320) feet.

c. PND zone change: All property owners within one thousand three hundred twenty (1,320) feet.

~~d. In addition to the notice above and before enacting on its own motion an amendment to the official zoning map, the city council shall provide written notification by mail of such amendment to each property owner whose name appears on~~

~~the last tax record of the property subject to the amendment. The notification shall include what the proposed map amendment is, the time, date and place of the public hearing on the proposed amendment. Such notification shall be made at least fifteen (15) calendar days in advance of the date of public hearing.~~

- (3) *Posted.* Place notice of the public hearing on the property subject to the zone change during the public comment period. ~~fifteen (15) calendar days in advance of the public hearing.~~
- (4) Notice of a text amendment shall be published in the same manner as the publication requirement of a zone change application.

~~(c) Public hearings shall be held for both the city Planning Commission review and city council review of the request for zone change or text amendment.~~

- D. *Decision criteria.* The review and decision-making bodies shall consider the following statutory criteria in making a ~~recommendation or~~ decision regarding a zone change application:

1. Whether the proposed zoning regulation, map, or amendment ; new zoning is designed in accordance alignment with the adopted land use plan and future land use map-growth policy;
2. Whether the new zoning is designed to secure from fire and other dangers;
3. Whether the new zoning will promote public health, public safety and general welfare;
4. Whether the new zoning will facilitate the adequate provision of transportation both motorized and nonmotorized, water, sewerage, schools, parks and other public requirements;
5. Whether the zoning protects natural resources, the natural environment within the area; ~~5. Whether the new zoning will provide adequate light and air;~~ ~~6. Whether the new zoning will affect motorized and nonmotorized transportation;~~ ~~7. Whether the new zoning will promote compatible urban growth;~~ ~~8. Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;~~ ~~9. Whether the new zoning will conserve the value of buildi~~ ~~10. Whether the new zoning will encourage the most appropriate use of land throughout the city~~

- E. *Review and decision-making.*

~~1. City Zoning Commission recommendation:~~

~~(a)-1. The zoning coordinator shall consider each application in accordance with the provisions of this section. -sShould the application be found to have a new or increased impact or not align with the adopted land use plan or future land use map, then the applicant shall provide additional analysis as determined by the planning administrator. In considering each application, the planning~~

administrator shall follow -the process set forth- in MCA 76-25-305, or as it may be amended from time to time.

2. The zoning coordinator shall:

- (1) Approve the application;
- (2) Deny the application.
- (a) The city Zoning Commission shall make a recommendation to the city council to:
 - (1) Deny the application;
 - (2) Approve the application.
- (b) Prior to closure of the public hearing, the Zoning Commission may also grant a request, without prejudice to the applicant, to allow:
 - (1) Withdrawal of the application; or
 - (2) A delay of the public hearing not to exceed sixty (60) days.
 - (3) Only one delay request by the applicant will be granted by the Zoning Commission.
- (c) The Zoning Commission on its own motion, may continue the public hearing to a date certain, in response to a finding for any of the decision criteria in subsection 27-1628.D., that requires additional information from the applicant. Only one continuance, not to exceed sixty (60) days, on its own motion can be considered by the Zoning Commission.
- (d) Recommendations from the Zoning Commission shall be based on findings of fact and shall be transmitted to the applicant or applicant's agent, and the city council within fifteen (15) calendar days of the conclusion date of the public hearing before the Zoning Commission.
- (e) The recommendation of the Zoning Commission shall be published in a newspaper of general circulation.
- (f) A report of the commission's recommendation, findings and conclusions shall be submitted to the city council.

2. City council action.

- (a) The city council shall hold a public hearing within thirty (30) calendar days after the publication of the Zoning Commission recommendation.
- (b) Before taking action on a zone change application, and after presentation of the Zoning Commission report, the city council shall hold a public hearing on the application.
- (c) A second reading of the ordinance is required by BMCC section 2-232.
- (d) The city council shall:

- ~~(1) Approve the application;~~
 - ~~(2) Deny the application;~~
 - ~~(3) Allow withdrawal of the application;~~
 - ~~(4) Delay the application for a period not to exceed thirty (30) calendar days; or~~
 - ~~(5) Refer the application back to the Zoning Commission for an additional public hearing based on a determination that 1) new information has been submitted that the applicant and public has not had a reasonable opportunity to examine and comment on, or 2) new information has been presented that was never submitted or considered by the Zoning Commission or staff. A city council referral back to the Zoning Commission will require publication of a new legal ad, posting of the property and mailing to the surrounding property. A referral back to the commission under this section requires a sixty (60) percent majority vote of the present and voting members of the council and may only be done once by the city council.~~
- ~~3. *Protest petition triggers supermajority vote requirement.* As provided in MCA 76-2-305(2), in the event of a protest petition against such zone change signed by the owners of twenty-five (25) percent or more of: (1) the area of the lots included in any proposed change; or (2) those lots or units, as defined in MCA 70-23-102, one hundred fifty (150) feet from a lot included in a proposed change, such proposed amendment shall not become effective except by the favorable vote of two-thirds ($\frac{2}{3}$) of the present and voting members of the city council.~~
- ~~(a) For purposes of this protest provision, each unit owner is entitled to have the percentage of the unit owner's undivided interest in the common elements of the condominium, as expressed in the declaration, included in the calculation of the protest.~~
 - ~~(b) If the property, as defined in MCA 70-23-102, spans more than one lot, the percentage of the unit owner's undivided interest in the common elements must be multiplied by the total number of lots upon which the property is located.~~
 - ~~(c) The percentage of the unit owner's undivided interest must be certified as correct by the unit owner seeking to protest a change or by the presiding officer of the association of unit owners.~~
 - ~~(d) The protest petition must be received in the planning and community services department office by 5:00 p.m. on the Friday preceding the first reading of the amendment by the city council.~~

Section 27-1803. Definitions.

A. A terms.

...

Accessory: A use, building or structure, part of a building or other structure, which is subordinate to the principal use in both function and gross floor area, and the use of which is incidental to that of the main building, structure or use on the same lot, including a private garage.

Attached accessory structure: Any structure or building which has any roof or wall in common with the principal structure. For purposes of zoning, an attached accessory structure is considered part of the principal structure which is subordinate in both function and gross floor area.

Detached accessory structure: Any structure or building which does not have any roof or wall in common with any principal structure or building. For purposes of zoning, a detached accessory structure must maintain a minimum distance of six (6) feet from any other building or structure.

...

F terms.

...

Facade: The exterior face of a building, including but not limited to the wall, windows, windowsills, doorways, and design elements. The front facade is any building face adjacent to the front lot line.

Factory-built housing: see manufactured homes

Family day care home: See Child care facilities.

Farm stand: A temporary structure not permanently affixed to the ground and readily removable in its entirety, that is used solely for the display or sale of agricultural products.

Fence: A barrier composed of posts connected by boards, rails, panels or wire for the purpose of enclosing space to separate parcels of land. This term also includes a masonry wall.

Financial institution: Establishments that provide retail banking services, mortgage lending, and similar financial services to individuals and businesses. Accessory uses may include automatic teller machines, offices, and parking. The use may or may not be allowed to have a drive-through facility, depending on the zone district.

Flag: A flexible piece of fabric that is attached along one edge to a straight, rigid flagpole permanently affixed to the ground or building (directly or with rope), and which is designed to move when the wind blows. Flags are typically (but not necessarily) rectangular in shape, and often (but not always) include printed or embroidered insignia that symbolizes a nation, state, or organization, or that display a graphic or message.

Flashing sign: An electronic message display, portion thereof, or non-EMD lighting that changes light intensity in a brief, brilliant, or sudden and transient outburst of light causing a steady on and off, glittering, sparkling, or scintillating pattern. Neon and incandescent lamps may flash in the following ways.

1. *Alternating*: One section comes on as another goes off.
2. *Scintillating*: Random sections go on and off with part of the lighting on at all times.
3. *Chasing*: One section comes on at a time and is followed by one section going off at a time. Part of the sign is on at all times.
4. *Sweeping (filling)*: The lighting sections individually go on until all of the sections are on, then the entire group goes off and then the process is repeated.
5. *On-off action*: Lighting that goes all on and then all off.

...
M. *M terms*.

...
Maintenance (sign): The cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the structure of the sign. Replacement of a static sign with an EMD is considered a sign change that requires a permit.

Manufactured home: (factory-built housing): (See MCA 15-1-101(m)) ~~A home built on a non-removable steel chassis or frame. Each transportable unit of a manufactured home has a red certification label on the exterior section and is built according to the Manufactured Home Construction and Safety Standards (HUD Code). A manufactured home does not include a mobile home or house-trailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976. Manufactured homes are classified as Type 1, homes that were certified on or after January 1, 1990; and Type 2, homes that were certified prior to January 1, 1990.~~"

1. Manufactured housing means a dwelling for a single household, built offsite in a factory, that is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or house trailer, as defined in 15-1-101.
2. Factory-built housing means a factory-assembled structure intended for residential use that is equipped with the necessary service connections but not made to be readily movable as a unit or units and is designed to be used with a permanent foundation; and is not certified by the United States department of housing and urban development but meets the inspection requirement of Title 50, chapter 60, part 4.

...
Mobile home: (See MCA 15-1-101(pe)) Forms of housing known as "trailers", "house-trailers", or "trailer coaches" exceeding eight (8) feet in width or forty-five (45) feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, house-trailer, or trailer coach up to eight (8) feet in width or forty-five (45) feet in length used as a principal residence.

~~*Modular home:* (See ARM 42.4.201(14)) A home built in a factory setting in units, transported to the home site, placed on a permanent foundation, and joined. Modular homes are required to meet the Building Code adopted by the State of Montana.~~

~~...~~

P. *P terms.*

~~...~~

Principal use: The primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory. The principal use must constitute the greater share of gross floor area on the lot or structure, exceeding the total square footage of any single accessory use.

~~...~~

T. Terms.

~~...~~

Theater: A structure that is open to the public and is used for dramatic, operatic, musical, motion picture, or other performance or entertainment related activities, where admission is charged per performance or event, and where there is no audience participation other than as spectators.

Tiny dwelling unit (tiny home): means a residential dwelling unit that is 350 to 750 square feet, is on a permanent foundation, and is used as a single-family dwelling.

Toll and tolling: To delay, suspend, or hold off on the imposition of a deadline, statute of limitations, or time limit.

~~...~~

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 11th day of May 2026.

PASSED, ADOPTED and APPROVED on second reading this 26th day of May, 2026.

City of Billings
2026
Zoning Boundaries



Legend

Yellowstone County

Road / Street

- Interstate Highway
- US & State Highway
- Arterial
- Collector
- Street
- Ramp

Billings Zoning

- C3 - General Commercial*
- CBD - Central Business District
- CMU1 - Corridor Mixed-Use
- CMU2 - Corridor Mixed-Use & Commercial Centers
- CX - Heavy Commercial
- DX - Downtown Support
- EBURD 13th St Main St
- EBURD Central Works
- EBURD Industrial Sanctuary
- EBURD Rail Spur Village
- EBURD Rail Spur Village Main St
- I1 - Light Industrial
- I2 - Heavy Industrial
- N1 - First Neighborhood
- N2 - Mid-Century Neighborhood
- N3 - Suburban Neighborhood
- N4 - Large Lot Suburban Neighborhood*
- NMU - Neighborhood Mixed-Use
- NO - Neighborhood Office
- NX1 - Mixed Residential 1 (1-4 du/structure)
- NX2 - Mixed Residential 2 (2-8 du/structure)
- NX3 - Mixed Residential 3 (>=>5 du/structure)
- P1 - Open Space, Parks, Recreation
- P2 - Public- Civic, Institutional
- P3 - Public- Campuses - Medical, Civic, Educational
- PD - Planned Development
- RMH - Residential Mobile Home
- RR1 - Rural Residential (1 to 2.99 acres)*
- RR3 - Rural Residential (3 to 9.9 acres)*



CITY OF BILLINGS

BY: _____

Mike Nelson, Mayor

Attest:

BY: _____

Denise R. Bohlman, City Clerk

Zone Change 1083 - Zoning Code Amendments Legislative

ORDINANCE 26-_____

**AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THE
REGULATIONS IN ARTICLES 27-200, 27-400, 27-800, 27-1000, 27-
1300, 27-1500, 27-1600, and 27-1800 BE AMENDED TO CONFORM TO
MONTANA LAND USE PLANNING ACT PASSED BY THE 69TH
LEGISLATURE IN 2025, TO AMEND AND CLARIFY THE ZONING
REGULATIONS**

WHEREAS, Title 76, Chapter 25, MCA, known as the Montana Land Use Planning Act (“MLUPA”), enacted by the Montana Legislature during the 69th Legislative Session (2025), requires cities with populations of 5,000 or more to adopt a new land use plan and future land use map. Additionally, zoning codes and subdivision regulations must conform with MLUPA.

WHEREAS, pursuant to Section 76-25-301, MCA, a local government has the authority to and shall regulate the use of land in substantial compliance with its adopted land use plan by adopting zoning regulations; and

WHEREAS, sections of Chapter 27 of the Billings, Montana City shall be amended as set forth herein to conform to the current statutory requirements of MLUPA.

WHEREAS, MLUPA mandates ongoing public involvement in the development and adoption of land use policies and regulations, guided by a municipally adopted Public Participation Plan; and

WHEREAS, the Interim Planning Commission held public hearings on _____, 2026, and made a recommendation to the City Council to adopt the proposed amendments to the zoning regulations; and

WHEREAS, the City Council held a public hearing on May 11, 2026, in order to take public comment on the proposed amendments to the zoning regulations and to consider the Interim Planning Commission’s recommendations.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. Chapter 27 of the Billings, Montana City Code (BMCC) is amended as follows and any sections not amended herein shall remain in effect:

Sec. 27-102. Purpose.

- A. The zoning code, classifications, and the districts as herein set forth are in accordance with MCA 76-25-301, et seq., Municipal Zoning.
- B. This zoning code has been established in accordance with the City of Billings adopted Land Use Plan and ancillary and related policy documents, including but not limited to adopted neighborhood plans, area plans, and city council adopted policies related to growth and development of city services. The zoning code has been deemed necessary and developed with consideration, among other things, to the character of each zoning district and its peculiar suitability for particular uses, impacts on local facilities, services, preservation of natural resources, natural environment, or natural hazards. To achieve these goals, this zoning code shall govern the height and size of buildings and structures, the percentage of lots that may be occupied, the size of yards and open space, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes within the Billings city limits.
- C. The City of Billings City Council further declares these zoning regulations are adopted for the following specific purposes:
 - 1. To promote and guide development consistent with the goals and objectives of the adopted land use plan, future land use map, and area plans;
 - 2. To prevent waste and inefficiency in land use;
 - 3. To encourage innovations in residential development and renewal so that the needs of the community for housing may be met by greater variety in type and design of dwellings and by conservation of open space; and
 - 4. To provide adequate land and space for the development of commercial and industrial uses and to encourage such developments in locations calculated to benefit the community at large and in a manner consistent with the goals and objectives of the adopted land use plan, future land use map, and area plans.

Sec. 27-105. Effective date and archived zoning code.

This zoning code shall become effective on July 1, 2026. The zoning code that was effective immediately prior to this zoning code shall be retained and referred to as the archived zoning code. One copy of the archived zoning code shall remain of record in the planning and community services office and one copy shall be stored in the city clerk's office, either in hard copy or electronically. An unofficial public copy may also be maintained on the city's website.

Sec. 27-107. Transitional provisions.

- A. *Existing approvals.* This zoning code is not intended to abrogate or annul any building permit, certificate of occupancy, variance, or other lawful permit issued before the effective date of this zoning code. Applications and permits

that have not achieved final approval as of the effective date of this zoning code shall be processed according to the provisions of this section.

B. *Approved projects.*

1. *Validity.*

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

(b) Where construction has started pursuant to a building permit validly issued by the City of Billings Building Division prior to the effective date of this zoning code, it may be completed under the regulations in effect at the time of issuance without regard to this zoning code; provided, that construction is begun within six (6) months of the effective date and diligently prosecuted to completion. Upon completion, the structure may be occupied under a City of Billings certificate of occupancy by the use for which originally designated, even if the structure or use is nonconforming under the terms of this zoning code.

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

3. ***Extensions.*** The decision-making body that granted the original approval may renew or extend the time of a previous approval if the project remains in compliance with the required standards or criteria for the original approval. Any extension granted shall not exceed the time specified for the extension of the specific permit approval in article 27-1600.

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

D. *Planned developments and master site plans approved prior to the effective date.*

1. Any planned development identified on the zoning map and approved prior to the effective date shall remain valid. Planned developments that refer to zone districts not included in this zoning code shall use the archived zoning code requirements. For example, a reference to an underlying zone district of "community commercial" shall refer to the use table, use standards, and other requirements for that zone district in the archived zoning code.

2. Planned development and master site plan approvals that predate the adoption of this zoning code shall be narrowly interpreted and are limited to the specified terms of approval. Where a term was not defined or a process not specified in the PD or MSP approval, the most closely similar provision of this zoning code shall be applied. For example, if a planned development does not specify a process for amendment, the process for amending planned development approvals in this zoning code will be used.

E. *Applications in progress.*

1. *Completed applications*

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

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

2. *No applications submitted.* Projects for which no application has been submitted and accepted as complete prior to the effective date shall be subject to all requirements and standards of this zoning code.

3. *Lapsing.* Regardless of whether a completed application has been received prior to the adoption of this zoning code, any permit or approval issued following the adoption of this Code shall be subject to the lapsing provisions of section 27-1612.

F. *Lapsing of previous approvals.* If a development permit or approval was approved prior to the effective date of this zoning code and that type of permit or approval did not have a lapsing date, but this zoning code provides a lapsing date for that type of permit or approval, then the permit or approval shall be subject to lapsing under section 27-1612, but the lapsing periods set forth in section 27-1612 shall be deemed to begin running on the effective date of this zoning code, not the date of the prior permit or approval.

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

Sec. 27-202. - Official zoning map

- A. The boundaries of the zone districts are shown on the official zoning map which, together with all explanatory matter thereon, is adopted separately by resolution. The official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and shall bear the words "the official zoning map of the City of Billings". Regardless of the existence of purported copies of the official zoning map which from time to time may be made or published, a copy of the official map shall be located in the offices of both the planning division and the Billings city clerk. An electronic version of the official map may be displayed on the City of Billings website or other online venue at the discretion of the city administrator.
- B. All references in this zoning code to the zoning map shall be construed as references to the official zoning map.
- C. Changes made in district boundaries shall be promptly entered on the zoning map after amendment by the city council. Amendments to the zoning map shall not become effective until entered on the map.
- D. No changes of any nature shall be made in the zoning map or matter shown thereon except in conformity with the provisions set forth in this zoning code. In the event the hard copy of the official zoning map is damaged or destroyed, a new version shall be printed and submitted to the city council for review. No such map shall have the effect of amending the official zoning map or any subsequent amendment thereof.

Section 27-302. District descriptions

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

- A. *N1: First neighborhood residential.* The N1 district is intended to continue the existing character of single- and two-family homes in the first residential neighborhoods developed in the early part of the twentieth century in the city. This district may also be used for new neighborhoods designed with similar characteristics of the first neighborhoods. These characteristics include parking/garages located in the rear of the lot, pitched roofs, and doors and windows on the front facades. Building and garage location are specified in the regulations, with basic parameters for front doors and windows. The principal residential use shall comprise not less than 50 percent of the total gross floor area on the lot or within the structure.
- B. *N2: Mid-century neighborhood residential.* The N2 district is intended to continue the existing character of the residential neighborhoods with single-

and two-family homes developed during the middle of the twentieth century. This district may also be used for new neighborhoods designed with similar characteristics of the mid-century neighborhoods. These characteristics include homes wide on the lot, proportionate garages located in the front façade, low pitched roofs, and doors and windows on the front facades. Building and garage location are specified in the regulations, with basic parameters for front doors and windows. The principal residential use shall comprise not less than 50 percent of the total gross floor area on the lot or within the structure.

- C. *N3: Suburban neighborhood residential*. The N3 district is intended for residential neighborhoods primarily with single-family homes. Characteristics include wide lots and attached garages typically located on the front building façade, often greater than thirty-five (35) percent of the façade. Basic setback and height parameters apply. The principal residential use shall comprise not less than 50 percent of the total gross floor area on the lot or within the structure.
- D. *NX1: Mixed residential 1*. The NX1 district is intended to continue the character of the first neighborhoods with single-family, two-family, and small-scale multiple-family homes with three (3) to four (4) units. Multiple-family homes are intended to match the scale of the neighborhood single-family homes with characteristics such as building width, parking and garages location, roof design, and doors and windows on the front facades. The principal residential use shall comprise not less than 50 percent of the total gross floor area on the lot or within the structure.
- E. *NX2: Mixed residential 2*. The NX2 district is intended for small- and mid-scale multiple-family homes with three (3) to eight (8) units, in small neighborhood nodes. The buildings are oriented to the streets in walkable blocks with doors and windows on front facades and parking/garages located behind the buildings. The principal residential use shall comprise not less than 50 percent of the total gross floor area on the lot or within the structure.
- F. *NX3: Mixed residential 3*. The NX3 district is intended for large-scale multiple-family homes in larger neighborhood nodes. The buildings may include larger apartment buildings with more than eight (8) units per structure. The development may have an internal private street system for access throughout the larger node with walkable blocks. Buildings are oriented to the street with doors and windows on front facades and parking/garages located behind the buildings. Covered parking may include rows of canopies or enclosed garages. Common open space, shared recreational facilities, or central gathering spaces are generally provided for residents.
- G. *RMH: Residential manufactured home*. The RMH district is intended to provide stable environments for individual manufactured homes, manufactured home parks, and compatible accessory uses.

Section 27-303. Regulations applicable to all neighborhood districts.

All buildings must comply with the general regulations and the specific regulations per each district, unless otherwise expressly stated in this zoning code. See article 27-1500, Nonconformities, for existing buildings that do not fully conform to the district regulations.

- A. *Allowed uses.* Allowed uses and accessory uses are provided in article 27-1000.
- B. *Existing buildings.* Existing buildings are not required to meet these regulations except as defined in article 27-1500, Nonconformities.
- C. *Site access for lots.*
 - 1. Access to residences must be from any public or approved private street right-of-way.
 - 2. All lots shall have one lot line located fully on a public or private street right-of-way, except one of every four (4) lots in the development may be located on a shared open space with access provided by private easement.
 - 3. Where there is an existing or planned alley system, lots shall be provided vehicle access from the alley. Lots with or without alley access may be provided a curb cut for vehicle access to the street pursuant to the city curb cut and driveway standards in BMCC section 6-1208.
- D. *Permanent structures.* All buildings constructed in any neighborhood district, except the RMH district, must be of permanent construction without a chassis, hitch, or wheels, or other features that would make the structure mobile, unless otherwise expressly stated in this code. Modular construction that meets state adopted building code is allowed.
- E. *Accessory structure regulations.*
 - 4. Accessory structures are subject to article 27-1000, Use-specific standards, except as defined in the district site and structure regulations.
 - 5. Façade siding on accessory structures over two hundred (200) square feet in footprint must match the façade material and design of the principal structure to the maximum extent practicable.
- F. *Exceptions and exemptions.* The following exceptions and exemptions may apply to the district site and structure regulations. Use specific standards in article 27-1000 are still applicable.
 - 1. *Administrative relief.* Article 27-1600 defines administrative relief applicable to the site and structure regulations. Additional administrative relief may be noted throughout this article.
 - 2. *Utility installations.* The following structures are not required to comply with site and structure regulations applicable to a specific district.
 - (a) Wireless communications facilities and uses.

- (b) Public and private utility stations, substations, and associated utility station facilities.
- 3. Public, civic, and institutional uses. Public, civic, and institutional uses allowed in the district are required to meet the district site and structure regulations, except the following standards apply:
 - (a) The minimum dimension of any build-to zone shall be treated as a minimum setback.
 - (b) Minimum heights are not required. Heights above the maximum allowed may be approved through an administrative relief, based upon similar civic structures on similar lots in the surrounding neighborhood. See
 - (c) section 27-1614, Administrative relief.
- 4. *Maximum height exceptions.*
 - (a) The maximum height limit shall not apply to spires, belfries, cupolas, antennas, water towers or tanks, chimneys or smokestacks, power transmission lines, cooling or elevator towers, or similar and necessary appurtenances not used for human occupancy.
 - (b) Buildings permitted in neighborhood districts may exceed the height limitations of the district through an approved application for administrative relief (section 27-1614) or through a variance (section 27-1627) for increases greater than allowed by administrative relief.
- G. *Trash, recycling, refuse locations.* For all buildings with five (5) or more units, all trash, recycling, and other refuse areas must be located and treated as follows:
 - 1. Trash, recycling, and other refuse areas must be located in the rear yard of the lot.
 - 2. When no rear yard exists or when the rear yard is less than ten (10) feet in depth, trash, recycling, and other refuse areas may be located in the rear portion of an interior side yard.
 - 3. Trash, recycling, and other refuse areas may be located inside the building with access doors off the rear or interior side facade. Access doors may be located off a non-primary frontage facade with administrative relief per section 27-1614. Access doors must be opaque, screening a minimum of eighty (80) percent of the opening.
 - 4. See article 27-1200 for required screening of trash, recycling, and other refuse areas.
- H. *Allowed encroachments.* The following encroachments are permitted within setbacks as defined in Table 27-300.2. Encroachments are not allowed where a build-to zone is required.

Table 27-300.2. Table of Allowed Encroachments.

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

- I. *Front entrances.* The following standards apply only when required by the site and structure regulations for the district. Front building entrances shall be emphasized, adding interest to the building façade, through one or more of the following design features:
 1. *Roof or canopy.* The entrance is covered by a roof or canopy differentiating it from the overall building roof type.
 2. *Porch.* The entrance is through a porch.
 3. *Sidelights and transom.* Sidelights and/or transom windows are included abutting the entrance door.
 4. *Recessed or projecting bay.* The entrance is located in a separate bay of the building that is either recessed or projected from the front façade.
 5. *Other design.* Other designs adding emphasis and drawing attention to the entrance on the facade may be approved with section 27-1614, Administrative relief.
- J. *Arterial setbacks.* Minimum arterial setbacks as follows apply to all neighborhood districts:
 1. No building or structure shall be erected or maintained within fifty (50) feet of the centerline of an arterial street. In addition, no required parking area or portion thereof, including driving aisles, shall be constructed or located within forty (40) feet of the centerline of an arterial street. Any new construction that increases the number of required off-street parking spaces must locate these additional required parking spaces in areas that comply with these locational standards.
 2. Approved signs and public use controls and systems, trees trimmed up eight (8) feet and canopies with at least eight (8) feet clearance, shall be

permitted in this setback area. For the purpose of this subsection, canopies shall be defined as covers that are solely attached to and supported by the structure to which it is attached and which can be removed without destroying any part of that supporting structure. This shall only apply to canopies attached to the principal structure.

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

Section 27-402. District descriptions.

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

- A. **CBD: Central business district.** The CBD district is the downtown mixed-use core intended to continue the existing character of the highly walkable downtown commercial corridors with storefronts and residential uses on the ground story and upper story lodging and office uses.
- B. **DX: Downtown support.** The DX district is intended primarily for use surrounding the (CBD) district and would accommodate highly walkable, higher intensity office and residential uses in support of the CBD.
- C. **CMU1: Corridor mixed-use.** The CMU1 district is intended to accommodate commercial and other uses along transportation corridors to promote development that is comfortably accessible via all modes of transportation, including motor vehicles, bicycles, and walking. Commercial uses in the CMU1 district may be somewhat larger in scale and more flexible than the neighborhood mixed-use district, including more auto-oriented uses such as gas stations. While ground stories along streets are intended for commercial uses, any story could accommodate residential and/or office uses. CMU1 districts shall be located within one thousand three hundred twenty (1,320) feet of an arterial or collector street intersection.
- D. **CMU2: Corridor mixed-use and commercial centers.** The CMU2 district is similar in intent to CMU1, supporting commercial and other uses along transportation corridors to promote development that is comfortably accessible via all modes of transportation, including motor vehicles, bicycles, and walking. CMU2 differs from CMU1 as it is meant to accommodate larger-scale commercial, warehouse-style buildings, and other uses in multiple buildings on larger, deeper parcels along corridors. While ground stories along streets are intended for commercial uses, any story could accommodate residential and/or office uses. CMU2 districts shall be located within six hundred sixty (660) feet of an arterial or collector street and not adjacent to or sharing a property line with any existing city or county N, RR, RMH, RMH-R, or A district.
- E. **NMU: Neighborhood mixed-use.** The NMU district is intended to accommodate a mix of uses, primarily located along neighborhood corridors, that are highly

walkable and accessible to pedestrians. Includes ground story uses focused on daily needs primarily for adjacent neighborhood residents, such as corner stores, personal services, and small restaurants. Any story can accommodate residential and/or office uses. More intense uses located on blocks with less intense uses shall be located on block ends.

- F. *NO: Neighborhood office.* The NO district is intended to accommodate office and office/residential uses on neighborhood corridors and internal neighborhood locations where other commercial uses are inappropriate. This district is meant to be highly walkable and accessible to pedestrians and to fit well with the context of adjacent neighborhood residential buildings, when located on corners or block ends.
- G. *CX: Heavy commercial.* The CX district is intended for heavy commercial, wholesale, warehouse-distribution facilities, and contractor commercial uses. This district allows outdoor storage and accommodates truck traffic. This district is intended to be located along corridors where proximity to residential and walkable mixed-use development is limited. Basic setback and height parameters apply.

Section 27-802 Zoning Districts

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

A. Determination of PND type.

1. Table of PND types. Refer to Table 27-800.1 for available types of PNDs. The applicant must choose only one type of PND.
2. Multiple PND types. The applicant must meet the regulation for one type of PND, except as follows:
 - (a) For all sites up to twenty (20) acres, only one of the PND types will be allowed on the site.
 - (b) For developments over twenty (20) acres, multiple PND types are allowed as long as at least ten (10) acres is applied to any one type. The PND plan must show boundaries for each PND type.

Table 27-800.1. Types of Planned Neighborhood Districts.

Zoning Districts																
Requ	Types of PND	CM	CM	N	NO	NX	NX	NX	N1	N2	N3	RM	P1	P2	P3	
10	Mixed-Use MU PND Choose at least 2 districts: Pick 1 MU and Pick 1 NX or 1 N Min. % of net acres	L	L	P	P	P	P	L	P	P	P	P	R	P	P	
													2		3 buildings	
10	Mixed Residential MR PND Choose at least 2 districts: Pick 1 NX and Pick 1 N Min. % of net acres	-	-	L	P	P	P	P	P	P	P	P	R	P	P	
													2		3 buildings	
10	Neighborhood N PND Choose at least 2 N/NX districts Min. % of net acres	-	-	L	L	L	L	L	P	P	P	P	R	P	P	
													2		3 buildings	

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

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

L = Allowed but limited or specific development type regulations in section 27-802.

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

B. General layout of new districts.

1. Location of CMU districts.

- (a) CMU2 districts shall be located within six hundred sixty (660) feet of an arterial or collector street and not adjacent to or sharing a property line with any existing city or county N, RR, RMH, RMH-R, or A district.
- (b) CMU1 districts shall be located within one thousand three hundred twenty (1,320) feet of an arterial or collector street intersection.
- (c) CMU districts areas shall be uninterrupted and continuous.

2. General layout of PND districts.

- (a) More intense uses located on blocks with less intense uses shall be located on block ends.
- (b) Changes in districts shall generally occur at a rear lot line, at an alley, or at corner parcels.
- (c) N1, N2, and N3 districts shall not be located along arterial streets.

3. Minimum district mix regulations.

- (a) Unless Table 27-800.1 indicates otherwise, each type of planned neighborhood development requires a combination of at least two (2) development zoning districts with a percentage mix of eight-eight (88) percent maximum and ten (10) percent minimum measured by total net parcel area, plus the minimum required open space (two (2) percent minimum). For example, an applicant with a 12-net acre lot may choose to create a Neighborhood PND (N-PND) with a mix of: (1) 10.56 acres (eight-eight (88) percent) N3, 1.2 acres (ten (10) percent) N2, and the required .24 acres of P1 open space.
- (b) Zoning district area minimums and maximums are set as a percentage of the total net parcel area.

C. Mixed-use planned neighborhood development (MU-PND). Mixed-Use PNDs are required to designate at least one MU district and at least one NX or N district, with other permitted districts, in addition to the P1 district as shown Table 27-800.1. Refer to Table 27-800.1 for the allowed zoning districts available for use in the MU-PND.

- 1. **MU District.** A maximum of eight-eight (88) percent of the total net MU-PND area may be designated for these zones.
- 2. All CMU2 districts must be within six hundred sixty (660) feet of an arterial or collector street intersection.
- 3. **Additional districts.**
 - (a) Minimum required residential mix. At least one N or NX district shall be designated on a minimum of ten (10) percent of the net acreage.

- (b) All P3 zones must accommodate at least three (3) buildings within the designated area.
- 4. Other districts. Other districts are allowed per Table 27-800.1.
- 5. P1 districts. Public and private open space types required in section 27-803 must be zoned P1.
- D. *Mixed residential planned neighborhood (MR-PND)*. Mixed residential PNDs are required to provide two (2) zone districts in addition to the P1 district as shown in the locational requirements of Table 27-800.1. Refer to Table 27-800.1 for the allowed zoning districts available for use in the MR-PND.
 - 1. *NX district*. One NX-category zone district is required and one N-category zone district is required. At least one of these districts must be ten (10) percent of the net acreage.
 - 2. *NMU district*. The NMU district is limited to nodes at local street intersections.
 - 3. *P1 districts*. Public and private open space types required in section 27-803 must be zoned P1.
 - 4. *Additional districts*.
 - (a) With more than ten (10) acres of residential districts, at least one of the following districts must be included with a minimum area of at least one-half acre of development: NX2 or NX3 district.
- E. *Neighborhood planned neighborhood (N-PND)*. Neighborhood PNDs are required to provide two zone districts in addition to the P1 district as shown in Table 27-800.1. Refer to Table 27-800.1 for the allowed zoning districts available for use in the N-PND.
 - 1. *NMU district*. The NMU district is limited to nodes at local street intersections. No more than four (4) local street intersections shall have an NMU zone district designated on two (2) or more block ends.
 - 2. *NO district*. The NO district may be designated at local street intersections.
 - 3. *Additional districts*.
 - (a) For all developments, at least two (2) N districts shall be designated. At least one of these districts must be ten (10) percent of the net acreage.
 - (b) For developments over forty (40) acres, at least one NX district shall be designated with a minimum area of at least one acre of development.
 - 4. *P1 Districts*. Public and private open space types required in section 27-803 must be zoned P1.

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 twenty (20) feet from the front facade.
3. Permitted with use restrictions /PR/. These uses must comply with the use restrictions identified in this zoning code, including those restrictions included in this article and any use restrictions identified in the zone district where the uses is proposed to be located.
4. Requires a special review /SR/. These uses require special review by the city zoning commission are not permitted uses in the districts in which they are listed but may be allowed as special exceptions subject to specific conditions. Uses permitted by special review must follow any applicable development standards associated with the use as well as meet the requirements of the special review.
5. Uses that are not permitted are indicated by a blank space.

B. *Interpretation.*

1. *Classification of new or unlisted uses.* Every type of potential use cannot be addressed or foreseen in this zoning code. When a use is proposed that is not specifically listed in the applicable use table, the following procedures shall be applied.
2. *Uses not subject to use interpretation.* The following categories of uses typically impose substantial impacts on a site, adjacent sites and structures, pedestrians or cyclists, the road network, or public infrastructure. Where a new use is proposed that is not identified in the applicable use table and that can be categorized into one of these categories, the applicant shall file an application for code amendment to determine if the use will be permitted. Through this process, the city will have the opportunity to review and determine the impacts of the proposed use and establish any prescribed conditions that may be appropriate to allowing the use:
 - (a) Agricultural uses.
 - (b) Industrial services.
 - (c) Manufacturing, processing, and assembly.

(d) Waste and salvage.

3. *Request for use interpretation.* Requests for a use not prohibited in the previous section and not specifically addressed in any zoning district shall be submitted to the zoning coordinator for review, based on the following standards.

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

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

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

(2) Conformance with the currently adopted land use plan, future land use map, 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 subsection 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 fourteen (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.

Page left intentionally blank

C. Table 27-1000.1 Billings Primary Use Table.

Table 27-1000.1: Permitted Primary Uses	Residential							Mixed-Use and Commercial							Indust.		EBURD					Public						
	Key: P = Permitted, PL = Location Limits in Zone District, PR - Applicable Use Restrictions, SR = Special Review																											
Use Table	N3	N2	N1	NX1	NX2	NX3	RMH	NO	NMU	CMU ₁	CMU ₂	DX	CBD	CX	I1	I2	RSV _{MS}	RSV	CW	I3	IS	P1	P2	P3Ci _v	P3 _{Ed}	P3 _{Med}	Additional Standards	
RESIDENTIAL																												
Households Living (du/structure)																												
1 du	P	P	P	P			P	P	P	P	P	P	P				P	P	P	P			PR	PR	PR	PR	27-1003	
2 dus		P	P	P	P			P	P	P	P	P	P				P	P	P	P			PR	PR	PR	PR	27-1003	
3—4 dus				P	P	P		P	P	P	P	P	P				P	P	P	P			PR	PR	PR	PR	27-1003	
5 dus					P	P		P	P	P	P	P	P	P			P	P	P	P			PR	PR	PR	PR	27-1003	
6—8 dus					P	P			P	P	P	P	P	P			PL	P	P	PL			PR	PR	PR	PR	27-1003	
9+ dus						P				P	P	P	P	P			P	P	P	P			PR	PR	PR	PR	27-1003	
Manufactured Home																												
Types 1 (Jan 1, 1990, or newer) and 2 (all other) “Mobile Homes”							P																				27-1003, RMH: 27-310 Defs Section	
Manufactured/Factory built housing (on permanent foundations) – 1 du	P	P	P	P			P	P	P	P	P	P	P				P	P	P	P			PR	PR	PR	PR	27-1003 Defs Sections	
DUs less than 400 SF GFA (“Tiny Homes”) on permanent foundations	P	P	P	P			P	P	P	P	P	P	P				P	P	P	P			PR	PR	PR	PR	27-1003 Defs Sections	
Group Household Living																												
Groups Recognized by Montana Statute																												
Comm. Res. Facility, Large (> 8 res.)	SR	SR	SR	SR	SR	P	SR	P	PL	PL	PL	P	PL				PL	P	P	PL	PL		P			P	27-1003	
Comm. Res. Facility, Small (8 or fewer res.)	P	P	P	P	P	P	P	P	PL	PL	PL	P	PL				PL	P	P	PL	PL		P			P	27-1003	
Independent Groups																												

Page left intentionally blank

Section 27-1008. Accessory uses.

A. General provisions.

1. *Accessory use or structure.* Accessory use or structure must be subordinate in both function and gross floor area to the principal use.
2. *Time of construction or establishment.* No accessory structure or use shall be constructed or established more than one hundred eighty (180) days prior to the time of completion of the construction or establishment of the principal structure or use to which it is accessory.
3. *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.

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. Accessory use or structure must be subordinate in both function and gross floor area to the principal use. 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.

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 (5) feet of any other building except as specified in this section.

D. Detached accessory residential structures.

1. Detached buildings for accessory residential uses (see subsection 27-1008.G for accessory dwelling unit requirements) greater than two hundred (200) square feet in size shall not exceed the principal building first story gross floor area on the lot or one thousand five hundred (1,500) square feet, whichever is less. Accessory use or structure must be subordinate in both function and gross floor area to the principal use.2. The maximum total square footage in detached accessory structures in the N1, N2, N3 and RMH zone districts shall not exceed two thousand (2,000) square feet or the total principal building first story gross floor area on the lot, whichever is less. Accessory structure must be subordinate in both function and gross floor area to the principal use.

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 twenty (20) feet from the front facade.
3. Permitted with use restrictions /PR/. These accessory uses must comply with the use restrictions identified in this zoning code, including those restrictions included in this article and any use restrictions identified in the zone district where the uses is proposed to be located.
4. Requires a special review /SR/. These accessory uses are not allowed in the district but may be allowed through the special review process. Special review uses must follow any applicable development standards associated with the accessory use as well as meet the requirements of the special review.
5. Accessory uses that are not permitted are indicated by a blank space.

Table 27-1000.6: Accessory Uses	Residential							Mixed-Use and Commercial							Indust.	EBURD					Public						
	Key: P - Permitted, PL - Location Limits in Zone District, PR - Use Restrictions, SR - Special Review																										
Use Table	N3	N2	N1	NX1	NX2	NX3	RMH	NO	NMU	CMU1	CMU2	DX	CBD	CX	I1	I2	RSV MS	RSV	CW	13	IS	P1	P2	P3Civ	P3 Ed	P3 Med	Additional Standards
Residential																											
Accessory Dwelling Unit	P	P	P	P			P	P	P	P	P	P	P				P	P	P	P			PR	PR	PR	PR	27-1008
Employee/Caretaker Unit														PR	PR	PR					PR		P	P	P	P	27-1008
Home Occupation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	27-1008
Short-Term Rental (Guest Home)	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR			PR	PR	PR				PR	PR	PR	PR	27-1005
Shelter (accessory to religious institution)												PR	PR				PR	PR	PR	PR	PR						27-1004
Casino																											
Limited (1—3 gambling devices)									P	P	P	P	P	P	P	P	P	P	P	P	P						27-1005
Small (4—9 gambling devices)									P	P	P	P	P	P	P	P	P	P	P	P	P						27-1005
Communication and Satellite Facilities																											
Amateur Radio Support Towers	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PR	PL	PL	P											27-1008
Satellite Antenna and Dishes	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	27-1008
Day Care Facilities																											
Day Care Center								P	P	P	P	P	P	P			P	P	P			P	P	P	P	P	27-1008
Family Day Care Home	P	P	P	P	P	P	P																				
Group Day Care Home	P	P	P	P	P	P	P																				

Page left intentionally blank

- F. *Accessory day care facility.* A child or adult day care facility, including nursery and preschool, may be permitted as an accessory use to a public, civic, and institutional use, subject to compliance with applicable state and city regulations.
- G. *Accessory dwelling units.*
1. *Applicability.*
 - (a) Accessory dwelling units are permitted on any parcel where a single dwelling unit is permitted or currently exists.
 - (b) The minimum lot size for a lot that has both a primary dwelling unit and an accessory dwelling unit is three thousand (3,000) square feet.
 2. *Ownership and occupancy.*
 - (a) The accessory dwelling unit shall not be sold separately or subdivided from the primary dwelling unit or lot.
 3. *Dimensional standards and location.*
 - (a) One accessory dwelling unit is permitted per residential lot. The ADU shall be located on the same lot as the primary unit.
 - (b) Unless specifically addressed in this section, accessory dwelling units are subject to the dimensional regulations the underlying zone district; e.g., setback/yard requirements and building coverage.
 - (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 an accessory dwelling unit shall be no more than eighty (80) percent of the gross floor area of the principal dwelling unit or one thousand (1,000) square feet, whichever is less.
 5. *Construction.*
 - (a) Accessory dwelling units must contain a kitchen or a food prep area, bathroom, and sleeping area for the sole use of the unit.
 - (b) Water and sewer service shall be provided. The principal unit and accessory unit may share utilities.
 - (c) Mobile homes, 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) Accessory dwelling units shall have a separate entrance with a clearly labeled street address. Houses with an incorporated accessory dwelling unit may not create additional entrances facing the same street.

7 *Home occupations.* Home occupations are permitted in an accessory dwelling unit.

H. *Amateur radio support towers.*

1. *Applicability.*

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

2. *Standards.*

- (a) Amateur radio antenna support structures and antennas shall be located only within the rear yard and shall not be placed within any required setback and shall be located so as to minimize their impact on adjacent residential properties and adjacent rights-of-way while maintaining acceptable signal quality.
- (b) Amateur radio antenna support structures and antennas exceeding six (6) feet in height above grade (if ground-mounted) or above the roof or ridge of the building on which they are located (if building-mounted), shall require a building permit. With each building permit, the applicant shall submit evidence as is required to show that the device is adequately anchored, designed and/or constructed so as to safeguard the general public and/or adjacent property from damage in the event of failure of the device.
- (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 a.m. and ending at 9:00 p.m.
- (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 a.m. and 11:00 p.m. 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 (8) square feet and eight (8) feet in height, and set back a minimum of five (5) feet from the front and side

property lines. In all other zoning districts, signs shall comply with the permanent sign standards for the applicable zoning district.

- J. *Drive-through (thru) facility.* The following standards shall apply to businesses that contain a drive-through establishment, regardless if the drive-through is part of another use (e.g., restaurant or financial institution) or if it is a stand-alone use (e.g., automatic teller machine).
1. *Location of services areas and use of audible electronic devices.*
 - (a) Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments located within fifty (50) feet of any residential zone district shall not be audible beyond the subject property line.
 - (b) All drive-through areas, including but not limited to menu boards, stacking lanes, trash receptacles, loudspeakers, drive up windows, and other objects associated with the drive-through area shall be located in the side or rear yard of a property to the maximum extent feasible, and shall not cross, interfere with, or impede any public right-of-way.
- K. *Electric vehicle charging station.*
1. This section is not intended to regulate the charging of electronic vehicles within a personal garage associated with a dwelling unit or charging stations that may be placed within the public right-of-way by the city.
 2. An electric vehicle charging station shall comply with the following use-specific standards:
 - (a) The charging station shall be associated with an approved off-street parking space.
 - (b) Equipment associated with a charging station shall be located to not impede pedestrian movement or create trip hazards within the right-of-way or any pedestrian pathway.
- L. *Employee/caretaker unit.* Employee/caretaker units in CX, I1, I2, and EBURD shall be limited to no more than two (2) residential units per ten thousand (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 (4) 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 five hundred (500) square feet or twenty-five (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 (5) 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 twelve thousand (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 (6) 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;
- (e) Uses involving the grooming, breeding, or boarding of animals; or
- (f) Uses involving marijuana including but not limited to the dispensaries, sales, cultivation, testing, manufacturing, transporting or temporary storage of marijuana.

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 five (5) feet to any side or rear property line.

4. *Maximum area.* The area of the outdoor kennel site shall be limited to ten (10) percent of the total area of the lot.

O. *Livestock and fowl.*

- 1. Livestock shall not be maintained in any zoning district located within the limits of the city except as provided in Table 27-1000.2 Accessory Uses.
- 2. Horses may be permitted in the city when located within a planned development that was specifically designed and approved to accommodate horses and/or equestrian centers.
- 3. Fowl, except chicken hens, shall not be maintained in any zoning district located within the city limits. Chicken hens may be kept within the limits of the city in residential zoning districts or on property used for single family residential purposes as provided in Table 27-1000.6, Accessory Uses, subject to limitations and permitting requirements in BMCC section 4-303, Rabbitry and chickens.

P. *Outdoor display and sales.*

1. *General provisions.*

- (a) Outside display and sale of merchandise is permitted only if the merchandise is related to the principal use of the property. Merchandise shall be removed each night into an enclosed structure except that the continuous outside display of merchandise is permitted when the principal use of property is:
 - (1) Lumber and construction materials;
 - (2) Vehicle and heavy equipment sales and rentals;
 - (3) RV and manufactured home sales and service;
 - (4) Wholesale and retail nurseries;
 - (5) Lawn and garden supply;
 - (6) Fueling stations;
 - (7) Retail or wholesale open twenty-four (24) hours; or
 - (8) Temporary uses and structures regulated by section 27-1009.
 - (b) Display areas shall be located outside of drive aisles; required parking areas, including access; required landscape areas; and pedestrian ways.
 - (c) In addition to the outdoor display and sales area, store front sidewalks excluding any public sidewalks, shall be allowed for outdoor display and sales provided these outdoor display and sales areas comply with all provisions of applicable zoning ordinances, building codes, and other city codes and regulations.
 - (d) All outdoor display and sales areas shall be maintained in a neat, clean, orderly fashion to avoid pedestrian hazards and ensure personal safety.
 - (e) Display areas shall not exceed eight (8) feet in height unless a single unit of the merchandise exceeds eight (8) feet (e.g., RVs, manufactured homes, or trucks).
2. **EBURD.** Outdoor sales are limited to lots fronting on Boulevard Street Types (1st Avenue N, 4th Avenue N, and 6th Avenue N).

Q. *Outdoor and sidewalk seating.*

- 1. Eating and drinking establishments may provide accessory outdoor seating areas, including rooftop seating, that meet the following generally applicable criteria:
 - (a) Outdoor seating areas outside of the CBD may not occupy required landscape area, required parking spaces, or required parking area access aisles.
 - (b) An outdoor seating area exceeding twenty-five (25) percent of the indoor building floor area is counted as floor area for purposes of determining off-street parking and loading requirements.
 - (c) The use of mechanically produced sound, amplified sound, or live music shall only be permitted in conformity with the city's noise standards.

Waivers or variances to the city's noise standards are not allowed for property within fifty (50) feet of any residential zone.

- (d) All outdoor uses shall be maintained free of garbage and other debris.
 - (e) The hours of operation for the outside seating shall be consistent with the hours of operation of the inside use.
 - (f) The outdoor seating area shall not obstruct any fire exit, fire escape, or other required ingress or egress.
2. Public sidewalk seating may be permitted by city engineering in compliance with the following conditions:
- (a) The area of occupancy must be abutting and contiguous to the restaurant in which food preparation, sanitation and related services for the sidewalk cafe will be performed.
 - (b) Sidewalk seating may not be enclosed by fixed walls, unless such walls are necessary to comply with requirements to serve alcohol, and shall be open to the air, except that it may have a canopy.
 - (c) There shall be a minimum width of four (4) 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 (5) feet from driveway and alleys, and ten (10) 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 section 22-400.

R. *Outside storage.*

- 1. *Intent.* Any use requiring accessory outside storage of material, equipment, or business-related supplies shall comply with the following standards. Outdoor storage does not include outdoor sales lots as regulated in subsection 27-1008.P.
- 2. *Generally applicable standards.*
 - (a) Any permitted outside storage shall be within an area enclosed with a sight obscuring fence at least six (6) feet in height that is architecturally compatible in color and design with the building.
 - (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 (6) feet in height. Chain link or other type of wire fencing is prohibited unless durable sight-obscuring inserts are installed. Fabric or cloth inserts are not permitted.
4. *EBURD.*
 - (a) Within the central works and 13th Street Main Street districts:
 - (1) Outdoor storage areas shall be located in the rear or side yard of the lot.
 - (2) Loose materials shall not be stacked higher than six (6) feet.
 - (3) Loose materials shall at a minimum be stored in a three-sided shelter and shall be covered.
 - (4) Materials shall be set back a minimum of five (5) feet from any lot line.
 - (5) All outdoor storage areas shall be screened from view of adjacent parcels and vehicular rights-of-way using the side or rear buffer.
- S. *Satellite antennas and dishes.* Before any satellite antenna is erected in any zoning district, the property owner(s) shall first obtain the applicable permits from the building official.
 1. A building permit is not required for installation of satellite dish antennas which are four (4) feet or less in diameter.
 2. All satellite dish antennas and the construction and installation thereof shall conform to the building and electrical codes adopted by the building division.
 3. Satellite dish antennas shall meet all manufacturer's specifications, be of noncombustible and corrosive-resistant material, and be erected in a secure, wind-resistant manner.
- T. *Shipping container storage.*
 1. *Site requirements.* All accessory shipping container storage shall meet the following site standards:
 - (a) There shall be a principal structure on the property.
 - (b) The shipping containers are stored either:
 - (1) Behind the principal structure; or
 - (2) Shielded from view by a permanent enclosure that is at least eight (8) feet in height and sight-obscuring.
 2. *Permanent accessory use.* In the CX, I1, I2, and EBURD districts, shipping containers may be used for permanent accessory storage for a period of more than one year.
 3. *Temporary accessory use.*

- (a) In the NMU, CMU1, CMU2, and DX districts, shipping containers may be used for temporary accessory storage for a period of time not to exceed one year.
- (b) Shipping containers may be used for accessory storage for a period not to exceed three (3) months for business relocations and new business stocking.
- (c) Shipping containers may be used for accessory storage for a period of time not to exceed nine (9) months following a fire or other disaster.

U. Solid waste.

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

Section 27-1009. Temporary uses

A. Temporary uses in nonresidential zoning districts.

- 1. *Group 1 temporary uses.* This group shall be defined as temporary uses of property continuing for less than seventy-two (72) hours. Group 1 uses do not require a temporary use/structure permit from planning and community development. Uses in this group shall comply with the following:
 - (a) Such use shall be an allowed use in the underlying zoning district;
 - (b) Any temporary structure must be setback five (5) feet behind all property lines;
 - (c) No part of the temporary use or temporary structure shall block any defined clear vision area (subsection 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 seventy-two (72) hours but less than ninety-one (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 (5) feet behind all property lines;
 - (3) No part of the temporary use or temporary structure shall block any defined clear vision area per subsection 27-1802.H for driving aisles, drive approaches from streets, or at the intersection of streets or alleys;
 - (4) New access drives to public rights-of-way must be approved by the city engineering division;
 - (5) A business license for temporary uses located within the city limits must be obtained if required by BMCC chapter 13-400, Finance and revenue.
3. *Group 3 temporary uses.* This group shall be defined as temporary uses of property continuing for longer than ninety (90) days but less than one year and are required to obtain a temporary use permit from the planning and community services department.
- (a) The following temporary uses may be allowed in this temporary use group, but must be located in a district that allows the use, as specified in Table 27-1000.1, Primary Uses:
 - (1) Greenhouses or other similar seasonal-oriented uses, as determined by the zoning coordinator;
 - (2) Portable classrooms;
 - (3) Portable offices; or
 - (4) Other uses, such as carry-out food and/or beverage service.
 - (b) *Location restrictions.*
 - (1) Any group 3 temporary use/structure existing upon adoption of this chapter, which does not comply, depending upon its location, with the applicable city site development regulations, shall comply with such standards within one year from the date of the enactment of this section or any amendment thereto;
 - (2) Any new or relocated temporary use must be located on a site which complies, depending upon its location, with the applicable city site development regulations, including landscaping, surfacing and number of required off-street parking spaces;
 - (3) The structure shall be a factory-built structure and shall not have an axle(s). Temporary structures which do not comply with one or both of these requirement(s) and which exist as of February 25, 2021, 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 ten (10) by twelve (12) feet or one hundred twenty (120) square feet;
- (ii) Site circulation shall be approved by the city traffic engineer, along with the location of any drive-in window. This group of temporary uses shall be exempt from any special review requirements for drive-in service;
- (iii) The temporary use must provide the required number of paved off-street parking spaces. In addition, the temporary use shall not utilize any parking spaces that would make the principal use deficient in the required number of off-street parking spaces;
- (iv) Utilities to serve the temporary use shall be located underground or suspended overhead, in compliance with all applicable codes; and
- (v) All structures are subject to local, and state requirements and must obtain all relevant licenses before a temporary use/structure permit is issued.

(c) *Supplemental standards.*

(1) When submitting for a temporary use/structure permit, a group 3 use shall provide the following:

- (i) Existing site plan, including parking stalls and buildings;
- (ii) Proposed site plan, including location of temporary use and its relationship to existing site circulation and off-street parking spaces and driving aisles, including existing and proposed surfacing;
- (iii) Location of drive-in service, if applicable;
- (iv) Setbacks from property lines and arterial streets;
- (v) Size of temporary structure; and
- (vi) Proposed use of the temporary structure.

(2) The temporary use must provide sufficient space to accommodate the structure and paved off-street parking for customer and use-related vehicles;

(3) Clear vision standards set forth in section 27-615 shall be followed;

(4) Access to any public right-of-way must be approved by the city engineering division;

(5) It shall be the responsibility of the owner of the temporary structure to ensure that the structure is secured to withstand an eighty (80) miles

per hour (m.p.h.) wind load and to meet all applicable Americans with Disabilities Act (A.D.A.) and accessibility standards;

- (6) All group 3 temporary structures, regardless of size, which contain electrical wiring, and are placed on property within the city limits, shall have such electrical wiring permitted, inspected and approved by the city building division. 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.
- 4. *Group 4 temporary uses.* This group shall be defined as temporary uses continuing for up to one year and are required to obtain a temporary use permit from the planning and community services department. This group is specifically for mobile vendors, including food or retail vendors designed to change locations frequently throughout the year.
 - (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) Uses, such as carry-out food and/or beverage service.
 - (2) Retail sale of goods
 - (b) *Location restrictions.*
 - (1) Any group 4 temporary use shall comply with the following criteria:
 - (i) Mobile vendors located on private property must include written permission from the property owner to utilize the site.
 - (ii) Sites for these uses are subject to master site plan process and approval.
 - (iii) All mobile vendors are subject to local and state requirements and must obtain all relevant licenses before a temporary use permit is issued.
 - (c) *Supplemental standards.*
 - (1) When submitting for a temporary use permit, a group 4 use shall provide the following:
 - i. Written confirmation of approval from the health department
 - ii. Proposed type of mobile vendor
 - iii. Signed declaration to comply with all City, State and Federal requirements for mobile vending services.
 - iv. A business license for temporary uses located within the city limits must be obtained if required by BMCC chapter 13-400, Finance and revenue.

- 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 sixty-one (61) days and are required to obtain a temporary use permit from the planning and community services department.
1. *Seasonal sales.* The sales of seasonal items including but not limited to holiday decorations in residential zoning districts shall be allowed when all of the following restrictions are met:
 - (a) The sale must be conducted on 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 subsection 27-1802.H;
 - (e) New access to any public right-of-way must be approved by the city engineering division; and
 - (f) All signage and temporary structures must be removed at the time the temporary use has ceased on the property.
- C. *Temporary uses and structures.*
1. *Construction equipment, sheds, and materials.* The temporary staging and storage of equipment and materials and use of buildings or modular structures for offices or equipment sheds during construction projects may be permitted in any zoning district. A temporary use/structure permit is not required if the equipment, materials and structures are part of an approved construction project. In addition, all equipment, materials and structures shall meet the following criteria:
 - (a) Equipment, materials and structures include any items procured by a contractor that are necessary to complete the approved construction project including, but not limited to:
 - (1) Heavy equipment, pipe, fittings, manholes, and the appurtenances;
 - (2) Gravel, sand, soil, concrete mix, forms, lumber and similar materials;
 - (3) Traffic control devices and stacked pallets of materials; and

- (4) Modular offices and equipment sheds.
 - (b) Staging and storage of equipment and materials shall be conducted in a safe, neat and orderly manner at all times;
 - (c) Any such equipment, materials and structures shall be removed upon completion of the construction project; and
 - (d) No such structure shall be used for living or sleeping purposes.
 - 2. *Other temporary structures.* Temporary structures not used for construction or equipment sheds may be allowed when the following criteria are met:
 - (a) For group 3 uses, the structure shall meet the applicable setbacks for the zone in which it is located, including arterial setbacks as found in sections 27-303, 27-403, and 27-602;
 - (b) The structure shall meet the clear vision standards set forth in subsection 27-1802.H;
 - (c) No such structure shall be used for living or sleeping purposes;
 - (d) The use of the structure shall comply with subsections 27-1009.A.3(b) and 27-1009.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 27-1009.A.3(b); and
 - (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 27-1009.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 bond, in an amount set by city council resolution from time to time, for each location with the planning and community services department to ensure timely removal of the use and/or structure.
 - 3. Group 4 temporary uses shall provide details and proof of permission to park at any location.

Section 27-1301. General applicability.

A. Off-street parking required.

1. Minimum off-street parking in any district other than CBD or EBURD shall be provided pursuant to this section at the time of erection of any building or structure
2. A change in use of an existing building or structure, where such change does not include an expansion or enlargement of said building or structure, shall not require a change to its minimum off-street parking requirement. This standard also applies to vacant buildings.
3. No minimum off-street parking is required in the CBD or EBURD zone districts except as specifically provided in this section. Where off-street parking is provided, it shall meet the standards of this section.
4. Required off-street parking areas must be used for parking only. Automobile sales, storage, and other uses are prohibited unless specifically permitted by another section of this zoning code.

B. Expansion, enlargement, and nonconformities.

1. Whenever any building is enlarged in height or in ground coverage, off-street parking shall be provided for the expansion or enlargement in accordance with the requirements of article 27-1100, Proportionate compliance.
2. Changes to the size or location of existing off-street parking areas in NX, NO, NMU, and CMU districts shall be done in a manner that brings the parking area into greater compliance with the zone district site standards. See article 27-1500, Nonconformities.
3. Nothing in this section shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings even though those uses or buildings are nonconforming, provided that the new parking can be provided in compliance with this section and the requirements of the zone district.

C. Zone district groupings. When reference is made to a group of zone districts, the following individual districts shall be included:

District Groupings Used in this Section	
Residential	All N districts, RMH
Mixed-Use	All NX districts, NO, NMU, All CMU districts
Commercial	C3, CX
Industrial	I1, I2
Public	All P districts
EBURD	All EBURD districts

Section 27-1302. Calculation of required parking.

A. Required parking.

1. Required off-street parking spaces shall be provided in conformance with Table 27-1300.1, Off-Street Parking Standards, unless modified by article 27-1100, Proportionate compliance.
2. In the case of mixed uses, the total requirements for the various uses shall be computed separately unless the joint use provisions of section 27-1304 apply.

B. Calculation of required parking.

1. When determination of the number of parking or loading spaces results in a requirement of a fractional space, any fraction shall be rounded up and counted as one parking space.
2. When there are multiple structures on a lot or multiple uses in a structure, parking shall be calculated separately for each different use area in a building or on a site, including all accessory uses.
3. Parking spaces required on a per-employee basis shall be based on the maximum number of employees on duty and/or residing on the premises at any one time.
4. Parking spaces required based on the number of beds in a facility shall be calculated based on the number of beds accommodated in the design capacity of the facility.
5. When the standards use seating as a unit of measurement, all calculations shall be based on the number of fixed seats. If fixed seats are not provided, then parking shall be determined at a rate of one space per four (4) occupants unless otherwise specified in Table 27-1300.1, Off-Street Parking Standards.
6. When the standards use the number of occupants as a unit of measurement, all calculations shall be based on the maximum occupant load, as determined by the adopted building code.

Table 27-1300.1. Off-Street Parking Standards.

Use	Required Parking
RESIDENTIAL	
Households Living (dwelling unit/structure)	
Dwelling, single unit, detached and attached	1 per du
Dwelling, multiple unit structure	1 per du
Dwelling unit in a mixed-use structure	1 per du
Dwelling unit under 1,200 SF GFA	1/2 space per du
Dwelling unit, deed-restricted affordable	No required minimum
Manufactured Home (Class A, B, C)	1 per du
Group Household Living	
Comm. Res. Facility, Large	2 + 1 per 5 beds

Comm. Res. Facility, Small	Dwelling, single unit
Comm. Res. Facility, Assisted Living Facility (Small or Large)	No required minimum
Fraternity/Sorority House	1 per 2 sleeping rooms or 1 per 3 beds, whichever is greater
Group Living Facility	2 + 1 per 5 beds
Retirement Home or Village	1 to 6 units: 0.5 space/du 7 to 18 units: 0.33 space/du Over 18 units: 0.25 spaces/du Minimum of 5 spaces
Travel Trailer Park/ Campground	1 space per campsite/RV site
PUBLIC, CIVIC, AND INSTITUTIONAL	
Assembly	
General Assembly	1 per 4 seats in assembly area or 1 per 100 SF GFA in assembly area without seats
Libraries and Museums	1 per 1,000 SF GFA for museum and art gallery; 1 per 333 SF GFA for library
Education	
School, College or University	1 per 400 SF GFA
School, Primary and Secondary	Elementary School: 2 per classroom Middle School: 2 per classroom High School: 6 per classroom and 1 per 300 SF GFA additional enclosed floor space
School, Trade, Business, Vo/Tech	1 per 300 SF indoor GFA
Government and Public Safety	
All	1 per 300 SF GFA of space used by the public + 1 per 600 SF GFA of space not used by the public
Health Care and Social Assistance	
Adult Day Care	1 per 400 SF GFA plus 2 stacking spaces at drop-off area for adult day care in mixed-use or non-residential districts
All Healthcare, unless otherwise specified	1 per 2 beds based on maximum capacity + 1 per 350 SF GFA for areas that are not patient rooms. Healthcare facilities without patient rooms apply the 1 per 350 SF GFA standard.
Parks and Recreation	
Arboretums/Botanic Gardens/Zoos	1 per 4 occupants at capacity
Golf Course/Swimming Pool (Public)	Golf: 4 per hole plus 2.5 per 1,000 sf GFA in clubhouse; Pool: subsection 27-1302.D
Public Parks and Playgrounds	Subsection 27-1302.D
Public Recreation Facilities	Subsection 27-1302.D; Playfields (soccer, baseball, etc.) shall have minimum of 20 spaces per field
COMMERCIAL	
Amusement and Recreation	
Amusement & Recreation, Indoor	6 per 1,000 SF GFA
Amusement & Recreation, Outdoor	1 per 4 occupants at capacity
Adult Entertainment	1 per 200 SF GFA
Casino, Large	1 per 150 SF GFA
Animal Sales and Services	
Boarding/Kennel	1 per 400 SF GFA
General Sales and Services	1 per 400 SF GFA

Shelter	1 per 800 SF GFA
Veterinary, all	1 per 400 SF GFA (indoor only)
Assembly, Entertainment and Trade	
All assembly	1 per 4 seats in assembly area or 1 per 100 SF GFA in assembly area without seats
Child Care	
All child care	No required minimum
Commercial Service	
Broadcasting Stations and Studios	1 per 400 SF GFA
Business Service	1 per 400 SF GFA
Crematory, Funeral Services	1 per 50 SF chapel area, minimum 2
Cemetery	1 per 50 SF chapel area, minimum 2
Consumer Maintenance and Repair	1 per 400 SF GFA
Personal Service	1 per 400 SF GFA
Studio or Instruction Service	1 per 400 SF GFA
Eating and Drinking Establishment	
Restaurant	1 per 150 SF GFA
Without interior seating	As determined by the zoning coordinator
Bar or Tavern	1 per 150 SF GFA
Craft Alcohol	1 per 150 SF GFA
Financial Services	
Financial and Alternative Financial	1 per 300 SF GFA
Lodging	
Boarding	1 per guest room
Bed and Breakfast Inn	2 + 1 space for each guest room
Campground/RV Park	1 per campsite/RV site
Hotel/Motel	1 per room + 1 per 300 SF meeting or restaurant and bar area
Short-Term Rental	Parking assigned to dwelling unit
Office	
Business or Professional	1 per 350 SF GFA
Medical doctor or dental clinics	Medical, dental or optical: 1 per 222 SF GFA; Professional therapy (mental health, physical, occupational, or similar): 1 per 250 SF GFA
Research and Testing Laboratories	1 per 400 SF GFA
Parking, Commercial	
Commercial, primary use	n/a
Retail Sales	
Retail (all unless otherwise specified)	1 per 200 SF GFA for the first 2,000 SF + 1 per 300 SF GFA over 2,000 sq. ft. up to 100,000 SF total GFA
Retail, large format	Retail standard up to 50,000 SF GFA then 1 per 1,000 SF GFA. If part of the structure is warehouse, apply the retail standard and Table 27-1300.2 to the areas in each use.
Retail, Extended Display Floor	1 per 1,000 SF GFA
Commercial Greenhouse/Nursery	1 per 1,000 SF GFA
Outdoor Sales Lot	1 per 1,000 SF GFA sales area
Vehicle Sales and Service, Personal	
Car Wash	
Fueling Station, with or without convenience store	1 per 200 SF GFA for the first 2,000 SF + 1 per 300 SF GFA over 2,000 sq. ft.

Vehicle Sales and Rental	Sales: 1 per 1,000 SF GFA used by general public plus storage of cars for sale Rental: 1 per 250 SF GFA used by general public plus storage of cars for rent
Vehicle Maintenance and Repair	1 per 250 SF GFA
INDUSTRIAL, WHOLESALE, AND STORAGE	
Industrial and Construction Services	
All	Table 27-1300.2
Manufacturing, Assembly, or Processing	
All	Table 27-1300.2
Natural Resource Extraction	
All	1 per site
Warehouse and Storage Services	
All	Table 27-1300.2
Waste and Salvage	
All	Table 27-1300.2
TRANSPORTATION, UTILITIES, AND COMMUNICATIONS	
Alternative Energy Production	
Solar Power Array, large/commercial	1 per site
Wind Energy Conversion Systems, large/commercial	1 per site
BioMass Conversion Systems, large/commercial	1 per site
Transportation	
Bus or Taxi Maintenance and Parking Shed	Subsection 27-1302.D
Airport Passenger Terminal	Subsection 27-1302.D
Bus/Public Transit Terminal	Subsection 27-1302.D
Train Passenger Terminal	Subsection 27-1302.D
Train/Railroad Freight Terminal, Switching Yard	Subsection 27-1302.D
Utilities and Public Facilities	
Major	Table 27-1300.2
Minor (e.g., lift stations, substations, pump stations)	Table 27-1300.2
Offices, Buildings, Yards, and Land	Table 27-1300.2
Pipelines (except natural gas)	n/a
Transmission and Distribution Lines	n/a
Wireless Communication Facilities	
Amateur Radio, greater than 100' high	1 per site
Land Mobile Radio and Broadcast Antennae	1 per site
Wireless Communication Facilities	Subsection 27-1302.D

- C. *Parking for industrial and warehouse uses.* Uses that reference this subsection in Table 27-1300.1, shall provide the minimum number of parking spaces identified in Table 27-1300.2. The total number of required spaces is cumulative based on the variety of different functions present in a single structure or lot.

Table 27-1300.2. Parking for Industrial, Wholesale, and Storage Uses.

Use or Activity	Minimum Required
Office or administrative area	1 per 300 GFA
Indoor sales area	1 per 200 GFA

Retail		Table 27-1300.1
Assembly, vehicular service, or manufacturing area:	First 1—3,000 SF of floor area:	1 per 200 GFA
	Additional SF over 3,000 calculated as follows:	
	3,001—5,000 SF of floor area	1 per 500 GFA
	5,001—10,000 SF of floor area	1 per 750 GFA
	10,001 or more SF of floor area	1 per 1,250 GFA
Indoor storage or warehousing area		1 per 1,000 GFA or 1 per employee on largest shift
Outdoor sales, display, or storage area (3,000 SF or less)		1 per 750 GFA
Outdoor sales, display, or storage area (more than 3,000 SF)		1 per 1,000 GFA

- D. *Uses with variable parking demand.* Uses that reference this subsection in Table 27-1300.1 have widely varying parking demand characteristics, making it difficult to establish a single parking standard. Upon receiving a development application for a use subject to this subsection, the planning and community services director, with input from the engineering division, shall apply the parking standard specified for the listed use that is deemed most similar to the proposed use or establish minimum parking standards on the basis of a parking study prepared by the applicant. Such a study shall include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE) Parking Generation, or other acceptable estimates as approved by the zoning administrator, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study shall document the source of data used to develop the recommendations.
- E. *ADA accessible parking.* All parking lots shall provide the minimum number of accessible parking spaces required by the federal Americans with Disabilities Act (ADA). All accessible parking spaces shall meet the design and location requirements of the Americans with Disabilities Act (ADA). Accessible parking spaces shall be counted toward the minimum number of spaces required in Tables 27-1300.1. and 27-1300.2.
- F. *Maximum number of parking spaces.*
1. *Calculation.* The maximum permitted number of parking spaces shall be determined as follows:

Table 27-1300.3. Maximum Parking.

Number of spaces required	Parking May not Exceed the Minimum Number of Spaces Permitted by More than:
0	20 spaces
1 to 50	20%
51—500	10%
501 or more	50 spaces

2. *Maximum surface parking calculation exceptions.* For the purpose of calculating parking requirements, the following types of parking spaces shall not count against the maximum surface parking requirement:

- (a) Accessible parking;
 - (b) Vanpool and carpool parking;
 - (c) Spaces with electrical vehicle charging stations, up to a maximum of two (2) per fifty (50) parking spaces;
 - (d) Parking spaces which are used seasonally (March 1 through November 1) to provide bicycle parking;
 - (e) On-street parking adjacent to the lot or lots on which the parking is located; and
 - (f) Structured parking, underground parking, and parking within, above, or beneath the building(s) it serves.
3. *Site specific standards.*
- (a) There is no limitation on the number of parking spaces provided when the spaces exceeding the minimum are located in a parking garage or similar structure.
 - (b) Any paved areas adjacent to parking lots, excluding drive aisles, access points, and permanent loading, storage, sales, rental or service areas, shall be considered to provide parking even if no parking spaces are delineated by pavement marking.
4. *Maximum surface parking waiver request.*
- (a) Requests to exceed the maximum surface parking requirement shall be accompanied by a written justification demonstrating how the maximum number of parking spaces specified in Table 27-1300.3 is insufficient for the proposed development. The written justification must include an analysis of current parking supply and conditions, an assessment of the ability of existing supply to meet existing peak demand, a projection of future demand, and must demonstrate consideration and evaluation of alternative parking management practices (e.g., shared parking, shuttle, valet, etc.).
 - (b) A waiver to the maximum surface parking requirement may be allowed by the planning and community services director in situations that meet all of the following criteria:
 - (1) The proposed development has unique or unusual characteristics such as high sales volume per floor area or low turnover, that create a parking demand that exceeds the maximum ratio and that typically does not apply to comparable uses;
 - (2) The parking demand beyond the maximum parking standard cannot be accommodated by on-street parking, shared parking with nearby uses, or by increasing the supply of spaces that are exempt from the maximum ratio;

- (3) The request is the minimum necessary increase from the standards; and
 - (4) The applicant can provide all of the design requirements for excess parking.
5. *Design requirements for excess surface parking.* An applicant that receives a parking waiver to provide parking that exceeds the maximum number of permitted parking spaces permitted in Table 27-1300.3 shall be required to include additional internal landscaping as described below:
- (a) Parking lot landscaping shall comply with the internal landscaping standards in article 27-1200, Landscaping.
 - (b) In addition to the landscaping standards in article 27-1200, Deciduous trees and shrubs shall be provided in the quantities outlined in Table 27-1300.4 for parking that exceeds the maximum limit. Any required additional landscaping shall be distributed throughout the site.

Table 27-1300.4. Additional Landscaping Requirement for Excess Surface Parking.

Number of Spaces Over Maximum Parking Limit	Number of Deciduous Trees (2-inch Caliper)	Number of Deciduous Shrubs (5-Gallon)
0—5	0	4
6—10	1	8
11—15	2	12
16—20	3	16
21+	1 per 4 spaces over maximum	1 per space over maximum

- (c) Where the maximum number of parking spaces in the DX or CMU1 districts is exceeded, the applicant may provide, as an alternative to the additional landscaping standards in a lump sum payment of five hundred dollars (\$500.00) per space for each space over the maximum to the Boulevard Tree Cost Share Program in lieu of installation.
- G. *Bicycle parking.*
- 1. *Applicable design standards.*
 - (a) When required, bicycle parking must comply with the City of Billings Bicycle Parking Guidelines (referred to APBP: Association of Pedestrian and Bicycle Professionals), available at the planning division offices or on-line at the City of Billings Webpages on Transportation Planning.
 - (b) In mixed-use, commercial, and public districts all short-term racks shall be located within fifty (50) feet of the primary entrance of the building served by the rack(s) and shall be visible when facing that primary entrance.
 - 2. *When required.*

- (a) Bicycle parking shall be provided in Table 27-1300.5. Where the amount of required parking is not specified in Table 27-1300.5, the requirements of the Billings Bicycle Parking Guidelines shall apply.

Table 27-1300.5. Bicycle Parking.

Zone District	Required Bicycle Parking
Residential Districts	
N1, N2, N3, NX1	None
NX2	None required, long-term parking recommended.
NX3	Short-term parking required per APBP. Long-term parking recommended.
Mixed-Use and Commercial Districts	
CBD	Pay into bike parking fund for number of short-term racks required by APBP.
DX	Short-term parking required per APBP. Long-term parking recommended.
CMU1	Min. 1 short-term rack per building.
CMU2	Min. 1 short-term rack per building.
NMU	Short-term parking required per APBP. Long-term parking recommended.
NO	Short-term parking required per APBP. Long-term parking recommended.
CX	Min. 1 short-term rack per building.
EBURD	Min. 1 short-term rack per building.
Public Districts	
P1	Short-term parking required per APBP. Long-term parking recommended when park is expected to be main work place for one or more employees. Subsection 27-1302.G.1(b) is not applicable when primary use is outdoor space.
P2	Short-term parking required per APBP. Long-term parking recommended.
P3	Short-term parking required per APBP. Long-term parking recommended.

Section 27-1504. Nonconforming uses.

A. Continuation of use.

1. Nonconforming uses may be continued so long as the use remains otherwise lawful.
2. Any nonconforming use may be extended throughout any parts of a building designed for such use that existed as of the effective date of this zoning code, but no such use shall be extended to occupy any land outside such building.

B. Continuation of structure specific to use. No existing structure specific to a nonconforming use shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in conjunction with changing to a conforming use.

C. Discontinuance.

1. *Compliance with code.*
 - (a) When a nonconforming use is replaced with a conforming use, the nonconforming use is considered terminated and may not be resumed.

- (b) Any structure specific to the use, or structures and land in combination specific to the use, in or on which a nonconforming use is replaced by a permitted use shall be brought into compliance with the zone district in which the structure(s) is located and the nonconforming use may not be resumed.

2. *Abandonment.*

- (a) When a nonconforming use is abandoned for twelve (12) months or more it shall be considered terminated.
- (b) When a nonconforming use of a structure specific to a use, or structures and land in combination specific to a use, is abandoned for twelve (12) months or more, the structure, or structures and premises in combination, shall be brought into conformance with the applicable zone district regulations and the nonconforming use may not be resumed.

3. *Demolition, destruction, or obsolescence.*

- (a) Where nonconforming use status applies to: (1) a structure specific to a use (such as a gas station), or (2) structure and land in combination specific to a use, (such as an automobile dealership) removal or destruction of the structure shall presumptively eliminate the nonconforming status of the land and reconstruction shall be done in compliance with this zoning code.
 - 1. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty (50) percent of the replacement cost of the at time of destruction.
 - 2. The operation of a nonconforming residential use located in an N1-4, NX1-3, RMH, NMU, CMU1, CMU2, CX, I1, DX, CBD, EBURD, or Public zone district shall not be terminated regardless of the amount of damage or destruction suffered by the structure in which the use is operated.
 - 3. The operation of a nonconforming non-residential structure specific to a use or structure and land in combination specific to a use shall be terminated unless the property owner seeks special review approval (see section 27-1623) to reestablish the destroyed structure or structure and land within six (6) months of the date of the event(s) that caused the destruction. In addition to the decision criteria in subsection 27-1623.D, the zoning commission and city council shall also consider:
 - a. Whether changes, over time, to the surrounding area or neighborhood make reestablishment of the structure and use or structure, land and use detrimental to nearby residents or property values;

- b. Whether the use and specific structure or use, specific structure and land became nonconforming because of the actions of the property owner; or
 - c. Whether the use and structure or use, structure and land were subject to distance requirements ("separated use") from other uses ("protected uses") and became nonconforming only when a protected use in a structure specific to that use (such as a religious assembly in its own building) or structure and land specific to that use (such as a primary school) were established within the distance restricted area after the documented establishment of the separated use.
- (b) *Obsolete or substandard non-residential structure.* The right to operate and maintain any nonconforming use shall terminate and shall cease to exist whenever the non-residential structure in which the use is operated and maintained becomes obsolete or substandard under any applicable city, state or federal code and the cost of placing such structure in lawful compliance with the applicable ordinance exceeds fifty (50) percent of the replacement cost of such structure on the date that the building official determines such structure is obsolete or substandard; provided, however, that in determining the replacement cost of any structure, there shall not be included therein the cost of land or any factors other than the structure itself.
- D. *Ambiguity in allowable uses.* Any ambiguity or uncertainty in the zoning regulations as to whether a nonconforming use is allowed or whether the use was allowed when it commenced shall be interpreted in favor of the nonconforming use.

Section 27-1601. Overview of procedural requirements.

- A. *Organization.* The administration of zoning processes and permits is divided into two (2) categories: commonly applicable procedures (sections 27-1603 to 27-1613) and specific procedures (sections 27-1614 to 27-1628). Both are described in this section.
 - 1. *Commonly applicable procedures.*

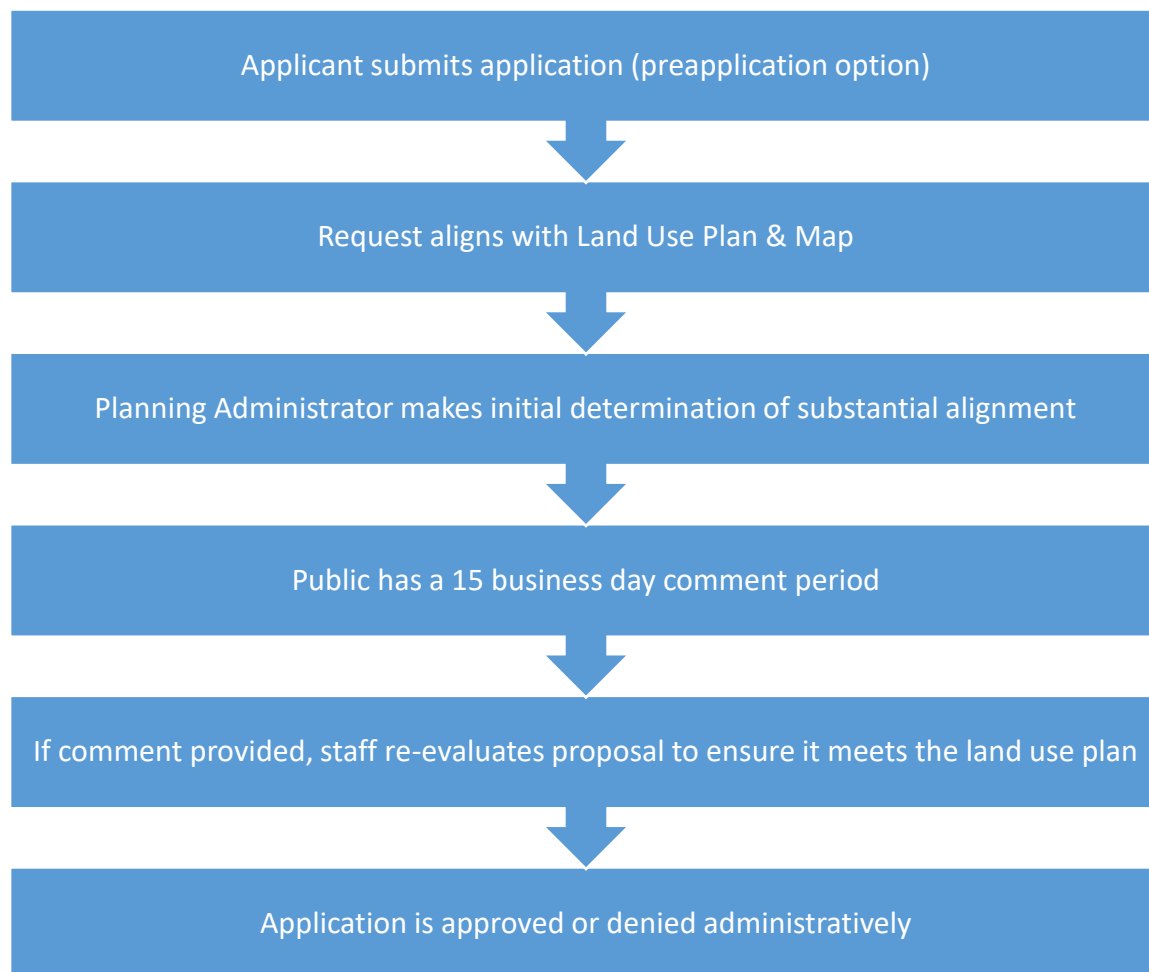


Fig. 27-1600.A. Commonly Applicable Procedures.

The following requirements are common to many of the procedures contained in this zoning code. Applications are typically processed in accordance with the steps shown in Figure 27-1600.A. Additional details may be included in each specific procedure. Timelines for review are outlined in zoning applications. All review timelines may be extended if there are extenuating circumstances.

- (a) Section 27-1603, Pre-Application meeting.
- (b) Section 27-1604. Reserved
- (c) Section 27-1605, Application submission meeting.
- (d) Section 27-1606, Procedures for complete applications with changed status.
- (e) Section 27-1607, Staff review determination, and authority.
- (f) Section 27-1608, Public notice requirements.
- (g) Section 27-1609, Reserved

- (h) Section 27-1610. Action by review and decision-making bodies.
 - (i) Section 27-1611, Post-review actions.
 - (j) Section 27-1612. Reserved
 - (k) Section 27-1613, Other permits and approvals still necessary.
2. *Specific procedures.* Sections 27-1614 to 27-1628 provide the application-specific requirements for review and submission of each type of application or permit available:
- (a) Section 27-1614, Administrative relief.
 - (b) Section 27-1615, Classification of newly annexed area.
 - (c) Section 27-1616, Appeal of administrative decision.
 - (d) Section 27-1617, Code interpretation.
 - (e) Section 27-1618, Landscape plan.
 - (f) Section 27-1619, Master site plan.
 - (g) Section 27-1620, Permits.
 - (h) Section 27-1621, Short-term rentals.
 - (i) Section 27-1622, Sign permit.
 - (j) Section 27-1623, Special review uses.
 - (k) Section 27-1624, Temporary use permit.
 - (l) Section 27-1625, Wind and solar facilities.
 - (m) Section 27-1626, Wireless communication facilities.
 - (n) Section 27-1627, Variance.
 - (o) Section 27-1628, Zone change.
- B. *User's guide.* The zoning coordinator may compile the requirements for application contents, forms, fees, submission materials, and review schedule in a user's guide, which shall be made available to the public. The zoning coordinator may amend and update the user's guide from time to time.

Section 27-1602.- Reserved.

Section 27-1603. Pre-application meeting.

A. Purpose.

1. The purpose of the pre-application meeting is to provide an opportunity for the applicant and the city to discuss the development concept prior to the application submission for a project or permit in order to:

- (a) Determine the required application(s) and, if necessary, the timing of multiple application submittals (i.e., whether they may be processed concurrently or must be processed sequentially);
 - (b) Provide the applicant with application materials and inform the applicant of submittal requirements;
 - (c) Provide the applicant with an estimated time frame for the review process;
 - (d) Discuss generally compliance with the code's zoning, use, density, development, and design standards, and attempt to identify potentially significant issues regarding compliance;
 - (e) Discuss general compliance with the City's adopted Land Use Plan, Montana Code Annotated Title 76, Chapter 25, Part 2.
 - (f) Engage the applicant in conversation with other departments or agencies to discuss potential significant issues prior to application submittal.
2. Pre-application meetings are informational for the applicant and are not open to the public.

B. *Applicability.*

- 1. *Pre-application meeting recommended.* Any applicant may request a pre-application meeting prior to submitting most development applications. The pre-application meeting is designed to help the applicant understand the development review and approval process.
- 2. *Pre-application meeting required.* Pre-application meetings are required for some application types, as noted in the specific application section.

C. *Record and effect.*

- 1. The city is not responsible for making or keeping a summary of the general topics discussed at the pre-application conference.
- 2. A pre-application meeting is advisory only and does not constitute or effect approval of any aspect or item of an application.

Section 27-1604. Reserved.

Section 27-1605. Application submission.

A. *Authority to file.*

- 1. *Property owner application.* Unless otherwise specified in this zoning code, the person having legal authority to take action according to the approval sought shall file an application for a project review or approval under this zoning code. The person is presumed to be one of the following: (1) the record owner, (2) purchaser under a sale or option to purchase, or (3) the duly authorized agent of the record owner. Agents may only submit applications where the owner

indicates consent in writing on the application or other legal documentation (such as a sale contract).

2. *City application.* A request for action pursuant to the zoning code that is submitted on behalf of the city shall be initiated by the appropriate managing agency (e.g., engineering or parks department). Requests made by elected or appointed bodies with the authority to request a change or other action pursuant to this zoning code shall be initiated by a vote of that body and then processed by the zoning coordinator.
- B. *Application submission requirements.* All applications for all permits and approvals, or modifications of permits or approvals, pursuant to this section shall be submitted in accordance with the application submittal schedule, required forms, and required numbers of copies of each document (if any), established and revised from time to time by the zoning coordinator.
- C. *Concurrent applications.*
1. Where an applicant seeks approval of two (2) different requests for the same parcel simultaneously, the applicant shall submit all necessary documents, plans, maps, and other required information in accordance with the provisions relating to both of the submitted applications and pay all appropriate fees for both applications.
 2. Whenever two (2) or more different application types are being processed simultaneously and this zoning code provides different time frames for review or decision-making, all related applications and approvals shall be completed within the longest time frame applicable to any of the relevant procedures.
- D. *Fees.*
1. *Generally.* Application fees for each type of application shall be established by resolution from time to time by the city council to defray estimated staff costs and expenses of processing applications pursuant to this zoning code.
 2. *Initial application.* The required application fee shall be paid by the applicant at the same time any application is filed. Application fees are generally non-refundable unless otherwise specified on the application form.
 3. *Changes to complete applications.* In addition to fees set forth in the city fee schedule, the following fees shall apply to actions taken on a complete application:
 - (a) *Withdrawn application.* All fees are forfeited in the event the city has incurred any expense related to the application. If the application is refiled within one hundred eighty (180) calendar days a resubmittal fee must be paid. The submission fee shall be paid again in full if the application is resubmitted after six (6) months.
 - (b) *Continuance of application.* Payment of fees may be required to cover the cost of additional notice.

- (c) *Reapplication.* Payment of fees shall be required for a reapplication where a previous application has been denied.
- (d) *Modification or revision of approved site plan.*
 - (1) *Minor modifications.* An application for administrative relief and payment of the associated fee is required.
 - (2) *Major modifications.* Any requested modifications that do not qualify for administrative relief shall be considered major modifications. A new application is required along with the associated application fee.

E. Submittal waivers.

- 1. At or following an application submission meeting, the zoning coordinator may agree to waive specific project submittal requirements, in order to reduce the burden on the applicant and tailor the requirements to the information required to review a specific application.
- 2. The zoning coordinator may waive such requirements where the applicant has made an itemized, written request identifying the specific submission items to be waived and why, and the zoning coordinator finds the following:
 - (a) The applicant shows good cause for the requested waiver;
 - (b) The project size, complexity, anticipated impacts, or other factors support a waiver;
 - (c) The waiver does not compromise a proper and complete review; and
 - (d) The information is not material to describing the proposal or demonstrating compliance with approval criteria.

F. Determination of completeness.

- 1. *Complete application required.* All applications must be complete prior to any processing by the city. A complete application includes all of the submittal information identified on the application form and any items or exhibits requested by the zoning coordinator that are consistent with the standards and requirements of this zoning code. A complete application is also accompanied by the applicable fee.
- 2. *Application submission meeting.* zoning coordinator shall confer with applicants to review all applications and permit requests to determine if the application includes all material required by the applicable application submittal schedule (including required supporting material) in sufficient detail to evaluate the application and determine whether it complies with the requirements of this zoning code. A completeness determination will be made during the application submittal meeting.

Section 27-1606. Procedures for complete applications with changed status.

A. Inactive application.

1. An inactive application is any application for which the city has requested additional information or revisions, and the applicant has not fully provided this information within sixty (60) calendar days.
2. Inactive applications shall not receive further review and shall be considered withdrawn by the applicant and shall be terminated by the city without further notice. Time of delay shall commence on the date on which the city requests additional information.

B. *Withdrawn application.*

1. , An applicant may withdraw an application by providing written notice to the zoning coordinator of the applicant's intent to withdraw the application. After such withdrawal, no further city action on the application shall take place.
2. A zone change, special review or variance application may be withdrawn at any time prior to administrative review. There is no mandatory waiting period for a withdrawn application.
3. To re-initiate review, the applicant shall re-submit the application with a new application fee payment, and the application shall in all respects be treated as a new application for purposes of review and scheduling.

Section 27-1607. Staff review determination, and authority.

A. *Staff review.*

1. Upon submission of an application, the zoning coordinator shall review the application and accompanying documentation to determine whether the information included in the application is sufficient for the review and decision-maker(s) to evaluate the application against the approval criteria of the procedure or permit requested.
2. The zoning coordinator, upon receiving a complete application, shall also do the following:
 - (a) Consult with other departments of the city and relevant external agencies to fully evaluate the impact of the proposal upon public facilities and services including but not limited to schools, drainage, traffic and related facilities;
 - (b) Study each application with reference to its appropriateness and effect on existing and proposed land use, and references to the adopted land use plan and future land use map as outlined in MCA 76-25-305.
 - (c) Prepare written findings and conclusions in support of the approval or denial, which report shall be a matter of public record.

B. *Staff report.*

1. Staff shall make reasonable efforts to reconcile and consolidate all referral comments, including those obtained through neighborhood outreach, and shall incorporate the evaluation against applicable review criteria, as well as consistency with the adopted land use plan and future land use map.
2. The preliminary report shall incorporate the responses and comments from reviewing agencies, shall report whether the development application complies with all applicable standards, and shall specify any areas of possible noncompliance.
3. Where the application includes technical information that requires expert analysis outside of that provided by staff, the city may contract with a technical expert to review the application and charge the consultant's fees to the applicant. The city shall notify the applicant if expert analysis will be necessary and will discuss the estimated fee with the applicant prior to engaging the expert. Technical information subject to outside expert analysis shall be limited to those issues outside of the scope of typical planning and community services department review. Outside technical experts will not be hired for routine site, structural, use, or transportation issues.
4. The preliminary report shall also identify any need for any required plan modifications, additional information, or technical reports to supplement the mandatory submittal requirements.
5. Staff may require conditions for approvals for applicable application types (e.g., special reviews and variances) to mitigate any adverse impacts from the development proposal or any changes necessary to bring the application into compliance with the provisions of this zoning code. Zone change applications may not be conditioned.

C. *Zoning coordinator.*

1. The zoning coordinator has the authority to administer the provisions of this chapter for the City of Billings and all responsibilities as assigned or delegated by the planning and community services director. The zoning coordinator may delegate this work to other personnel in the planning and community services department.
2. The zoning coordinator shall supervise and effectuate the processing of applications for amendments to the official zoning map, special review applications, requests for variances, and other applications under the terms of this chapter.

D. *Zoning enforcement officer.* It shall be the duty of the zoning coordinator to be the enforcement officer for the zoning regulations. The zoning coordinator is hereby given the authority to enforce the provisions of this chapter for the City of Billings. The zoning coordinator may delegate this work to other personnel in the planning and community services department.

Section 27-1608. Public notice requirements

A. General applicability.

1. The provisions in this section 27-1608 shall expire July 1, 2027.
2. Applications for development approval shall comply with the Montana Code Annotated and the provisions of this section with regard to public notification. The required notice for each application type is identified in Table 27-1600.1 Application-specific notification instructions are located in the section for the specific application types.

Table 27-1600.1: Required Public Notice

	Section	Mailed	Published	Posted	Website
Key: O Optional, R Required, - Not Applicable					
Project Application Type					
Administrative Relief	27-1614	—	—	—	—
Classification of Newly Annexed Area	27-1615	R	R	R	R
Planned Development (PD)	27-700	R	R	R	R
Planned Neighborhood Development (PND)	27-800	R	R	R	R
Special Review	27-1623	R	R	R	R
Variance	27-1627	R	R	R	R
Zone Change	27-1628	R	R	R	R
Permits					
Fence	Public notice is not required for permit review.				
Landscape Plan					
Master Site Plan					
Proportionate Compliance					
Short-Term Rental					
Sign/Temporary Sign					
Temporary Use					
Wind and Solar					
Wireless Communication					
Zoning Compliance Permit					

- B. *Content.* Notices, when required by this section or a specific application type, shall meet the general requirements of notice provided by the city and provide the following information:
1. Address or location of the property subject to the application and the name, address, email, and telephone number of the applicant or the applicant's agent;
 2. Description of the nature, scope, and purpose of the application or proposal including a description of the development plan and, where appropriate, the classification or change sought;

3. Notification about where the public may view the application.
4. Deadline for review of the application and submittal of public comments.

C. *Types of notice.*

1. *Published notice.* Where Table 27-1600.1 requires published notice, the notice containing the content listed in subsection 27-1608.B above shall be provided in a newspaper of general circulation twice as provided in MCA 7-1-4127(7)(a).
2. *Mailed notice.*
 - (a) Where a project application type requires mailed notice, the city shall:
 - (1) Notify adjacent property owners and other interested parties as provided in the specific application type. Mailed notice shall be provided to the property owner whose name appears on the last tax record of the property subject to notice. Unless otherwise specified, mailed notice shall be not less than fifteen (15) business days.
 - (b) Failure of any individual addressee of such letter of notification to receive the same shall not in any way invalidate or affect subsequent action on the application and such requirement shall not be construed as a legal precedent to the official approval.
3. *Posted notice.*
 - (a) Where posted notice is required, planning staff shall place notice of the application on the subject property fifteen (15) business days prior to final determination of an application.
 - (b) Notice signs shall be clearly visible from the public right-of-way. On large parcels, interior parcels, or parcels that are difficult to see from the exterior boundary lines, additional posted signs, as may be necessary to reasonably ensure that notice is provided around the property, may be required by the zoning coordinator.
 - (c) At least one sign must be placed on the property's frontage so that it may be seen from the abutting street. If the property has two (2) street frontages and both frontages are more than three hundred (300) feet long, a sign shall be posted on both frontages.
 - (d) Sign removal. The city shall remove signs after fifteen (15) business days have been completed.
4. *Courtesy notice.*
 - (a) The city may, as a courtesy, provide notice to any persons or organization in the city or Yellowstone County, or to any governmental, public, or quasi-public organization regarding any matter related to this zoning code that may be of interest to that person or organization, or on any matter on which any such person or organization has requested notice.

- (b) Courtesy notice may be provided in any appropriate manner, including electronically, and may be directed to an organization through its leadership for distribution rather than to the entire membership.
 - (c) The failure of the city to send courtesy notice or the failure of any resident or property owner to receive such notice shall not affect the validity of any city action with respect to an application.
5. *Constructive notice.*
- (a) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice may include, but are not limited to errors in legal descriptions, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to the affected parties.
 - (b) Failure of one or more individual parties to receive written notice shall not invalidate subsequent action.
 - (c) When city records document the publication, mailing, or posting of notices as required by this section, it shall be presumed that notice of an application submittal was given as required by this section.

Section 27-1609. – Reserved

Section 27-1610. Action by review and decision-making bodies.

- A. *Ministerial decisions.* For procedures where the zoning coordinator serves as the decision-making authority, the zoning coordinator shall make a decision according to the following steps:
- 1. *Review.*
 - (a) The zoning coordinator shall review the application for conformance with all applicable provisions of this zoning code and adopted land use plan and future land use map.
 - (b) Within the timeframe specified by the application type, or fifteen (15) calendar days of the filing date if no timeframe is specified, the zoning coordinator shall approve or deny the application and provide written notification of the decision to the applicant. If an application is denied, the written notification shall include the reasons for denial.
 - 2. *Review criteria.* An application shall be fully consistent with the standards of this zoning code unless administrative relief is concurrently approved to allow specified deviation from applicable standards. A ministerial approval may include instructions and clarifications regarding compliance with this zoning code, but shall not be approved with conditions that require action beyond the specific requirements of this zoning code.

Section 27-1611. Post-review actions.

- A. *Successive applications.* No application for zone change, special review, or variance on the same request nor one involving the same tract shall be permitted within one year of an application denial.
- B. *Amendments.*
 - 1. All substantial changes, modifications, removal, or release of the provisions of an approved application that do not qualify for administrative relief under subsection 27-1614.C.2 shall be considered amendments of the application. Amendments shall include, but are not limited to, changes in use, access, layout, any condition of approval, any change resulting in significant increased off-site impacts, and similar changes as determined by the zoning coordinator.
 - 2. For purposes of review and scheduling, proposed amendments are treated as new applications subject to the applicable procedures and review criteria set forth in this article unless otherwise noted in the specific review procedures.
- C. *Modification of approvals.*
 - 1. *Application.* If, at any time, the owner of land with an existing development approval desires to modify the terms of that approval or the conditions attached to that approval, the owner shall submit a written application requesting such revision.
 - 2. *Review and determination of major/minor modification status.* Applications for modification shall be reviewed by the zoning coordinator to determine whether the proposed modifications constitute a major or minor revision to the existing approval.
 - (a) Minor modifications are those that qualify for administrative relief pursuant to section 27-1614 or modification to an application that was approved administratively.
 - (b) Major modifications are those that do not qualify for administrative relief pursuant to section 27-1614, request for modification to a special review approval, or request for modification to a condition established by the city council.
 - 3. *Effect of modification.* If approved, the modification shall then supersede the previous approval, and subsequent development on the property shall be in accord with the amended approval.

Section 27-1612. Lapsing and extension of approvals.

Approvals granted under this zoning code terminate if unused by the applicant after a reasonable period of time.

A. *Lapse.*

Except where a different timeframe is provided in a specific procedure or application approval, an approval or permit granted under this zoning code shall lapse and shall become void one year following the date of final approval

unless, prior to the expiration date, a building permit based upon such approval is issued and construction is commenced and pursued toward completion.

B. *Extension.*

1. An approval that is subject to lapsing may be extended one time by the zoning coordinator for a period of time not to exceed six (6) months. Applicants who require a second extension shall make the second extension request of the body that issued the original approval, which may also be a second request to the zoning coordinator if the zoning coordinator issued the original approval. The total time approved for extensions may not exceed one year.
2. All requests for extensions should be submitted to the zoning coordinator in writing at least thirty (30) calendar days prior to the expiration of approval.
 - (a) An extension request shall include payment of required fees and written description of the reasons for the applicant's inability to comply with the specified deadlines, listing any changes in the character of the neighborhood, any changes to the adopted land use plan, future land use map, or this zoning code that have occurred since approval of the permit/plan as these changes affect the permit/plan, and the anticipated time schedule for completing the review project and/or the specific project.
 - (b) Additional review of the permit/plan may result in additional conditions.
3. If an approval lapses at the end of an extension period, the applicant may re-submit a new application, subject to the fees and regulations in effect at the time of re-submittal, for the same project.

Section 27-1613. Other permits and approvals still necessary.

- A. *City permits and approvals.* The approval of any application pursuant to this zoning code shall not relieve the applicant of the requirement to apply for and receive any other permits or approvals required from the city, prior to development (such as building permits, certificates of occupancy, subdivision approval, and any similar permits or approvals). Any such later permits and approvals shall be consistent with the terms and provisions of any approval granted pursuant to this zoning code.
- B. *Other permits and approvals.* The approval of any application pursuant to this zoning code shall not relieve the applicant of the requirement to apply for and receive any and all other permits or approvals from Yellowstone County, State of Montana, or federal government or from other local entities with jurisdiction over the property.

Section 27-1614. Administrative relief.

- A. *Applicability.*

1. Administrative relief allows the modification of an existing numeric dimensional standard to accommodate site-specific or minor construction issues.
 2. Administrative relief is applicable to new development, redevelopment, and major façade changes.
 3. Administrative relief may be requested either as part of an original application or as a modification to an existing approval.
- B. *Authority.* Administrative relief may be requested by an applicant qualified to request a primary development approval or amendment.
- C. *Procedures.*
1. *Common procedures.* Procedures for review and decision of an administrative relief application are established in sections 27-1602 through 27-1613. They are summarized here for applicant convenience.
 2. *Specific procedures.* All applications for administrative relief shall identify the specific issue that the administrative relief is intended to address and how the administrative relief will resolve that issue:
 - (a) A request for administrative relief prior to construction shall be submitted with the project site plan application. Where the site plan is submitted in conjunction with a primary application, such as a special review request, that request will be decided in conjunction with the application.
 - (b) A request for administrative relief to address a minor construction issue shall be submitted with the approved project site plan, a written description of the minor construction issue, and an amended drawing of that part of the site for which the administrative relief is requested.
- D. *Permitted types of administrative relief.*
1. N1-3, NX1-3, RMH, NO, NMU, CMU1, CMU2, DX, and EBURD districts. An applicant may request the following adjustments through administrative relief:
 - (a) The location of the building may be adjusted within a five-foot area from any minimum yard requirement or build-to zone width/location, except a side or rear yard setback may only be reduced to three (3) feet from a five-foot minimum through administrative relief.
 - (b) EBURD: Up to ten (10) percent increase in total impervious coverage, not to exceed the total amount of permitted impervious plus semi-pervious coverage. Compliance with stormwater regulations is required.
 - (c) Up to ten (10) percent decrease in front lot line coverage.
 - (d) Additional height of any story up to two (2) feet, as long as the overall building height does not exceed the allowable height of all floors at their maximum permitted height, or provided, that the total modification shall not increase the applicable building or structure height by more than ten (10) percent of the otherwise maximum height in the zone, nor add another habitable story or mezzanine.

- (e) Up to ten (10) percent decrease in front façade window and door coverage or a ten (10) percent increase in blank wall limitation for corner side facades. Up to twenty-five (25) percent of the front façade window and door required area (square feet) may apply to use alternative materials for windows or doors, including but not limited to spandrel glass, architectural glass block, faux door/window openings or similar installations. Any approved administrative relief will not significantly reduce visibility into and out of the structure.
 - (f) Lot coverage. In any zone, modifications of the lot coverage requirement; provided, that the total modification shall not increase the applicable coverage to more than ten (10) percent of the otherwise maximum lot coverage in the zone.
 - (g) Fence heights and materials. In any zone, modifications of the maximum fence height requirement; provided, that the total modification shall not increase the applicable fence height maximum in any yard by more than ten (10) percent. Fences greater than seven (7) feet in height will need a building permit. Fence materials not listed in subsection 27-1209.E may be requested through this process.
 - (h) Parking. In any zone, a decrease in the number of required off-street parking spaces of not more than fifty (50) percent when total required spaces are at least ten (10) spaces. In any zone, allow more than the maximum number off-street parking stalls as provided in subsection 27-1302.F.
 - (i) Location of accessory structure. In any zone, allow location of an accessory structure in a side yard.
 - (j) Reduction or variations in required landscaping as provided in subsection 27-1618.E.4.
2. CBD, CX, I1, I2, P1-3, PD districts. An applicant may request the following adjustments through administrative relief:
- (a) Setbacks. In any zone, modifications of the front, side, or rear yard setback requirement; provided that the total modification shall not reduce the applicable setback(s) by more than ten (10) percent of the zone district requirement or five (5) feet, whichever reduction is larger.
 - (b) Lot coverage. In any zone, modifications of the lot coverage requirement; provided, that the total modification shall not increase the applicable coverage to more than ten (10) percent of the otherwise maximum lot coverage in the zone.
 - (c) Structure heights. In any zone, modifications of the building or structure height requirement; provided, that the total modification shall not increase the applicable building or structure height by more than ten (10) percent of the otherwise maximum height in the zone, nor add another habitable story or mezzanine.

- (d) Fence heights and materials. In any zone, modifications of the maximum fence height requirement; provided, that the total modification shall not increase the applicable fence height maximum in any yard by more than ten (10) percent. Fences greater than seven (7) feet in height will need a building permit. Fence materials not listed in subsection 27-1209.E may be requested through this process.
 - (e) Parking. In any zone, a decrease in the number of required off-street parking spaces of not more than fifty (50) percent when total required spaces are at least ten (10) spaces. In any zone, allow more than the maximum number off-street parking stalls as provided in subsection 27-1302.F.
 - (f) Deviations from final planned development maps. In any planned development zone, deviations to planned development maps which are consistent with the requirements of the planned development approval, conditions of approval, or development standards of the underlying zoning district.
 - (g) Location of accessory structure. In any zone, allow location of an accessory structure in a side yard.
 - (h) Reduction or variations in required landscaping as provided in subsection 27-1618.E.4.
3. Administrative relief may not:
- (a) Create, intensify, or expand any nonconformity with maximum or minimum requirements of the zoning district;
 - (b) Permit uses other than those permitted in the zone district;
 - (c) Reduce the effectiveness of approved transitional screening, buffering, landscaping, and/or open space; or
 - (d) Expand the area or type of signage approved.
- E. *Decision criteria.* To approve a request for administrative relief, the zoning coordinator shall make and record findings that all of the following provisions are met:
- 1. The proposed use, structure, or activity is permitted in the underlying zone district;
 - 2. There are special circumstances existing on the property for which the application is made related to size, shape, area, topography, surrounding conditions, and location that do not apply generally to other property in the same area and zone district;
 - 3. The special circumstances have not been created by the applicant; and
 - 4. The impact of the administrative relief is internal to the subject property.
- F. *Review and decision-making.* Requests for administrative relief are processed as an administrative decision pursuant to subsection 27-1610.A.

Section 27-1615. Classification of newly annexed area.

- A. Annexations of land into the City of Billings may be undertaken pursuant to several statutory procedures provided in Title 7, Chapter 2, Parts 42 through 47, MCA. When a parcel of land is annexed to the city, the appropriate zone(s) may be determined by reference to the adopted land use plan and future land use map.
- B. As required by section 76-25-301(1)(c), MCA, City Council shall review and consider the proposed annexation in conjunction with the land use plan and future land use map.
- C. As required by section 76-25-301(1)(c), MCA, the planning administrator shall review and consider the zoning regulations for the property to be annexed pursuant the land use plan and future land use map when determining the appropriate zoning designation.
- D. The joint public process authorized in section 76-25-306, MCA, fulfills the notice and any public hearing requirements for a proposed annexation that may be required in Title 7, Chapter 2, Parts 42 through 47, MCA.
- E. All fees must be paid by the petitioner.
- F. If no application is filed or the application is denied, the land shall not be annexed into the city.

Sec. 27-1616. - Appeal of administrative decision.

A. Applicability.

- 1. For a challenge to the adoption of or amendment to a land use plan, zoning regulation, or zoning map, a petition setting forth the basis for the challenge must be presented to the district court within 30 days of the date of the resolution or ordinance adopted by the governing body.
- 2. Any final administrative land use decision, including but not limited to approval or denial of a zoning permit, imposition of a condition on a zoning permit or plat, approval or denial of a variance from a zoning, or interpretation of land use regulations or map may be appealed by the applicant or any aggrieved person.

B. Authority. Appeals may be made by any aggrieved party as outlined within Montana Code Annotated Title 76, Chapter 25, Part 5.

Section 27-1617. Code interpretation.

A. Applicability.

- 1. The zoning coordinator is authorized to provide a written interpretation of the contents and requirements of this zoning code.

2. Interpretations may be requested for a provision of this zoning code subject to a proposed or current application, hearing, or appeal.

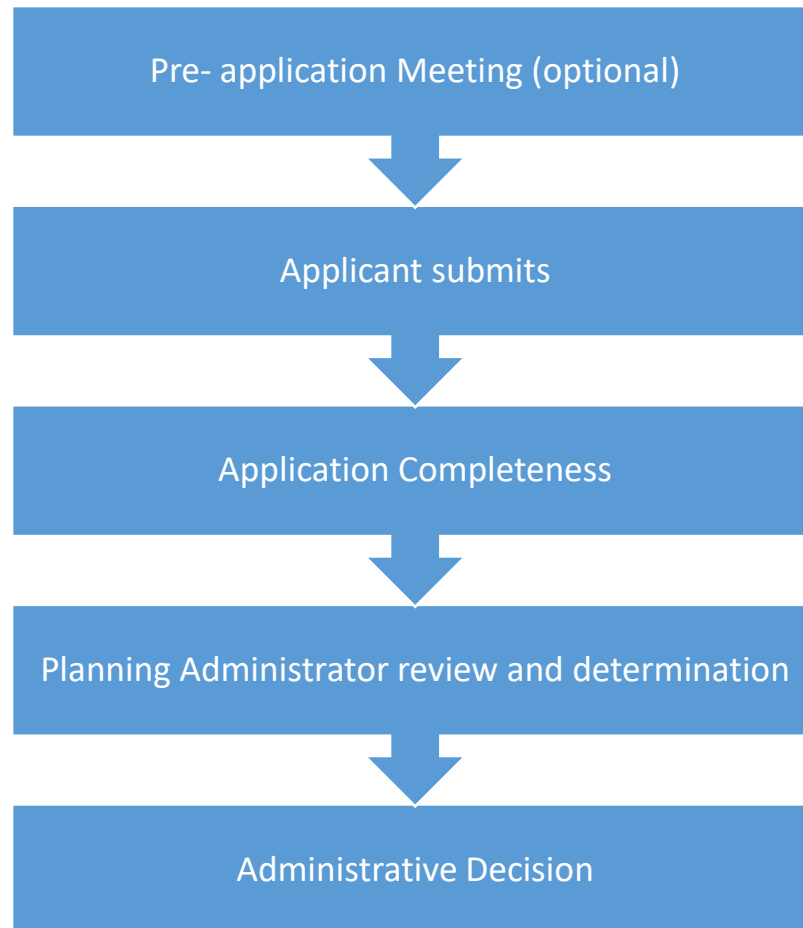


Figure. 27-1617.A. Code Interpretation

3. The zoning coordinator may also provide a property-specific code interpretation in the form of a zoning code clarification that identifies whether specific regulations in this zoning code are applicable to the subject property.
- B. *Authority.* An interpretation may be requested by any:
 1. Applicant;
 2. Person affected by an action proposed pursuant to this zoning code; or
 3. Any city departments or other governmental agencies that may be subject to the provisions of this zoning code.
 - C. *Procedures.* Common procedures for a code interpretation are identified in Figure 27-1617.A summarized here for applicant convenience.
 - D. *Rendering of interpretation.* After the application for request for interpretation has been determined complete, the zoning coordinator shall render an interpretation pursuant to subsection 27-1610.A, Administrative determinations.

- E. *Official record.* The zoning coordinator shall maintain an official record of all interpretations, which shall be available for public inspection during normal business hours.

Section 27-1618. Landscape plan.

- A. *Applicability.* Landscaping in compliance with this zoning code shall be required for any new construction, and expansion of existing structures. All plans submitted in support of a building permit or zoning compliance permit shall include a landscape plan where required. No landscape plan submittal is required for any one- or two-family building permit applications except those located within a development covered by a master site plan approval (section 27-1619). Any building permit for a one- or two-family dwelling within a master site plan approved location shall indicate on the site plan the landscaping required by the approved master site plan.
- B. *Authority.* A landscape plan may be submitted for review by a property owner or the property owner's agent, including the landscape professionals described in subsection 27-1618.C.

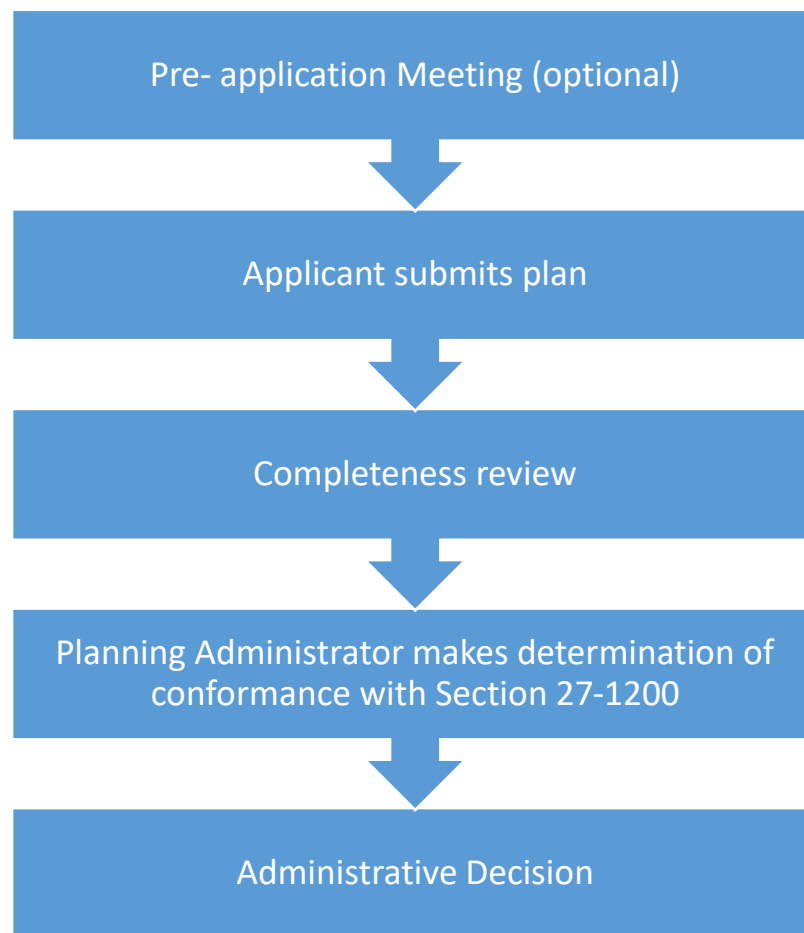


Figure 27-1618.A. Landscape Plan

- C. *Procedures.*

1. *Common procedures.* Common procedures for landscape plan review are identified in Table 27-1600.1 and are summarized here for applicant convenience.
 2. *Specific procedures.* Landscape plans shall be prepared as follows:
 - (a) Lots of one and one-half (1.5) acres or larger: The plan shall be prepared by a Montana licensed landscape architect.
 - (b) Lots smaller than one and one-half (1.5) acres: The applicant is encouraged to work with a nurseryman or landscape design professional to meet the requirements of this article.
- D. *Decision criteria.* The zoning coordinator may approve a landscape plan upon a finding that the application meets all of the following criteria, as applicable:
1. The landscape plan conforms to all requirements of this article and is consistent with the currently adopted land use plan and future land use map and any other applicable plans.
 2. The landscape design includes the installation of a diversity of species and sizes of vegetation with preference given to locally naturalized vegetation.
 3. Preservation of existing, locally naturalized vegetation is incorporated into the landscape design.
 4. No plant materials or landscape features are situated in such a manner so as to inhibit clear sight areas established in subsection 27-1802.H or otherwise create a traffic hazard.
 5. The facilities for watering and drainage are adequate to ensure the landscape area is maintained and that no soil, bark, mulch, gravel, stone, or similar materials are allowed to wash off the landscape area into parking areas, driveways, public streets, sidewalks, gutters, or storm drainage facilities.
- E. *Post approval.*
1. *Site specific and binding.* Approved landscape plans shall be binding upon the applicants and their successors, transferees, and assigns. No planning division approval of a certificate of occupancy shall be issued for any building or structure where landscaping has not been provided and continued in accordance with the required and approved landscape plan, or any approved modifications thereto, or the plan has not been guaranteed through a performance bond or approved security as provided below.
 2. *Landscaping installed within one year of issuance of building permit.*
 - (a) All landscaping and screening material, organic and inorganic, shall meet the standards of section 27-1210 and be in place prior to the issuance of a certificate of occupancy. Irrigation systems shall be fully functional at the same time as the completion of the landscape planting. This requirement shall be verified by the submission of a final, as-installed landscaping plan by the party responsible for the creation of the landscape plan that is submitted with the certificate of occupancy application.

- (b) If the timing of the project and seasonal limitations prevent planting prior to issuance of the certificate of occupancy, security as described in this section may be provided and the planting period may be extended accordingly.
- 3. *Security required.*
 - (a) When the timing of a project delays the installation of the landscaping, a performance bond or letter of credit in an amount of one hundred fifty (150) percent of the landscaping materials and labor costs that does not expire for at least one year from the date of issuance shall be posted with the planning and community services department to ensure the placement of the required landscaping.
 - (b) The property shall be inspected by the zoning coordinator to make sure that the required landscaping has been planted before release of the security bond or letter of credit.
- 4. *Administrative relief.* Administrative relief is provided to add flexibility in the application of a specific landscaping regulation when a standard is inapplicable or inappropriate to a specific use or design proposal. Administrative relief may be applied up to a total of ten (10) individual landscape standards for any site. The application shall follow the procedures in section 27-1614, Administrative relief.
 - (a) *Policies.*
 - (1) The planning division recognizes that the specific landscape requirements in article 27-1200 cannot and do not anticipate all possible landscape situations. In addition, the planning division recognizes that there may be landscape proposals which conform to the purpose, intent and objectives of the landscape regulations, but were not anticipated in the specific regulations. Therefore, the planning division may grant administrative relief in the event of these situations and proposals.
 - (2) The reasonable development of a site may require the granting of administrative relief to some of the requirements. Although all of the categories of landscape requirements are considered important, the planning division generally assigns the following priorities for compliance with the landscape requirements:
 - i. First, adjacent residential uses should be buffered;
 - ii. Second, an attractive appearance of the project should be provided along adjacent streets by landscaped setbacks and trees;
 - iii. Third, the parking areas and building elevations which form major public views of the project should be visually softened and enhanced by trees and other plantings.

- (3) Compliance with the requirements, such as the third priority above, should not be "forced" into a site design. For both visual effect and ease of maintenance, relatively few, but larger landscaped areas, which are integrated with the other elements of the site design, are generally encouraged. In addition, relatively numerous and smaller landscaped areas, which are not integrated with the other elements of the site design, are generally discouraged.
- (4) However, the granting of administrative relief should not always mean that a requirement is reduced without compensation. For example, the granting of a reduced bufferyard depth should be compensated by the planting of additional trees, shrubs or other plants.

(b) *Application.*

- (1) A written request for administrative relief shall be submitted following the procedures in section 27-1614. The written request shall include a justification in terms of the findings necessary to grant administrative relief. The written request with decision shall be attached to the plan or retained in the applicable file, as appropriate.
- (2) The zoning coordinator must make all of the following findings in order to grant administrative relief:
 - i. The strict application of the regulation in question is unreasonable given the development proposal or the measures proposed by the applicant or that the property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same general area and such conditions will not allow a reasonable use of the property in its current zone in absence of relief;
 - ii. The intent of the landscaping section and the specific regulation in question is preserved;
 - iii. The granting of the administrative relief will not result in an adverse impact upon surrounding properties; and
 - iv. Proportional compliance is not appropriate for the location and development planned.
- (3) The zoning coordinator shall render a decision on the request within thirty (30) calendar days of receipt of the request and all required information. An appeal of the zoning coordinator's decision may be made in accordance with section 27-1616.

Sec. 27-1619. Master site plan.

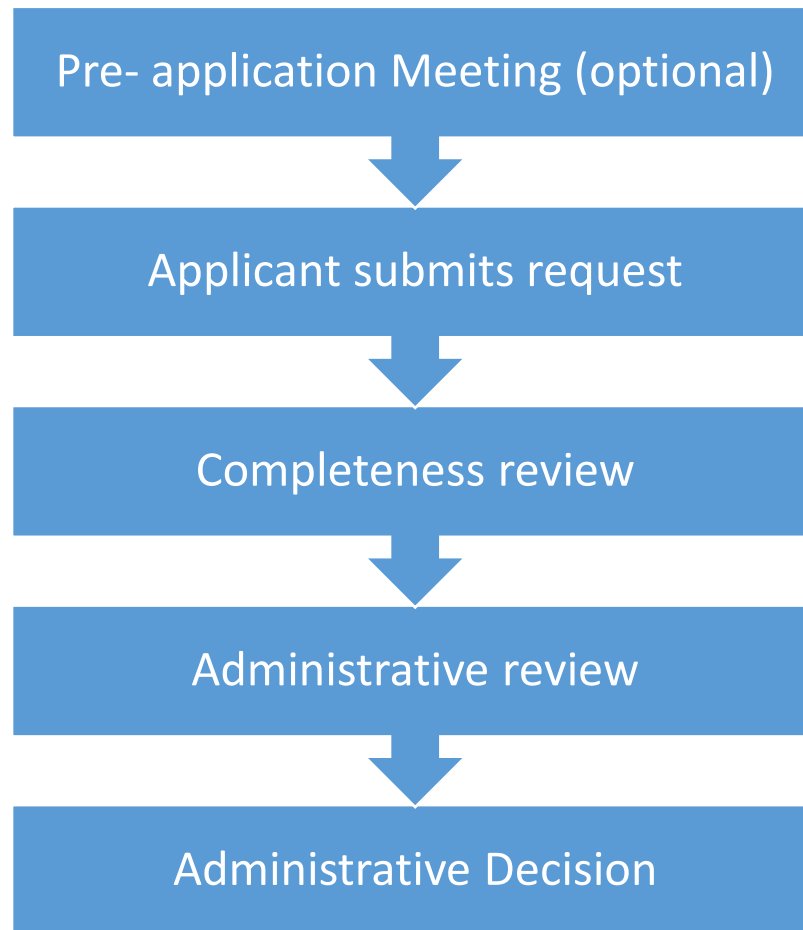


Figure 27-1619.A. Master Site Plan

- A. *Applicability.* The purpose of this section is to set forth the procedures and criteria for review and approval of master site plans when two (2) or more buildings share common facilities on an undivided lot. The purpose of master site plan review is to confirm that development is consistent with the requirements of this zoning code and with all previously approved plans applicable to the property.
- B. *Authority.* A request for master site plan approval may be submitted by a property owner or owner's agent.
- C. *Procedures.* Common procedures for master site plan review are identified in Table 27-1600.1 and are summarized here for applicant convenience.
- D. *Decision criteria.* The master site plan shall be reviewed against the following criteria:
 - 1. The master site plan is consistent with any prior approvals, including any conditions that may have been placed on such approvals, and
 - 2. The master site plan conforms with all applicable requirements of this zoning code, or with all applicable requirements as modified by a request for a minor code adjustment.

- E. *Review and decision-making.* A master site plan is subject to administrative approval and shall be reviewed as follows:
1. Within sixty (60) calendar days following the submittal of a complete application, the zoning coordinator shall approve or deny the application, unless the applicant consents in writing to an extension of the review period. The review period clock stops when corrections or revisions are required and begins again once the additional information or modified complete plans are received. Failure of the applicant to timely respond to the corrections or request for additional information does not trigger subsection 2.
 2. In the event that review exceeds ninety (90) calendar days, the applicant may seek immediate approval from the planning director.
- F. *Effect.*
1. Approved master site plans shall be binding upon the property owner(s) and their successors, transferees, and assigns.
 2. No permit shall be issued for any building, structure, or use that does not conform to an approved master site plan.
 3. No building, structure, use or other element of the approved master site plan shall be modified without amending the master site plan.
 4. All buildings, structures and uses shall remain in conformance with the approved master site plan or be subject to enforcement action.
- G. *Connectivity.* Each development shall contribute to an interconnected system of streets and blocks as required by the city subdivision regulations in addition to the following requirements. Streets shall be located to result in the following block regulations.
1. Streets shall connect and continue existing or planned streets from adjoining areas.
 2. Block faces at the maximum length above require pedestrian access at mid-block points to ensure walkability. Pedestrian access or walkways may be incorporated as a dedicated alley or as an easement between lots.
- H. *Appeal process.* An applicant who has requested review based on cured circumstances but is again denied may appeal the administrative denial pursuant to section 27-1616, Appeal of administrative decision.
- I. *Post-approval actions.*
1. *Expiration.*
 - (a) Approved master site plans shall expire one year after approval if a building permit has not been issued or the approved use has not been established. Where a master site plan expires due to the passage of this time period, new site plan review documents must be submitted for approval in the same manner as an original application for development review.

- (b) An extension not to exceed one year may be granted by the zoning coordinator.
2. *Modifications to master site plans.* The holder of an approved site plan may request a minimal modification to the document, or the conditions of approval, by submitting amended documents to the zoning coordinator.

Section 27-1620. Permits.

- A. *Applicability.* The zoning coordinator may review and decide upon applications for the following administrative permits. Some of these permits have additional review and approval requirements included in this section; a cross reference to those section is provided in the right-hand column.

Permit Type	Additional Procedural Standards
Fences	None
Landscape Plan	Section 27-1618
Master Site Plan	Section 27-1619
Proportionate Compliance	None
Short-Term Rental	Section 27-1621
Sign/Temporary Sign	Section 27-1622
Temporary Use	Section 27-1624
Wind and Solar	Section 27-1625
Wireless Communication	Section 27-1626

Table 27-1620. Permit Types



Figure 27-1620.A. Permit process

- B. *Authority.* Permit applications may be submitted by a property owner or owner's agent.
- C. *Procedures.* Common procedures for permit review are identified in Table 27-1600.1 and are summarized here for applicant convenience.
- D. *Review and decision-making.* Permit applications shall be decided pursuant to the requirements of subsection 27-1610.A. Permit-specific procedural requirements identified in this article shall be applicable.

Section 27-1621. Short-term rental permits.

Short-term rental (STR) permits are processed through section 27-1620, Permits, with the following additional requirements:

- A. *Application contents.* In addition to any other information prescribed by the zoning coordinator, an application for a short-term rental permit shall include the following information:
 - 1. Contact information for the owner (person, trust, or corporation) of the property.

2. Contact information for the owner's local contact person, who has authority to fix any problems or violations of this chapter, who is available twenty-four (24) hours a day, seven (7) days a week, at a phone number provided to both the city and any person staying at the property.
 3. Attestation and agreement to comply with the requirements of this section.
 4. Identification of all dwelling units that will be rented on a short-term basis.
 5. The URL (i.e., the website address) for any and all advertisements of the short-term rental of the property.
 6. Proof of building code compliance for single family attached and detached units. If seeking a short-term rental permit in a multifamily structure that is not a multi-unit attached single family structure that complies with building code standards for townhomes, proof of ownership of entire building must be provided with the application.
- B. *Duration and renewal.*
1. Short-term rental permits shall be issued for one year and must be renewed annually.
 2. An application to renew a short-term rental permit should be received by the zoning coordinator not less than thirty (30) calendar days prior to the expiration of the short-term rental permit.
- C. *Review criteria.* The zoning coordinator shall review a new or renewal application for a short-term rental permit for compliance against the criteria listed below. The zoning coordinator may deny a short-term rental application or renewal application if any of the following issues are found:
1. The property has any unresolved code enforcement violations, including issues unrelated to the short-term rental.
 2. The property is not in compliance with all applicable zoning code requirements, any permit requirements, or where applicable, any fire, building and safety, or other relevant laws and ordinances.
 3. The applicant has knowingly made any false, misleading, or fraudulent statements of material fact in the application, or in any report or statement required to be filed that is related to the application.
 4. The property that is the subject of the application is not available for immediate rental on a short-term basis consistent with the requirements of these regulations.
 5. The property owner's business license is not current.
- D. *Effect of denial.*
1. If an application for a new or renewal short-term rental permit is denied, the zoning coordinator may not approve a new application for that applicant and location for a 30-day period after the denial unless the

zoning coordinator determines that the reason for the denial has been cured or no longer exists.

2. An applicant who has requested review based on cured circumstances but is again denied, may appeal the administrative denial pursuant to section 27-1616, Appeal of administrative decision.

E. *Revocation.*

1. The zoning coordinator may revoke a short-term rental permit if any of the issues identified in the subsection 27-1621.C review criteria are substantiated during the term of permit.
2. The zoning coordinator shall give written notice of the pending revocation to the permit holder and any named local manager or long-term tenant listed on the permit. The permit holder will have thirty (30) calendar days to bring the property into compliance.
3. A permit holder who is in violation is prohibited from taking any further or future reservations.
4. If a short-term rental permit is revoked, the short-term rental of the property must cease immediately and the unit shall not be rented for a period of thirty (30) calendar days from the date of revocation unless the zoning coordinator determines that the reason for the revocation has been cured or no longer exists.

Section 27-1622. Sign permit.

A. *Applicability.*

1. *Permanent sign permit.*

- (a) Except as otherwise provided in this article, it shall be unlawful for any person to erect, construct, enlarge, move or convert any permanent sign in the city or cause the same to be done, without first obtaining a sign permit for each sign from the zoning coordinator as required by this article.
- (b) A sign permit shall be required for each group of signs on a single supporting structure installed simultaneously. Thereafter, each additional sign erected on the structure must have a separate sign permit.

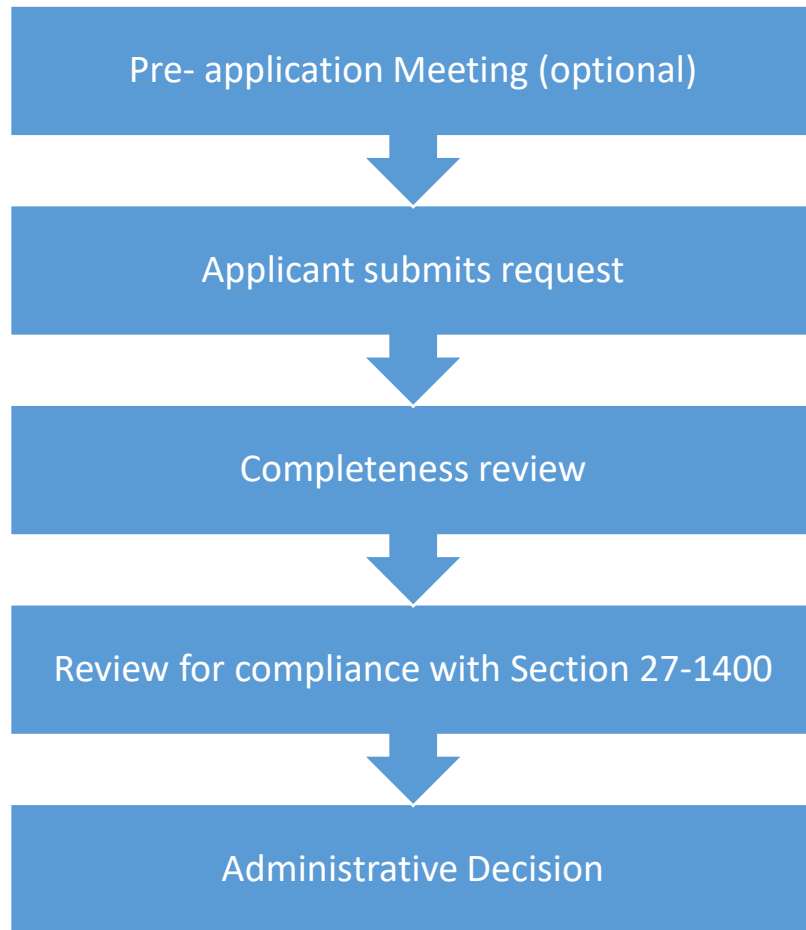


Figure 27-1622.A. Sign process

- (c) These directives shall not be construed to require any permit for a change of copy on any sign, nor for the repainting, cleaning and other normal maintenance or repair of a sign or sign structure for which a permit has previously been issued, so long as the sign or sign structure is not modified in any way.
2. *Temporary sign permit required.* Application for a temporary sign permit shall be made to the zoning coordinator by the owner or person entitled to possession of the property or business on which the temporary sign is to be located and shall be upon the form prescribed by the zoning coordinator.
 3. *Illegal signs.* No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.

B. Authority.

1. A sign permit may be requested by a property owner, tenant, or an owner or tenant's agent.

2. No person shall erect, construct or maintain any sign upon any property or building without the consent of the owner or person entitled to possession of the property or building if any, or their authorized representatives.
- C. *Procedures.* Common procedures for sign permit review are identified in Table 27-1600.1 and are summarized here for applicant convenience.
- D. *Decision criteria.* The sign permit shall be reviewed against the following criteria:
 1. The sign permit is consistent with any prior approvals, including any conditions that may have been placed on such approvals; and
 2. The sign permit conforms with all applicable requirements of this zoning code, specifically article 27-1400, Signs, or with all applicable requirements as modified by a request for administrative relief or variance.
- E. *Review and decision-making.*
 1. The zoning coordinator shall issue a permit for the erection, construction, enlargement, or relocation of a sign within the city when an application has been properly made and the sign complied with all appropriate laws and regulations.
 2. For temporary signs, the zoning coordinator shall establish area/height allowance and shall specify where the temporary sign is to be located, taking into consideration the required clear vision triangle in subsection 27-1802.H and the applicable zone district setback requirements.
- F. *Appeal.* An applicant who has requested review based on cured circumstances but is again denied, may appeal the administrative denial pursuant to section 27-1616, appeal of administrative decision.
- G. *Post-approval action.*
 1. *Revocation.* The zoning coordinator may, in writing, suspend or revoke a permit under provisions of this section whenever the permit was issued on the basis of a misstatement of fact or fraud.
 2. *Permit expiration.* Every sign permit issued by the zoning coordinator shall become null and void if installation is not commenced within 120 calendar days from the date of permit issuance.

Section 27-1623. Special review uses.

- A. *Applicability.*
 1. Each zoning district is primarily intended for a predominant type of use as identified in Table 27-1000.1. There are also a limited number of specific uses subject to special review that may or may not be appropriate in a particular district, depending upon all the circumstances of the individual use on the site and in context with surrounding development. Consideration of these uses includes examination of the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets, and

potential environmental effects, and whether specific conditions can be applied to mitigate the potential negative impacts of the use. Special review uses are special exceptions to the general terms of this zoning code.

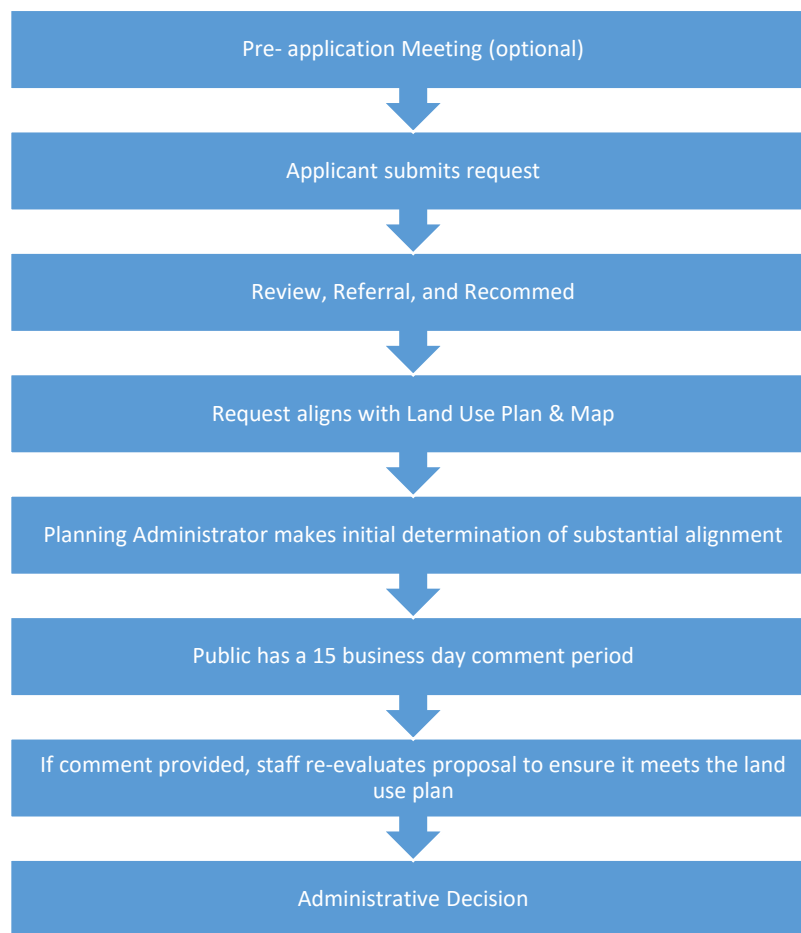


Figure 27-1623.A. Special Review Process

2. It is the intent of this section to provide a system of special review of such uses so that the community is assured that the uses are compatible with their locations and with surrounding land uses, and will further the purpose of this zoning code and the objectives of the city growth policies.
3. Only those uses identified as special review uses in Table 27-1000.1 may be approved pursuant to these procedures. If the zoning coordinator determines that a desired use is not included within the definition of a use listed as a special review use in Table 27-1000.1, and the use is not otherwise authorized by another provision of the zoning code, then the desired use may only be approved if:
 - (a) This zoning code is amended to add the specific use to the district containing the subject property, or
 - (b) The subject property is rezoned to a district where the use is listed as a permitted or special review use.

- B. *Authority.* An application for a special review may be filed by the property owner, contract purchaser, or an owner or applicant's authorized agent.
- C. *Procedures.*
1. *Common procedures.* Common procedures for special review are identified in Table 27-1600.1 and are summarized here for applicant convenience.
 2. *Specific procedures.*
 - (a) Notice shall be provided as follows (This section 27-1623.C.2.(a) shall expire July 1, 2027):
 - (1) *Mail.*
 - a. The applicant and/or applicant's authorized agent shall be mailed notice of the public hearing date, time and place at least five (5) calendar days prior to the date;
 - b. All the property owners within three hundred (300) feet of the exterior boundaries of the tract subject to the special review shall be mailed notice at least fifteen (15) calendar days in advance of the time, date, place and proposed use.
 - i. Where the subject property is within three hundred (300) feet of the city limits, the mailed notice area will be six hundred (600) feet.
 - ii. Where special review uses are subject to a separation requirement from other uses, the maximum separation distance will be the mail notice area.
 - iii. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet if the zoning coordinator determines that the proposed use would be such as to have a substantial environmental impact on the surrounding land uses;
 - (2) *Posted.* Place notice of the public comment period the property subject to the special review.
 - (c) The staff report for a special review use shall contain the following information:
 - (1) A summary of the comments received from the interdepartmental/agency review;
 - (2) Findings for each of the decision criteria listed in this section;
 - (3) A preliminary list of conditions if approval is recommended; and
 - (4) A recommendation to approve the application, approve it with conditions, or deny the application.
- D. *Decision criteria.* The zoning coordinator shall only recommend approval or conditional approval for a special review request if:

1. The special review use is consistent with the city's adopted land use plan and future land use map and applicable neighborhood plans, if any;
2. The establishment, maintenance, or operation of the special review use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
3. The site for the proposed use is adequate in size and topography to accommodate the use while meeting the other requirements of this zoning code, including zone district dimensions, landscaping requirements, and parking;
4. The special review use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
5. The special review use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
6. Conditions necessary to protect the public health, safety, and general welfare can be established, including but not limited to conditions on:
 - (a) Regulation of the use;
 - (b) Special setbacks, buffers, or screening;
 - (c) Surfacing of parking areas;
 - (d) Street, alley, or service road dedications, improvements, or bonds;
 - (e) Regulation of points of vehicular ingress and egress;
 - (f) Regulation of signs;
 - (g) Regulation on the performance of the site, including noise, vibration, and odors;
 - (h) Regulation of the hours of activities;
 - (i) Timeframe for development;
 - (j) Duration of use;
 - (k) Update to existing structures or sites to bring the facility closer to compliance with the current building or site development standards including but not limited to signage, landscaping, parking lot landscaping, doors and windows on the street facades of buildings, or other site and building standards; and
 - (l) Other relevant conditions that will ensure the orderly development of the site.
7. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;
8. Adequate measures have been or will be taken to provide ingress and egress to minimize traffic congestion in public streets; and

9. The special review use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the city council.

E. *Review and decision-making.*

1. *Zoning coordinator.*

- (a) The zoning coordinator shall consider each application in accordance with the provisions of this section.
- (b) The zoning coordinator shall:
 - (1) Approve the application;
 - (2) Conditionally approve the application;
 - (3) Deny the application.
- (d) Administrative determination shall be based on findings of fact for each criterion. If the application is approved, the applicant shall be notified in writing within ten (10) business days of the approval. The notification shall include:
 - (1) Identification of any conditions of approval;
 - (2) Automatic termination date; and
 - (3) Notification that permit issuance is contingent upon compliance with the conditions of approval.
- (e) If the application is denied, it shall constitute a determination that the applicant has not shown that the decision criteria required for special review use approval have been satisfied. A decision to deny shall include the following:
 - (1) A statement that the application is denied;
 - (2) A description of the project, including acreage and proposed use characteristics;
 - (3) Findings for each of the decision criteria;
 - (4) A statement indicating that a denial does not limit the applicant's ability to resubmit a revised application for consideration;
 - (5) A statement that the decision may be appealed to a court of competent jurisdiction; and
 - (6) The date of the decision.

F. *Requirements of approval.*

1. All of the conditions imposed by the special review use approval:
 - (a) Constitute restrictions running with the land use;
 - (b) Apply, are binding upon, and must be adhered to by the property owner and any successors, transferees, or assigns;

2. The right to building and occupancy permits are contingent upon the fulfillment of all conditions imposed by the special review use approval.
- G. *Amendment to approved special review uses.* Uses that have been approved pursuant to a special review, may be allowed to expand or remodel without an additional special review, provided that the expansion or remodeling meets all of the following criteria:
1. The gross floor area of the remodeled or expanded establishment is not over ten (10) percent greater than the gross floor area originally occupied by the special review use;
 2. The number of potential occupants is not increased by more than ten (10) percent over the number that is currently allowed;
 3. The number of new parking stalls is not more than ten (10) percent greater than the original number of spaces; and
 4. All other requirements of this zoning code and/or the BMCC are met.
- H. *Expiration of approval.*
1. *Non-establishment.* A special review use shall expire one year after the date of issuance unless substantial work has commenced pursuant to the approval and continues in good faith to completion.
 2. *Non-use.* If a special review use has been established but ceases to operate for more than six (6) months, the special review approval shall expire.

Section 27-1624. Temporary use permit.

Temporary uses are processed through section 27-1620, Permits.

Section 27-1627. Variances.

A. *Applicability.*

1. The zoning coordinator shall have the authority to grant a variance from the terms of this zoning code in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the Code would result in unnecessary hardship.
2. The variance process may not be used to:
 - (a) Waive, modify or amend any definition or use classification;
 - (b) Waive, modify or otherwise vary any of the review and approval procedures of this zoning code; or;
 - (c) Waive, vary, modify or otherwise override a condition of approval or requirement imposed by another authorized board or commission.

- B. *Authority.* A request for variance may be filed by a property owner or the owner's agent.
- C. *Procedures.*
1. *Common procedures.* Common procedures for variances are identified in Table 27-1600.1 and are summarized here for applicant convenience.
 2. *Specific procedures.*
 - (a) Notice shall be provided as follows (this section 27-1627.C.2.(a) shall expire July 1, 2027):
 - (1) *Published.* Notice of the application shall be advertised in a newspaper of general circulation twice as provided in MCA 7-1-4127(7)(a).
 - (2) *Mailed.*
 - a. Notify the property owners within one hundred fifty (150) feet of the exterior boundaries of the subject property;
 - (3) *Posted.* Place a notice on the property at least fifteen (15) calendar days prior to the hearing date.
- D. *Decision criteria.* Before the zoning coordinator grants a variance, it shall determine:
1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;
 2. That a literal interpretation of the provisions of this zoning code would deprive the applicant of rights commonly enjoyed by other tracts in the same district;
 3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this zoning code to other land in the same district;
 4. That the granting of the variance will be in harmony with the general purpose and intent of this zoning code and with the growth policies;
- E. *Review and decision-making.*
1. In granting any variance, the zoning coordinator may prescribe appropriate conditions and safeguards in conformity with this zoning code. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this zoning code.
 2. The zoning coordinator shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance.
 3. Under no circumstances shall the zoning coordinator grant a variance to allow a use not permissible under the terms of this chapter in the district involved. A

variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.

- F. *Post-approval action.* A request for changes in conditions of approval of a zoning variance must be processed as a new variance application, including the requirements for fees and notices.
- G. *Transferability.* Zoning variance approval runs with the land and is not affected by changes of tenancy, ownership, or management.
- H. *Reapplication.* If an application for a variance is denied by the zoning coordinator and not approved for reconsideration, another application shall not be filed within a period one year from the date of denial.

Section 27-1628 Zone change

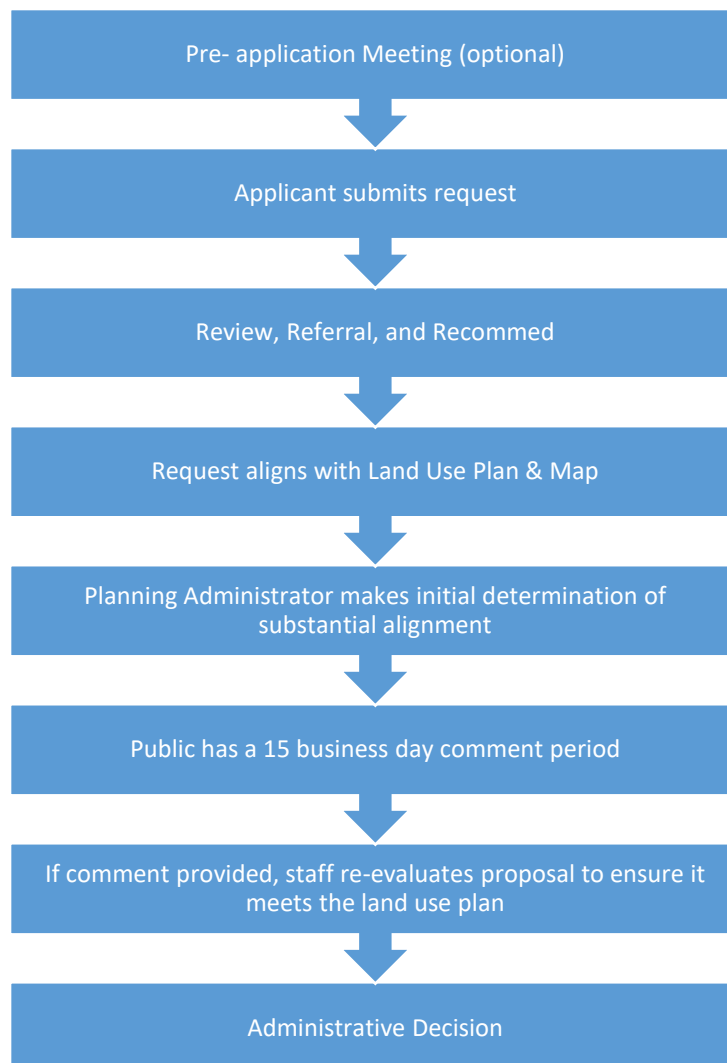


Figure 27-1628.A. Zone change

- A. *Purpose.* This zoning code, including the official zoning map, may be amended by the city council.
- B. *Initiation of zone change.* Proposals to amend the text of this zoning code (text amendment) or zoning map, may be made in accordance with MCA 76-25-304 or as it is amended from time to time.
- C. *Procedures.*
1. *Common procedures.* Common procedures for review and decision of a zone change application are identified in Table 27-1600.1 and are summarized here for applicant convenience.
 2. *Specific procedures.*
 - (a) Until July 1, 2027, notice of a zone change application shall be provided as follows:
 - (1) *Publication.* Notice of the application shall be advertised in a newspaper of general circulation twice as provided in MCA 7-1-4127(7)(a).
 - (2) Mailed notice shall be provided to the applicant and/or applicant's authorized agent; and
 - a. Where the subject property is equal to or more than six hundred (600) feet to exterior coterminous city limits: All property owners within a 300-foot radius. Where the subject property is less than six hundred (600) feet to exterior coterminous city limits: All property owners within one thousand three hundred twenty (1,320) feet. Coterminous city limits do not include unincorporated islands within the city limits.
 - b. PD zone change: All property owners within one thousand three hundred twenty (1,320) feet.
 - c. PND zone change: All property owners within one thousand three hundred twenty (1,320) feet.
 - (3) *Posted.* Place notice of the public hearing on the property subject to the zone change during the public comment period.
 - (4) Notice of a text amendment shall be published in the same manner as the publication requirement of a zone change application.
- D. *Decision criteria.* The review and decision-making bodies shall consider the following statutory criteria in making a decision regarding a zone change application:
1. Whether the proposed zoning regulation, map, or amendment is designed in alignment with the adopted land use plan and future land use map;

2. Whether the new zoning is designed to secure from fire and other dangers;
3. Whether the new zoning will promote public health, public safety and general welfare;
4. Whether the new zoning will facilitate the adequate provision of transportation both motorized and nonmotorized, water, sewerage, schools, parks and other public requirements;
5. Whether the zoning protects natural resources, the natural environment within the area;

E. *Review and decision-making.*

1. The zoning coordinator shall consider each application in accordance with the provisions of this section. Should the application be found to have a new or increased impact or not align with the adopted land use plan, future land use map, then the applicant shall provide additional analysis as determined by the planning administrator. In considering each application, the planning administrator shall follow the process set forth in MCA 76-25-305, or as it may be amended from time to time.
2. The zoning coordinator shall:
 - (1) Approve the application;
 - (2) Deny the application.

Section 27-1803. Definitions.

A. *A terms.*

...

Accessory: A use, building or structure, part of a building or other structure, which is subordinate to the principal use in both function and gross floor area, and the use of which is incidental to that of the main building, structure or use on the same lot, including a private garage.

Attached accessory structure: Any structure or building which has any roof or wall in common with the principal structure. For purposes of zoning, an attached accessory structure is considered part of the principal structure which is subordinate in both function and gross floor area.

Detached accessory structure: Any structure or building which does not have any roof or wall in common with any principal structure or building. For purposes of zoning, a detached accessory structure must maintain a minimum distance of six (6) feet from any other building or structure.

...

F terms.

...

Facade: The exterior face of a building, including but not limited to the wall, windows, windowsills, doorways, and design elements. The front facade is any building face adjacent to the front lot line.

Factory-built housing: see *manufactured homes*

Family day care home: See Child care facilities.

Farm stand: A temporary structure not permanently affixed to the ground and readily removable in its entirety, that is used solely for the display or sale of agricultural products.

Fence: A barrier composed of posts connected by boards, rails, panels or wire for the purpose of enclosing space to separate parcels of land. This term also includes a masonry wall.

Financial institution: Establishments that provide retail banking services, mortgage lending, and similar financial services to individuals and businesses. Accessory uses may include automatic teller machines, offices, and parking. The use may or may not be allowed to have a drive-through facility, depending on the zone district.

Flag: A flexible piece of fabric that is attached along one edge to a straight, rigid flagpole permanently affixed to the ground or building (directly or with rope), and which is designed to move when the wind blows. Flags are typically (but not necessarily) rectangular in shape, and often (but not always) include printed or embroidered insignia that symbolizes a nation, state, or organization, or that display a graphic or message.

Flashing sign: An electronic message display, portion thereof, or non-EMD lighting that changes light intensity in a brief, brilliant, or sudden and transient outburst of light causing a steady on and off, glittering, sparkling, or scintillating pattern. Neon and incandescent lamps may flash in the following ways.

1. *Alternating:* One section comes on as another goes off.
2. *Scintillating:* Random sections go on and off with part of the lighting on at all times.
3. *Chasing:* One section comes on at a time and is followed by one section going off at a time. Part of the sign is on at all times.
4. *Sweeping (filling):* The lighting sections individually go on until all of the sections are on, then the entire group goes off and then the process is repeated.
5. *On-off action:* Lighting that goes all on and then all off.

...

M. *M terms.*

...

Maintenance (sign): The cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the structure of the sign. Replacement of a static sign with an EMD is considered a sign change that requires a permit.

Manufactured home (factory-built housing):

1. Manufactured housing means a dwelling for a single household, built offsite in a factory, that is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or house trailer, as defined in 15-1-101.
2. Factory-built housing means a factory-assembled structure intended for residential use that is equipped with the necessary service connections but not made to be readily movable as a unit or units and is designed to be used with a permanent foundation; and is not certified by the United States department of housing and urban development but meets the inspection requirement of Title 50, chapter 60, part 4.

...

Mobile home: (See MCA 15-1-101(p)) Forms of housing known as "trailers", "house-trailers", or "trailer coaches" exceeding eight (8) feet in width or forty-five (45) feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, house-trailer, or trailer coach up to eight (8) feet in width or forty-five (45) feet in length used as a principal residence.

...

P. *P terms.*

...

Principal use: The primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory. The principal use must constitute the greater share of gross floor area on the lot or structure, exceeding the total square footage of any single accessory use.

...

T. *Terms.*

...

Theater: A structure that is open to the public and is used for dramatic, operatic, musical, motion picture, or other performance or entertainment related activities, where admission is charged per performance or event, and where there is no audience participation other than as spectators.

Tiny dwelling unit (tiny home): means a residential dwelling unit that is 350 to 750 square feet, is on a permanent foundation, and is used as a single-family dwelling.

Toll and tolling: To delay, suspend, or hold off on the imposition of a deadline, statute of limitations, or time limit.

...

City of Billings
2026
Zoning Boundaries



Legend

Yellowstone County

Road / Street

- Interstate Highway
- US & State Highway
- Arterial
- Collector
- Street
- Ramp

Billings Zoning

- C3 - General Commercial*
- CBD - Central Business District
- CMU1 - Corridor Mixed-Use
- CMU2 - Corridor Mixed-Use & Commercial Centers
- CX - Heavy Commercial
- DX - Downtown Support
- EBURD 13th St Main St
- EBURD Central Works
- EBURD Industrial Sanctuary
- EBURD Rail Spur Village
- EBURD Rail Spur Village Main St
- I1 - Light Industrial
- I2 - Heavy Industrial
- N1 - First Neighborhood
- N2 - Mid-Century Neighborhood
- N3 - Suburban Neighborhood
- N4 - Large Lot Suburban Neighborhood*
- NMU - Neighborhood Mixed-Use
- NO - Neighborhood Office
- NX1 - Mixed Residential 1 (1-4 du/structure)
- NX2 - Mixed Residential 2 (2-8 du/structure)
- NX3 - Mixed Residential 3 (=>5 du/structure)
- P1 - Open Space, Parks, Recreation
- P2 - Public- Civic, Institutional
- P3 - Public- Campuses - Medical, Civic, Educational
- PD - Planned Development
- RMH - Residential Mobile Home
- RR1 - Rural Residential (1 to 2.99 acres)*
- RR3 - Rural Residential (3 to 9.9 acres)*



Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4 SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 11th day of May 2026.

PASSED, ADOPTED and APPROVED on second reading this 26th day of May, 2026.

CITY OF BILLINGS

BY: _____

Mike Nelson, Mayor

Attest:

BY: _____

Denise R. Bohlman, City Clerk

Zone Change 1083 - Zoning Code Amendments Legislative

ORDINANCE NO. 26- _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THE REGULATIONS IN SECTIONS 23-100 THROUGH 23-1100 BE AMENDED TO CONFORM TO MONTANA LAND USE PLANNING ACT PASSED BY THE 69TH LEGISLATURE IN 2025, TO AMEND AND CLARIFY THE SUBDIVISION REGULATIONS

WHEREAS, Title 76, Chapter 25, MCA, known as the Montana Land Use Planning Act (“MLUPA”), enacted by the Montana Legislature during the 69th Legislative Session (2025), requires cities with populations of 5,000 or more to adopt a new land use plan and future land use map. Additionally, zoning codes and subdivision regulations must conform with MLUPA.

WHEREAS, pursuant to Section 76-25-301, MCA, a local government has the authority to and shall regulate the use of land in substantial compliance with its adopted land use plan by adopting zoning regulations; and

WHEREAS, sections of Chapter 23 of the Billings, Montana City shall be amended as set forth herein to conform to the current statutory requirements of MLUPA.

WHEREAS, MLUPA mandates ongoing public involvement in the development and adoption of land use policies and regulations, guided by a municipally adopted Public Participation Plan; and

WHEREAS, the Interim Planning Commission held public hearings on _____, 2026, and made a recommendation to the City Council to adopt the proposed amendments to the subdivision regulations; and

WHEREAS, the City Council held a public hearing on May 11, 2026, in order to take public comment on the proposed amendments to the subdivision regulations and to consider the Interim Planning Commission’s recommendations.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. Chapter 23 of the Billings, Montana City Code (BMCC) is amended as follows and any sections not amended herein shall remain in effect:

Section 23-101. Title.

These regulations will be known and may be cited as “The Subdivision Regulations of the City of Billings” hereinafter referred to as “these Regulations.”

Section 23-102. Authority.

Authorization for these Regulations is contained in the Montana Land Use Planning Act (76, Chapter 25, Part 401, MCA) ~~Chapter 3, Montana Code Annotated (MCA)~~). The reviewing authority is the City-County Planning Division, Planning and Community Services Department.

Section 23-103. Purpose.

The purposes and contents of these Regulations is outlined in 76-25-102 and 76-25-404, MCA and is to promote the public health, safety and general welfare of the citizens of the City of Billings by regulating the subdivision of land and to promote a vision for the development of the lands within the City for the best possible environment in which to enjoy life, experience natural features, raise a family, earn a living, conduct business, obtain an adequate education, have access to health care facilities, and to be adequately protected from crime and disasters:

1. Promote the health, safety, and welfare of the residents of the City through a system of comprehensive planning that balances private property rights and values, public services and infrastructure, the human environment, natural resources, and recreation, and a diversified and sustainable economy.
2. Ensure the orderly development of the jurisdictional area in accordance with adopted growth policies, neighborhood plans, motorized and non-motorized transportation plans, park plans, capital improvement plans, and other adopted policies and plans.
3. The coordination and dedication of right of way for roads and utilities within subdivided land with the existing and planned transportation network, including connections to adjacent property.
4. To encourage and support:
 - A. Sufficient housing units for the City's growing population that are attainable for citizens of all income levels;
 - B. The provision of adequate public services and infrastructure in the most cost-effective manner possible, shared equitably among all residents, businesses, and industries;
 - C. The natural environment, including wildlife and wildlife habitat, sufficient and clean water, and healthy air quality;
 - D. Agricultural, forestry, and mining lands for the production of food, fiber, and minerals and their economic benefits;
 - E. The City's economy and tax base through job creation, business development, and the revitalization of the City; and
 - F. Persons, property, infrastructure, and the economy against natural hazards, such as flooding, earthquake, wildfire, and drought.

~~These Regulations are intended to comply with Part 5 of the MSPA, and are intended to provide for:~~

- ~~A. The orderly development of the jurisdictional area in accordance with adopted growth policies, neighborhood plans, motorized and non-motorized transportation plans, park plans, capital improvement plans, and other adopted policies and plans.~~
- ~~B. The public health, safety and general welfare of existing and future residents by avoiding danger or injury by reason of natural hazard or the lack of drainage, access, emergency services or other public services.~~
- ~~C. The coordination of roads within subdivided land with the existing and planned transportation network and avoid and minimize traffic congestion.~~
- ~~D. The dedication of land for roadways and for public utility easements.~~
- ~~E. Proper physical and legal road access, including obtaining of necessary easements and rights of way.~~
- ~~F. The promotion of adequate open spaces for travel, light, air, and recreation.~~
- ~~G. Adequate transportation, water, drainage, and sanitary facilities.~~
- ~~H. The conservation of natural resources and development in harmony with the natural environment.~~
- ~~I. The promotion of cluster development approaches that minimize costs to local citizens and that promote~~

~~effective and efficient provision of public services.~~

~~J. The efficient expenditure of public funds for the supply of public services.~~

~~K. The standardization of making and filing of any plat for subdivided lands.~~

~~L. The protection of the rights of all documented property owners affected by the proposed subdivision including water, mineral, and air.~~

~~M. The administration of these regulations by defining the powers and duties of approving authorities including procedures for the review and approval of all plats of subdivisions covered by these provisions.~~

Section 23-104. Jurisdiction.

These Regulations govern the subdivision of land within the City of Billings. These Regulations do not cover the Town of Broadview, ~~and the unincorporated areas of Yellowstone County, or the City of Laurel, and the four and one half (4 ½) mile Laurel Planning Jurisdiction as shown on the map filed with the Yellowstone County Clerk and Recorder's Office~~ (see Appendix A for jurisdiction map).

If a proposed subdivision lies partly within an incorporated city or town, ~~and the County~~, the preliminary plat must be submitted to, and approved by, both the City ~~or Town~~ and the County governing bodies (~~76-25-408(3)(d)~~, MCA).

If a proposed subdivision lies within an area subject to increased growth pressures, higher development densities, or other urban development influences identified by either the City or the County pursuant to 76-25-213, the jurisdiction shall provide other impacted jurisdictions the opportunity to review and comment on the application (76-25-408(3)(c), MCA).

When a proposed subdivision is also proposed to be annexed to a municipality, the subdivision review and annexation procedures will be coordinated to minimize duplications of reports and other requirements, whenever possible (~~76-25-408(3)(a)~~ and ~~76-25-601(2)(d)~~, MCA).

These Regulations supplement all other regulations, and where they are at variance with other laws, regulations, ordinances, ~~or~~ resolutions, or policies the more restrictive requirements apply.

Section 23-105. Exemptions for Certain Divisions of Land.

The ~~Montana Land Use Planning Act Subdivision and Platting Act~~ provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the method of disposition is adopted for the purpose of evading the requirements of 76-25-402 MCA.

The procedures, criteria and requirements provided in Appendix ~~A-B~~ shall be used to review an exemption from subdivision review and to evaluate whether the division of land is for the purpose of evading the ~~Montana Land Use Planning Act Subdivision and Platting Act~~.

Section 23-106. Construction Timing.

The applicant or his/her contractors may not proceed with any construction work on a proposed subdivision, including grading and excavation relating to public improvements, until the governing body has given preliminary plat approval of the proposed subdivision plat. If improvements are initiated prior to final plat approval, the subdivider shall assume all risks and

liability for error in improvement placement and the improvements must comply with the conditions and agreements of the preliminary plat approval.

Section 23-107. Transfers of Title.

Except as noted below, a final subdivision plat must be filed for record with the Yellowstone County Clerk and Recorder before title to the subdivided land can be sold or transferred in any manner. After the preliminary plat of a subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met (76-25-411 (b), MCA) ~~(76-3-303, MCA)~~:

- A. That under the terms of the contracts the purchasers of lots in the proposed subdivision make all payments to an escrow agent, which must be a bank, savings and loan association, or title/escrow company chartered to do business in the State of Montana;
- B. That under the terms of the contracts and the escrow agreement the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the County Clerk and Recorder;
- C. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the County Clerk and Recorder within the period of ~~two~~ years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract;
- D. That the County Treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent; and
- E. That the contracts contain the following language conspicuously set out therein: “The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the County Clerk and Recorder, title to the property cannot be transferred in any manner.”

Section 23-108. Suitability of Land.

If during the ~~Yellowstone County Planning Board~~ review, the City finds any portion of a parcel of land proposed to be subdivided unsuitable for subdivision because of potential hazards such as flooding, landslides, steep slopes, rock falls, high water table, polluted or non-potable water supply, high voltage lines, high pressure gas lines, danger from fire or explosion or other features which may be detrimental to the health, safety, or general welfare of existing or future residents, they will not recommend approval of the subdivision unless the hazards can be eliminated or overcome through approved design and construction.

Section 23-109. Permission to Enter.

The governing body or its designated agent(s) or agency may investigate, examine, and evaluate the site of the proposed subdivision to verify information provided by the subdivider. The submission of a preliminary plat or final plat application constitutes a grant of permission by the subdivider to enter the subject property.

Section 23-110. Severability.

If a court of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other part of these regulations invalid, that judgment will affect only the part held invalid.

Section 23-111. Regulations in Effect.

Review and approval or disapproval of a subdivision under these ~~R~~regulations may occur only under those ~~R~~regulations in effect at the time an application for approval of a preliminary plat, per 76-25-409, MCA, or, for an extension of preliminary plat approval, under those regulations in effect at the time the extension is submitted to the governing body.

Section 23-112 Findings

- A. The governing body of the City of Billings finds that these regulations substantially comply with the adopted land use plan and zoning regulations for the City, including whether these regulations;
 - 1. Enable the development of projected needed housing types identified in the land use plan and zoning regulations;
 - 2. Reflect applicable strategies from the land use plan and zoning regulations to encourage the development of housing within the jurisdiction;
 - 3. Facilitate the adequate provision of public safety, emergency, utility, transportation, education, and any other local facilities or services for proposed development, as identified in the land use plan and zoning regulations;
 - 4. Reflect the standards that provide for existing, new, or expanding commercial, industrial, and institutional enterprises identified in the land use plan and zoning regulations for economic growth;
 - 5. Protect and maximize the potential use of natural resources within the area, as identified in the land use plan and zoning regulations;
 - 6. Contain standards that minimize or avoid impacts to the natural environment within the area, as identified in the land use plan and zoning regulations; and
 - 7. Contain standards that avoid or minimize dangers associated with natural hazards in the jurisdiction, as identified in the land use plan and zoning regulations.
- B. The governing body of the City of Billings finds any new or increased potential impacts to or from the local facilities, services, natural resources, natural environment, or natural hazards from those previously described and analyzed in the assessments conducted for the land use plan and zoning regulations were analyzed and that the public was provided with a reasonable opportunity to comment on and consider all potential impacts resulting from adoption of these regulations.
- C. The governing body of the City of Billings finds that all subdivisions hereafter determined to be and approved in substantial compliance with these regulations are in substantial compliance with the adopted land use plan and zoning regulations of the City of Billings.

Section 23-113 Responsibility for Interpretation

In the event that any question arises concerning any provision or the application of any provision of these regulations, the Planning Director or designee, in consultation with the City Attorney's Office as may be

necessary, shall be responsible for such interpretation and shall look to the overall intent of these regulations, the City’s zoning regulations and map, the City’s Land Use Plan and Map, and the Act for guidance. The Planning Director or designee shall provide such interpretations in writing upon request. An aggrieved party may appeal an administrative interpretation as set forth in 76-25-503, MCA.

Section 23-114 Amendment of the Regulations

Amendments to the subdivision regulations shall follow the provisions within 76-25-403, MCA or as may be amended from time to time.

Article 23-200. DEFINITIONS.

Section 23-201. Definitions.

Whenever the following words or phrases appear in these regulations, they shall have the meaning assigned to them by this section. The word “shall” is always mandatory, and the word “may” indicates use of discretion in making decisions.

ACCESS:

a. **LEGAL ACCESS:** When the subdivision abuts a public street or road under the jurisdiction of the City, the County, or the State, or when the subdivider has obtained documented, adequate, and appropriate easements from a public road to the subdivision across all intervening properties.

b. **PHYSICAL ACCESS:** When a road or driveway conforming to City and/or County standards provides vehicular access from a public or private road to the subdivision.

ACTIVE TRANSPORTATION PLAN: Refers to the current bike and trail master plan adopted by City Council.

ADJOINING PROPERTY OWNERS: Persons who are owners of record and/or owners under contract for deed of properties adjoining the land being proposed for subdivision platting.

AGRICULTURE: Montana Code Annotated definitions for “agriculture” and “agricultural” will apply as follows:

41-2-103, MCA. Definitions. As used in this part, the following definitions apply: (1) “Agriculture” means: (a) all aspects of farming, including the cultivation and tillage of the soil; (b)(i) dairying; and (ii) the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, including commodities defined as agricultural commodities in the federal Agricultural Marketing Act [12 U.S.C. 1141j(g)]; (c) the raising of livestock, bees, fur-bearing animals, or poultry; and (d) any practices, including forestry or lumbering operations, performed by a farmer or on a farm as an incident to or in conjunction with farming operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market.

81-8-701, MCA. Definitions. The following definitions apply: (1) “Agricultural and food product” includes a horticultural, viticultural, dairy, livestock, poultry, bee, other farm

or garden product, fish or fishery product, and other foods.

AGRICULTURAL WATER USER FACILITIES: Those facilities which convey water for agricultural land as defined in 15-7-202, MCA, or which provide water for the production of agricultural products as defined in 15-1-101, MCA, including, but not limited to, ditches, drains, pipes, and head gates.

AGRICULTURAL WATER USER: Persons and lands legally entitled to water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right.

APPLICANT: The owner of land proposed for subdivision or the owner's legally designated representative for the purposes of submitting a request to subdivide (See SUBDIVIDER).

BLOCK: A group of lots, tracts or parcels within well-defined and fixed boundaries. Such boundaries may include streets, railroads, irrigation ditches, streams, platted lands or a combination thereof.

BOARD OF COUNTY COMMISSIONERS: The governing body for Yellowstone County, Montana.

BOULEVARD: An area of public right-of-way or private easement between the paved edge of the street or road and the private property line. The boulevard provides for the opportunity to separate vehicle traffic from pedestrian travel. Boulevards often have sidewalks in them and often are landscaped. A parkway median is a landscaped area located in the middle of the street or road.

CERTIFICATE OF SURVEY: A drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

CONSERVATION SUBDIVISION: A development in a rural setting that is characterized by compact lots and common open space, and where the natural features of land are maintained to the greatest extent possible.

CHECKPRINT (Errors and Omissions): A paper copy of the final plat submitted by the subdivider for review of errors and omissions, and compliance with Administrative Rules of Montana and conditions of approval by staff prior to submitting the final plat on mylar.

CITY COUNCIL: The governing body for the City of Billings, Montana.

CLUSTER DEVELOPMENT: A subdivision of land with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped ~~-(76-3-103(2), MCA)-~~ (See Section 23-711 for example)

CONDOMINIUM: The ownership of single units with common elements located on property submitted to the provisions of 70-23-101, et seq., MCA. The term does not include townhome or townhouse.

COVENANT (DEED RESTRICTION): A limitation contained in a deed that restricts or regulates the use of the real property, and are not enforced by the governing body.

DEDICATION: The deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted (76-25-103, MCA) (~~76-3-103(3), MCA~~).

~~**CITY-COUNTY PLANNING DIRECTOR:**~~ The Director of the Planning and Community Services Department or an authorized reviewing authority.

DIVISION OF LAND: The segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the Montana Subdivision and Platting Act. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land (76-25-103, MCA) (~~76-3-103(4), MCA~~).

DRIVEWAY: A vehicular access serving no more than 2 lots or 5 dwelling units.

DWELLING UNIT: Any building or portion thereof providing complete, independent and permanent living facilities. A building designed exclusively for residential purposes, including single-unit, two-unit, and multiple-unit dwellings, but not including hotels or motel units, bed and breakfast guest rooms, boarding or lodging houses, tourist homes, or travel trailers and/or vehicles.

EASEMENT: Authorization by a property owner for another to use the property for a specified purpose, in which the owner agrees not to build, or otherwise obstruct or interfere with the specified purpose.

ENGINEER (REGISTERED PROFESSIONAL ENGINEER): A person licensed in conformance with the Montana Professional Engineers' Registration Act (67-37, MCA) to practice engineering in the State of Montana.

~~**EXPEDITED REVIEW FOR CERTAIN SUBDIVISIONS:** A subdivision application, regardless of the number of lots, that meets the requirements of subsection 3 of MCA 76-3-623 is entitled to the expedited review process.~~

FLOOD: When water from any watercourse or drainage rises above the bank or moves outside the channel of that watercourse or drainage. (76-5-103, MCA).

100-YEAR FLOOD: A flood magnitude expected to recur on the average of once every 100 years, or a flood magnitude which has a 1% chance of occurring in any given year. (76-5-103, MCA).

FLOODPLAIN: The area adjoining the watercourse or drainage that would be covered by the floodwater of a flood of 100-year frequency (76-5-103, MCA).

FLOODWAY: The channel of a watercourse or drainage and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge the floodwater of any

watercourse or drainage (76-5-103, MCA).

~~**GROWTH POLICY:** The City of Growth Policy and any version of this policy adopted by the Billings City Council pursuant to 76-1-601, MCA.~~

~~**LAND USE PLAN:** The City of Billings adopted land use plan and future land use map pursuant to 76-25-201, MCA.~~

LINEAR PARK: Corridors of protected open space managed for conservation and recreation purposes as designated by the governing body. They often follow natural land or water features and link nature reserves, parks, cultural features and historic sites with each other and with populated areas. These corridors may be privately or publicly owned.

LOCAL SERVICES: Any and all services or facilities that local government entities are authorized to provide.

LOT: A parcel, plot, or other land area created by subdivision or certificate of survey for sale, rent, or lease.

LOT MEASUREMENTS:

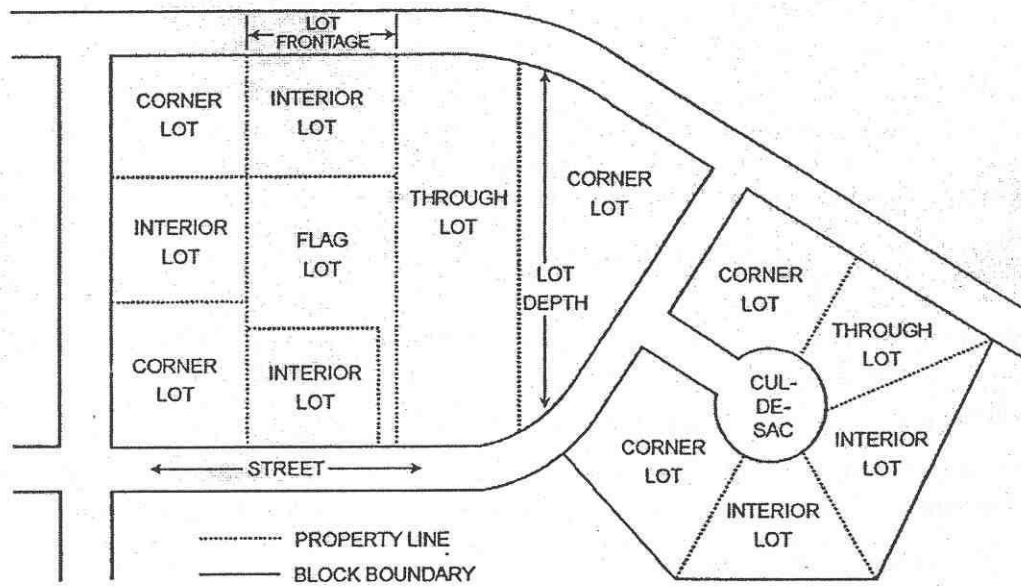
- a. Lot Depth -- The length of a line drawn perpendicularly to the front lot line and extending to the rear lot line.
- b. Lot Width -- The average width of the lot.
- c. Lot Frontage -- The width of the lot line that fronts a public street right-of-way or public road easement where the lot usually has a driveway access.
- d. Lot Area -- The area of a lot determined exclusive of street, highway, alley, road, or other rights-of-way.

LOT TYPES: (See Figure 23.200.1)

- a. Corner Lot: A lot located at the intersection of two streets.
- b. Interior Lot: A lot with frontage on only one street.
- c. Through or Double-Frontage Lot: A lot whose front and rear lines both abut on streets.
- d. Flag Lot
- e. Irregular Lot

MANUFACTURED HOME: A detached residential dwelling unit, constructed on a non-removable steel chassis or frame. Each transportable unit of a manufactured home has a red certification label on the exterior section and is built according to the Manufacture Home Construction and Safety Standards (HUD Code). A manufactured home does not include a mobile home or house-trailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976. (See MCA 15-1-101(m)).

Figure 23.200.1. Lot Types



MANUFACTURED HOME SPACE: A designated portion of a parcel of land designed for the accommodation of one manufactured home and its accessory buildings or structures for the exclusive use of the occupants.

MANUFACTURED HOME PARK: A single parcel of land or a lot that is designed or used for temporary or permanent spaces for 2 or more manufactured homes where either the space for a manufactured home or a manufactured home itself is available to the general public for residential use.

MANUFACTURED HOME PAD: That area of a manufactured home space that has been prepared for the placement of a manufactured home.

MASTER PLAN (Overall Plan; Sequential Development): The plan of a subdivision designed for a single tract and proposed to be subdivided in various stages, phases or configurations.

MEDIAN: A raised divider made of dirt, concrete or other material located in the middle of a street or road between travel lanes that is often landscaped (See BOULEVARD).

MOBILE HOME OR TRAILER: See MANUFACTURED HOME.

MODULAR HOME: A dwelling unit constructed in accordance with the standards set forth in the International Residential/Building Code and bearing the insignia of the State of Montana, applicable to site-built homes, and composed of components assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY MINIMUM STANDARDS: Minimum standards promulgated by the Montana Department of Environmental Quality, pursuant to Title 76, Chapter 4, Part 1, MCA.

MONUMENT (PERMANENT MONUMENT): Any structure of masonry, metal, or other permanent, durable material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.

MULTI-MODAL TRAIL TYPES:

- a. Bike Lane: A portion of the roadway that has been designated by striping, signage, and pavement markings for the preferential or exclusive use of bicyclists. (NACTO)
- b. Buffered Bike Lane: Conventional bicycle lanes that are paired with a designated buffer space separating the bicycle lane from the adjacent motor vehicle travel lane and/or parking lane (NACTO).
- c. Cut-through: A linking trail through the end of a cul-de-sac or from street to street between lots within a subdivision. It can encourage diverse types of transportation. It can reduce travel time and distance for pedestrians and bicyclists to areas in and out of neighborhoods, thereby reducing vehicle trips. By increasing connectivity with cut-throughs, it can reduce the time it takes to get from point A to point B and promote mobility for people in the subdivision.
- d. Neighborhood Bikeway: A local street or series of contiguous street segments that have been modified to function as a through street for bicyclists, while discouraging through automobile travel. (AASHTO Guide for the Development of Bicycle Facilities 4th Edition)
- e. Neighborhood Trail: A paved path located outside of the right of way of between 7-9.9 feet in width.
- f. Separated Bike Lane: A separated bike lane is a facility for exclusive use by bicyclists that is located within or directly adjacent to the roadway and is physically separated from motor vehicle traffic. A separated bike lane can be configured for one- or two-way travel. (Small Town and Rural Design Guide)
- g. Shared Lane Markings (also known as sharrows): Road symbol used to indicate a shared lane environment for bicycles and automobiles. The shared lane marking is a pavement marking with a variety of uses to support a complete bikeway network; it is not a facility type and should not be considered a substitute for bike lanes or other separation treatments where these types of facilities are otherwise warranted or space permits. Sharrows consist of a double chevron and a bike symbol. The Manual on Uniform Traffic Control Devices (MUTCD) outlines guidance for shared lane markings in section 9C.07. (NACTO)
- h. Shared Use Path: a multi-use facility outside the traveled way and physically separated from motorized vehicular traffic by an open space or barrier and either within the right-of-way or within an independent alignment. Shared-use paths are used by pedestrians (including skaters, users of manual and motorized wheelchairs, and joggers), bicyclists, and other authorized motorized and non-motorized users. (AASHTO Guide for Pedestrian Facilities 2nd Edition)
- i. Sidewalk: The portion of a street that is between the curb lines or the lateral lines of a

roadway and the adjacent property lines and that is intended for use by pedestrians. Sidewalks are paved in concrete.

- j. **Traffic Calming:** Traffic Calming is the combination of mainly physical measures that reduce the negative effects of motor vehicle use, alter driver behavior and improve conditions for non-motorized street users and area residents (ITE)

NATURAL ENVIRONMENT: The physical conditions that exist within a given area, including land, air, water, minerals, plants, animals, and objects of aesthetic significance.

NO ACCESS EASEMENT: A line designated on a subdivision plat for the purpose of restricting vehicular access from a public right-of-way to a lot.

OPEN SPACE: Any land which is provided or preserved for park or recreational purposes as designated by the governing body; conservation of land or other natural resources; historic or scenic purposes; or assisting in the shaping of the character, direction, and timing of community development. Open space may be privately or publicly owned and shall designate through the plat or an easement whether or not the land is publicly accessible.

PARK: Land that is dedicated to the City through (76-25-404 (I), MCA) MCA 76-3-621 or acquired through a donation or purchase by the City and designated on a plat as a park. In order to be platted as a park the land must be owned by a public entity and public access is allowed. A park must be classified as defined by the City of Billings ~~Comprehensive Parks~~ Master Plan.

~~Private parkland dedication may be provided instead of public when it meets the requirements of 76-3-621 (1) a b d (6)(a)(ii).~~

PARKLAND AMENITIES: Amenities within a park allow passive or programmed space. Amenities will be considered if they add value to parkland. Below is a short, non-exclusive list of passive and active parkland amenities:

- Shade structure.
- Sensory playground equipment.
- Park benches and other park furnishings.
- Water play areas, splash pads.
- Picnic tables and trash cans.
- Challenge course.
- Slides, swings and ziplines.

PHASED DEVELOPMENT: Where a subdivision is platted in whole but developed in phases, a phasing plan shall be prepared and included in the Subdivision Improvement Agreement by the subdivider, and reviewed and approved by the City of Billings with the preliminary plat. ~~MCA 76-3-103.~~

PLANNED NEIGHBORHOOD DEVELOPMENT (PND): See BMCC 27-800.

PLANNED UNIT DEVELOPMENT (PUD): A subdivision consisting of a planned mixture of land uses such as residential clusters, industrial parks, shopping centers, and/or

office building parks built in a prearranged relationship to each other and having open space and community facilities in common ownership or use (See BMCC 27-700) ~~(76-3-103(10), MCA)~~.

PLANNING COMMISSION BOARD: The ~~Billings Yellowstone County Board of~~ Planning Commission.

PLAT: A graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

- a. Preliminary Plat: A neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnishes a basis for review by a governing body.
- b. Final Plat: The final drawing of the subdivision and dedication required to be prepared for filing for record with the County Clerk and Recorder containing all elements and requirements set forth in these regulations and the Montana Land Use Planning Act (76-25-410, MCA) ~~(76-3, MCA)~~.
- c. Amended Plat: The final drawing of any change to a filed platted subdivision.
- d. Exempt Plat: The final drawing of a plat that is exempt from subdivision review but subject to survey requirements in accordance with ~~(76-25-402 MCA) 76-3-201 and 76-3-207, MCA~~.

PUBLIC HEALTH AND SAFETY: A condition of optimal well-being, free from danger, risk, or injury for a community at large, a small class of persons or a specific individual.

PUBLIC IMPROVEMENT: Any structure or facility constructed to serve the residents of a subdivision or the general public.

PUBLIC ROAD OR STREET: A road, street or easement that has been dedicated for public use.

RECREATIONAL CAMPING VEHICLE: A vehicle primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motor power or is mounted on or drawn by another vehicle.

RECREATIONAL VEHICLE PARK: Any area or tract of land containing two (2) or more spaces that are available for rent to the general public for parking or placement of temporary recreational vehicles. This term does not include a parcel composed of individually platted lots.

RECREATIONAL VEHICLE SPACE: A designated portion of a recreational vehicle park designed for the placement of a single recreational vehicle and the exclusive use of its occupants.

REVIEWING AUTHORITY: City-County Planning Division.

STATE: The State of Montana.

STREET TYPES: For purposes of these regulations, street types are defined using the Institute of Transportation Engineers Manual as follows:

- a. Alley: Minor rights-of-way used primarily for vehicular access to the back or side of properties that abut on and are otherwise served by public roads.
- b. Arterial: Any major carrier of traffic which generally terminates at both ends at a location that will produce more than 2,000 vehicles per day traffic, or upon which the nature of the traffic is such that more than 60% of the vehicles are using the street for mobility rather than land access. They are typically located no more than 1 mile apart.
 - 1. Principal Arterial: A street which serves the major centers of a metropolitan area, the highest traffic volume corridors, and the longest trip desires, and which carries a high proportion of the total urban area travel on a minimum of mileage.
 - 2. Minor Arterial: A street that interconnects with and augments the principal arterials, provides service to trips of moderate length at a lower level of travel mobility than principal arterials, and distributes travel to geographic areas smaller than those identified as principal arterials.
- c. Collector: A street that generally terminates at both ends at an arterial or collector but because of location, curvilinear design, or limited feeder area will not generally serve more than 2,000 vehicles per day, or the nature of the traffic is such that approximately 50% of the traffic is using the street for land access and 50% for mobility. They are typically located between arterial streets at no more than ½ -mile from an arterial street.
- d. Cul-de-sac: A street having only one outlet for vehicular traffic and terminating in a turn-around area.
- e. Frontage Access (Service Road): A local or collector street, usually parallel and adjacent to an arterial or major collector, which provides access to abutting properties and controls traffic access to arterials or collectors.
- f. Half-Street: A portion of the width of a street, usually located along the perimeter of a subdivision, the remaining portion of which street must be located on adjacent property if the street is to be fully constructed.
- g. Local Streets: A street or road having the primary function of serving abutting properties, and the secondary function of moving traffic.
- h. Loop: A local street which begins and ends on the same street, generally used for access to properties.

SUBDIVIDER: Any person or entity that owns or buys land, divides it into usable lots and develops or rents the lots, or sells the lots to others for development.

SUBDIVISION: A division of land or land so divided which creates one or more parcels

containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold or otherwise transferred and includes any re-subdivision and a condominium or townhome created in accordance with the Unit Ownership Act (70-23-101, et seq., MCA). ~~The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes (76-3-103(15), MCA).~~ However, condominiums or townhomes constructed on land divided in compliance with the Montana Land Use Planning Act ~~Montana Subdivision and Platting Act~~ are exempt from the provisions of the Act ~~(76-3-203, MCA).~~

~~SUBDIVISION, MAJOR:~~ ~~A subdivision that does not qualify for review as a minor subdivision.~~

~~SUBDIVISION, FIRST MINOR:~~ ~~A subdivision of a parcel that has never been subdivided or created by a subdivision, or has not resulted from a tract of record that has had more than five parcels created from that tract of record under 76-3-201 or 76-3-207, MCA since July 1, 1973 (76-3-609(2), MCA). Furthermore, the first minor subdivision contains five or fewer lots, and legal and physical access to all lots is provided.~~

~~SUBDIVISION, SUBSEQUENT MINOR:~~ ~~Divisions of land creating five (5) or fewer lots that are not first minor subdivisions from a tract of record.~~

~~SUBDIVISION QUALIFYING FOR EXPEDITED REVIEW:~~ ~~An expedited review and approval process for subdivision plats. It must meet the requirements of Section 23-306 of these subdivision regulations~~

~~SUBDIVISION QUALIFYING FOR ABBREVIATED REVIEW:~~ ~~A subdivision qualifying for an abbreviated review and approval process when it meets the definition of a first minor subdivision that contains one or two parcels, proper access to all lots is provided, no land in the subdivision will be dedicated to public use for parks or playgrounds, and the plat has been approved by the Montana Department of Environmental Quality whenever approval is required.~~

~~SUBDIVISION, ADMINISTRATIVE MINOR:~~ ~~A subdivision qualifying for an administrative review and approval process when it meets the definition of a first minor or subsequent minor subdivision from a tract of record, is within zoning, proper access to all lots is provided, has a will-serve letter from a municipal or county water and sewer service, and does not require a variance.~~

SURVEYOR (REGISTERED LAND SURVEYOR): A person licensed in conformance with the Montana Professional Engineer's Registration Act (Title 37, Chapter 67, MCA) to practice surveying in the State of Montana.

SURVEYOR (EXAMINING LAND SURVEYOR): A registered land surveyor duly appointed by the City of Billings or Yellowstone County to review surveys and plats submitted for filing.

SWALE: A drainage channel or depression designed to direct surface water flow.

TOWNHOME/TOWNHOUSE: Property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under

which they may jointly own the common areas and facilities (70-23-103(16)(a), MCA).

TRACT OF RECORD: An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the County Clerk and Recorder's office (76-25-103, MCA) ~~(76-3-103(16)(a), MCA).~~

TRAFFIC CONTROL DEVICES: All signs, signals, markings, and other devices used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, pedestrian facility, or multi-use trail by authority of a public agency having jurisdiction.

TRANSPORTATION PLAN: Currently adopted Billings Urban Area Long Range Transportation Plan, or any newer transportation planning document adopted by ~~the Billings City Council and Board of County Commissioners and~~ Transportation Policy Coordinating Committee (TPCC) for the Billings urban area.

UTILITY: A service to the public including, but not limited to, sanitary and storm sewers, water, electric power, gas, telephone, cable television, and other communication means.

VICINITY SKETCH: A map included with a site plan or placed on a plat that enables the viewer to clearly determine the location of a proposed subdivision in the City.

WILDLIFE: Non-domesticated animals.

WILDLAND-URBAN INTERFACE: Areas where wildland vegetation meets urban developments, or where forest fuels meet urban fuels (such as homes). These areas encompass not only the interface (areas immediately adjacent to urban development) but also the continuous slopes and fuels that lead directly to a risk to urban developments, and are generally mapped in the Yellowstone County WUI Community Wildfire Protection Plan.

WILDLIFE HABITAT: A place frequented by wildlife or a site where wildlife lives.

Article 23-300. SUBDIVISION REVIEW

PROCEDURES.

Section 23-301. Compliance with Local Regulations and State Law.

No subdivision of any lot, tract or parcel of land shall be undertaken; no street, sanitary sewer, storm sewer, water main, or other facilities in connection therewith shall be constructed, opened or extended for public use and travel, or for the common use of occupants of buildings except in strict accordance with the provisions of this Chapter and related state statutes.

Section 23-302. ~~Preapplication Requirement Major Subdivisions.~~

~~Divisions of land creating six (6) or more parcels must be reviewed as a major subdivision. The~~

~~major subdivision shall be reviewed by the governing body of the jurisdiction where the subdivision is located. A copy of the application shall also be provided to school district trustees (76-3-601(2)(b), MCA).~~

~~If the proposed subdivision lies partly within an incorporated city or town, the proposed plat must be submitted to and approved by both the city or town and county governing body (76-3-601(2)(c), MCA).~~

~~When a proposed subdivision is also proposed to be annexed to any municipality, the subdivision review and annexation procedures will be coordinated to minimize duplications of hearings, reports, and other requirements whenever possible (76-3-601(2)(d), MCA).~~

A. **Preapplication Meeting Request.** The purpose of the preapplication meeting is to provide the subdivider with requirements of local subdivision regulations and the Montana Land Use Planning Act, Aet Subdivision and Platting Act. An applicant may request a preapplication meeting prior to submitting a subdivision application. The preapplication review must take place no more than thirty (30) business days from the date that the Planning Director or designee receives a request for review with the required fee. The Planning Director or designee shall notify the requestor and any affected City Departments or other Agencies of the time of the meeting.

B. **Preapplication Material.** At the time of request, the subdivider shall provide the Planning Director or designee with electronically submitted ~~sketch~~ plans of the proposed subdivision for review and discussion. The ~~sketch~~ plan should be legibly drawn to scale no greater than 1 inch = 400 feet (1:4,800), showing in simple form the layout of proposed features in relation to existing conditions. ~~The sketch plan may be a freehand sketch made directly on a print of a topographic map. See online 'Pre-application form' for recommended pre-application sketch plan contents and other meeting recommendations.~~

~~The Planning Director or designee will schedule the pre-application meeting to occur within thirty (30) working days of the receipt of the sketch plan, and shall notify the subdivider and any affected City Departments of the time and place of the meeting.~~

The pre-application meeting shall not constitute approval of a preliminary or final plat. Rather, it shall be deemed an opportunity to provide an overview of state subdivision law, these local subdivision regulations, and other relevant local planning and code requirements that may apply to the subdivision application and ~~expression of general acceptance of the sketch plan~~ submitted.

Section 23-303. Pre-application Completeness Review Preliminary Plat

A. **Complete and Sufficient Application Review.** The subdivider shall submit one (1) electronic copy of the application including the preliminary plat and supporting documents to the Planning Director or designee for review accompanied by the applicable fee. After receipt of the electronic copy the Planning Director or designee shall notify the subdivider within ~~five (5)~~ twenty (20) working days that the application contains all information and materials necessary to complete the review of the application as set forth in these regulations, as to the completeness of the application. A complete application will include all those items listed online under "Preliminary Plat

Requirements”, where applicable, and any additional information identified at the pre-application meeting. If the Planning Director or designee determines the application is incomplete, the subdivider must correct the deficiencies and resubmit the application restarting the twenty working day timeline. The Planning Director or designee may review subsequent submissions of the application only for information found to be deficient during the original review of the application (76-25-408(5)(b), MCA). A determination that an application contains sufficient information for review does not ensure approval or conditional approval of the proposed subdivision and does not limit the ability of the Planning Director or designee to request additional information during the review process (76-25-408(5)(c), MCA).

~~C. **Preapplication Sufficiency Review.** Within fifteen (15) working days after notifying the applicant that the application is complete, the Planning Director or designee will determine that the information in the application is sufficient to allow for review of the proposed subdivision. If the Planning Director or designee determines the information is sufficient, the applicant will be notified that the complete and sufficient application may be submitted at the application submittal deadline. If the Planning Director or designee determines the information is insufficient, the subdivider must correct the deficiencies prior to the next submittal deadline or postpone submittal to a future submittal deadline.~~

~~D. **Major Preliminary Plat Application Submittal.**~~

- ~~1. **Required.** The subdivider shall submit to the Planning Director or designee, for review and recommendation, a preliminary plat of the proposed major subdivision which conforms to the requirements of these Regulations. Information required in submittal of plats and supporting documents shall be performed by or under the supervision of a registered land surveyor or professional engineer licensed to practice in the State of Montana, as their respective licensing laws allow.~~
- ~~2. **Application submittal.** Complete and sufficient application for major preliminary plat approval shall be made to the Planning Director or designee on or before 3:00 p.m. of the first day of any given month. When the date of submittal falls on a weekend or holiday, the submittal shall be on the following working day by 3:00 p.m. The application form is provided online “Preliminary Plat Application” and must be accompanied by the required preliminary plat, and supporting documents and applicable fee.~~
- ~~3. **Review period.** Upon receipt of a complete and sufficient application, the governing body has sixty (60) working days to approve, conditionally approve, or deny the preliminary plat application. For subdivisions containing fifty (50) or more lots the review period is eighty (80) working days. The review period may be extended upon written consent from the subdivider.~~

~~E. **Preliminary Plat Contents and Submittal Copies.**~~

- ~~1. **Survey Element Requirement.** Applicable information required in submittal of plats and supporting documents shall be performed by or under the supervision of a registered land surveyor or professional engineer licensed to practice in the State of Montana, as their respective licensing laws allow.~~

2. **Content.** The preliminary plat shall submit all the **applicable and complete** documents listed in Exhibit 1 and online in “Preliminary Plat Requirements.”
3. **Copies.** The subdivider shall provide one electronic copy of all required documents for the preliminary plat to the Planning Director or designee. All plats shall be scaled to 24 inch by 36-inch in size as specified by the Planning Director or designee.

~~F. Supporting Documentation.~~

- ~~1. **Required documents.** The supporting information shall include those documents listed online “Required Supporting Documents for Preliminary Plat Applications.”~~
- ~~2. **Required copies.** The subdivider shall provide one electronic copy of the supporting documents to the Planning Director or designee. All documents shall be typed and, in a format, specified by the Planning Director or designee.~~

B. Initial Determination (Section 23-303.B. shall expire July 1, 2027.)

1. Once the Planning Director or designee determines that the application contains sufficient information for review, the Planning Director or designee shall make an initial determination if the proposed application, with or without variances or deviations from adopted standards is:
 - (a) in substantial compliance with the zoning and subdivision regulations, and;
 - (b) all impacts resulting from the development were previously analyzed and made available for public review and comment prior to the adoption of the land use plan, zoning regulations, and subdivision regulations.
2. If the Planning Director or designee determines that the application meets the requirements of Section 23-303.B.1, -then the Planning Director or designee shall provide fifteen (15) working day public notice of its initial determination in accordance with Section 23-303.D. and Section 23-303.E.

C. Determination (Effective July 1, 2027)

1. Once the Planning Director or designee determines that the application contains sufficient information for review, the Planning Director or designee shall make a determination if the proposed application, with or without variances or deviations from adopted standards is:
 - (a) in substantial compliance with the zoning and subdivision regulations; and;
 - (b) all impacts resulting from the development were previously analyzed and made available for public review and comment prior to the adoption of the land use plan, zoning regulations, and subdivision regulations.
2. If the Planning Director or designee determines that the application, with or without variances, does not meet the requirements in Section 23-303.C.1,-then the Planning Director or designee shall follow the process outlined in Section 23-303.G.
3. If the Planning Director or designee determines that the application meets the requirements

of Section 23-303.C.1., then the Planning Director or designee shall the Planning Director or designee shall issue a final written decision approving, approving with conditions, or denying the application within fifteen (15) business days.

D. Public Notice.

1. Public notice shall be mailed to adjacent property owners.
2. Notice shall be posted on the Planning Division website providing initial determination and materials for review.
3. Notice shall be publicly advertised once.

E. Public Comment.

1. The public shall submit comment on or before the last day of the public comment period.

F. Final Determination. (Section 23-303.E. shall expire July 1, 2027.)

1. Unless public comment received on or before the last day of the comment period supports a determination that the proposed subdivision fails to meet one or both of the requirements in Section 23-303.B.1., the Planning Director or designee shall issue written findings stating the results of the public comment and a final written decision approving, approving with conditions, or denying the application within fifteen (15) business days.

G. Does not meet requirements.

1. A proposed subdivision of a site, that, with or without variances or deviations from adopted standards, must establish:; fails to meet:
 - (a) substantial compliance with the zoning and subdivision regulations; and
 - (b) that all impacts resulting from the proposed subdivision were previously analyzed and made available for public review and comment, including but not limited to the adoption, amendment, or update of the land use plan, zoning regulations, or subdivision regulations.
2. Compliance may be determined:
 - (a) upon initial review of the planning administrator; or
 - (b) upon evidence provided by public comment received under Section 23-303.B.2.
3. If compliance is not established, the Planning Director or designee shall:
 - (a) request the applicant to collect any additional data and perform any additional analysis necessary to provide the Planning Director or designee and the public with the opportunity to comment on and consider the lack of substantial compliance with the zoning and subdivision regulations and any new or significantly increased potential impacts not previously identified and considered in the adoption, amendment, or update of the land use plan, zoning regulations, and subdivision regulations;

(b) Provide public notice of the planning administrator's initial or revised initial determination in accordance with Section 23-303.D. and Section 23-303.E. a written comment period of fifteen (15) business days during which the public must have an opportunity to participate in and comment on the data collected and analysis performed.

4. After the public comment period, the Planning Director or designee shall issue written findings stating the results of the public comment and a final written decision approving, approving with conditions, or denying the application within fifteen (15) business days.

G.H. Written Decision Contents. The Planning Director or designee shall prepare a written decision evaluating the proposed subdivision and any requested variances for compliance with these regulations. The written decision shall contain:

1. Recommendation for approval, conditional approval including any conditions for mitigation measures, or denial of the subdivision application and preliminary plat;
2. Summary of the basis for the decision, including findings of fact which describe factual evidence and analysis of substantial compliance with the zoning and subdivision regulations and all impacts resulting from the development were previously analyzed and made available for public review and comment prior to the adoption of the land use plan, zoning regulations, and subdivision regulations;
3. A decision for approval or denial of any requested variances (based on review criteria for variances) including any conditions of approval, and a summary of facts forming the basis of the decision;
4. The preliminary plat approval shall be three (3) calendar years; and,
5. Copies of comments received.
6. Made available to the public via the Planning Division website.
7. Be provided to the applicant
8. Include information regarding the appeal process

~~Failure of any agency to complete a review of a plat will not be the basis for denial of the plat by the governing body (76-3-504(1)(i), MCA).~~

- ~~1. **Review procedure schedule.** Upon receipt of a complete and sufficient major preliminary plat application, the Planning Director or designee shall develop a schedule for the review period. The schedule shall include the dates, times and location of all key meetings, hearings and actions, and the dates of all key deadlines.~~
- ~~2. **Submittal distribution.** Planning staff shall distribute the application to all affected City Departments, local, state, and federal agencies, school districts and public utilities for review, and include a copy of the review procedure schedule. These affected entities shall determine what effect the proposed subdivision may have on their ability to provide services and submit recommendations for mitigation of those impacts. The affected entities shall respond to the~~

~~Planning staff within approximately ten (10) fifteen (15) working days. A public utility or agency review may not delay the governing body's action on the plan beyond the sixty (60) or eighty (80) working day review period.~~

- ~~3. **Department Plat Review Meeting.** Planning staff shall arrange a department plat review meeting to publicly review comments from the affected entities and inform the subdivider of revisions or additions required to bring the application into compliance with local regulations and state law. The subdivider and their representative are required to attend the department plat review meeting and shall be given a copy of all comments received to date from the affected entities.~~
 - ~~4. **Application resubmittal.** The Planning staff shall notify the subdivider, in writing, of the resubmittal requirements within one (1) working day of the department plat review meeting. The subdivider shall revise the plat and supporting documents as required and submit one electronic copy of the revised application and documents as determined by the Planning Director or designee within five (5) working days of receipt of the resubmittal notice.~~
 - ~~5. **Final staff comments.** Affected departments shall provide the Planning staff with final written comments regarding the resubmitted documents within five (5) working days of receipt of resubmittal.~~
 - ~~6. **Hearing notice.** The Planning Board shall hold a public hearing on all major preliminary plat applications. Planning staff shall place a notice in a newspaper of general circulation in the County not less than fifteen (15) days prior to the date of a public hearing. The Planning staff shall also notify the subdivider and each property owner of record, and each purchaser under contract for deed of property immediately adjoining land included in the plat by certified mail not less than fifteen (15) days prior to the date of hearing (76-3-605(3), MCA).~~
 - ~~7. **Staff report.** Planning staff shall prepare staff reports and presentations for the Planning Board plat review meeting and public hearing. A copy of each staff report shall be provided electronically to the subdivider at least five (5) working days prior to the Board or governing body meeting. Each staff report shall provide a recommendation for approval, conditional approval or denial of the application and draft findings of fact as basis for the recommendation. The Planning staff shall also prepare a report forwarding the recommendation of the Planning Board to the governing body including the Board's recommendation for approval, conditional approval or denial of the applications and draft findings of fact as basis for the recommendation.~~
- ~~H. **Planning Board Plat Review.** The Planning Board, as the authorized agent of the governing body shall conduct a plat review of the major preliminary plat application at a regularly scheduled meeting prior to the scheduled public hearing. The purpose of the plat review meeting is to consider the following relevant review criteria:~~
- ~~1. The environmental assessment and all criteria discussed therein, unless the plat is exempted from the requirement of submitting an environmental assessment pursuant to 76-3-616, MCA; and~~
 - ~~2. The effect on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety (76-3-608(3)(a), MCA); and~~
 - ~~3. Compliance with:~~

- ~~a. The Montana Subdivisions and Platting Act (76-3-101 et seq., MCA) (76-3-608(3)(b), MCA); and~~
 - ~~b. The provision of easements for the location and installation of any planned utilities (76-3-608(3)(c), MCA); and~~
 - ~~c. The provision of legal and physical access to each parcel within the subdivision (76-3-608(3)(d), MCA); and~~
 - ~~d. The required notation of that access on the applicable plat and any instrument of transfer concerning the parcel (76-3-608(3)(d), MCA); and~~
 - ~~e. Local zoning requirements; and~~
- ~~4. Consistency with the currently adopted Growth Policy¹, Transportation Plan, and the Active Transportation Plan.~~
- ~~5. **Determination.** The Planning Board shall determine if there are any significant adverse impacts the subdivision may have based on its review of this information and formulate recommended conditions to reasonably minimize those impacts.~~

~~In reviewing a subdivision and when requiring mitigation, the Planning Board may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude recommendation of approval of the plat.~~

- ~~I. **Public Hearing.** The Planning Board shall conduct the public hearing and consider all relevant evidence as related to the proposed plat before preparing its written findings of fact and recommendation to the governing body. The subdivider or their agent shall be given the opportunity to object to any testimony given. The subdivider shall be allowed to submit in writing his or her own proposed findings of fact to the Board and the governing body following the hearing.~~

~~The relevant evidence considered at the public hearing on the preliminary plat shall include the criteria listed above in Section H. of this Article.~~

~~After holding the public hearing and reviewing the evidence concerning the plat, the Planning Board shall submit its recommendations to the governing body to approve, conditionally approve or deny the major preliminary plat in writing no later than ten (10) days after the public hearing (76-3-605(4), MCA).~~

¹ A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy (76-1-605(2)(b), MCA).

- ~~J. **Subsequent Hearing.** Before acting on the subdivision application, the governing body shall determine whether public comments or documents presented at the Planning Board public hearing constitute:~~

~~1.—Information that the public has not had a reasonable opportunity to examine and comment, or~~

~~2.—New information never submitted or considered by the Planning Board or staff.~~

~~If the governing body determines that public comments or documents meets at least one (1) of the criteria listed above, it may act on the subdivision application in accordance with this Article or schedule a subsequent public hearing for consideration of the new information only. The subsequent public hearing shall be held by the Planning Board at the Planning Board's next scheduled meeting for which proper notice for the public hearing on the subdivision application can be provided.~~

~~If a subsequent hearing is held, the sixty (60) or eighty (80) working day review period is suspended and the new hearing must be noticed and held within forty five (45) days of the governing body's determination to hold a subsequent public hearing. The sixty (60) or eighty (80) working day review period will resume from the date of the subsequent public hearing. The governing body may not consider any information that is presented after the subsequent hearing (76-3-615, MCA).~~

~~K. **Subdivider's Preference for Mitigation.** No later than ten (10) days before the meeting when the governing body is to consider the Planning Board's recommendation on the preliminary plat, the subdivider may submit in writing to the governing body comments on and responses to the Planning Board's recommendations. This document may include the subdivider's alternative proposals, if any, for mitigating the impacts identified in the Planning Board's recommendations. The governing body shall give due weight and consideration to the subdivider's expressed preferences (76-3-608(5)(b), MCA).~~

~~L. **Governing Body Action.** The governing body's decision to approve, conditionally approve, or deny a subdivision is based on the preliminary plat, applicable environmental assessment, public hearing, Planning Board recommendations, or additional information that demonstrates the development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and these Regulations. A governing body may not deny approval of a subdivision based solely on the subdivision's impacts on educational services, or based solely on parcels within the subdivision having been designated as wildland-urban interface parcels under 76-13-145, MCA (76-3-608(1), MCA), or solely on compliance with a Growth Policy (76-1-605(2)(b), MCA).~~

~~The governing body shall issue written findings of fact that weigh the criteria as listed in Section 23-302 H. of this Article. The governing body shall determine if there are any significant adverse impacts the subdivision may have based on its review of this information and formulate conditions to reasonably minimize those impacts (76-3-608(4), MCA).~~

~~In reviewing a subdivision and when requiring mitigation, the governing body may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat (76-3-608(5)(a), MCA).~~

~~The governing body shall approve, conditionally approve or deny the preliminary plat within sixty (60) or eighty (80) working days of the submittal deadline and when the application was~~

~~considered complete and sufficient. The governing body shall send the subdivider a letter within thirty (30) working days of its decision stating the reasons for the denial or enumerating the conditions which must be met to assure approval of the final plat along with written findings of fact (76-3-608(4), MCA).~~

M-I. Preliminary Plat Approval Period.

1. The approval or conditional approval shall be valid for not more than three (3) calendar years. At the end of this period the ~~governing body~~ Planning Director or designee may, at the request of the subdivider, extend the approval once by written agreement. ~~its approval for mutually agreed upon period of time. Any mutually agreed upon extension must be in writing, dated, and signed by the governing body and the subdivider or subdivider's agent. The governing body may issue more than one extension.~~
2. Upon receipt of a request for an extension, the Planning Director or designee shall determine whether the preliminary plat remains in substantial compliance with the zoning and subdivision regulations. If the preliminary plat is no longer in substantial compliance with the regulations cited above, the extension shall not be granted, per MCA 76-25-409.
3. When considering a request for an extension of the preliminary plat approval period, the Planning Director designee may use the following criteria to evaluate the request:
 - a. Changes to the subdivision regulations since the original approval and whether the subdivision as originally approved is essentially compliant with the new regulations;
 - b. Progress to date in completing the subdivision as a whole and any phases;
 - c. Phasing of the subdivision and the ability for the existing development to operate without the delayed development;
 - d. Dependence of infrastructure development on the subdivision;
 - e. Duration of the requested extension;
 - f. Demonstrated ability of the subdivider to complete the subdivision;
 - g. Such other factors or criteria as deemed material in the discretion of the governing body.
4. After the preliminary plat is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval, providing the approval is obtained within the original or extended approval period.
5. ~~An approved or conditionally approved phased preliminary plat must be in effect for 20 calendar years.~~

J. Appeal Process. A decision of the City of Billings regarding a preliminary plat of a subdivision may be appealed as provided in 76-25-503, MCA.

Section 23-304 Final Plat.

- A. Checkprint/Errors and omissions Review.** Prior to submitting the final plat on mylar, a subdivider must submit draft electronic copies of all applicable items as required within the

“Checkprint/Final Plat Submittal Requirements” (see Exhibit 2 and online) to the Planning Director or designee for review.

1. Copies of submitted documents will be available to reviewers electronically. Reviewing departments shall notify Planning staff of any changes required to conform to the conditions of final plat approval or local regulations and state law within ten (10) business days after receipt of the checkprint.
2. Planning staff shall notify the subdivider no later than fifteen (15) business days after receipt of any changes required. A red-lined copy of the checkprint shall be returned to the subdivider along with the reviewer’s comments

B. Final Plat Application Submittal and Review.

1. The final plat mylar application including all supplementary documents must be submitted to the Planning Director or designee at least 30 business days prior to the expiration of preliminary plat approval (See Exhibit 2 and online for “Checkprint/Final Plat Submittal Requirements”).
2. Within 10 business days of receiving the final plat application, the Planning Director or designee shall review the final plat and supplemental documents to ensure that all conditions and requirements for final plat approval have been met. The Planning Director or designee will not accept, begin processing, nor schedule any actions on a final plat submittal until a complete application and fee, and copies of the final plat have been received. Final plat applications will not be considered complete until all conditions of preliminary approval have been satisfied.
3. If the application is not complete, the Planning Director or designee will submit a written notice to the subdivider indicating the missing information. The subdivider is required to correct the final plat materials in accordance with preliminary plat approval.
4. Once the Planning Director or designee determines that the application is complete, staff shall prepare a report documenting the final plat application materials conform to the conditions of the preliminary plat.

C. Final Mylar Submittal. ~~Application for final plat approval shall be submitted to the Planning Director or designee on or before 3:00 p.m. at least twenty-five (25) working days prior to the City Council memo deadline.~~ The subdivider shall submit one (1) electronic copy. The subdivider must also submit two (2) signed mylar originals of the final plat and original, wet signature versions of all required documents for recording. (See Exhibit 2 and online for “Checkprint/Final Plat Submittal Requirements”).

D. Governing Body Decision. Once the Planning Director or designee determines the final plat application is complete, the governing body shall examine the final subdivision plat and shall approve the document if it conforms to the conditions of the preliminary plat approval, or deny the plat. The governing body shall complete its review within 20 business days of the Planning Director or designee’s determination that the application is complete.

1. If the final plat is approved, the governing body shall certify its approval on the face of the final plat, see Appendix C. When applicable, a certificate of the governing body’s acceptance of any dedicated land, easements, or improvements shall be filed on the face of the final plat and/or on documents that accompany the final plat for recording.

- E. Filing the Final Plat. After receiving approval, the final plat may be recorded.
- F. Amending Final Plats. An amended plat is subject to the review procedures for subdivisions.
- G. Public Improvements shall be provided prior to the approval of the final plat. Except as provided in MCA 76-25-413.

~~Section 23-303. First Minor Subdivisions from a Tract of Record.~~

~~Divisions of land creating five (5) or fewer lots from a tract of record that has not been subdivided or created by a subdivision under the Montana Subdivision and Platting Act, or has not resulted from a tract of record that has had more than five parcels created from that tract of record under 76-3-201 or 76-3-207, MCA since October 1, 2003 shall be reviewed as first minor subdivisions from a tract of record, hereafter referred to as a “first minor” (76-3-609, MCA).~~

~~The requirement of holding a public hearing does not apply to the first minor subdivision created from a tract of record (76-3-609(2)(d)(ii), MCA).~~

~~The first minor subdivision shall be reviewed by the governing body of the jurisdiction where the subdivision is located. A copy of the application shall also be provided to school district trustees (76-3-601(2)(b), MCA).~~

~~If the proposed subdivision lies partly within an incorporated city or town, the proposed plat must be submitted to and approved by both the city or town and county governing body (76-3-601(2)(c), MCA).~~

~~When a proposed subdivision is also proposed to be annexed to any municipality, the subdivision review and annexation procedures will be coordinated to minimize duplications of hearings, reports, and other requirements when possible (76-3-601(2)(d), MCA).~~

- ~~A. **Pre-application Meeting.** The purpose of the pre-application meeting is to provide the subdivider with requirements of local subdivision regulations and the Montana Subdivision and Platting Act. A pre-application meeting must be requested no later than seven (7) working days and no earlier than one hundred and twenty (120) working days prior to submittal of a minor preliminary plat application for completeness review. At the time of request, the subdivider shall provide the Planning Director or designee with electronic sketch plans of the proposed subdivision for review and discussion. The sketch plan should be legibly drawn to scale no greater than 1 inch = 400 feet (1:4,800), showing in simple form the layout of proposed features in relation to existing conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map. See the online application for recommended pre-application sketch plan contents and other meeting recommendations.~~

~~The Planning Director or designee will schedule the pre-application meeting to occur within fifteen (15) working days of the receipt of the sketch plan, and shall notify the subdivider and any affected City Departments of the time and place of the meeting.~~

~~The pre-application meeting shall not constitute approval of a preliminary or final plat. Rather, it shall be deemed an expression of general acceptance of the sketch plan submitted.~~

~~**B. Pre-application Completeness Review.** One (1) month prior to a submittal deadline for minor preliminary plat applications, the subdivider shall submit one (1) electronic copy of documents to the Planning Director or designee for review accompanied by the applicable fee. After receipt of the copies the Planning Director or designee shall notify the subdivider within five (5) working days as to the completeness of the application. A complete application will include all those items listed online as “Preliminary Plat Requirements”, where applicable, and any additional information identified at the pre-application meeting. If the Planning Director or designee determines the application complete, the subdivider may submit the application, plat and supporting documentation for sufficiency review. If the Planning Director or designee determines the application is incomplete, the subdivider must correct the deficiencies and resubmit the application.~~

~~**C. Pre-application Sufficiency Review.** Within fifteen (15) working days after notifying the applicant that the application is complete, the Planning Director or designee will determine that the information in the application is sufficient to allow for review of the proposed subdivision. If the Planning Director or designee determines the information is sufficient, the applicant will be notified that the complete and sufficient application may be submitted at the application submittal deadline. If the Planning Director or designee determines the information is insufficient, the subdivider must correct the deficiencies prior to the next submittal deadline or postpone submittal to a future submittal deadline.~~

~~**D. First Minor Preliminary Plat Application Submittal.**~~

~~1. **Required.** The subdivider shall submit to the Planning Director or designee, for review and recommendation, a preliminary plat of the proposed first minor subdivision, which conforms to the requirements of these Regulations. Information required in submittal of plats and supporting documents shall be performed by or under the supervision of a registered land surveyor or professional engineer licensed to practice in the State of Montana as their respective licensing laws allow.~~

~~2. **Application submittal.** Complete and sufficient application for first minor preliminary plat approval shall be made to the Planning Director or designee on or before 3:00 p.m. of the first or fifteenth day of any given month. When the date of submittal falls on a weekend or holiday, the submittal shall be on the following working day by 3:00 p.m. The application form is provided online “Preliminary Plat Application” and must be accompanied by the required preliminary plat, supporting documents and applicable fee.~~

~~3. **Review period.** Upon receipt of a complete application, the governing body has thirty five (35) working days to approve, conditionally approve, or deny the preliminary plat application. The review period may be extended upon written consent from the subdivider.~~

~~**E. Preliminary Plat Contents and Submittal Copies.**~~

~~1. **Content.** The preliminary plat shall clearly show the information listed online “Preliminary Plat Requirements.”~~

- ~~2. **Copies.** The subdivider shall provide one electronic copy of the preliminary plat . All plats shall be 24 inches by 36 inches in size or 11 inches by 17 inches in size as specified by the Planning Director or designee. One (1) electronic copy of all supporting documents shall be provided.~~

~~F. **Supporting Documentation.**~~

- ~~1. **Required documents.** The supporting information shall include those documents listed online “Required Supporting Documents for First Minor Preliminary Plat Applications.”~~
- ~~2. **Required copies.** The subdivider shall provide one copy of each supporting documents as determined by the Planning Director or designee. All documents shall be typed and, in a format, specified by the Planning Director or designee.~~

~~G. **Staff and Agency Review.**~~

- ~~1. **Review procedure schedule.** Upon receipt of a complete and sufficient first minor preliminary plat application, the Planning Director or designee shall develop a schedule for the review period. The schedule shall include the dates, times and location of all key meetings and actions and the dates of all key deadlines.~~
- ~~2. **Submittal distribution.** Planning staff shall distribute the application to all affected City Departments, local, state, and federal agencies, school districts and public utilities for review, and include a copy of the review procedure schedule. These affected entities shall determine what effect the proposed subdivision may have on their ability to provide services and submit recommendations for mitigation of those impacts. The affected entities shall respond to the Planning staff within approximately fifteen (15) working days. A public utility or agency review may not delay the governing body’s action on the plan beyond the thirty five (35) working day review period. Failure of any agency to complete a review of a plat will not be the basis for denial of the plat by the governing body (76-3-504(1)(i), MCA).~~
- ~~3. **Staff report.** Planning staff shall prepare a staff report and presentation for the governing body. An electronic copy of the report shall be provided to the subdivider at least five (5) working days prior to the governing body meeting. The staff report shall provide a recommendation for approval, conditional approval or denial of the applications and draft findings of fact to justify the recommendation.~~

~~H. **Governing Body Action.** At a regularly scheduled meeting the governing body shall consider the following information in deciding whether to approve, conditionally approve, or deny a preliminary plat:~~

- ~~1. Unless the subdivision is proposed in an area that is zoned, the effect on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety (76-3-608(3)(a), MCA); and~~
- ~~2. Compliance with:~~
 - ~~a. The Montana Subdivisions and Platting Act (76-3-101 et seq., MCA) (76-3-608 (3)(b), MCA);~~

and

- ~~b. The provision of easements for the location and installation of any planned utilities (76-3-608(3)(c), MCA); and~~
- ~~c. The provision of legal and physical access to each parcel within the subdivision (76-3-608(3)(d), MCA); and~~
- ~~d. The required notation of that access on the applicable plat and any instrument of transfer concerning the parcel (76-3-608(3)(d), MCA); and~~
- ~~e. Local zoning requirements; and~~
- ~~3. Consistency with the currently adopted Growth Policy, Transportation Plan, and the Active Transportation Plan (76-1-606, MCA); and~~
- ~~4. A summary of probable impacts prepared in accordance with Section 23-904 of these Regulations.~~
- ~~5. The governing body shall give due weight and consideration to the subdivider's expressed preferences (76-3-608(5)(b), MCA). The governing body may not deny approval of a subdivision based solely on the subdivision's impacts on educational services, or based solely on parcels within the subdivision having been designated as wildland-urban interface parcels under 76-13-145, MCA (76-3-608(1), MCA), or solely on compliance with the Growth Policy (76-3-605(2)(b), MCA).~~
- ~~6. The governing body shall issue written findings of fact that weigh the criteria listed in this section. The governing body shall determine if there are any significant adverse impacts the subdivision may have based on its review of this information and formulate conditions to reasonably minimize those impacts (76-3-608(4), MCA).~~
- ~~7. In reviewing a subdivision and when requiring mitigation, the governing body may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the plat (76-3-608(5)(a), MCA).~~
- ~~8. The governing body shall approve, conditionally approve or deny the preliminary plat within thirty five (35) working days of the submittal deadline and when the application was considered complete and sufficient. The governing body shall send to the subdivider a letter within thirty (30) working days of its decision stating the reasons for the denial or enumerating the conditions which must be met to assure approval of the final plat, along with written findings of fact (76-3-608(4), MCA).~~
- ~~I. **Preliminary Plat Approval Period.** The approval or conditional approval shall be valid for not more than three (3) calendar years. At the end of this period the governing body may, at the request of the subdivider, extend its approval for a mutually agreed upon period of time. Any mutually agreed upon extension must be in writing, dated, and signed by the governing body and the subdivider or subdivider's agent. The governing body may issue more than one extension.~~

~~When considering a request for an extension of the preliminary plat approval period, the governing body may use the following criteria to evaluate the request:~~

- ~~1. Changes to the subdivision regulations since the original approval and whether the subdivision as originally approved is essentially compliant with the new regulations;~~
- ~~2. Progress to date in completing the subdivision as a whole and any phases;~~
- ~~3. Phasing of the subdivision and the ability for the existing development to operate without the delayed development;~~
- ~~4. Dependence of infrastructure development on the subdivision;~~
- ~~5. Duration of the requested extension;~~
- ~~6. Demonstrated ability of the subdivider to complete the subdivision.~~
- ~~7. Such other factors or criteria as deemed material in the discretion of the governing body.~~

~~After the preliminary plat is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval, providing the approval is obtained within the original or extended approval period described above (76-3-610(2), MCA).~~

~~J. **Appeal Process.** A decision of the governing body regarding a proposed subdivision may be appealed to the district court, as provided in Section 23-1105 of these Regulations and 76-3-625, MCA.~~

~~K. **Final Plat.** A final plat application shall be submitted for review and approval following the procedures outlined in Section 23-307 of this Article prior to the expiration of the preliminary plat approval period.~~

~~Section 23-304. Subsequent Minor Subdivisions.~~

~~Divisions of land creating five (5) or fewer lots that are not first minor subdivisions from a tract of record shall be reviewed as first minor subdivisions in accordance with Section 23-303 of this Article (76-3-609(4), MCA). The subsequent minor subdivision will be reviewed by the governing body where the jurisdiction in which it is located. A copy of the application shall also be provided to school district trustees (76-3-601(2)(b), MCA).~~

~~Section 23-305. Subdivisions Qualifying for Abbreviated Review.~~

~~A. **Eligibility.** Subdivisions, hereafter referred to as “abbreviated review plats” containing one (1) or two (2) parcels are eligible for abbreviated review when:~~

- ~~1. They meet the definition of a first minor subdivision from a tract of record; and~~
- ~~2. Legal and physical access to all lots is provided; and~~

~~3. No land in the subdivision will be dedicated to public use for parks or playgrounds; and~~

~~4. The plat has been approved by the Montana Department of Environmental Quality or County Environmental Health whenever approval is required or the plat has been approved by the City of Billings Public Works Department for sanitary water, sewer and storm water facilities²; and~~

~~5. No public improvements are required.~~

~~If the proposed subdivision lies partly within an incorporated city or town, the proposed plat must be submitted to and approved by both the city or town and county governing body (76-3-601(2)(c), MCA).~~

~~When a proposed subdivision is also proposed to be annexed to any municipality, the subdivision review and annexation procedures will be coordinated to minimize duplications of hearings, reports, and other requirements when possible (76-3-601(2)(d), MCA).~~

² If MDEQ or County Health approval has not yet been obtained, the applicant may submit a checkprint for review and approval to the Planning Department. The applicant may submit the checkprint approval to MDEQ or County Health as required as proof of preliminary plat approval. Proof of MDEQ or County Health approval must be submitted with the final plat and supplemental documents prior to recording the final plat.

Supp. No 1

~~B. **Pre-application Meeting.** The purpose of the pre-application meeting is to provide the subdivider with requirements of local subdivision regulations and the Montana Subdivision and Platting Act. A pre-application meeting must be requested no later than twenty (20) working days and no earlier than one hundred and twenty (120) working days prior to final plat submittal. At the time of request, the subdivider shall provide the Planning Director or designee with electronically submitted sketch plans of the proposed subdivision for review and discussion. The sketch plan should be legibly drawn to scale no greater than 1 inch = 400 feet (1:4,800), showing in simple form the layout of proposed features in relation to existing conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map. See Appendix C for recommended pre-application sketch plan contents and other meeting recommendations.~~

~~The Planning Director or designee will schedule the pre-application meeting to occur with fifteen (15) working days of the receipt of the sketch plan, and shall notify the subdivider and any affected City Departments of the time and place of the meeting.~~

~~The pre-application meeting shall not constitute approval of a preliminary or final plat. Rather, it shall be deemed an expression of general acceptance of the sketch plan submitted.~~

~~C. **Abbreviated Review Plat Application Submittal.**~~

~~1. **Required.** The subdivider shall submit to the Planning Director or designee, for review and recommendation, a final plat of the proposed minor subdivision, which conforms to the requirements of Section 23-307 of this Article. Information required in submittal of plats and supporting documents shall be performed by or under the supervision of a registered land surveyor or professional engineer licensed to practice in the State of Montana, as their respective~~

licensing laws allow.

- ~~2. **Checkprint.** Prior to submitting the final plat on mylar, a subdivider must submit electronic copies of a final plat application, electronic draft copies of the supporting documents and one (1) copy of the survey closure calculations to the Planning Director or designee for review. The electronic final plat application form is provided online “Final Plat Application” and the form and content of the checkprint and the supporting documents are described online “Final Plat Requirements”. The final plat review fee and the subdivision title commitment or title report are also required at this stage.~~

~~Reviewing departments shall be notified of and provided electronic copies of the checkprint, supporting documents and survey closure calculations have been submitted. City Public Works-Billings Fire Department, City Legal, County Treasurer and County Clerk and Reorder shall be asked for review and comment. These reviewers shall notify Planning staff of any changes required to conform to the local regulations and state law within ten (10) working days after receipt of the checkprint. Planning staff shall notify the subdivider no later than fifteen (15) working days after receipt of the checkprint of any changes required. A red-lined copy of the checkprint shall be returned to the subdivider along with the reviewer’s comments.~~

- ~~3. **Application submittal.** Application for abbreviated plat approval shall be submitted to the Planning Director or designee on or before 3:00 p.m. at least twenty-five (25) working days prior to the date of the City Council memo deadline. The electronic application form is provided online “Abbreviated Final Plat Application” and must be accompanied by the required final plat, supporting documents and applicable fee.~~

- ~~D. **Final Plat and Supporting Documents Contents and Submittal Copies.** The subdivider shall submit one (1) electronic copy. The subdivider must also submit two (2) signed mylar originals of the final plat. The form and content of final plat is provided online “Final Plat Requirements.” The final plat must be accompanied by a complete abbreviated review plat application form as provided online “Abbreviated Final Plat Application”, a subdivision title commitment or title guarantee prepared within the previous six (6) months, all supporting documents and the required review fee.~~

- ~~E. **Review Procedure.** Planning staff shall route the application, final plat and supporting documents to the appropriate departments and officials for their signatures within sufficient time to assure the documents are placed on the first available agenda of the governing body for their consideration and authorized signatures.~~

- ~~F. **Governing Body Action.** At a regularly scheduled meeting, the governing body shall consider the following information in deciding whether to approve or deny a final plat:~~

- ~~1. The effect on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety (76-3-608 (3)(a), MCA); and~~

~~2. Compliance with:~~

- ~~a. The Montana Subdivisions and Platting Act (76-3-101 et seq., MCA) (76-3-608 (3)(b), MCA);~~

and

~~b. The provision of easements for the location and installation of any planned utilities (76-3-608(3)(c), MCA); and~~

~~c. The provision of legal and physical access to each parcel within the subdivision (76-3-608(3)(d), MCA); and~~

~~d. The required notation of that access on the applicable plat and any instrument of transfer concerning the parcel (76-3-608(3)(d), MCA); and~~

~~e. Local zoning requirements; and~~

~~3. Consistency with the adopted Growth Policy, Transportation Plan, and the Heritage Trail Plan.~~

~~4. The governing body shall give due weight and consideration to the subdivider's expressed preferences (76-3-608(5)(b), MCA). The governing body may not deny approval of a subdivision based solely on the subdivision's impacts on educational services, or based solely on parcels within the subdivision having been designated as wildland-urban interface parcels under 76-13-145, MCA (76-3-608(1), MCA), or based solely on compliance with the Growth Policy (76-3-605(2)(b), MCA).~~

~~5. In the event the governing body denies the final plat, it shall send a letter to the subdivider stating the reasons for the denial along with written findings of fact (76-3-608(4), MCA).~~

~~G. **Approval Period.** Final plat approval shall be in force not more than twelve (12) months from the date of the governing body's approval. At the end of the period the governing body may, at the request of the subdivider, after review and recommendation of the Planning Board, extend its approval for no more than twelve (12) months.~~

~~After all required signatures have been obtained, the plat shall be recorded with the County Clerk and Recorder within the twelve (12) months of the date of approval.~~

~~Section 23-306. Expedited Review for Certain Subdivisions.~~

~~A. **Eligibility.** Subdivisions, hereafter referred to as "expedited review plats" as defined in MCA-76-3-623~~

~~1. Requested by applicant; and~~

~~2. Within an incorporated city and is subject to an adopted growth policy and adopted zoning regulations; and~~

~~3. Complies entirely with locally adopted zoning regulations; and~~

~~4. Complies entirely with the design standards and all other requirements of these regulations; and~~

~~5.—Includes in its proposal plans for on-site development or extension of public infrastructure in accordance with locally adopted ordinances and regulations.~~

~~B. Expedited Review Plat Application Submittal.~~

- ~~1.—**Pre-application Meeting.** The purpose of the pre-application meeting is to provide the subdivider with requirements of local subdivision regulations and the Montana Subdivision and Platting Act. A pre-application meeting must be requested no later than seven (7) working days and no earlier than one hundred and twenty (120) working days prior to submittal of a major preliminary plat application for completeness review.~~

~~At the time of request, the subdivider shall provide the Planning Director or designee with electronically submitted sketch plans of the proposed subdivision for review and discussion. The sketch plan should be legibly drawn to scale no greater than 1 inch = 400 feet (1:4,800), showing in simple form the layout of proposed features in relation to existing conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map. See online ‘Pre-application application’ for recommended pre-application sketch plan contents and other meeting recommendations.~~

~~The Planning Director or designee will schedule the pre-application meeting to occur within fifteen (15) working days of the receipt of the sketch plan, and shall notify the subdivider and any affected City Departments of the time and place of the meeting.~~

~~The pre-application meeting shall not constitute approval of a preliminary or final plat. Rather, it shall be deemed an expression of general acceptance of the sketch plan submitted.~~

- ~~2.—**Pre-application Completeness Review.** One (1) month prior to submittal deadline for major preliminary plat applications, the subdivider shall submit one electronic copy of the entire application including the preliminary plat and completed supporting documents to the Planning Director or designee for review accompanied by the applicable fee. After receipt of the electronic copy the Planning Director or designee shall notify the subdivider within five (5) working days as to the completeness of the application. An application complete in its entirety will include all those items listed online “Preliminary Plat Requirements”, where applicable, and any additional information identified at the pre-application meeting. If the Planning Director or designee determines the application complete, the subdivider may submit the application, plat and supporting documentation for sufficiency review. If the Planning Director or designee determines the application is incomplete, the subdivider must correct the deficiencies and resubmit the application.~~
- ~~3.—**Pre-application Sufficiency Review.** Within fifteen (15) working days after notifying the applicant that the application is complete, the Planning Director or designee will determine that the information in the application is sufficient to allow for review of the proposed subdivision. If the Planning Director or designee determines the information is sufficient, the applicant will be notified that the complete and sufficient application may be submitted at the application submittal deadline. If the Planning Director or designee determines the information is insufficient, the subdivider must correct the deficiencies prior to the next submittal deadline or postpone submittal.~~

~~to a future submittal deadline.~~

- ~~4. **Department Plat Review Meeting.** Upon completeness and sufficiency review, Planning staff shall arrange a department plat review meeting to publicly review comments from the affected entities and inform the subdivider of revisions or additions required to bring the application into compliance with local regulations and state law. The subdivider and their representative are required to attend the department plat review meeting and shall be given a copy of all comments received to date from the affected entities.~~

~~C. **Preliminary Plat Expedited Application Submittal.**~~

- ~~1. **Required.** The subdivider shall submit to the Planning Director or designee, for review and recommendation, a preliminary plat of the proposed major subdivision, which conforms to the requirements of these Regulations. Information required in submittal of plats and supporting documents shall be performed by or under the supervision of a registered land surveyor or professional engineer licensed to practice in the State of Montana, as their respective licensing laws allow.~~
- ~~2. **Application submittal.** Complete and sufficient application for major preliminary plat approval shall be made to the Planning Director or designee on or before 3:00 p.m. of the first day of any given month. When the date of submittal falls on a weekend or holiday, the submittal shall be on the following working day by 3:00 p.m. The application form is provided on line “Preliminary Plat Application” and must be accompanied by the required preliminary plat, and supporting documents and applicable fee.~~
- ~~3. **Review period.** Upon receipt of a complete and sufficient application, the governing body’s designee has thirty-five (35) working days to hold a public hearing. Subsequently, the Governing Body must approve, conditionally approve, or deny the preliminary plat application within thirty-five (35) working days. The review period may be extended upon written consent from the subdivider one time up to one hundred and eighty (180) calendar days.~~

~~D. **Preliminary Plat Contents and Submittal Copies.**~~

- ~~1. **Content.** The preliminary plat shall clearly show the information listed online “Preliminary Plat Requirements.”~~
- ~~2. **Copies.** The subdivider shall provide one electronic copy of all the required documents for the preliminary plat to the Planning Director or designee. All plats shall be 24 inch by 36 inch size and/or 11 inch by 17 inch size as specified by the Planning Director or designee.~~

~~E. **Supporting Documentation.**~~

- ~~1. **Required documents.** The supporting information shall include those documents listed online “Required Supporting Documents for Major Preliminary Plat Applications.”~~
- ~~2. **Required copies.** The subdivider shall provide one electronic copy of the supporting~~

~~documents to the Planning Director or designee. All documents shall be typed and, in a format, specified by the Planning Director or designee.~~

~~F. Planning Board Review~~

- ~~1. **Hearing notice.** The Planning Board shall hold a public hearing on all major preliminary plat applications. Planning staff shall place a notice in a newspaper of general circulation in the County not less than fifteen (15) days prior to the date of a public hearing. The Planning staff shall also notify the subdivider and each property owner of record, and each purchaser under contract for deed of property immediately adjoining land included in the plat by certified mail not less than fifteen (15) days prior to the date of hearing (76-3-605(3), MCA).~~
- ~~2. **Staff report.** Planning staff shall prepare staff reports and presentations for the Planning Board plat review meeting and public hearing. A copy of each staff report shall be provided electronically to the subdivider at least five (5) working days prior to the Board or governing body meeting. Each staff report shall provide a recommendation for approval, conditional approval or denial of the application and draft findings of fact as basis for the recommendation. The Planning staff shall also prepare a report forwarding the recommendation of the Planning Board to the governing body including the Board's recommendation for approval, conditional approval or denial of the applications and draft findings of fact as basis for the recommendation.~~
- ~~3. **Public Hearing.** The Planning Board shall conduct the public hearing and consider all relevant evidence as related to the proposed plat before preparing its written findings of fact and recommendation to the governing body. The subdivider or their agent shall be given the opportunity to object to any testimony given. The subdivider shall be allowed to submit in writing his or her own proposed findings of fact to the Board and the governing body following the hearing.~~

~~The relevant evidence considered at the public hearing on the preliminary plat shall include the criteria listed above in Section H. of this Article.~~

~~After holding the public hearing and reviewing the evidence concerning the plat, the Planning Board shall submit its recommendations to the governing body to approve, conditionally approve or deny the major preliminary plat in writing no later than ten (10) days after the public hearing (76-3-605(4), MCA).~~

- ~~G. **Governing Body Action.** The governing body's decision to approve or conditionally approve a subdivision is based on the preliminary plat application, public hearing, Planning Board recommendations, or additional information that demonstrates the development of the subdivision meets the requirements of the Montana Subdivision and Platting Act and these Regulations, local zoning ordinances, subdivision design standards and regulations, and all other adopted City of Billings regulations.~~

~~In reviewing a subdivision and when requiring mitigation, the governing body may only place conditions to ensure an approved subdivision application is completed in accordance with the applicable local requirements or survey requirements pursuant to Title 76 Chapter 4 of the Montana Subdivision and Platting Act.~~

~~The governing body shall approve, conditionally approve or deny the preliminary plat within thirty-five (35) working days of the submittal deadline and when the application was considered complete and sufficient.~~

~~H. **Preliminary Plat Approval Period.** The approval or conditional approval shall be valid for not more than three (3) calendar years. At the end of this period the governing body may, at the request of the subdivider, extend its approval for mutually agreed-upon period of time. Any mutually agreed-upon extension must be in writing, dated and signed by the governing body and the subdivider or subdivider's agent. The governing body may issue more than one extension.~~

~~When considering a request for an extension of the preliminary plat approval period, the governing body may use the following criteria to evaluate the request:~~

- ~~1. Changes to the subdivision regulations since the original approval and whether the subdivision as originally approved is essentially compliant with the new regulations;~~
- ~~2. Progress to date in completing the subdivision as a whole and any phases;~~
- ~~3. Phasing of the subdivision and the ability for the existing development to operate without the delayed development;~~
- ~~4. Dependence of infrastructure development on the subdivision;~~
- ~~5. Duration of the requested extension;~~
- ~~6. Demonstrated ability of the subdivider to complete the subdivision;~~
- ~~7. Such other factors or criteria as deemed material in the discretion of the governing body.~~

~~After the preliminary plat is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval, providing the approval is obtained within the original or extended approval period described above (76-3-610(2), MCA).~~

~~I. **Appeal Process.** A decision of the governing body regarding a proposed subdivision may be appealed to the district court, as provided in Section 23-1105 of these Regulations and 76-3-625, MCA.~~

~~J. **Final Plat.** A final plat application shall be submitted for review and approval following the procedures outlined in Section 23-307 of this Article prior to the expiration of the preliminary plat approval period.~~

Section 23-307 Minor Subdivisions Qualifying for Administrative Review

~~A. **Eligibility.** Subdivisions, hereafter referred to as "administrative review plats" are eligible for administrative review when:~~

- ~~1. They meet the definition of a first minor subdivision from a tract of record or a subsequent minor subdivision from a tract of record; and~~
- ~~2. Legal and physical access to all lots is provided; and~~
- ~~3. Complies entirely with locally adopted zoning regulations; and~~
- ~~4. Complies entirely with the design standards and all other requirements of these regulations; and~~
- ~~5. Does not require a variance to any subdivision regulations~~

~~B. Administrative Review Plat Application Submittal.~~

~~Pre-application Meeting. The purpose of the pre-application meeting is to provide the subdivider with requirements of local subdivision regulations and the Montana Subdivision and Platting Act. A pre-application meeting must be requested no later than seven (7) working days and no earlier than one hundred and twenty (120) working days prior to submittal of a major preliminary plat application for completeness review.~~

~~At the time of request, the subdivider shall provide the Planning Director or designee with electronically submitted sketch plans of the proposed subdivision for review and discussion. The sketch plan should be legibly drawn to scale no greater than 1 inch = 400 feet (1:4,800), showing in simple form the layout of proposed features in relation to existing conditions. The sketch plan may be a freehand sketch made directly on a print of a topographic map. See online ‘Pre-application application’ for recommended pre-application sketch plan contents and other meeting recommendations.~~

~~The Planning Director or designee will schedule the pre-application meeting to occur within fifteen (15) working days of the receipt of the sketch plan, and shall notify the subdivider and any affected City Departments of the time and place of the meeting.~~

~~The pre-application meeting shall not constitute approval of a preliminary or final plat. Rather, it shall be deemed an expression of general acceptance of the sketch plan submitted.~~

~~C. Administrative Review Plat Review.~~

- ~~1. Required. The subdivider shall submit to the Planning Director or designee, for review and recommendation, a preliminary plat of the proposed minor subdivision, which conforms to the requirements of these Regulations. Information required in submittal of plats and supporting documents shall be performed by or under the supervision of a registered land surveyor or professional engineer licensed to practice in the State of Montana, as their respective licensing laws allow.~~
- ~~2. Application submittal. Complete and sufficient application for minor preliminary plat approval shall be made to the Planning Director or designee on or before 3:00 p.m. of the first day of any given month. When the date of submittal falls on a weekend or holiday, the submittal shall be on the following working day by 3:00 p.m. The application form is provided online “Preliminary Plat Application” and must be accompanied by the required preliminary plat, and supporting~~

~~documents and applicable fee.~~

- ~~3. Review period. Upon receipt of a complete and sufficient application, the Planning Director or designee has thirty (30) working days to approve, conditionally approve, or deny the preliminary plat application. Subsequently, upon receipt of a complete and sufficient application, the governing body's designee must notify, by first class mail, each property owner of record whose property is immediately adjoining the land included in the preliminary plat and each purchaser under contract for deed of property immediately adjoining the land included in the Preliminary Plat.~~

~~D. Appeal.~~

~~If, and only if, a party identified in Section 23-307.C.3 of this article objects to the Planning Director or designee's decision to approve, conditionally approve, or deny an administrative minor subdivision, the party may request in writing that the subdivision administrator forward the application on to the governing body. The governing body shall sustain the subdivision administrator's decision based on the record as a whole unless the decision was arbitrary, capricious, or unlawful. The governing body has 15 working days from the receipt of the request to review a decision to approve, conditionally approve, or deny the administrative minor subdivision and make a final determination.~~

Section 23-304~~5~~. Amended Plats.

- A. Required.** A division of lots within a platted subdivision filed with the County Clerk and Recorder that results in an increase in the number of lots, or that redesigns or rearranges six (6) or more lots must be reviewed in accordance with Section 23-300.

Section 23-305 Corrections or Adjustments to Plats, Conditions and Supporting Documents

- A.** Minor adjustments may be made, in consultation with the appropriate agencies, prior to the filing of the final plat. Minor adjustments are those changes, which, in the opinion of the Planning Director or designee, does not affect the basic character of lots or blocks, does not affect the open space requirements or amount provided, and does not affect the original street design. Minor adjustments shall not change existing Conditions of Approval or require additional conditions. Minor adjustments may require that a new plat be drawn; however, they do not require that the plat be re-submitted for preliminary plat review.
- B.** Major adjustments are those which, in the opinion of the Planning Director or designee, substantially alter the basic design, or change open space requirements or amount provided for the subdivision. Changes to conditions of approval placed on the preliminary plat shall be considered major adjustments. Any changes which constitute a major adjustment shall require that a new plat be drawn and the plat be re-submitted for preliminary plat review as specified in Article 23-300.

~~**B. Eligibility.** Amended plats shall be processed as first minor subdivisions, as described in Section~~

~~23-303, if they meet the following criteria:~~

- ~~1. Legal and physical access to all lots is provided; and~~
- ~~2. No land in the subdivision will be dedicated to public use for parks or playgrounds; and~~
- ~~3. The plat has been approved by the Montana Department of Environmental Quality or County Environmental Health whenever approval is required or the plat has been approved by the City of Billings for sanitary water, sewer and stormwater facilities or no public improvements are required; and~~
- ~~4. The amended plat creates no more than five additional lots.~~

~~Amended plats not meeting these criteria shall be reviewed as major subdivisions.~~

~~C. **Form and Content.** An amended plat shall be entitled “Amended Plat” and follow the form and content shown online “Preliminary Plat Requirements.”~~

~~Section 23-309. Final Plat Submittal Requirements.~~

~~A. **Required.** After receiving a preliminary plat approval for a major, first minor or subsequent minor, subdivision, the subdivider may submit a final plat of the proposed subdivision as required by this Article. The final plat shall incorporate all required conditions and changes and conform to the approved preliminary plat, and this Section.~~

~~B. **Checkprint.** Prior to submitting the final plat on mylar, a subdivider may submit electronic copies of a final plat application, paper prints of the final plat, draft copies of the supporting documents and a copy of the survey closure calculations to the Planning Director or designee for review. The final plat application form is provided online “Final Plat Application” and the form and content of the checkprint and the supporting documents are described online “Final Plat Requirements”. The final plat review fee and the subdivision title commitment or title report are also required at this stage. The Planning Director or designee may require additional documentation to ascertain whether the conditions of preliminary plat approval have been met.~~

~~Copies of submitted documents will be available to reviewers electronically. Reviewing departments shall notify Planning staff of any changes required to conform to the conditions of final plat approval or local regulations and state law within ten (10) working days after receipt of the checkprint.~~

~~Planning staff shall notify the subdivider no later than fifteen (15) working days after receipt of the checkprint or final plat documents of any changes required. A red-lined copy of the checkprint shall be returned to the subdivider along with the reviewer’s comments.~~

~~C. **Final Mylar Submittal.** Application for final plat approval shall be submitted to the Planning Director or designee on or before 3:00 p.m. at least twenty-five (25) working days prior to the City Council memo deadline. The subdivider shall submit one (1) electronic copy. The subdivider~~

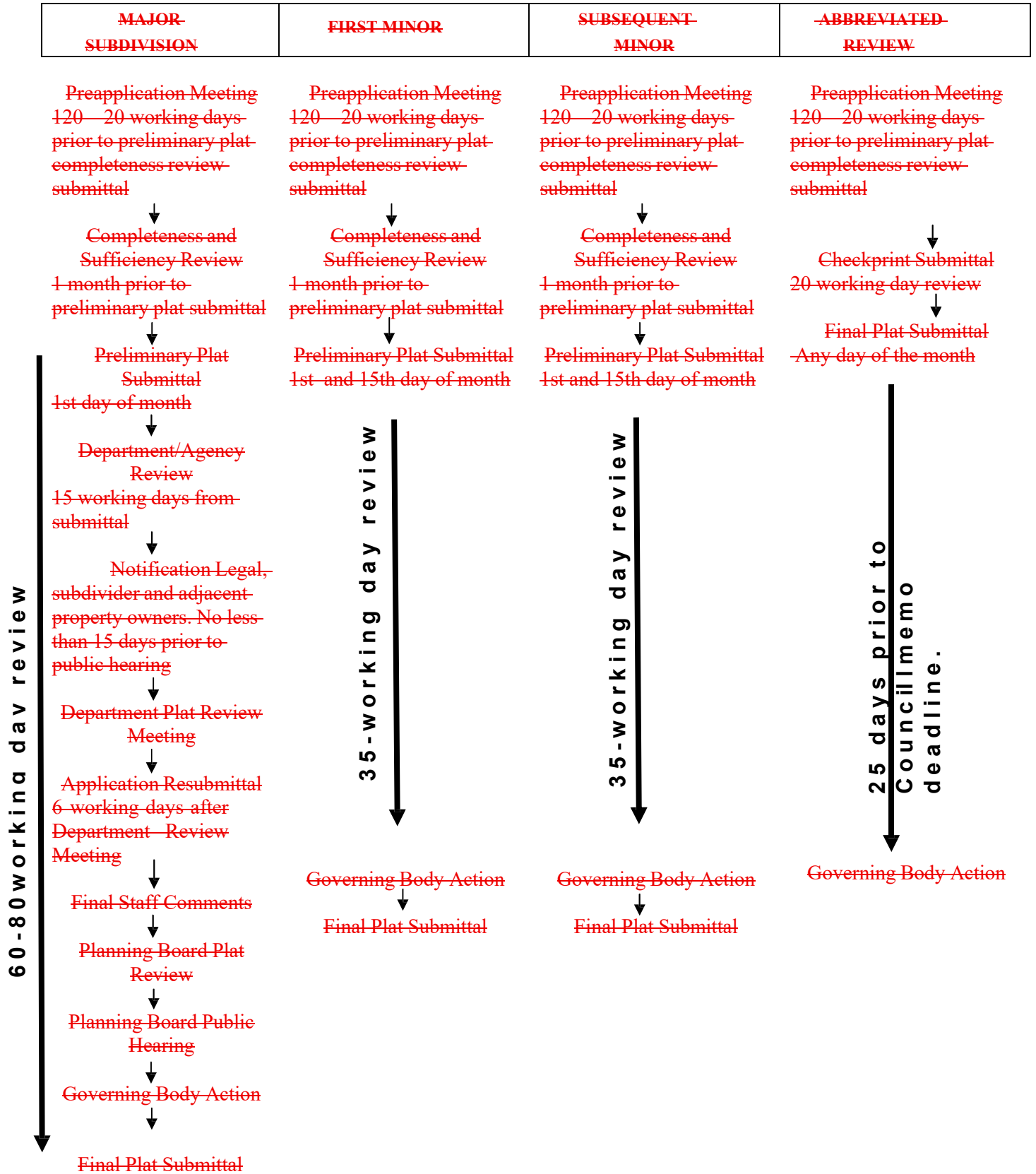
~~must also submit two (2) signed mylar originals of the final plat. The form and content of final plat is provided online “Final Plat Requirements.” The final plats must be accompanied by a complete final plat application form as provided online “Final Plat Application”, a subdivision title commitment or title guarantee prepared within the previous six (6) months, all supporting documents and the required review fee.~~

~~D. **Review Procedure.** Planning staff shall route the application, final plat and supporting documents to the appropriate departments and officials for their signatures within sufficient time to assure the documents are placed on the first available agenda of the governing body for their consideration and authorized signatures.~~

~~E. **Approval Period.** Final plat approval shall be in force not more than twelve (12) months from the date of the governing body’s approval. At the end of the period the governing body may, at the request of the subdivider, after review and recommendation of the Planning Board, extend its approval for no more than twelve (12) months.~~

~~After all required signatures have been obtained; the plat shall be recorded with the County Clerk and Recorder within the twelve (12) months of the date of approval.~~

Section 23-310. —Flowchart of Subdivision Procedures.—



**EXPEDITED-
SUBDIVISION**

**Section 23-310. Flowchart of
Subdivision Procedures.**

Continued

~~Preapplication Meeting
120—20 working days
prior to preliminary plat
completeness review submittal~~

~~Completeness and
Sufficiency Review
1 month prior to
preliminary plat submittal~~

~~Department Plat Review Meeting~~

~~Preliminary Plat Submittal
1st day of month in which
the Planning Board will hold
its public hearing~~

~~Legal Notification, subdivider and adjacent property owners.
No less than 15 days prior to public hearing~~

~~Department Plat Review
Meeting~~

~~Application Resubmittal
6 working days after Department Review Meeting~~

~~Final Staff Comments~~

~~Planning Board Plat
Review~~

~~Planning Board Public
Hearing~~

~~Governing Body Action~~

~~Final Plat Submittal~~

**ADMINISTRATIVE
SUBDIVISION**

~~Preapplication Meeting
120—720 working days prior to
preliminary plat completeness review
submittal~~

~~Complete and Sufficient Preliminary
Plat Submittal, 1st day of month.
Planning Director/Designee Action
Appeal to Governing Body, if
applicable
Final Plat Submittal~~

30-Working Day review

35-Working Day review

Article 23-400. DEVELOPMENT REQUIREMENTS.

Section 23-401. General.

All subdivisions ~~approved by the governing body~~ must comply with the provisions of this Article, except where granted a variance pursuant to Section 23-1101, Variances, of these Regulations. The requirements contained in this Article apply to subdivisions within the City of Billings as outlined in Section 23-104 of these Regulations.

Section 23-403. Improvement Design.

Engineering and survey plans, specifications, and reports required in connection with public improvements and other elements of the subdivision required by the governing body must be prepared by a professional engineer or professional land surveyor as their respective licensing laws allow in accordance with the ~~Montana Land Use Planning Act (MLUPA) Subdivision and Platting Act (MSPA)~~ and these Regulations. Subdivisions must meet the current Access Management Plan adopted by the City.

Section 23-404. Lots.

- A. **Regulation of Lots:** Each lot must contain a building site that can be designed to meet applicable building codes, site development standards, driveway slope standards, and zoning requirements of the Zoning Regulations.
- B. **Dimensions, Orientation and Topography:** The lot size, depth, shape and orientation shall be appropriate for the location, contemplated use of the subdivision and the zoning of the property. Flag lots shall be prohibited except in cases where zoning districts allow flag lots.

Slopes of more than 25% are excessive for building sites and shall be subject to a geotechnical analysis. Areas within the subdivision with a slope of 25% or greater shall be identified on the face of the preliminary and final plats.

- C. **Frontage:** Residential lots shall provide the minimum lot width as required by the existing or proposed zone, as defined in BMCC 27-300 and shall be on a public right of way or private easement. Lots in commercial and industrial subdivisions shall have a minimum lot width, as defined in BMCC 27-400, on a public right of way or private easement, or through a reciprocal access easement.
- D. **Division by Rights-of-Way:** No single lot may be divided by a public road, alley, or access easement.

E. **Corner Lots:** Design of corner lots must meet the following requirements:

1. Corner lots must be of sufficient size to provide a building site while meeting the clear vision requirements specified in Section 27-618 of the Zoning Regulations.
2. All residential corner lots adjacent to a street identified as a Principal or Minor Arterial must have vehicular access only to an internal street in the subdivision identified as a Collector or Residential street.

F. **Double Frontage Lots:** Double frontage lots (See Figure 23.200.1.) are allowable where they are necessary due to topography and when a one (1) foot wide no-access easement is provided for separation of residential development from railroad or street rights-of-way.

1. Residential Areas: For any residential subdivision where an Arterial street abuts or runs through any portion of the subdivision, the subdivision plan shall provide for the rear lot line to be adjacent to the arterial street and provide a one (1) foot wide no-access easement to prevent vehicle access to the arterial street.
2. Commercial Areas: For any commercial subdivision where an Arterial street abuts or runs through any portion of the subdivision, the subdivision plan shall provide for shared accesses to the arterial street or access via internal roads with a one (1) foot wide no-access easement to prevent uncontrolled vehicle access to the Arterial street.

Section 23-405. Blocks.

A. **Size and Orientation Blocks:** Block Length, Section, and Perimeter shall be provided in accordance with Table 23-405.1.

TABLE 23-405.1 REQUIRED BLOCK DESIGN

Zone District	Block Length			Block Perimeter		Block Section	
	Max.	Min.	Preferred	Max.	Preferred	Max.	Preferred
N1/NX1	780'	160'	600'	1,900'	1,480'	797'	622'
N2	950'	160'	720'	2,200'	1,700'	960'	740'
N3	1,000'	200'	780'	2,400'	1,900'	1,029'	806'
NX2/NX3	700'	100'	500'	1,200'	800'	708'	510'
RMH	750'	200'	570'	2,000'	1,600'	777'	605'
NO/NMU	780'	160'	600'	1,900'	1,480'	797'	622'
CMU1	700'	160'	500'	1,900'	1,400'	720'	525'
CMU2	1,400'	300'	700'	4,200'	2,800'	1,432'	762'
CX	N/A	N/A	N/A	N/A	N/A	N/A	N/A
I1	N/A	N/A	N/A	N/A	N/A	N/A	N/A
I2	N/A	N/A	N/A	N/A	N/A	N/A	N/A
EBURD/CBD/DX	600'	300'	160'	1,800'	1,200'	622'	340'
Public 1-3	N/A	N/A	N/A	N/A	N/A	N/A	N/A

1. Block Length means the measurement along the property lines of all lots that share the same street frontage until another street intersects (see Figure 23-405.2.). A block length continues until the street frontage changes from one cardinal direction to another.
2. Block Perimeter means the aggregated measurement along all perimeter property lines contained within a Block (see Figure 23-405.3.).
 - a. Block Perimeter excludes portions of lots along a project boundary where connections cannot be made because of physical obstacles, such as prior platting of property, existing structures or other barriers, steep slopes, wetlands and other water bodies, railroad and utility rights-of-way, existing highway rights-of-way, and parks and dedicated open space (see Figure 23-405.4.).
3. Block Section measures the greatest straight-line distance between any two points around the perimeter of an area enclosed by streets (see Figure 23-405.5.).
4. Block Length and Block Perimeter preferred measurements are not minimums. Less than the preferred measurement is also acceptable if the design enhances the connectivity of the subdivision.
5. Breaks in Block Length or Block Section such as, a dedicated pedestrian right-of-way of at least 30 feet in width, or a dedicated public park or open space area with at least 30 feet of street frontage (see Figure 23-405.6.) can substitute for an intersecting street. Alleys and similar service corridors will not count as a break in the block perimeter.
6. When designing new roads and streets, curvilinear streets are still required to follow the basic block layout as outlined in Section 23-405.
7. When Block Lengths exceed 500 feet, traffic calming shall be included in the design.

Figure 23-405.2. Block Length

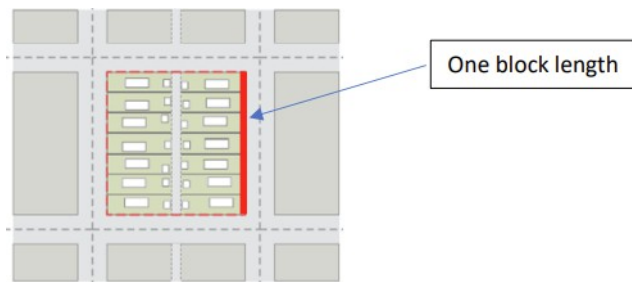


Figure 23-405.3. Block Perimeter



Figure 23-405.4. Block Obstructions



Figure 23-405.5. Block Section

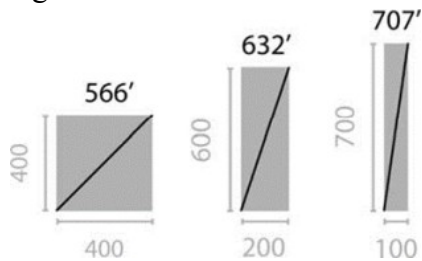


Figure 23-405.6. Breaks in Block Length



B. Rights-Of-Way for Internal Non-motorized Connections: Public rights-of-way for internal non-motorized connections within blocks will be required to provide circulation or safe access to schools, playgrounds, shopping, transportation and other community facilities. Pathways shall also be installed at the end of cul-de-sacs.

C. Block Numbering: All blocks shall be identified with Arabic numerals.

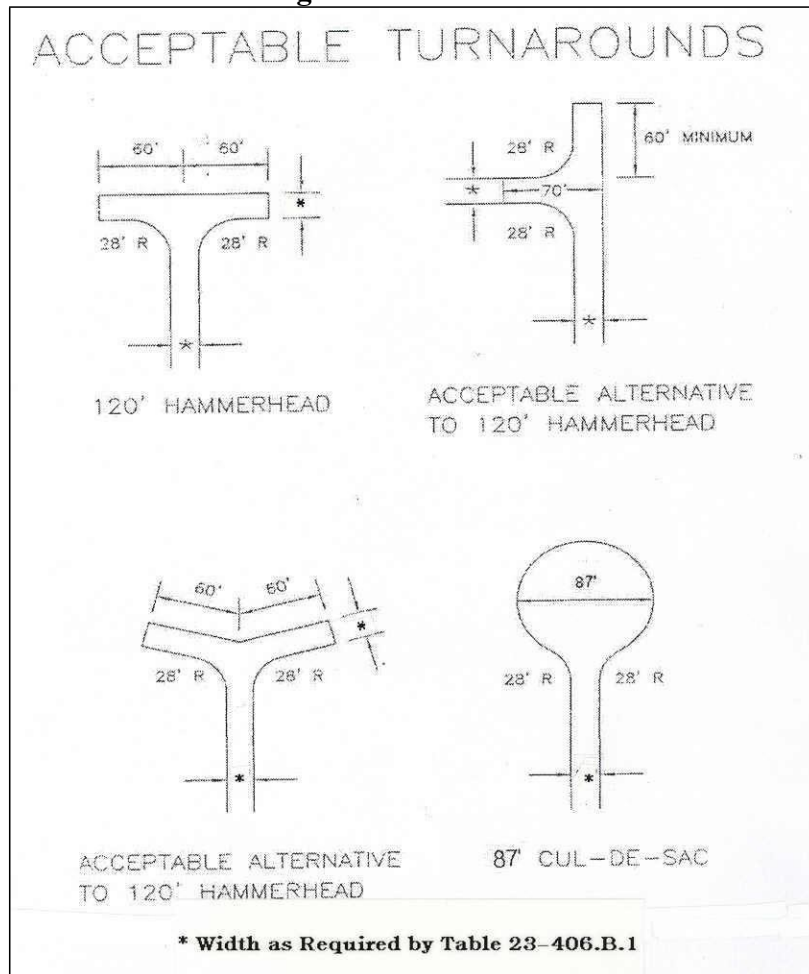
Section 23-406. Streets and Roads.

A. Streets and Roads, General: The arrangement, type, extent, width, grade, and location of all streets shall conform to any adopted area plans including, but not limited to, the Growth Policy and Transportation Plan, and must be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed uses of the land to be served by them.

1. **Relation to Undeveloped Areas:** When a proposed subdivision adjoins undeveloped land, streets within the proposed subdivision shall be arranged to allow access to the adjoining undeveloped land. This may require multiple connections to multiple adjacent undeveloped parcels. The maximum distance between connections to undeveloped lands shall not exceed 600 feet. Streets within the proposed subdivision shall be constructed to the boundary lines of the tract to be developed, unless prevented by topography or other physical conditions or granted by a variance. A variance may not be requested to eliminate connectivity to any street proposed on the most recently adopted Functional Classification Map.
2. **Relation to Developed Areas:** The subdivider shall arrange the streets to provide for the continuation of streets between adjacent developed properties, to provide effective provision of emergency services and efficient provision of utilities. Such provision may be waived when prevented by topography or other physical conditions.
3. **Separation of Through and Local Traffic:** Whenever a subdivision abuts or contains an existing or proposed highway, Arterial street or Collector street, the subdivider may be required, as a condition of approval, to provide frontage roads, reverse frontage lots with a no-access strip preventing access along the rear property lines, planting or fencing screens, shared accesses, or other treatment as may be necessary to adequately protect residential properties and to separate through and local traffic.
4. **Distance between Parallel Right-of-Way:** Where a subdivision borders on or contains a railroad, limited access highway, canal, stream or ditch right-of-way, the subdivider may be required to provide a street or easement approximately parallel to and on each side of the right-of-way at a distance sufficient to allow for the operations and maintenance of the intervening land. Such distances shall also be determined with regard for the requirements of approach grades and future grade separation.
5. **Second Access:** To facilitate traffic movement, the provision of emergency services, and the placement of utilities, all major subdivisions and subsequent minor subdivisions shall provide at least two means of vehicular access built to the standards of this Chapter and designed to ensure public health and safety.

- a. Exceptions to the requirement to provide at least two means of vehicular access may be made for major and subsequent minor subdivisions that meet all of the following criteria:
 - 1. Access is provided by a cul-de-sac with an approved turnaround that is 1,000 feet or less in length; and
 - 2. The subject cul-de-sac is served by a local, collector, or arterial street that is not classified as a dead-end street; and
 - 3. The subject cul-de-sac serves no more than 20 lots, and no more than 30 dwelling units, when residential development is proposed.
 - b. Provision of a second means of vehicular access may be required for any subdivision when deemed necessary for public health, safety or welfare.
 - c. When not otherwise exempt, if a second means of vehicular access built to City street standards cannot be provided for reasons of topography or other physical conditions, the subdivider shall provide an emergency access road, built to the standards detailed in Section 23-413 of these Regulations.
 - d. Variance requirement in relation to Emergency Access Roads (EAR). If a full city standard access road is required, and the developer proposes to build an EAR, a variance shall be required showing the hardship encountered.
6. Dead-end Roads: Dead-end access roads or driveways in excess of one hundred fifty (150) feet shall not be permitted without an approved turnaround at the terminus. Where streets terminate, the subdivider shall provide a “cul-de-sac” or “hammerhead- T” turnaround conforming to the design standards outlined in Figure 23.406.A.1. The maximum allowable length of a dead-end road is one thousand (1,000) feet. In cases where a dead-end road may be extended in the future, a right-of- way easement or dedication will be required to be provided.

Figure 23.406.A.1.



7. **Half Streets:** Half streets are prohibited except when they are essential to the subdivision, are beneficial to the City, or when the City Public Works Department is satisfied that the other half of the street will be dedicated to the public when the adjoining property is subdivided. When an existing half street is adjacent to a tract to be subdivided, the other half of the street must be platted within the new subdivision.
8. **Street Continuity:** Streets that are a continuation of streets in contiguous territory shall be so aligned as to assure that their centerlines shall coincide and shall have matching names. In cases where straight continuations are not physically possible, such centerline shall be continued by a centerline offset of not less than one hundred twenty-five (125) feet.
9. **Tangent for Reverse Curves:** A tangent shall be introduced where necessary as determined by City Engineering between reverse curves on arterial and collector streets.

10. Deflected Street Lines to be Curved: When continuing street lines deflect from each other at any one point by more than five (5) degrees, they shall be connected by a curve with a radius adequate to ensure adequate stopping sight distance at the center line of a street in accordance with the most current American Association of State Highway and Transportation Officials (AASHTO) Manual guidelines.
11. Intersections: Local streets shall be laid out to intersect as nearly as possible at right angles and no local street shall intersect any other local street at less than eighty (80) degrees. Such angle of eighty (80) degrees or greater shall be retained for at least fifty (50) feet back from the intersection. Any street intersection involving an arterial and/or collector street, shall intersect at ninety (90) degrees and, shall be retained for at least one hundred (100) feet back from the intersection. Not more than two (2) streets shall intersect at any one point unless specifically approved by the City Public Works Department.
12. Lot Corners at intersections: Lot corners at all street intersections shall be designed to accommodate public infrastructure and the requirements of the American Disabilities Act (ADA).
13. Sight distance: The alignment of all streets and roads must provide adequate sight distances in accordance with Section 27-1802-H, Visibility at Intersections, Billings Zoning Code.
14. Approach Permits: The subdivider shall obtain the applicable approach or curb cut permits for all new accesses to City streets. The subdivider shall obtain an approach permit approved by the Montana Department of Transportation (MDT) for any vehicular access onto a state highway.
15. Street/Road Names and Lot Addresses: New streets/roads aligned with existing streets/roads shall have the same name as the existing street/road. All new street names and lot addresses shall be approved by the City GIS / Land Management prior to final plat approval in order to avoid duplication and confusion with names of existing roads.
16. Street/Road Signs and Traffic Control Devices: Street or road signs and traffic control devices of the size, shape, and height approved by the governing body must be placed at all intersections. Traffic control devices must conform to the standards contained in the Manual on Uniform Traffic Control Devices.
17. Central Mail Delivery: When required by the United States Postal Service, the developer shall provide a cluster/gang mailbox area for mail delivery. All access provided to these mail delivery systems shall be ADA compliant.

B. Streets and Roads Design and Improvement Standards:

1. General: The design and improvement standards contained in this section shall apply to all construction, or reconstruction of streets and roads, public or private, dedicated to the public within the City limits.
2. Improvement Design: All street improvements shall be designed by and constructed under the supervision of a professional Civil Engineer, registered in the State of Montana, and shall meet or exceed the right-of-way and construction standards for the type of street to be constructed found within these regulations, the adopted Transportation Plan, and adopted policies of the City Public Works Department.
3. Plans and Specifications approval: Plans and specifications for all streets shall be provided to and approved by City Engineering. The subdivider shall provide professional engineering services for construction inspections, and post-construction certifications. The plans and specifications shall be approved by the City Engineer prior to initiation of any street improvement construction. In addition, a copy of the road plans and specifications for any emergency access roads shall be reviewed and approved by the City Fire Department prior to construction.
4. Traffic Impact Study: At the time of preliminary plat submittal, a traffic impact study shall be prepared and stamped by a Professional Engineer and approved by the City Engineer for any new residential, institutional, commercial or industrial subdivision or development which will generate one thousand (1,000) or more vehicle trips per day or 100 peak-hour trips, as referenced in the Trip Generation Report of the Institute of Transportation Engineers. The Professional Engineer shall certify "that the Traffic Impact Study has been prepared by me or under my immediate supervision and that I have experience and training in the field of traffic and transportation engineering." The report shall be stamped by a Professional Traffic Operations Engineer for generation of five thousand (5,000) or more vehicle trips per day.

The traffic generation threshold shall apply to any development or cumulative phases of development.

A vehicular trip is defined as a one-way journey of a person in an automobile or a transit vehicle. If the study indicates a need for the installation of traffic signals, intersection improvements, or other off-site street improvements to facilitate traffic flow generated by the entire proposed development, the identified improvement shall be installed or a financial contribution for the subdivision's proportional share shall be made prior to final plat approval of the subdivision, as determined by City Engineering. The financial contribution for proportionate share shall be by cash contribution, traffic system development fee, or traffic impact fee, whichever is in effect at the time of final plat approval. The applicant shall meet and discuss elements of the study with City Engineering to determine the general extents of the study at the time of the pre-application meeting.

All developments generating less than 100 peak-hour trips or 1,000 average daily trips shall analyze and design for the following basic street design elements. The applicant shall review these elements with City Engineering at the time of a preapplication meeting to determine what elements may apply. In addition, the applicant shall provide an explanation of how each element applies or does not apply, and that summary shall be included with the preliminary plat or development application.

- a. Location of approaches (access management);
- b. Sight distance review;
- c. Turn lane analysis;
- d. Connectivity and circulation review;
- e. On-street parking impacts;
- f. Review of impacts to adjacent property streets, accesses, and intersections with site generated pedestrian and vehicular traffic;
- g. Truck circulation, including solid waste pick-up;
- h. Location and type of traffic-control devices;
- e. Traffic calming.

City Engineering reserves the right to require applicant analysis and review of a specific traffic impact due to known traffic or adjacent access issues for a subdivision or development generating less than 100 peak-hour or 1,000 trips per day.

5. Street and Road Dedication: All streets providing access to the proposed subdivision shall be dedicated to the public.
6. Right-of-Way and Street Widths: Street right-of-way and surface widths shall be provided as shown in Table 23.406.B.1, below. Street widths (b-b curb width) and lane widths shall be determined and approved by City Engineering. Right-of-Way dedications at intersections shall be determined by City Engineering, and may include chamfered corners in order to accommodate ADA compliance or a future roundabout.

Table 23-406.B.1. Required Dedications and Street Improvements for Subdivisions within the City Limits

Street Type	Right-of-Way	B-B Curb Width Range	Parking Width***	Boulevard Width	Sidewalk Width	Shared Use Path Width
Principal Arterial	120'	*	---	10'	5' **	10'
Minor Arterial	100'	*	---	10'	5' **	10'
Collector	74'	39'-53'*	8'	5'	5'	
Commercial Local Access	70'	39'-45'*	8'	5'	5'	
Residential Local Access	56'	34' min. §	n/s	5'	5'	
Cul-de-Sac 100-1000	56'	34' min.	n/s	5'	5'	
Cul-de-Sac <100 feet	40'	29' min.	n/s	---	---	

* As approved by City Engineering.

** Sidewalk is 5' on one side with a 10-foot multi-use trail on the other side.

*** Lane Width measured from lip of curb. Parking width measured from face of curb.

§ Street sections that (a) do not require parking or allow for parking on both sides, (b) must be signed no parking, and (c) are approved by City Engineering, City Planning, and City Fire Marshal, may be reduced to 24-feet back of curb to back of curb. For example, a street through a golf course that is fronted by a golf course on both sides or an entry road into a subdivision.

§ Street sections with less than 120 average daily trips (ADT), for local residential streets with two street connections or street sections, or that have a block length of 300-feet or less may reduce the back of curb to back of curb width street requirement to 31-feet.

§ Street sections that (a) do not require parking or allow for parking on one side, (b) must be signed no parking, and (c) are approved by City Engineering, City Planning, and City Fire Marshal, may be reduced to 29-feet back of curb to back of curb. For example, a street that is fronted on one side by a golf course, drainage, or ditch.

7. Alleys: Proposed alleys in both residential and commercial subdivision shall meet the following standards:

- a. The width of an alley shall be a minimum of twenty (20) feet.
- b. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be designed to permit single unit truck movement.

- c. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the end.
- 8. Grading/Cut and Fill: All streets and alleys within or adjacent to the subdivision shall be excavated or filled to the grade established and shall provide for surface water drainage as specified by City Public Works according to City specifications.
- 9. Base Construction: The type of base required will vary depending on the nature of the existing material and with the particular type of traffic to be accommodated, and shall be approved by City Public Works according to a geotechnical analysis.
- 10. Street Surfacing: A pavement surface shall be required on all streets as specified by City Public Works.
- 11. Street Grades: All street grades shall conform to the requirements of the City. Street grades shall not exceed the following, with due allowance for reasonable vertical curves and intersection treatment. Street centerline horizontal curves shall be designed for the following maximum speeds:

Street Type	Percent Grade	Speed (M. P. H.)
Collector	7	25-35
Local Access	12	25

- 12. Curbs and Gutters: Standard integral curb and gutter shall be placed on all arterial, collector and commercial streets. Standard integral curb and gutter is required on local residential streets, but ribbon curb may be approved by City Engineering as part of the storm drain design for the subdivision.
- 13. Sidewalks: Boulevard-style sidewalks shall be installed on both sides of all streets, except cul-de-sacs less than one hundred (100) feet in length. Arterial and Collector streets may have a multi-use trail on one side in lieu of one of the required boulevard sidewalks. City Engineering may recommend to the City Council that it waive or modify the requirement for boulevard walks on both sides of a local residential street when the subdivision constructs an approved multi-use bicycle/pedestrian path connected and ADA accessible to all lots in combination with or in lieu of sidewalks. Required sidewalk and boulevard widths shall follow those listed in Table 23-406.B.1, above.
- 14. Street Lights: Street lights shall be installed within residential subdivisions. Residential street lights shall be designed by a licensed professional engineer in accordance with the American National Standard Practice for Roadway Lighting RP-8, current edition.

a. New Street Lighting:

- 1. Residential Light Fixture Configuration: Street light fixtures installed after the effective date of these regulations shall be equipped with full cutoff optics,

and positioned to minimize any glare source and not create light spillover.

2. Mercury Vapor Bulbs or Lamps: Mercury Vapor bulbs or lamps may not be used in Residential street lights installed after the effective date of this ordinance. LED type luminaires shall be utilized in new street lights.
 3. Residential Street Light Mounting Height: Residential Street Light fixtures installed after the effective date of this ordinance shall not be mounted higher than 30 feet above grade.
 4. Exceptions to the requirements of 23-406.B.14.
 - a. Traffic signals and other traffic safety and control devices
 - b. Historic streetlights
15. Access Driveways: Access driveways to new lots shall be allowed as regulated by the City's Curb Cut Regulations found in Article 6-1208, BMCC.
16. Permanent cul-de-sac streets may not represent more than 20% of total roadway miles in a subdivision unless approved by a variance.
- a. Exceptions to this do not require a variance but can be approved administratively. Exception provisions are:
 1. Infill projects where a dead-end cul-de-sac is the only viable road option.
 2. Long narrow lots that are not wide enough for more than a single road that is less than 1,000 feet long. Future connections to adjacent properties shall be provided as outlined in Section 23-406.A.1. and Section 23-406.A.2.
 3. Topography that does not allow for a grid system as outlined in the subdivision regulations.
 - b. Developments with cul-de-sacs must provide non-motorized access easements that connect the ends of these streets with each other or provide non-motorized access to existing or reasonable expected future streets, schools, shopping, parks, trails or open space, bus stops and community facilities.
- C. **Multi-Use Trails, General:** All subdivisions must be reviewed for compliance with the currently adopted Active Transportation Plan to provide multi-use trail and greenway corridors for safe, convenient non-motorized transportation routes throughout the City and County.
1. To comply with the currently adopted Active Transportation Plan, all subdivisions shall provide a thirty (30) foot wide multi-use trail easement across the property if:
 - a. The currently adopted Active Transportation Plan indicates that a proposed multi-use trail corridor crosses the subdivision property; or

2. If the currently adopted Active Transportation Plan indicates that a proposed trail crosses the subdivision property, and a segment of the trail has already been provided on adjacent property, then the subdivision shall connect the trail at the property lines to provide for a continuous trail corridor.
3. Trail infrastructure identified and designated as Neighborhood Bikeways, Bike Lanes, Shared Use Path in the currently adopted Active Transportation Plan are required to be constructed by the developer when the trail is in the adjacent right of way or within the development itself. This is considered a public improvement.

Section 23-411. Watercourse and Irrigation Easements 76-25-404(1)(d)(3)(76-3-504(1)(j), (k), MCA).

A. Easements for irrigation facilities WITHIN the subdivision: Easements are required to be shown on the face of the preliminary and final plats for all drainage ways, irrigation canals/ditches and their laterals, and below-ground pipelines that traverse the property to be subdivided, providing for irrigation within the subdivision, except as noted in Section 23-411.B., below. In addition, an easement document shall be filed with the final plat. The easements provided shall meet the following standards:

1. Easements shall be provided in locations of appropriate topography and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or below ground pipelines for the delivery of water for irrigation to persons and land legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
2. Easements of a sufficient width to allow for construction, repair, maintenance, and inspection of the ditch shall be provided. The easement width shall be based on the policy of the appropriate irrigation district; and
3. The easement document shall prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the water users.
4. Irrigation or ditch easements may be located within parkland but shall not be used to satisfy parkland dedication requirements.

B. Exclusion of easement requirements for irrigation within the subdivision: The subdivider need not establish irrigation easements as provided in Section A. above if one of the following is met:

1. The average lot size in the proposed subdivision will be one acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, notifying potential buyers that lots within the subdivision are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the

water may not be deliverable to the lots; or

2. The water rights are removed from the property being subdivided or evidence is provided by the subdivider that the appropriate legal or administrative process has been initiated to remove the water rights from the land within the subdivision. Furthermore, the fact the water rights have been or will be removed from the land within the subdivision shall be denoted on the preliminary plat. If the removal of water rights has not been completed at the time the final plat is filed, the subdivider shall provide written notification to prospective buyers of the subdivider's intention to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

C. Easements through the subdivision for the benefit of downstream water users:

Easements are required to be shown on the face of the preliminary and final plats for all drainage ways, irrigation canals/ditches and their laterals, and below-ground pipelines on the property being subdivided that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights. In addition, an easement document shall be recorded with the final plat. The easements provided shall meet the following standards:

1. Easements shall be provided in locations of appropriate topography and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or below ground pipelines for the delivery of water for irrigation to persons and land legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
2. Easements of a sufficient width to allow for construction, repair, maintenance, and inspection of the ditch shall be provided. The easement width shall be based on the policy of the appropriate irrigation district; and
3. The easement document shall prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the water users.

D. Additional Provisions:

1. The realignment or relocation of active irrigation ditches or pipelines is discouraged. If an irrigation facility is proposed to be realigned or relocated, the developer shall receive written permission of the appropriate irrigation district and/or water user and the subdivider's Professional Engineer shall certify prior to final plat approval that the water entering and exiting the realigned or relocated irrigation facility is the same quality and amount of water that entered or exited the facility prior to realignment or relocation.
2. New storm water generated from a subdivision shall not be discharged into an irrigation facility unless the subdivider receives written approval from the appropriate irrigation district and/or water user prior to final plat approval.

Section 23-412. Disposition of Water Rights (76-25-404(1)(c)(i), MCA).

The subdivider shall submit evidence with the final plat indicating that either A. and B., below, or C., below, has been provided:

- A. **Reservation and transfer of water rights:** The subdivider shall reserve all of the water rights on the land to be subdivided and transfer these water rights to a single entity for use by landowners within the subdivision who have a legal right to the water; and
- B. **Establish landowner's water use agreement:** If the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide for the use of a water right on the subdivision lots, the subdivider shall establish a landowner's water use agreement administered through a single entity. This agreement must specify how the

water rights will be administered and describe the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

- C. **All rights severed and granted to the City:** All surface water rights and/or ditch shares shall be severed from the land proposed for subdivision and granted to the City.

Section 23-413. Fire Protection Requirements.

To ensure a reasonable level of fire protection and life-safety for the public and firefighters, fire apparatus access roads and an approved water supply capable of providing the required water flow for fire protection shall be provided in accordance with this section and the adopted fire code to all premises upon which facilities, buildings, or portions of buildings are hereafter constructed or moved into the jurisdiction.

A. **Definitions.**

Approved: Acceptable to the fire department having jurisdiction.

Fire Department having jurisdiction: The Fire Department or Fire District serving the area in which the subdivision is located.

- B. **Major, Minor, and Subsequent Minor Subdivisions:** For all subdivisions, the subdivider shall provide the following minimum mechanism for fire suppression: A pressurized fire hydrant system meeting the flow requirements of the adopted Fire Code, National Fire Protection Association (NFPA) 1142, and the City of Billings Public Utilities Department Rules and Regulations.

- C. **Emergency Secondary Access Roads:** In the event that an emergency secondary access road is approved, through the variance process, as a means of providing a second access to a subdivision, as required by Section 23-406.A.5. of these Regulations, it shall be built to the following standards:

1. Emergency access roads shall be designed to a minimum unobstructed surface width of not less than twenty (20) feet and shall be constructed to support a forty (40) ton vehicle with a surface that provides all weather driving capabilities. The road shall be constructed to City standards. The emergency access road shall be maintained throughout the year including the removal of snow and ice. Where required by the Fire Department having jurisdiction, gates or other approved barricades shall be required at either end of the road to restrict through traffic. A sign shall be fixed to each gate in a conspicuous manner. The sign shall read "EMERGENCY ACCESS ONLY" using black letters not less than two (2) inches wide and six (6) inches high on a white retro reflective background.
2. Prior to construction, a cross-sectional design of the road including location, section, surfacing, and drainage, and design of gates or barriers shall be submitted to and approved by the Billings Fire Department and the City Engineer's Office. The storm drain design shall accommodate runoff during a ten (10) year storm event to ensure

that there is no blockage of the roadway in the event of an emergency. The drainage shall not encroach into the travel way.

3. Emergency access roads will be assigned a name by City GIS / Land Management. In order to ensure the roads are entered into and reflected on the County GIS mapping system, the road shall be shown on the plat along with the name assigned to the road. Emergency access roads will not have conventional street signs identifying them by the assigned name.

Two (2) sets of final plans showing corrections/revisions after review and approval shall be submitted to City GIS / Land Management. City GIS will forward one (1) set of plans to County GIS to ensure that the emergency access road and road name are entered into the GIS mapping system.

Section 23-414. Flood Hazard Evaluation.

If any portion of a proposed subdivision is within the floodway of a flood of one hundred ~~(100)~~ year frequency as defined by ~~Title 75, Chapter 576-5-103(9)~~, MCA and the Federal Emergency Management Agency (FEMA), or deemed subject to flooding by the City, or if any portion of a proposed subdivision is within two thousand (2,000) horizontal feet and less than twenty (20) vertical feet of a live stream draining an area of twenty-five (25) square miles or more, the flood hazard evaluation criteria found in Appendix ~~BC~~ shall be applied, as applicable.

Article 23-500. GUARANTEE OF PUBLIC IMPROVEMENTS.

Section 23-501. Subdivision Improvements Agreement.

Prior to granting approval of the final plat by the governing body, the subdivider shall:

1. ~~have~~ installed all of the required improvements as stipulated in these regulations; or
2. ~~shall, prior to receiving approval of the final plat, provide a financial guarantee in accordance with Section 23--502 and enter into a written subdivision improvement agreement (SIA) with the governing body guaranteeing the construction and installation of all required improvements in conformance with all policies, standards and ordinances adopted by the City.~~

- a. The agreement shall stipulate terms including, but not limited to:
 - i. ~~among other things~~, which type of security arrangements acceptable to the governing body the subdivider elects to use;
 - ii. the time schedule acceptable to the City;
 - iii. the subdivider's plans for accomplishing the required improvements; and
 - iv. an agreement that the subdivider shall guarantee all improvements for a period of two (2) years from the date of acceptance by the City.

Section 23-502. Security Guarantee. (76-25-413, MCA).

The subdivider shall provide a monetary security guarantee from the following listed methods in the amount of one hundred twenty-five (125) percent of the estimated total cost or actual construction contract amount of installing all required improvements including engineering and administration fees, as estimated by a Professional Engineer and approved by the Public Works Department.

- A. **Escrow account.** The subdivider shall deposit cash, or other instrument readily convertible into cash at face value, either with the City, or in escrow with a financial institution. The use of any instrument other than cash, and in the case of an escrow account, the financial institution with which the funds are to be deposited, shall be subject to the approval of the governing body or designee. In the case of an escrow account, the subdivider shall file with the City an agreement between the financial institution and the subdivider guaranteeing the following:
 1. That the funds of the escrow account shall be held in trust until released by the governing body or designee and may not be used or pledged by the subdivider as security in any other matter during that period; and
 2. That in the case of a failure on the part of the subdivider to complete the improvements, then the financial institution shall immediately make the funds in the account available to the City for use in the completion of those improvements.
- B. **Irrevocable letter of credit.** The subdivider shall provide, from a financial institution or other reputable institution subject to the approval of the governing body or designee, an irrevocable letter of credit. This letter shall be deposited with the City and shall certify the following:

1. That the creditor does guarantee funds of the required amounts, as estimated by the subdivider and approved by the Public Works Department, for completing all required improvements; and
 2. That, in the case that the subdivider fails to complete the specified improvements within the required time period, the creditor shall pay to the City immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter; and
 3. That the letter of credit may not be withdrawn, or reduced in amount, until released by the governing body or designee; and
 4. That the letter of credit shall be renewed from year to year until such time the improvements are completed.
- C. **Bond.** The subdivider shall provide a surety bond to guarantee the funds to complete improvements, subject to any requirements of the bonding company. The bond shall be payable to the City and shall remain in effect until the improvements have been completed and accepted by the City. The subdivider shall bear all costs associated with the provision of the guarantee.
- D. **Phased Development.** ~~Where a subdivision is to be developed in phases, a phasing plan shall be prepared by the developer, and reviewed and approved by the governing body with the preliminary plat. T~~For phased developments, the phasing plan shall be included in the SIA and shall describe which lots are included in each phase, and what improvements shall be completed with each phase. Improvements included in the first phase shall be constructed or guaranteed using one of the acceptable monetary security guarantees prior to final plat approval by the governing body. Lots within subsequent phases shall be restricted from being transferred or developed, and -Aa “Restrictions on Transfers and Conveyances” contract shall be entered into for subsequent phases by the subdivider and the governing body and shall be filed with the final plat documents with the Clerk & Recorder.

A release on the restrictions on transfers and conveyances may be filed with the Clerk & Recorder only after the necessary improvements for each particular phase are constructed, approved and accepted by the City, or guaranteed using one of the acceptable monetary security guarantees.

The subdivider shall set a future date that each phase is proposed to commence not exceeding twenty (20) years. For a period of five (5) years after approval of the phased preliminary plat, the subdivider may apply for final plat of any one or more phases following the process set forth in Section 23-304.

After five (5) years have elapsed since approval of a phased preliminary plat, the Planning Director or designee shall review each remaining phase to determine if a phase may result in new or significantly increased potential impacts that have not been previously identified or considered in the adoption of the land use plan, zoning or subdivision regulations, or review and approval of the phased preliminary plat using the criteria within Section 23-303.I. If the planning administrator identifies any new or

significantly increased potential impacts not previously identified and considered, the planning administrator shall proceed as set forth Section 23-303.G.

~~Should the date set be passed or the developer determines they are unable to meet the set date a new public hearing will be scheduled to set new dates for future phases. When the developer prepares to release a new phase in the subdivision the developer shall submit to the Planning Department the existing SIA, an updated Environmental Assessment addressing any changes, an updated TIS accounting for growth in the area, and any updates to the MDEQ requirements for the development. Should there be no changes to the above mentioned submittal requirements the applicant shall submit documents justifying that finding. A public hearing shall be held to review the proposed phase and its impacts on the surrounding area with the possibility of additional conditions of approval being added should the findings of fact determine they are needed. A public hearing is required prior to any 'future phase' being released for public sale of lots. (76-3-617 MCA)~~

~~All phases included within the phasing plan, if completed within 5 years of final plat approval, are not required to go through the public hearing process as outlined above in paragraph D. They will only be required to obtain a "Release and Certificate" to open each phase. If the subdivider applies to open any phase after 5 years of the approval of the final plat, then the governing body will hold a public hearing in order to determine whether changed circumstances justify amending any conditions of approval or imposing additional conditions of approval as outlined above in paragraph D.~~

- E. **Provision for security requirement to ensure construction of public improvements.** The subdivider may provide a monetary security guarantee by Aany other method specified in 76-25-413, MCA, that is also acceptable to the governing body. In all circumstances the guarantee method shall provide the City of Billings as the beneficiary.

Section 23-503. Reduction of Guarantees.

In those cases where improvement guarantees have been made as provided in Section 23-502, the amount of the guarantee shall be reduced upon installation and acceptance by the City of the required improvements. The amount of the reduction shall not exceed the percentage that the accepted improvements made up of all originally required improvements.

Section 23-504. Release of Guarantee.

Upon completion of required improvements by the subdivider and acceptance of them by the City, all in conformance with this Chapter, the City shall authorize the release of any remaining portion of the improvement guarantee of ninety percent (90%) of the original amount. The remaining ten percent (10%) will be released after any deficiencies are corrected after the two-year warranty inspection. The acceptance of improvements by the City shall initiate the two-year warranty period.

**Article 23-600. DEVELOPMENTS PROVIDING MULTIPLE SPACES FOR RENT OR
LEASE FOR RECREATIONAL VEHICLES, MOBILE HOMES,
AND MANUFACTURED HOMES**

Section 23-601. Development subject to this Section must follow requirements in BMCC 27-1619.

~~A. **Definition.** A development providing multiple spaces for rent or lease for recreational vehicles (RVs) and/or mobile or manufactured homes is created when any portion of a parcel is rented or leased for the purposes of situating a temporary or permanent RV, mobile or manufactured home for residential or commercial use owned by the renter or lessee. The rented/leased land is owned as one parcel under single ownership, which can include a number of persons owning the property in common. These developments are commonly known as mobile home parks, manufactured home parks, and recreational vehicle parks.~~

~~B. **Review & approval required.** Manufactured home parks, mobile home parks and RV parks must be submitted for review and approval by the governing body before portions may be rented or leased (76-3-504(s), MCA). Approval must be based on the criteria found in Article 23-300 of these Regulations.~~

~~The number of spaces available for rent or lease shall determine the level of review under Article 23-300 (i.e. major, minor, or expedited) as follows:~~

- ~~a. Two spaces for rent/lease meeting all other criteria found in Section 23-305.A. of these regulations shall be reviewed as a subdivision qualifying for expedited review under Section 23-305.~~
- ~~b. Two spaces for rent/lease not meeting one or more of the criteria found in Section 23-305.A. of these regulations shall be reviewed as a first minor subdivision under Section 23-303.~~
- ~~c. Three to five (3-5) spaces for rent/lease shall be reviewed as a first minor subdivision under Section 23-303.~~
- ~~d. Six or more (6+) spaces for rent/lease shall be reviewed as a major subdivision under Section 23-302.~~

~~C. **Zoning requirements.** Manufactured home parks, mobile home parks and RV parks shall follow all applicable requirements outlined in the Zoning Regulations (Article 27, BMCC).~~

~~Section 23-602. Review Procedures~~

~~A. Submittal requirements.~~

- ~~1. Manufactured home parks, mobile home parks and RV parks require submittal of those requirements outlined in Article 23-300 of these Regulations except that the subdivider shall submit un-surveyed plans drawn to scale, rather than plats.~~
- ~~2. Supplementary materials. In addition to the submittal requirements outlined in Article 23-300, preliminary and final plans and submittals for manufactured home parks, mobile home parks and RV parks shall include the following:~~
 - ~~a. A layout of all spaces, buildings, or structures proposed for rent or lease.~~
 - ~~b. Location of common areas and facilities.~~
 - ~~c. Parks and/or recreation areas, if required by Article 23-1000, of these Regulations.~~
 - ~~d. Landscaping plan, required by Section 27-1200 as applicable.~~
 - ~~e. A Traffic Impact Analysis, if required by Section 23-406.B.4., BMCC.~~
 - ~~f. A Stormwater Pollution Protection Plan (SWPPP) for developments disturbing one acre or more.~~

~~B. Final Approval. Manufactured home parks, mobile home parks and RV parks shall follow the applicable review procedures outlined in Article 23-300 of these Regulations. In lieu of a final plat, a final plan drawn to scale shall be submitted for approval by the governing body. The approved final plan shall be filed with the Yellowstone County Clerk & Recorder as an exhibit, not as a final plat.~~

~~Section 23-603. Manufactured and/or Mobile Home Park Development Requirements.~~

~~A. Manufactured or mobile home spaces.~~

- ~~1. The number of allowed spaces is limited to what is approved on the final plan.~~
- ~~2. Manufactured or mobile home spaces must be arranged to permit the safe and practical placement and removal of manufactured homes.~~
- ~~3. All manufactured or mobile homes must meet the minimum setback requirements of Section 27-309, BMCC from all perimeter boundary lines. In the case where a boundary line is adjacent to an arterial street, all homes and accessory structures must meet setbacks as required in Section 27-303-J, BMCC. In addition, all manufactured or mobile homes must meet the requirements of fire code separations. Any additional detached building must~~

~~meet all requirements from building.~~

- ~~4. A minimum of two (2) off-street parking spaces must be provided on or adjacent to each manufactured or mobile home space. The driveway must be located to allow for convenient access to the manufactured home, and be a minimum of ten (10) feet wide.~~

~~B. Streets.~~

- ~~1. Streets within a manufactured or mobile home park or recreational vehicle park shall be private and built to city standards.~~
- ~~2. Private streets shall be designed to provide access to all sites. No site shall have vehicular access to a public street. The streets shall be laid out to discourage through traffic and intersections with public streets shall be kept to a minimum.~~
- ~~3. Streets, pedestrian, and bicycle facilities shall be designed and built to meet current City Standards.~~
- ~~4. Curvilinear streets shall have no centerline curve with less than a one hundred (100) foot radius. At intersections, the inside edge of the paved street shall have a minimum of a twenty (20) foot radius.~~
- ~~5. All streets shall intersect at an angle of ninety (90) degrees except where the subdivider can show just cause not to and with the approval of the governing body.~~
- ~~6. The layout near street intersections shall be such that a clear vision area is maintained. Stopping sight distance on curves shall be as required on subdivision streets.~~
- ~~7. All traffic control devices used shall comply with the current edition of the Manual on Uniform Traffic Control Devices, published by the U.S. Department of Transportation.~~

~~C. Fire protection.~~ ~~The manufactured or mobile home park shall provide an adequate water supply for fire suppression needs, following the requirements as found in Section 23-413 of these Regulations. The means for fire protection shall be subject to approval by the local fire district and the governing body.~~

~~D. Health standards/license requirement.~~ ~~In addition to the criteria of this Section, manufactured or mobile home parks must also meet the minimum standards of the Montana Department of Public Health and Human Services (MDPHHS) under Title 50, Chapter 52, MCA and the requirements of the Montana Department of Environmental Quality (MDEQ) under Title 50, Chapter 60, MCA. The governing body shall not grant final approval of a manufactured home, mobile home, and/or recreational vehicle park until the subdivider first obtains the applicable licenses and approvals for the facility from MDPHHS and MDEQ.~~

~~E. Additional provisions~~

- ~~1. Manufactured or mobile home parks shall meet the parkland dedication requirements as outlined in Article 23-1000 of these Regulations.~~
- ~~2. Manufactured or mobile home parks located adjacent to industrial, commercial or lower density residential land uses shall provide screening such as fences or natural growth along the property boundary lines separating the community from such adjacent uses.~~
- ~~3. All manufactured or mobile home parks shall have a sign near the main entrance showing the park layout.~~
- ~~4. Centralized mail delivery shall be provided at one or more locations within the park. Location and design of such group mail collection site(s) shall be reviewed and approved by the United States Postal Service.~~
- ~~5. It shall be unlawful to operate a manufactured or mobile home park without holding a valid license issued by the Montana Department of Environmental Quality (MDEQ), to be renewed annually.~~

~~Section 23-604. Recreational Vehicle Park Development Requirements.~~

~~A. Recreational vehicle spaces.~~

- ~~1. Recreational vehicle spaces must be arranged to allow for the safe movement of traffic and access to spaces.~~
- ~~2. Recreational vehicles must be separated from each other and from other structures by at least fifteen (15) feet. Any accessory structures such as attached awnings must, for purposes of this separation requirement, be considered part of the recreational vehicle.~~
- ~~3. No recreational vehicle space may be located less than twenty (20) feet from any public street or highway right-of-way.~~
- ~~4. The density of a recreational vehicle park may not exceed twenty five (25) recreational vehicle spaces per acre of gross site area.~~

~~B. Streets.~~

- ~~1. Roads within recreational vehicle parks must be designed to provide safe traffic circulation and parking.~~
- ~~2. Design of the streets within a recreational vehicle park shall follow those guidelines on street design for manufactured home parks above (Section 23-603.B.).~~

~~C. Additional standards.~~

~~Recreation vehicle parks shall also follow the guidelines listed in Section 23-603.C. Fire protection; Section 23-603.D. Health standards/license requirement; and Section 23-603.E. Additional provisions.~~

~~Section 23-605. Timing of Improvements.~~

- ~~A. The subdivider shall install all required improvements before renting or leasing any portion of the subdivision. The governing body or designated agent will inspect all required improvements in order to ensure conformance with the approved construction plans and specifications. The subdivider shall guarantee all improvements for a period of two years from the date of written approval by the governing body or designated agent.~~
- ~~B. If the subdivider seeks approval of the final plan prior to the installation and completion of all required improvements, the subdivider shall enter into a written agreement with the governing body guaranteeing the construction and installation of all required improvements. This agreement shall specify which type of security arrangements the subdivider elects to use and the time schedule proposed for accomplishing the required improvements. Acceptable monetary security guarantees are described in Article 23-500 of these Regulations.~~

Article 23-700. CLUSTER DEVELOPMENTS ~~(MCA 76-3-509)~~

Section 23-702. Definitions.

For the purposes of this Article the following definitions shall apply:

Cluster Development: A Cluster Development is a subdivision creating five ~~(5)~~ or more lots clustered in a group that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped. ~~A minimum of thirty percent (30%) of the area within the subdivision shall be reserved for open space owned by common ownership (76-3-103(2), MCA).~~

Master Plan: A master plan is a site plan for a Planned Neighborhood Development that shows lots, blocks, streets, alleys and areas for various land uses including open space within the development. The master plan shall be part of the subdivision approval and any significant change to such master plan shall be considered an amended subdivision.

Section 23-707. Ownership and Management of Open Space.

A. **Ownership of Open Space.** Open space shall be owned by one of the following entities:

1. ~~The open space can be provided as allowed per MCA 76-3-621. The open space may be dedicated to the public upon~~ Acceptance of the open space, which shall be at the discretion of the governing body, as recommended by the City's Park and Recreation Department's staff. Open space must allow public access through a plat dedication or easement; or
2. A Homeowners' Association representing residents of the subdivision may own the open space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The Homeowners' Association shall have lien authority to ensure the collection of dues from all members. Open space owned by a Homeowners' Association must indicate through a plat dedication or easement, whether or not there is public access to the open space. The park will display signs indicating public or private use.

B. **Management Plan.** The applicant shall submit a Plan for Management of Open Space and Common Facilities (Management Plan) that:

1. Allocates responsibility and guidelines for the maintenance and operation of the open space and any facilities located thereon, including provisions for ongoing maintenance as provided in subsection 23-707.C, below, and for long-term capital improvements;
2. Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the open space and outlines the means by which such funding will be obtained or provided;
3. Provides that any changes to the Management Plan be approved by the Planning Department, or in the case of publicly accessible open space, approved by the Parks and Recreation Department; and
4. Provides for enforcement of the Management Plan.

C. Maintenance.

1. Open space dedicated to the public shall be maintained according to the Management Plan by a Park Maintenance District (PMD) to be established prior to final plat approval.
2. Maintenance of open space owned by a Homeowner's Association shall be the responsibility of the Homeowner's Association. In the event the party responsible for maintenance of the open space fails to maintain all or any portion in reasonable order and condition the City of Billings may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the Homeowners' Association, or to the individual property owners that make up the Homeowners' Association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

Article 23-800. CONDOMINIUMS AND TOWNHOMES.

Section 23-801. Condominium and Townhome or Townhouse Development.

- A. **Exemptions.** All condominium, townhome, or townhouse developments are ~~subdivisions~~ subject to the terms of these Regulations and the Montana Land Use Planning Act (76-25-402 (1)(I), and 70-23-102, MCA) ~~Montana Subdivision and Platting Act (MSPA), except those exempted by 76-3-203, MCA, as described below.~~
1. The approval of the original subdivision of land expressly contemplated the construction of the condominiums, townhomes, or townhouses, and any applicable park dedication requirements ~~in 76-3-621, MCA~~ are complied with; or
 2. The condominium, townhome, or townhouse proposal is in conformance with applicable local zoning regulations when local zoning regulations are in effect.
- ~~B. **Procedures.** All condominium, townhome, or townhouse developments which are not exempt from subdivision review, are subject to the applicable procedures contained in Article 23-300, Subdivision Review Procedures or Article 23-600, Subdivisions for Rent or Lease. The applicable subdivision procedure will be based on:~~
- ~~1. Whether a division of land is to be created.~~
 - ~~2. The number of proposed units.~~
 - ~~3. Whether the land is a first or subsequent minor subdivision.~~

Article 23-900. Reserved. ~~ENVIRONMENTAL ASSESSMENT.~~

~~Section 23-901. Purpose.~~

~~The environmental assessment is a tool by which to evaluate a proposed subdivision's impact on~~

the natural environment, adjacent properties, local services, and the community as a whole. From this evaluation the most appropriate course of action can be determined to mitigate any negative impacts created by the subdivision. The environmental assessment is required by 76-3-603, MCA, unless otherwise exempted.

~~Section 23-902. General Requirements.~~

~~A. Major Subdivision.~~ The subdivider shall provide an environmental assessment with the submittal of the preliminary plat containing the following information:

- ~~1. A description of the surface and ground water, geology and soils, vegetation, and wildlife use within the area of the proposed subdivision, as required by Section 23-903. **Environmental Description Contents**, of these Regulations.~~
- ~~2. A community impact report containing an analysis of anticipated impacts of the proposed subdivision on the community and local services as required by Section 23-904. **Community Impact Report Contents**, of these Regulations.~~
- ~~3. A summary of probable impacts of the proposed subdivision based on the criteria described in 76-3-608, MCA, as required by Section 23-905. **Summary of Probable Impacts**, of these Regulations.~~
- ~~4. Additional relevant and reasonable information related to the applicable regulatory criteria per 76-3-501, MCA as may be required by the governing body or designee.~~

~~B. Subsequent Minor Subdivision.~~ An environmental assessment must accompany the preliminary plat and shall include only the summary of probable impacts of the proposed subdivision based on the criteria described in 76-3-608, MCA, as required by Section 23-905. **Summary of Probable Impacts**, of these Regulations.

~~C. Exemptions.~~ The following subdivisions shall not be required to submit an environmental assessment:

- ~~1. A first minor subdivision from a tract of record (76-3-609(3), MCA).~~
- ~~2. A subdivision qualifying for expedited review as described in Section 23-305 of these Regulations.~~
- ~~3. Other subdivisions that satisfy all of the following criteria (76-3-616(2), MCA):~~
 - ~~a. The proposed subdivision is completely within an area adopted by the Growth Policy pursuant to 76-1-601, et seq., MCA;~~

- ~~b. The proposed subdivision is located within zoning pursuant to 76-2-203 or 76-2-304, MCA, that avoids significantly reduces, or mitigates adverse impacts identified in a growth policy that includes the provisions of 76-1-601(4)(c); and~~
- ~~c. The proposed subdivision is located within an area where a long-range public works development program (i.e. Capital Improvements Plan) has been adopted pursuant to 76-1-601(4), MCA.~~

~~Section 23-903. Environmental Description Contents.~~

~~A. Surface Water.~~

- ~~1. Locate on a plat overlay or sketch map all surface water and the delineated floodways that may affect or be affected by the proposed subdivision including natural water systems (streams, lakes, rivers, or marshes), artificial water systems (canals, ditches, aqueducts, reservoirs, irrigation or drainage systems), and land subject to flooding (see also Section 23-414 Flood Hazard Evaluation).~~
- ~~2. Describe all surface water that may affect or be affected by the proposed subdivision including name, approximate size, present use, and time of year that water is present.~~
- ~~3. Describe the proximity of proposed construction (such as buildings, sewer systems, roads) to surface water.~~
- ~~4. Describe any existing or proposed stream bank or shoreline alterations and/or any proposed construction or modification of lakebeds or stream channels. Provide information on the location, extent, type, and purpose of any proposed alteration.~~
- ~~5. Please indicate which of the following water quality permits have been or will be applied for and describe the reasons why these permits are required.~~

<u>~~PERMIT~~</u>	<u>~~AGENCY~~</u>
~~310 Permit~~	~~Local Conservation District~~
~~SPA 124 Permit~~	~~Department of Fish, Wildlife and Parks~~
~~Floodplain Permit~~	~~County Floodplain Administrator~~
~~Section 404 Permit, Section 10 Permit~~	~~U. S. Army Corps of Engineers~~
~~318 Authorization~~	~~Department of Environmental Quality~~
~~Navigable Rivers Land Use License or Easement~~	~~Department of Natural Resources and Conservation~~

~~B. Groundwater.~~

- ~~1. Using available information, provide the estimated seasonal minimum and maximum depth to the water table, dates on which these depths were determined, and the location and depth of all known aquifers that may be affected by the proposed subdivision.~~

- ~~2. Provide a description of any steps necessary to avoid the degradation of groundwater and groundwater recharge areas.~~

~~C. Geology/Soils/Slopes.~~

- ~~1. Using available information locate on a plat or overlay any known geologic hazards affecting the proposed subdivision which could result in property damage or personal injury due to any of the following: rock falls or slides; land, mud or snow slides; high water table, unstable or expansive soil conditions, slopes greater than twenty five percent (25%).~~
- ~~2. Explain the measures that will be taken to prevent or materially lessen the danger of future property damage or injury due to existing geologic hazards.~~
- ~~3. Provide a statement describing any unusual soil, topographic or geologic conditions on the property, which may limit the capability for construction or excavation using ordinary and reasonable techniques. The statement should address conditions such as shallow bedrock, high water table, unstable or expansive soil conditions, and slope. Describe the location and amount of any cut or fill three (3) or more feet in depth. Where cuts or fills are necessary, describe prevention of erosion and the promotion of revegetation, such as replacement of topsoil and grading.~~
- ~~4. Include soil reports obtained from the USDA, Natural Resource and Conservation Service (NRCS) containing the physical properties and engineering indexes for each soil type, the soil limitations for sanitary facilities, building site development, and water features for each soil type. Describe any special design methods planned to overcome the soil limitations.~~

~~D. Vegetation.~~

- ~~1. Indicate the distribution of the major vegetation types and identify critical plant communities as identified by the NRCS.~~
- ~~2. Describe measures to preserve trees and critical plant communities (e.g., design and location of roads, lots and open spaces).~~

~~E. Wildlife.~~

- ~~1. Describe species of fish and wildlife that inhabit the area affected by the proposed subdivision.~~
- ~~2. Identify on an exhibit map any known critical or "key" wildlife areas, such as big game winter range, migration routes, waterfowl nesting areas, habitat for rare or endangered species, and wetlands.~~

3. ~~Submit the impacts of the proposed development on fish and wildlife as identified by the Montana Department of Fish, Wildlife and Parks (MFWP). Provide a written statement outlining any recommendation of MFWP and any mitigation efforts to mitigate adverse impacts.~~

Section 23-904. ~~Community Impact Report Contents.~~

~~A. Impact on agriculture and agricultural water user facilities.~~

1. ~~Describe the number of acres in crop production and whether the property is in whole or in part a viable farm unit, e.g. was the property under production during the last regular season.~~
2. ~~Describe the uses of land within the vicinity of the proposed subdivision.~~
3. ~~Describe existing irrigation rights on the property and whether the rights will be transferred, retained by the original owner, or severed.~~
4. ~~Explain any modification or relocation of ditches or any easements to be provided with the subdivision. The subdivider shall notify the affected ditch company of the subdivision and shall obtain permission to reroute or alter the ditch in any way.~~

~~B. Impact on local services and public health and safety.~~

~~1. Water Supply.~~

- a. ~~Describe how water will be provided for domestic use and fire protection.~~
- b. ~~Indicate the number of gallons per day of water the proposed subdivision will require and whether the water supply is sufficient to meet the needs of the anticipated population of the subdivision. Describe any anticipated effects on existing water systems or wells within the area.~~
- c. ~~Based on available information, specify whether the proposed water supply satisfies the standards set forth by MDEQ for quality, quantity and construction criteria.~~
- d. ~~If connection to an existing public, community, or shared water system is proposed, identify and describe the existing system and approximate distance to the connection from the proposed subdivision.~~
 - i. ~~Provide written evidence that permission to connect to that system has been obtained.~~
 - ii. ~~Provide information regarding the capacity of the existing water system and its adequacy for serving the proposed subdivision.~~

~~e. If a new community or shared water system is proposed, identify who will install that system, and how the system will be maintained.~~

~~f. If individual water systems are proposed, describe the adequacy of supply of groundwater for individual wells or cisterns and the method used to determine adequacy.~~

~~2. Sewage Disposal.~~

~~a. Describe the proposed method of sewage disposal.~~

~~b. Indicate the number of gallons of effluent per day that will be generated by the proposed subdivision at full occupancy, whether the proposed method of sewage disposal is sufficient to meet the anticipated needs of the subdivision, and whether it meets the standards of MDEQ.~~

~~c. If connection to an existing public sewer system is proposed, provide a description of the system and the approximate distance from proposed subdivision.~~

~~i. Provide written evidence from the appropriate sewer jurisdiction granting permission to connect to that system shall be submitted with the preliminary plat.~~

~~ii. Provide information regarding the installation, maintenance and phasing of any proposed public sewage disposal system.~~

~~d. If a new community or shared sewer system is proposed, identify who will install that system, and how the system will be maintained.~~

~~e. If individual septic systems are proposed, describe the location and specifications of septic systems.~~

~~3. Solid Waste Disposal.~~

~~a. Provide evidence that there is an existing solid waste collection and disposal system available that can accommodate the anticipated additional volume.~~

~~b. If no existing collection and disposal system is available, describe the proposed method of solid waste collection and disposal.~~

~~c. Describe how the proposed system satisfies the standards set forth by MDEQ.~~

~~4. Storm water.~~

~~a. Provide calculations indicating how much storm water run-off will be generated as a result of the proposed development.~~

- ~~b. Provide a description of the proposed storm water collection and drainage systems that satisfy the standards set forth by Section 23-407.~~

~~5. Roads.~~

- ~~a. Describe any proposed access roads or substantial improvements to existing public or private access roads.~~
- ~~b. If connections to any existing roads are proposed, identify all access permits that are necessary from the city, county or state.~~
- ~~c. Discuss whether any of the individual lots or tracts have access directly to arterial roads.~~
- ~~d. Explain any proposed closure or modification of existing roads.~~
- ~~e. Describe provisions considered for dust control on roads.~~
- ~~f. Explain how road maintenance will be provided to meet MDEQ guidelines for prevention of water pollution and erosion.~~
- ~~g. Indicate who will pay the cost of installing and maintaining the roads.~~
- ~~h. Discuss how much daily traffic will be generated on existing local and neighborhood roads and main arterials when the subdivision is fully developed.~~
- ~~i. Indicate the capacity of existing and proposed roads and if they are capable of safely handling the increased traffic resulting from the proposed subdivision. Describe any additional maintenance that will be necessary due to increased traffic and who will pay the cost of maintenance.~~
- ~~j. Indicate ownership of any private access to the subdivision, including private driveway easements.~~

~~6. Utilities.~~

- ~~a. Indicate which utility companies are proposed to serve the subdivision.~~
- ~~b. State the method of furnishing electric, natural gas or telephone service, where provided, the extent to which these utilities will be placed underground, and the estimated completion of each utility installation.~~
- ~~c. Indicate if there are any existing utility lines on the property such as transmission lines, pipelines, etc. and if so, describe the impacts they may have on the proposed subdivision.~~

~~7. Emergency Services.~~

- ~~a. Describe the emergency services available to the subdivision including fire protection, police protection, ambulance, and medical services~~
- ~~b. Provide an estimate of the number of responses generated by the subdivision, and the method of determining those numbers.~~
- ~~c. Describe roads to the subdivision and provide information on compaction standards and widths that satisfy the requirements set forth for emergency vehicle access.~~
- ~~d. In the event that the proposed subdivision is located within the Wildland Urban Interface (WUI), the subdivider shall submit a plan to mitigate fire hazard in accordance with the fire department having jurisdiction.~~
- ~~e. Describe any health or safety hazards on or near the subdivision, such as mining activity, high pressure gas lines, dilapidated structures or high voltage power lines. These conditions should be accurately described and their origin and location identified and any proposed mitigation.~~

~~8. Schools.~~

- ~~a. Describe the available educational facilities that would service this subdivision.~~
- ~~b. Provide an estimate of the number of school children that will be generated from the proposed subdivision and provide the basis for the estimate.~~
- ~~c. Provide information regarding whether increased enrollment can be accommodated by the present personnel, facilities and the existing school bus system. This should include any recommendations of the administrator(s) and plans to mitigate adverse impacts of the proposed development on the provision of educational services.~~

~~9. Parks and Recreation Facilities.~~

- ~~a. Describe any park and recreation facilities to be provided within the proposed subdivision and other recreational facilities that may serve the subdivision.~~
- ~~b. State how the required parkland dedication is being satisfied.~~

~~C. Land Use.~~

- ~~1. Indicate compliance with zoning encompassing all or part of the proposed subdivision.~~

- ~~2. Describe how the subdivision will affect access to any public lands. Where public lands are adjacent to or near the proposed development, describe present and anticipated uses for those lands.~~
- ~~3. Describe the effect of the subdivision on adjacent land uses.~~
- ~~4. Describe any on-site or off-site land uses creating a nuisance, such as unpleasant odors, unusual noises, dust or smoke.~~

~~D. Historical Features.~~

~~Provide a letter from the State Historic Preservation Office (SHPO) indicating whether any historic features such as paleontological, archeological or cultural sites, structures, or objects are present on the subject property. If such features are present, provide a written statement outlining any recommendations of SHPO and any plans for inventory, study and/or preservation and mitigation for any adverse impacts.~~

~~E. Visual Impact.~~

- ~~1. Describe any efforts to visually blend development activities with natural surroundings.~~
- ~~2. If the subdivision is located near the Yellowstone River or the Rimrocks, describe any potential impacts to these natural amenities. Discuss any mitigation efforts to preserve the views.~~
- ~~3. Provide information regarding revegetation after construction and any proposed landscaping to be provided along streetscapes.~~

~~Section 23-905. Summary of Probable Impacts~~

~~A. Describe the effects the proposed subdivision has on the following:~~

- ~~1. Agriculture~~
- ~~2. Agricultural water user facilities~~
- ~~3. Local services~~
- ~~4. The natural environment~~
- ~~5. Wildlife and wildlife habitat~~
- ~~6. Public health and safety~~

~~B. Describe how the proposed subdivision complies with the following:~~

- ~~1. Survey requirements provided in Part 4 of the MSPA~~
- ~~2. These subdivision regulations~~
- ~~3. The subdivision review process as described in Article 23-300 of these Regulations~~

~~C. Describe how the proposed subdivision provides for easements for the location and installation of any planned utilities.~~

~~D. Describe how the proposed subdivision provides for legal and physical access to each lot and the required notation of that access on the plat.~~

Article 23-1000. DEDICATION OF PARKS, TRAILS AND OPEN SPACE

Section 23-1001. Purpose.

The purpose of parkland dedication is to: Meet the objectives associated with adopted City plans and policies and comply with 76-25-404, MCA.

Section 23-1002. Park Land Dedication Requirements (76-25-404, MCA) ~~(76-3-621, MCA).~~

- A. Except as provided in Sections 23-1008 and 23-1009, a subdivider shall dedicate to the City cash or land donation equal to the below. The required donation shall not exceed .03 acres per dwelling unit:
1. 11% of the area of the net land proposed to be subdivided into parcels of one-half acre or smaller;
 2. 7.5% of the area of the net land proposed to be subdivided into parcels larger than one-half acre and not larger than 1 acre;
 3. 5% of the area of the net land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and
 4. 2.5% of the area of the net land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres.
- B. Park dedication requirements for subdivisions that provide for multi-family and condominium developments, and that provide permanent, multiple spaces for recreational camping vehicles or manufactured homes shall be in lieu of those provided in Section 23-1002(A) and are as follows:
1. 11% of the area of the net land proposed to be developed at a density of one dwelling unit per half acre or less;
 2. 7.5% of the area of the net land proposed to be developed at a density of between one dwelling unit per half acre and one dwelling unit per one acre;
 3. 5% of the area of the net land proposed to be developed at a density of between one

dwelling unit per one acre and one dwelling unit per 3 acres; and

4. 2.5% of the area of the net land proposed to be developed at a density of between one dwelling unit per 3 acres and one dwelling unit per 5 acres.

C. A park dedication may not be required for:

1. Land proposed for subdivision into parcels larger than 5 acres;
2. Subdivision into parcels that are all nonresidential;
3. A subdivision in which parcels are not created, except when that subdivision provides multiple permanent spaces for recreational camping vehicles, mobile homes, or condominiums;
4. Subdivision in which only one additional parcel is created.

D. The ~~Planning Director or designee, governing body, in consultation with the Planning Board,~~ Parks and Recreation Department, and the subdivider may determine suitable locations for parks. Land dedicated for park purposes shall:

1. Be usable land;
2. Street frontage requirements for parks is 200 continuous, linear, feet for each park of one acre, and 30 feet of frontage for every acre after that. The 30 feet segments are not required to be continuous with the original 200 feet. Example: 5-acre park requires 200 linear feet for first acre and $4 \times 30 = 120$ for the others for a total of 320 linear feet. The developer shall coordinate park street frontage openings with the City of Billings Parks Department before the preliminary plat is completed. Minimum width for additional accesses into parkland shall be 30 feet. If the parkland dedication requirement is under 1 acre the required street frontage will be a percentage of the one acre minimum. Minimum street frontage is 60 linear feet for parks less than 1 acre. For example: If 20,000 square feet is what is required by sub regs, $20,000 \div 43,560$ equals 46%. $200 \times 46\%$ equals 92 feet of frontage.
3. Accessible to bicycle and pedestrian facilities where possible;
4. At least 50% of the park must have slopes under 5%.

E. Land not suitable to meet parkland dedication:

1. More than 5% of the area has grades 25% or higher;
2. Riparian resources and areas adjacent to or within irrigation, floodway or wetlands unless it includes a programmable space.
3. Monument entry areas and central landscaped boulevards;
4. Exclusively stormwater facilities;
5. Street lights, cell towers, overhead power, major transmission lines, or other similar uses;

E. A Park Maintenance District shall be formed or expanded with any new parkland dedication. If a developer provides cash in lieu, but is located directly adjacent to an existing public park maintained by a PMD, the PMD shall be expanded to include the newly subdivided lots.

F. Irrigation of public and private parkland are encouraged to be provided by ditches or wells when possible. If neither of these methods is possible, city treated water is an alternative.

Section 23-1003. School Land Dedication in lieu of Park Land Dedication ~~(76-25-404 (6)(b), MCA) (76-3-621(8), MCA).~~

Subject to the approval of the local governing body and acceptance by the school district trustees, a subdivider may dedicate a land donation provided in subsection (6)(a) to a school district to be used for school facilities or buildings.

Section 23-1007. Use of Dedicated Money or Land for Parks ~~(76-3-621(5), MCA).~~

The governing body shall use the dedicated money or land for development, acquisition, or maintenance of parks to serve the subdivision and community as follows:

- A. The governing body may use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks or recreational areas, or use the money for the purchase of public open space or conservation easements only if:
 - 1. The park, recreational area, open space, or conservation easement is within a reasonably close proximity to the proposed subdivision; and
 - 2. The City Council has formally adopted a park plan that establishes the needs and procedures for use of the money.
 - 3. The governing body may not use more than 25% of the dedicated money for park maintenance.

~~Section 23-1008. When Park Land Dedication May Not Be Required (76-3-621(3)(e), MCA).~~

~~The following subdivisions may not require parkland dedication:~~

- ~~A. A minor subdivision.~~
- ~~B. Land proposed for subdivision into parcels larger than 5 acres.~~
- ~~C. Subdivision into parcels that are all nonresidential.~~
- ~~D. A subdivision in which parcels are not created, except for condominiums and when that subdivision provides permanent multiple spaces for recreational camping vehicles or mobile homes (See Section 23-1002.B. of this Article).~~
- ~~E. A subdivision in which only one additional parcel is created.~~
- ~~F. Cluster Developments (See Sections 703.E. and 709.E. of these Regulations).~~

Section 23-1008. Waiving Park Land Dedication Requirement ~~(76-3-621(6), MCA).~~

The ~~Planning Director or designee governing~~ may body shall waive the park dedication requirement if:

- A. The subdivision provides for a planned development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and the area of the land and any

improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under Section 23-1002 of this Article.

- B. The subdivision provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and the area of the land proposed to be subdivided, by virtue of providing long-term protection is reduced by an amount equal to or exceeding the area of the dedication required under Section 23-1002 of this Article.
- C. The area of the land proposed to be subdivided, by virtue of a combination of the provisions of Sections 23-1009.A. and B. of this Article, is reduced by an amount equal to or exceeding the area of the dedication required under Section 23-1002 of this Article.
- D. The subdivider dedicates land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and the area of the land equals or exceeds the area of the dedication required under Section 23-1002 of this Article.

Article 23-1100. ADMINISTRATIVE PROVISIONS.

Section 23-1101. Variances.

The City ~~Council~~ may grant reasonable variances from the design and improvement standards of these Regulations when strict compliance would result in undue hardship and the result would not negatively affect public health and safety. The granting of a variance shall not have the effect of nullifying the intent and purpose of these Regulations or justifying submission of an incomplete application. The City ~~Council~~ may not approve a variance that would permit structures within the floodway of the 100-year floodplain, as defined in BMCC 23-201 76-5-101, MCA.

- A. **Requesting a Variance.** The subdivider shall include with the submission of the variance request, a written statement describing the facts of hardship upon which the request for the variance is based. Each requested variance shall be deemed a separate application, for which a fee shall be required. Information addressing each of the following findings shall accompany the application. The Planning Director or designee ~~Board~~ shall review the submitted findings and make a recommendation to the City ~~Council~~. The City ~~Council~~ shall not approve variances unless the subdivider has demonstrated that the request satisfies the following findings:
 - 1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;
 - 2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced;
 - 3. The variance will not result in an increase in taxpayer burden;
 - 4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or Growth Policy; and

5. The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied.
- B. In granting variances, the City ~~Council~~ may require conditions of approval that will, in their judgment, secure the objectives of these Regulations.
- C. When any such variance is granted, the motion of approval of the proposed subdivision shall contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based.

~~Section 23-1102. Amendments to Subdivision Regulations.~~

- ~~A. These Regulations may be amended by the City Council after it receives a recommendation by the Planning Commission by its own motion or upon recommendation of the Planning Board to the City Council.~~
- ~~B. Prior to amending these Regulations, the governing bodyies shall receive a recommendation from the Planning Commission and conduct a public hearing and public notice shall be given of the intent to amend these Regulations and of the public hearing by publication of the time and place of the hearing in a newspaper of general circulation in the County not less than 15 days prior to the date of the hearing.~~

Section 23-1103. Corrections or Vacations of Recorded Final Plats and Supporting Documents.

- A. Corrections to recorded final plats shall be processed as exempt plats pursuant to the requirements, provided that there is evidence of at least one of the following:
 1. There is a discrepancy in the map.
 2. Material evidence is provided that does not appear on any map filed by the Yellowstone County Clerk and Recorder.
 3. There is evidence that suggests alternate locations of lines or points.
 4. The recorded plat does not positively show the location, size of lots or blocks, or the location or width of any street or alley.
- B. Corrections to a recorded Subdivision Improvements Agreement (SIA) or other supporting document of the final plat to which the City Council is party, may be submitted provided that they do not significantly alter the original approval. Requests to alter a recorded SIA or supporting document shall follow these procedures:
 1. A written request to amend the recorded document shall be submitted to the Planning Department.
 2. The request will be circulated for review by the agencies affected by the proposed amendment. The Planning Department will, in consultation with the affected agencies, submit a recommendation to the City Council.
 3. A public hearing may be required based on the information received by the reviewing

agencies. Notice of the public hearing shall be given in accordance with these Regulations.

4. The City Council may approve the request if it does not significantly alter the original approval and does not conflict with the review criteria set forth in these Regulations.
- C. Any plat prepared and recorded in accordance with these Regulations may be vacated, either in whole or in part ~~in consultation with MCA76-25-411, MCA.~~
1. If the vacation affects five (5) or fewer lots it shall be processed as an exempt plat pursuant to the requirements.
 2. If the vacation affects twelve (12) or more lots it shall be reviewed as an amended plat pursuant to Section 23-300~~7~~ of these Regulations.
 - ~~3. If the vacation includes public rights-of-way, the applicant must first obtain approval for the right-of-way vacation from the governing body in accordance with the applicable procedures. Title to the streets and alleys of the vacated portions may revert to one or more of the owners of the properties within the platted area adjacent to the vacated portions, as determined by the City Council or designee.~~
 - ~~4. When any utility lines or any other public or private facility are located in a vacated street or alley, at the time of the reversion of the title to the vacated street or alley, the owner of the public or private utility facility shall be granted an easement over the vacated land to continue the operation and maintenance of the public or private utility facility.~~

~~Section 23-1104. — Corrections or Adjustments to Plats, Conditions and Supporting Documents after Preliminary Plat Approval.~~

- ~~A. Minor adjustments may be approved by the City Council or designee, in consultation with the appropriate agencies, prior to the filing of the final plat. Minor adjustments are those changes, which, in the opinion of the City Council or designee, does not affect the basic character of lots or blocks, does not affect the open space requirements or amount provided, and does not affect the original street design. Minor adjustments shall not change existing Conditions of Approval or require additional conditions. Minor adjustments may require that a new plat be drawn; however, they do not require that the plat be re-submitted for preliminary plat review.~~
- ~~B. Major adjustments are those which, in the opinion of the City Council or designee, substantially alter the basic design, or change open space requirements or amount provided for the subdivision. Changes to conditions of approval placed on the preliminary plat shall be considered major adjustments unless otherwise determined using the criteria in Section 23-1204.C., below. Any changes which constitute a major adjustment shall require that a new plat be drawn and the plat be re-submitted for preliminary plat review as specified in Article 23-300.~~
- ~~C. **Requested Amendments to Conditions.** Upon written request of the subdivider, the City Council may amend conditions of preliminary plat approval where it can be found that errors or changes beyond the control of the subdivider have rendered a condition unnecessary, impossible or illegal. Requests to amend a condition of approval shall follow these procedures:~~

- ~~1. The request to amend the condition shall be submitted in writing to the Planning Department.~~
 - ~~2. The request will be circulated for review by the agencies affected by the proposed amendment. The Planning Department will, in consultation with the affected agencies, submit a recommendation to the City Council.~~
 - ~~3. A public hearing may be required based on the information received by the reviewing agencies. Notice of the public hearing shall be given in accordance with these Regulations.~~
 - ~~4. The City Council may approve the request if it can be found that the original condition is unnecessary, impossible or illegal and does not conflict with the review criteria set forth in these Regulations.~~
- ~~D. Once the preliminary plat is approved, unless inaccurate or incomplete information has been found or a change to a condition has been requested, the City Council may not impose any additional conditions as a prerequisite to final plat approval, providing that approval is obtained within the original or extended approval period as provided in these Regulations.~~

~~Section 23-1105. Appeals.~~

- ~~A. A person who has filed with the City Council an application for a subdivision under these Regulations may bring an action in district court to sue the City Council to recover actual damages caused by a final action, decision, or order of the City Council or these Regulations that is arbitrary or capricious.~~
- ~~B. A party who is aggrieved by a decision of the City Council to approve, conditionally approve, or disapprove a proposed preliminary plat or final subdivision plat may, within thirty (30) days after the date of the written decision, appeal to the district court. The petition must specify the grounds upon which the appeal is made.~~
- ~~C. The following parties may appeal under the provisions of Section 23-1105.B.:~~
 - ~~1. The subdivider;~~
 - ~~2. A landowner with a property boundary contiguous to the proposed subdivision or a landowner with property within the county or municipality where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;~~
- ~~D. For purposes of this section, "aggrieved" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.~~

Section 23-1105. Schedule of Fees.

The required fee shall accompany the preliminary plat, final plat, exempt surveys, and any proposed variances. A schedule of fees for plats shall be established by the City Council by resolution. Fee information is available online.

~~Section 23-1106. Penalty for Violation.~~

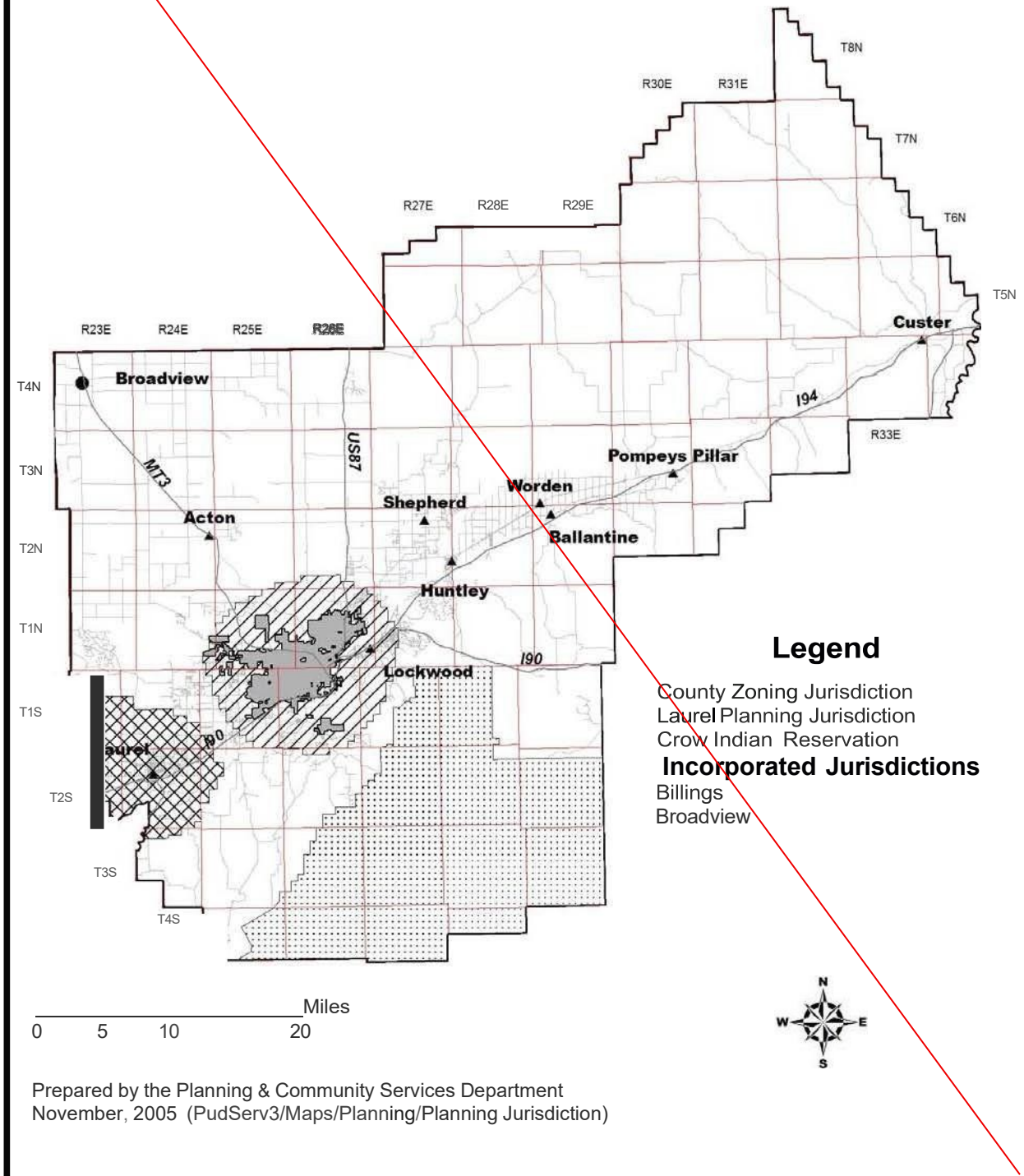
~~A. Except as provided in (76-25-4 MCA) 76-3-303, MCA, every final subdivision plat shall be filed with the County Clerk and Recorder before title to the subdivided land can be sold or transferred in any manner. If illegal transfers are completed, the City Attorney shall commence action to enjoin further sales or transfers and compel compliance with the provisions of the Montana Land Use Planning Act (76-25-4 MCA) Montana Subdivision and Platting Act (76-3-101 et seq., MCA) and these Regulations. The cost of such action shall be imposed against the person transferring the property.~~

~~Each sale, lease or transfer, or offer of sale, lease, or transfer of each separate parcel of land in violation of any provision of the Montana Subdivision and Platting Act or these Regulations shall be deemed a separate and distinct offense.~~

~~B. Any person who violates any of the provisions of the Montana Land Use Planning Act (76-25-4 MCA) Montana Subdivision and Platting Act (76-3-101 et seq., MCA) or these Regulations is guilty of a misdemeanor and punishable by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or by imprisonment in jail for not more than three (3) months or by both fine and imprisonment.~~

APPENDIX A
Jurisdictional Map

Yellowstone County Board of Planning Planning Jurisdiction



APPENDIX ~~A~~B
Evasion Criteria

City of Billings Evasion Criteria

A. Purpose.

The State of Montana provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the development is an attempt to evade the Montana Land Use and Planning Act (76-25-402 MCA) ~~Montana Subdivision and Platting Act (MSPA), 76-3-101, et. seq., MCA.~~

The following procedures, criteria and requirements shall be used to review an exemption from subdivision review and to determine whether the division of land is for the purpose of evading the Montana Land Use Planning Act (MLUPA). ~~MSPA.~~

B. Procedures and General Requirements.

1. Any person seeking exemption from the requirements of MLUPA ~~the Subdivision and Platting Act (76-3-101 et. seq., MCA)~~ shall submit to the Planning Director or designee ~~Clerk and Recorder~~ (1) a certificate of survey, exempt amended plat, or where a survey is not required an instrument of conveyance, (2) evidence of, and a notarized statement affirming, entitlement to the claimed exemption signed by the landowner, and (3) all documents identified in Exhibit 3 “Exempt Plat Submittal Requirements.”
2. When a certificate of survey, exempt amended plat, or instrument of conveyance is submitted to the Planning Department, the Planning Department shall cause the documents to be examined by the designated agents of the governing body: (the City ~~or County Public~~ Works Department, City ~~or County~~ Attorney, ~~Sanitarian~~, Treasurer, and Clerk and Recorder). The agents shall examine the proposed land division to determine whether it complies with the requirements set forth in these regulations, the Montana Land Use Planning Act ~~Subdivision and Platting Act~~, and the Montana Sanitation in Subdivisions Act (76-4-101, et seq., MCA).
3. After the review to evaluate compliance with the requirements contained in this section, the agents shall submit written comments as to whether the use of the exemption is intended to evade the purposes of the Act, after which a written recommendation will be presented to the governing body for its review.
4. If the designated agents find that the proposed use of the exemption complies with the statutes and these criteria, they shall recommend to the Clerk and Recorder to file the certificate of survey, exempt amended plat, or record the instrument of conveyance and accompanying documents. If the agents find that the proposed use of the exemption does not comply with the statutes and these criteria, they shall advise the Clerk and Recorder of their determination and recommend whether or not to file or record the documents, and upon his/her concurrence, the Clerk shall return the materials to the landowner with an explanation as to why the recordation was declined.

APPENDIX AB
Evasion Criteria

5. Any person whose proposed use of an exemption has been denied by the designated agents may appeal the agents' decision to the governing body. The person may request a hearing, and may submit additional evidence to show that the use of the exemption in question is not intended to evade the Act.

If the governing body concludes that the information provided by the developer overcomes the recommendation by staff that the exemption is being used to evade the Act, they may authorize the use of the exemption in writing. A certificate of survey claiming such an exemption from subdivision review, which otherwise is in proper form, may be filed (or an exempt amended plat or an instrument of conveyance recorded) if the governing body has signed a certificate of an exemption as provided in these regulations.

6. Landowners or their representatives are encouraged to meet with the governing body's designated agents to discuss whether a proposed land division or use of an exemption is in compliance with these criteria.

The agents may issue an advisory opinion only, and the opinion does not constitute a commitment by the local officials when the documents creating the proposed land division are submitted to the Clerk and Recorder.

7. The governing body and its agents, when determining whether an exemption is claimed for the purpose of evading **MSPA-MLUPA**, shall consider all of the surrounding circumstances. These circumstances may include but are not limited to: (1) the nature of the use of the parcel, (2) the prior history of uses of the particular tract in question, (3) the proposed configuration of the tracts if the proposed exempt transaction is completed, and (4) any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review (State ex rel. Dreher v. Fuller, 50 St. Rptr. 454, 1993).
8. Exempt divisions of land that would result in a pattern of development equivalent to a subdivision shall be presumed to be adopted for purposes of evading the Act. A "pattern of development" occurs whenever three (3) or more parcels of less than 160 acres each with common covenants or facilities pertaining to each parcel have been divided from the original tract.
9. If the use of an exemption is determined to be an evasion of **MSPA-MLUPA**, the landowner may submit a subdivision application for the proposed land division.

C. Exemption as a Gift or Sale to a Member of the Immediate Family (76-25-402 MCA) (~~76-3-207(1)(b), MCA~~).

1. Statement of Intent: The intention of this exemption is to allow a landowner to convey one parcel to each member of the immediate family without local subdivision review. A single parcel may be conveyed to each member of the immediate family under this exemption in each county where the landowner owns property.

APPENDIX ~~A~~ B
Evasion Criteria

2. "Immediate family" is defined as the spouse, children by blood or adoption, or parents of the grantor (76-25-402 MCA) ~~(76-3-103(7), MCA)~~.
3. Any certificate of survey filed that would use this exemption to create a parcel for conveyance to a family member must clearly identify the name of the grantee, the grantee's relationship to the landowner, and the parcel to be conveyed under this exemption, and be accompanied by, or contain, the landowner's written certification of compliance. The certificate of survey or other instrument must also cite the exemption claimed and include the proper language. Also, the certificate of survey or instrument of conveyance shall be accompanied by a deed or other conveying document.
4. One conveyance of a parcel to each member of the landowner's immediate family is eligible for exemption from subdivision review. However, the use of the exemption may not result in more than one remaining parcel of less than 160 acres.
5. Any proposed use of the family conveyance exemption to divide a tract that was previously created through use of an exemption shall be presumed to be an evasion of the Act if it creates a pattern of development consistent with an overall plan with characteristics such as common roads, utility easements, restrictive covenants, open space or common marketing. This presumption will not be rebutted by previous ownership of the tracts, and pertains to remaining tracts of less than 160 acres as well as to those tracts that were previously created through the use of one or more of the exemptions.
6. The use of the family conveyance exemption to divide tracts that were created with the subdivision process are allowed as long as they can also meet the requirements of zoning.
7. An immediate family member or the spouse of an immediate family member who receives a division of land as part of a gift or sale may not transfer or otherwise convey the division of land for a period of up to 2 years after the date of the division. The governing body may authorize variances from these requirements to address hardship situations.

D. Exemption to Provide Security for a Construction Mortgage, Lien or Trust Indenture (76-25-402 MCA) ~~(76-3-201(1)(b) MCA)~~.

1. Statement of Intent: Under policies of many lending institutions and federal home loan guaranty programs, a landowner who is buying a tract with financing or through a contract for deed is required to hold title to the specific site on which the residence will be built. The intended purpose of this exemption is to allow a landowner who is buying a tract using financing or a contract for deed to segregate a smaller parcel from the tract for security for financing construction of a home on the property.
2. When claiming this exemption, the landowner shall submit the following documents to the City-County Planning Department:

APPENDIX ~~AB~~
Evasion Criteria

- a. A signed statement from both the landowner and the lending institution that the creation of the exempted parcel is necessary for the owner to secure construction financing through a construction mortgage, lien or trust indenture on the exempted parcel.
 - b. Any certificate of survey that uses this exemption must bear the acknowledged certificate of the property owner stating that the division of land in question is exempted from review as a subdivision, cite the exemption claimed, and include the language provided in Section H. of this Chapter.
3. The use of this exemption is presumed to have been adopted for the purpose of evading ~~MLUPA MSPA~~ if:
- a. It will create a site for more than one dwelling unit;
 - b. The loan is for someone other than the owner of record or the recorded contract purchaser of the parcel to be divided.
 - c. It will create a pattern of development which is equivalent to a subdivision with characteristics such as common roads, sewer, water, utility easements, restrictive covenants, open space or a common marketing or promotional plan.

E. Exemption for Agricultural Purposes (~~76-25-402 MCA~~) (~~76-3-207(1)(c), MCA~~).

1. Statement of Intent: The intention of this exemption is to allow a landowner to create a parcel without local review where the parcel will be used only for production of livestock or agricultural crops and where no residential, commercial, or industrial buildings will be built.
2. "Agricultural Purpose," for purposes of these evasion criteria, means the use of land for raising crops or livestock, or for the preservation of open space, and specifically excludes residential structures and facilities for commercially processing agricultural products. Agricultural lands are exempt from review by the Montana Department of Environmental Quality (MDEQ), provided the applicable exemption is properly invoked by the property owner.
3. The following conditions must be met or the use of the exemption will be presumed to have been adopted for the purposes of evading ~~MLUPA MSPA~~:
 - a. The parties to the transaction by gift, sale, or agreement, must enter into a covenant running with the land and revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes or open space. The covenant must be signed by the property owner, the buyer or lessee and the

governing body. An example of a covenant is provided in Section H. of this Chapter.

- b. The landowner must demonstrate that the planned use of the exempted parcel is for agricultural purposes and that no residential, commercial or industrial buildings will be built (e.g., a statement signed by the buyer).
- c. Any change in use of the land for anything other than agricultural purposes subjects the parcel to full review as a subdivision.
- d. Residential, commercial and industrial structures, including facilities for commercial processing of agricultural products are excluded uses on parcels created under this exemption unless the covenant is revoked and the land division is reviewed under ~~MCA (76-25-402 MCA) Chapter 3~~.
- e. A certificate of survey that uses this exemption must bear the acknowledged certificate of the property owner stating that the division of land in question is exempted from review as a subdivision, cite the exemption claimed, and include the language provided in Section H. of this Chapter.

F. Relocation of Common Boundary ~~(76-25-402 MCA) (76-3-207(1) (a, d and e), MCA)~~.

- 1. Statement of Intent: The intended purpose of this exemption is to allow a change in the location of a boundary line between two parcels and to allow a one-time transfer of a tract to affect that change in location without subdivision review.
- 2. If the relocation of a common boundary would result in the permanent creation of an additional parcel of land, the division of land must be reviewed as a subdivision. If a temporary tract is created, language shall be added to indicate that the temporary tract is merged forever with the adjacent tract.
- 3. Within a platted subdivision, a division of lots that redesigns or rearranges six or more lots must be reviewed and approved by the governing body and an amended plat must be filed with the County Clerk and Recorder in accordance with Section 306 of these Regulations.
- 4. Certificates of survey or amended plats claiming this exemption must be clearly distinguished between the existing boundary location and the new boundary. This shall be accomplished by representing the existing boundary with a dashed line and the new boundary with a solid line. The appropriate certification must be included on the certificate of survey as provided in Section H. of this Chapter.

G. Remainder Parcels.

Statement of Intent: Any part of an original tract of record, less than 160 acres that is left following the segregation of other parcels from the tract for the purpose of transfer shall be reviewed as part of the subdivision.

APPENDIX ~~A~~-B
Evasion Criteria

H. Certification.

1. **Exemption Certificates.** The following represents examples of certificates to be used on certificates of surveys for the following types of exemptions: relocation of common boundaries, land gift or sale to family member, agricultural exemption, and security for constructions.

CERTIFICATE OF EXEMPTION
(RELOCATION OF COMMON BOUNDARY)

I (We) certify that the purpose of this survey is to relocate common boundaries between adjoining properties ~~existing outside of a platted subdivision~~. Therefore, this survey is exempt from review as subdivision pursuant to Section ~~76-2-207~~ 76-25-402 (1)(~~m~~)(~~a~~), (~~d~~), or (~~e~~); MCA.

DATED THIS _____ day of _____, 20____.

(Signature) _____
Property
Owner(s)

CERTIFICATE OF EXEMPTION
(FAMILY GIFT OR SALE)

I (We) certify that the purpose of this survey is to create Tract # _____ for transfer of ownership as a family gift or sale and that no prior family sale has been conveyed to ((name), our(my) (relationship) and that this exemption complies with all conditions imposed on its use. Therefore this survey is exempt from review as a subdivision pursuant to Section ~~76-3-207(1)(b);~~ 76-25-402(n)

DATED THIS _____ day of _____, 20_____.

(Signature) _____
Property
Owner(s)

APPENDIX ~~AB~~
Evasion Criteria

**CERTIFICATE OF EXEMPTION
(FOR AGRICULTURAL PURPOSES)**

I (We) certify that the purpose of this survey is to create Tract # _____, as shown on this certificate of survey, for gift or sale, which is to be used for agricultural purposes only, and that this exemption complies with all conditions imposed on its use. Therefore, this survey is exempt from review as a subdivision pursuant to Section ~~76-25-402(f)~~ ~~76-3-207(1)(e)~~, MCA and the City of Billings Subdivision Regulations.

I also hereby enter a covenant, to run with the land, that Tract _____ as shown hereon, will be used exclusively for agricultural purposes only. No building or structure requiring water or sewer facilities shall be utilized on Tract _____. This covenant is revocable only by the mutual consent of the governing body and the property owner.

DATED THIS _____ day of _____, 20_____.

(Signature) _____

Property Owner(s)

**CERTIFICATE OF EXEMPTION
(SECURITY FOR CONSTRUCTION)**

I certify that the purpose of this survey is to create a parcel of land to provide security for construction or loan purposes and that this exemption complies with all conditions imposed on its use. Therefore, this survey is exempt from review as a subdivision pursuant to Section ~~76-3-201(1)(b)~~ ~~76-25-402(1)(b)~~ MCA and from review by the Montana Department of Environmental Quality (16.16.605(1)(b)).

DATED THIS _____ day of _____, 20_____.

(Signature) _____

Property Owner(s)

APPENDIX ~~A~~ B
Evasion Criteria

2. **Governing Body Certification.** If the exemption is approved after appeal to the Governing Body, the Governing Body shall so certify in a printed certificate on the Certificate of Survey.

I, Mayor of the City of Billings, do hereby certify that the use of the exemption claimed on the accompanying Certificate of Survey has been duly reviewed, and has been found to conform to the requirements of the ~~MSPA-MLUPA~~, Section ~~76-3-101-76-25-402~~, et. seq., MCA, and the City of Billings Subdivision Regulations.

DATED THIS _____ day of _____, 20_____.

(Signature) _____
Mayor, City of Billings

Attest: (Signature) _____

APPENDIX BC
Flood Hazard Evaluation

- A. Definitions. (Sec. 76-5-103, MCA) Whenever the following words and phrases are used in this Appendix, they shall be given the meaning attributed to them by this section.
1. Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.
 2. Flood Fringe: the identified portion of the floodplain outside of the floodway.
 3. Flood of 100-year Frequency: A flood magnitude expecting to recur on the average of once every 100 years or a flood magnitude that has a 1% chance of occurring in any given year.
 4. Floodplain: The area adjoining the watercourse or drainway that would be covered by the floodwater of a flood of 100-year frequency, except for sheet flood areas that receive less than 1 foot of water per occurrence and are considered "shaded X zone" by the federal emergency management agency.
- B. Floodway: The channel of a watercourse or drainway and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge the floodwater of any watercourse or drainway.
1. Land located within the floodway of a flood of 100-year frequency as defined by Title 76, chapter 5, MCA, may not be subdivided for building purposes, or other uses that may be prohibited by state or local floodplain regulations.
 2. Where the 100-year floodway has been delineated by a Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), or a City- or County-approved study on land in a subdivision, the 100-year floodway boundary and 100-year floodplain boundary shall be shown on the plat of the subdivision and the area within the 100-year floodway shall be labeled as a "No-Build Zone."
 3. Any development of land that is in the flood fringe, a Zone A as shown on a FIRM, or an identified flood prone area is subject to the requirements of the City of Billings Floodplain Regulations.

APPENDIX **B**
Flood Hazard Evaluation

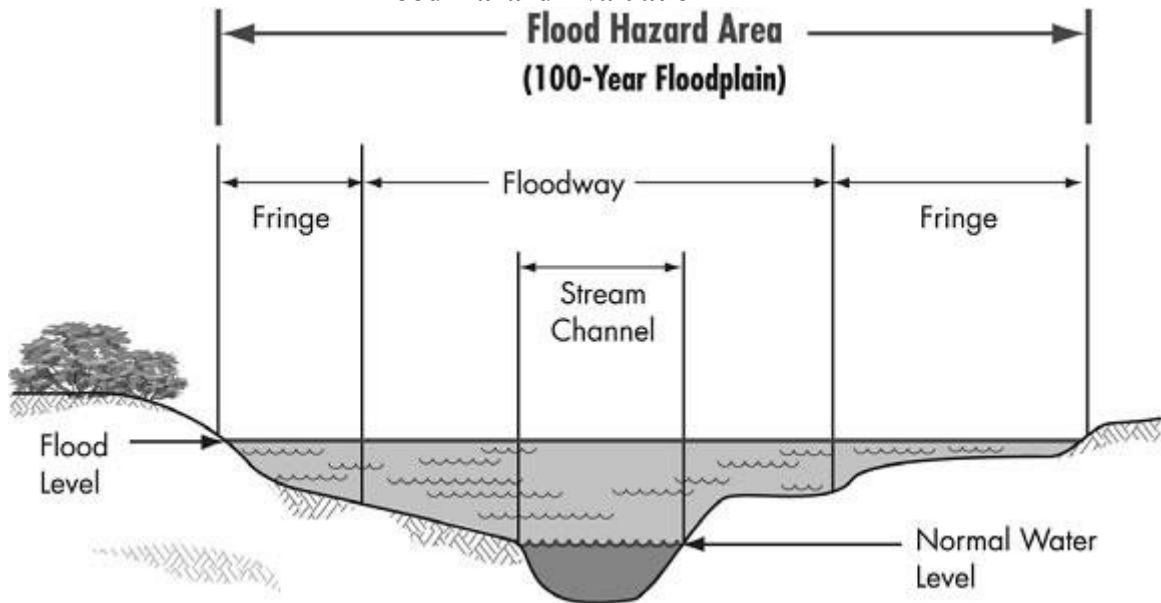


Figure 1. 100-Year Floodplain Cross-Section Diagram

APPENDIX C
Final Plat Certification

I, Mayor of the City of Billings, do hereby certify that the use of the exemption claimed on the accompanying Certificate of Survey has been duly reviewed, and has been found to conform to the requirements of the **Montana Land Use Planning Act MSPA**, Section ~~76-3-101~~ **76-25-410**, et. seq., MCA, and the City of Billings Subdivision Regulations.

DATED THIS _____ day of _____, 20_____.

(Signature) _____
Mayor, City of Billings

Attest: (Signature) _____

PRELIMINARY PLAT SUBMITTAL REQUIREMENTS

PROJECT ATTACHMENTS: (uploaded in PDF format)

- Declaration of signature page signed by owner applicant
- Draft scaled preliminary survey/ plat (24"x36")
- Draft SIA and waiver
- Traffic impact study (if applicable)
- Evidence of legal and physical access, if subject property is not served by public roads
- Environmental assessment summary of probable impacts (if applicable)
- Geotechnical report. (if applicable)
- Detailed narrative and documentation as outlined in the subdivision regulations regarding water, wastewater, and stormwater facilities
- Subdivision variance application (if applicable)
- A master plan of the entire area to be developed when a tract of land is to be subdivided in separate filings or phasing plan (if applicable)
- Names and addresses of immediately adjoining property owners typed or neatly printed on address labels

CHECKPRINT/FINAL PLAT SUBMITTAL REQUIREMENTS

PROJECT ATTACHMENTS: (uploaded in PDF format)

- Declaration of signature page signed by owner applicant
- Draft scaled final survey/ plat (24"x36")
- Closure Calculation
- Title Report/Subdivision Guarantee, no older than 6 months
- Easement documents (if applicable)
- Draft SIA and waiver
- Proof of conditions of approval being met
- Restrictions on Conveyances (if applicable)
- Homeowners association documents (if applicable)
- Proof of both halves of taxes paid via Treasurer's receipt
- Consent to plat by all lien holders

****For final plat/mylar submittal all documents must be the original wet signature version for the application to be accepted. All notary blocks must be correct and complete.****

EXEMPT PLAT SUBMITTAL REQUIREMENTS

PROJECT ATTACHMENTS: (uploaded in PDF format)

- Declaration of signature page signed by owner applicant
- Scaled final survey/ plat (24"x36")
- Closure Calculation
- Easement documents (if applicable)
- Restrictions on Conveyances (if applicable)
- Proof of both halves of taxes paid via Treasurer's receipt
- Deeds transferring ownership (if applicable)
- Consent to plat by all lien holders

For final /mylar submittal all documents must be the original wet signature version for the application to be accepted. All notary blocks must be correct and complete.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinance, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on the first reading this 11th day of May, 2026.

PASSED, ADOPTED and APPROVED on second reading this 26th day of May, 2026.

CITY OF BILLINGS

By _____
Mike Nelson, Mayor

Attest:

BY: _____
Denise R. Bohman, City Clerk

ORDINANCE NO. 26-_____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THE REGULATIONS IN SECTIONS 23-100 THROUGH 23-1100 BE AMENDED TO CONFORM TO MONTANA LAND USE PLANNING ACT PASSED BY THE 69TH LEGISLATURE IN 2025, TO AMEND AND CLARIFY THE SUBDIVISION REGULATIONS

WHEREAS, Title 76, Chapter 25, MCA, known as the Montana Land Use Planning Act (“MLUPA”), enacted by the Montana Legislature during the 69th Legislative Session (2025), requires cities with populations of 5,000 or more to adopt a new land use plan and future land use map. Additionally, zoning codes and subdivision regulations must conform with MLUPA.

WHEREAS, pursuant to Section 76-25-301, MCA, a local government has the authority to and shall regulate the use of land in substantial compliance with its adopted land use plan by adopting zoning regulations; and

WHEREAS, sections of Chapter 23 of the Billings, Montana City shall be amended as set forth herein to conform to the current statutory requirements of MLUPA.

WHEREAS, MLUPA mandates ongoing public involvement in the development and adoption of land use policies and regulations, guided by a municipally adopted Public Participation Plan; and

WHEREAS, the Interim Planning Commission held public hearings on _____, 2026, and made a recommendation to the City Council to adopt the proposed amendments to the subdivision regulations; and

WHEREAS, the City Council held a public hearing on May 11, 2026, in order to take public comment on the proposed amendments to the subdivision regulations and to consider the Interim Planning Commission’s recommendations.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. Chapter 23 of the Billings, Montana City Code (BMCC) is amended as follows and any sections not amended herein shall remain in effect:

Section 23-101. Title.

These regulations will be known and may be cited as “The Subdivision Regulations of the City of Billings” hereinafter referred to as “these Regulations.”

Section 23-102. Authority.

Authorization for these Regulations is contained in the Montana Land Use Planning Act (76, Chapter 25, Part 401, MCA). The reviewing authority is the City-County Planning

Section 23-103. Purpose.

The purposes and contents of these Regulations is outlined in 76-25-102 and 76-25-404, MCA and is to-Promote the health, safety, and welfare of the residents of the City through a system of comprehensive planning that balances private property rights and values, public services and infrastructure, the human environment, natural resources, and recreation, and a diversified and sustainable economy.

1. Ensure the orderly development of the jurisdictional area in accordance with adopted growth policies, neighborhood plans, motorized and non-motorized transportation plans, park plans, capital improvement plans, and other adopted policies and plans.
2. The coordination and dedication of right of way for roads and utilities within subdivided land with the existing and planned transportation network, including connections to adjacent property.
3. To encourage and support:
 - A. Sufficient housing units for the City's growing population that are attainable for citizens of all income levels;
 - B. The provision of adequate public services and infrastructure in the most cost-effective manner possible, shared equitably among all residents, businesses, and industries;
 - C. The natural environment, including wildlife and wildlife habitat, sufficient and clean water, and healthy air quality;
 - D. Agricultural, forestry, and mining lands for the production of food, fiber, and minerals and their economic benefits;
 - E. The City's economy and tax base through job creation, business development, and the revitalization of the City; and
 - F. Persons, property, infrastructure, and the economy against natural hazards, such as flooding, earthquake, wildfire, and drought.

Section 23-104. Jurisdiction.

These Regulations govern the subdivision of land within the City of Billings. These Regulations do not cover the Town of Broadview, the unincorporated areas of Yellowstone County, or the City of Laurel.

If a proposed subdivision lies partly within an incorporated city or town, and the County, the preliminary plat must be submitted to, and approved by, both the City or Town and the County governing bodies (76-25-408(3)(d), MCA).

If a proposed subdivision lies within an area subject to increased growth pressures, higher development densities, or other urban development influences identified by either the City or the County pursuant to 76-25-213, the jurisdiction shall provide other impacted jurisdictions the opportunity to review and comment on the application (76-25-408(3)(c), MCA).

When a proposed subdivision is also proposed to be annexed to a municipality, the subdivision review and annexation procedures will be coordinated to minimize duplications of reports and other requirements, whenever possible (76-25-408(3)(a) and 76-25-601(2)(d), MCA).

These Regulations supplement all other regulations, and where they are at variance with other laws, regulations, ordinances, resolutions, or policies the more restrictive requirements apply.

Section 23-105. Exemptions for Certain Divisions of Land.

The Montana Land Use Planning Act provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the method of disposition is adopted for the purpose of evading the requirements of 76-25-402 MCA.

The procedures, criteria and requirements provided in Appendix A shall be used to review an exemption from subdivision review and to evaluate whether the division of land is for the purpose of evading the Montana Land Use Planning Act.

Section 23-106. Construction Timing.

The applicant or his/her contractors may not proceed with any construction work on a proposed subdivision, including grading and excavation relating to public improvements, until the governing body has given preliminary plat approval of the proposed subdivision plat. If improvements are initiated prior to final plat approval, the subdivider shall assume all risks and liability for error in improvement placement and the improvements must comply with the conditions and agreements of the preliminary plat approval.

Section 23-107. Transfers of Title.

Except as noted below, a final subdivision plat must be filed for record with the Yellowstone County Clerk and Recorder before title to the subdivided land can be sold or transferred in any manner. After the preliminary plat of a subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met (76-25-411 (b), MCA).

- A. That under the terms of the contracts the purchasers of lots in the proposed subdivision make all payments to an escrow agent, which must be a bank, savings and loan association, or title/escrow company chartered to do business in the State of Montana;
- B. That under the terms of the contracts and the escrow agreement the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the County Clerk and Recorder;
- C. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the County Clerk and Recorder within the period of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract;
- D. That the County Treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent; and

- E. That the contracts contain the following language conspicuously set out therein:
“The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the County Clerk and Recorder, title to the property cannot be transferred in any manner.”

Section 23-108. Suitability of Land.

If during the review, the City finds any portion of a parcel of land proposed to be subdivided unsuitable for subdivision because of potential hazards such as flooding, land-slides, steep slopes, rock falls, high water table, polluted or non-potable water supply, high voltage lines, high pressure gas lines, danger from fire or explosion or other features which may be detrimental to the health, safety, or general welfare of existing or future residents, they will not recommend approval of the subdivision unless the hazards can be eliminated or overcome through approved design and construction.

Section 23-109. Permission to Enter.

The governing body or its designated agent(s) or agency may investigate, examine, and evaluate the site of the proposed subdivision to verify information provided by the subdivider. The submission of a preliminary plat or final plat application constitutes a grant of permission by the subdivider to enter the subject property.

Section 23-110. Severability.

If a court of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other part of these regulations invalid, that judgment will affect only the part held invalid.

Section 23-111. Regulations in Effect.

Review and approval or disapproval of a subdivision under these regulations may occur only under those regulations in effect at the time an application for approval of a preliminary plat, per 76-25-409, MCA, or, for an extension of preliminary plat approval, under those regulations in effect at the time the extension is submitted to the governing body.

Section 23-112 Findings

- A. The governing body of the City of Billings finds that these regulations substantially comply with the adopted land use plan and zoning regulations for the City, including whether these regulations;
1. Enable the development of projected needed housing types identified in the land use plan and zoning regulations;
 2. Reflect applicable strategies from the land use plan and zoning regulations to encourage the development of housing within the jurisdiction;
 3. Facilitate the adequate provision of public safety, emergency, utility, transportation, education, and any other local facilities or services for proposed development, as identified in the land use plan and zoning regulations;
 4. Reflect the standards that provide for existing, new, or expanding commercial, industrial, and institutional enterprises identified in the land use plan and zoning regulations for economic growth;

5. Protect and maximize the potential use of natural resources within the area, as identified in the land use plan and zoning regulations;
 6. Contain standards that minimize or avoid impacts to the natural environment within the area, as identified in the land use plan and zoning regulations; and
 7. Contain standards that avoid or minimize dangers associated with natural hazards in the jurisdiction, as identified in the land use plan and zoning regulations.
- B. The governing body of the City of Billings finds any new or increased potential impacts to or from the local facilities, services, natural resources, natural environment, or natural hazards from those previously described and analyzed in the assessments conducted for the land use plan and zoning regulations were analyzed and that the public was provided with a reasonable opportunity to comment on and consider all potential impacts resulting from adoption of these regulations.
- C. The governing body of the City of Billings finds that all subdivisions hereafter determined to be and approved in substantial compliance with these regulations are in substantial compliance with the adopted land use plan and zoning regulations of the City of Billings.

Section 23-113 Responsibility for Interpretation

In the event that any question arises concerning any provision or the application of any provision of these regulations, the Planning Director or designee, in consultation with the City Attorney's Office as may be necessary, shall be responsible for such interpretation and shall look to the overall intent of these regulations, the City's zoning regulations and map, the City's Land Use Plan and Map, and the Act for guidance. The Planning Director or designee shall provide such interpretations in writing upon request. An aggrieved party may appeal an administrative interpretation as set forth in 76-25-503, MCA.

Section 23-114 Amendment of the Regulations

Amendments to the subdivision regulations shall follow the provisions within 76-25-403, MCA or as may be amended from time to time.

Article 23-200. DEFINITIONS.

Section 23-201. Definitions.

Whenever the following words or phrases appear in these regulations, they shall have the meaning assigned to them by this section. The word "shall" is always mandatory, and the word "may" indicates use of discretion in making decisions.

ACCESS:

- a. **LEGAL ACCESS:** When the subdivision abuts a public street or road under the jurisdiction of the City, the County, or the State, or when the subdivider has obtained documented, adequate, and appropriate easements from a public road to the subdivision across all intervening properties.
- b. **PHYSICAL ACCESS:** When a road or driveway conforming to City and/or County standards provides vehicular access from a public or private road to the subdivision.

ACTIVE TRANSPORTATION PLAN: Refers to the current bike and trail master plan adopted by City Council.

ADJOINING PROPERTY OWNERS: Persons who are owners of record and/or owners under contract for deed of properties adjoining the land being proposed for subdivision platting.

AGRICULTURE: Montana Code Annotated definitions for “agriculture” and “agricultural” will apply as follows:

41-2-103, MCA. Definitions. As used in this part, the following definitions apply: (1) “Agriculture” means: (a) all aspects of farming, including the cultivation and tillage of the soil; (b)(i) dairying; and (ii) the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, including commodities defined as agricultural commodities in the federal Agricultural Marketing Act [12 U.S.C. 1141j(g)];

(c) the raising of livestock, bees, fur-bearing animals, or poultry; and (d) any practices, including forestry or lumbering operations, performed by a farmer or on a farm as an incident to or in conjunction with farming operations, including preparation for market or delivery to storage, to market, or to carriers for transportation to market.

81-8-701, MCA. Definitions. The following definitions apply: (1) “Agricultural and food product” includes a horticultural, viticultural, dairy, livestock, poultry, bee, other farm or garden product, fish or fishery product, and other foods.

AGRICULTURAL WATER USER FACILITIES: Those facilities which convey water for agricultural land as defined in 15-7-202, MCA, or which provide water for the production of agricultural products as defined in 15-1-101, MCA, including, but not limited to, ditches, drains, pipes, and head gates.

AGRICULTURAL WATER USER: Persons and lands legally entitled to water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right.

APPLICANT: The owner of land proposed for subdivision or the owner's legally designated representative for the purposes of submitting a request to subdivide (See SUBDIVIDER).

BLOCK: A group of lots, tracts or parcels within well-defined and fixed boundaries. Such boundaries may include streets, railroads, irrigation ditches, streams, platted lands or a combination thereof.

BOARD OF COUNTY COMMISSIONERS: The governing body for Yellowstone County, Montana.

BOULEVARD: An area of public right-of-way or private easement between the paved edge of the street or road and the private property line. The boulevard provides for the opportunity to separate vehicle traffic from pedestrian travel. Boulevards often have sidewalks in them and often are landscaped. A parkway median is a landscaped area located in the middle of the street or road.

CERTIFICATE OF SURVEY: A drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

CONSERVATION SUBDIVISION: A development in a rural setting that is characterized

by compact lots and common open space, and where the natural features of land are maintained to the greatest extent possible.

CHECKPRINT (Errors and Omissions): A paper copy of the final plat submitted by the subdivider for review of errors and omissions, and compliance with Administrative Rules of Montana and conditions of approval by staff prior to submitting the final plat on mylar.

CITY COUNCIL: The governing body for the City of Billings, Montana.

CLUSTER DEVELOPMENT: A subdivision of land with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped (See Section 23-711 for example)

CONDOMINIUM: The ownership of single units with common elements located on property submitted to the provisions of 70-23-101, et seq., MCA. The term does not include townhome or townhouse.

COVENANT (DEED RESTRICTION): A limitation contained in a deed that restricts or regulates the use of the real property, and are not enforced by the governing body.

DEDICATION: The deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted (76-25-103, MCA).

PLANNING DIRECTOR: The Director of the Planning and Community Services Department or an authorized reviewing authority.

DIVISION OF LAND: The segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the Montana Subdivision and Platting Act. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land (76-25-103, MCA).

DRIVEWAY: A vehicular access serving no more than 2 lots or 5 dwelling units.

DWELLING UNIT: Any building or portion thereof providing complete, independent and permanent living facilities. A building designed exclusively for residential purposes, including single-unit, two-unit, and multiple-unit dwellings, but not including hotels or motel units, bed and breakfast guest rooms, boarding or lodging houses, tourist homes, or travel trailers and/or vehicles.

EASEMENT: Authorization by a property owner for another to use the property for a specified purpose, in which the owner agrees not to build, or otherwise obstruct or interfere with the specified purpose.

ENGINEER (REGISTERED PROFESSIONAL ENGINEER): A person licensed in conformance with the Montana Professional Engineers' Registration Act (67-37, MCA) to practice engineering in the State of Montana.

FLOOD: When water from any watercourse or drainage rises above the bank or moves outside the channel of that watercourse or drainage. (76-5-103, MCA).

100-YEAR FLOOD: A flood magnitude expected to recur on the average of once every 100 years, or a flood magnitude which has a 1% chance of occurring in any given year. (76-5-103, MCA).

FLOODPLAIN: The area adjoining the watercourse or drainage that would be covered by the floodwater of a flood of 100-year frequency (76-5-103, MCA).

FLOODWAY: The channel of a watercourse or drainage and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge the floodwater of any watercourse or drainage (76-5-103, MCA).

LAND USE PLAN: The City of Billings adopted land use plan and future land use map pursuant to 76-25-201, MCA.

LINEAR PARK: Corridors of protected open space managed for conservation and recreation purposes as designated by the governing body. They often follow natural land or water features and link nature reserves, parks, cultural features and historic sites with each other and with populated areas. These corridors may be privately or publicly owned.

LOCAL SERVICES: Any and all services or facilities that local government entities are authorized to provide.

LOT: A parcel, plot, or other land area created by subdivision or certificate of survey for sale, rent, or lease.

LOT MEASUREMENTS:

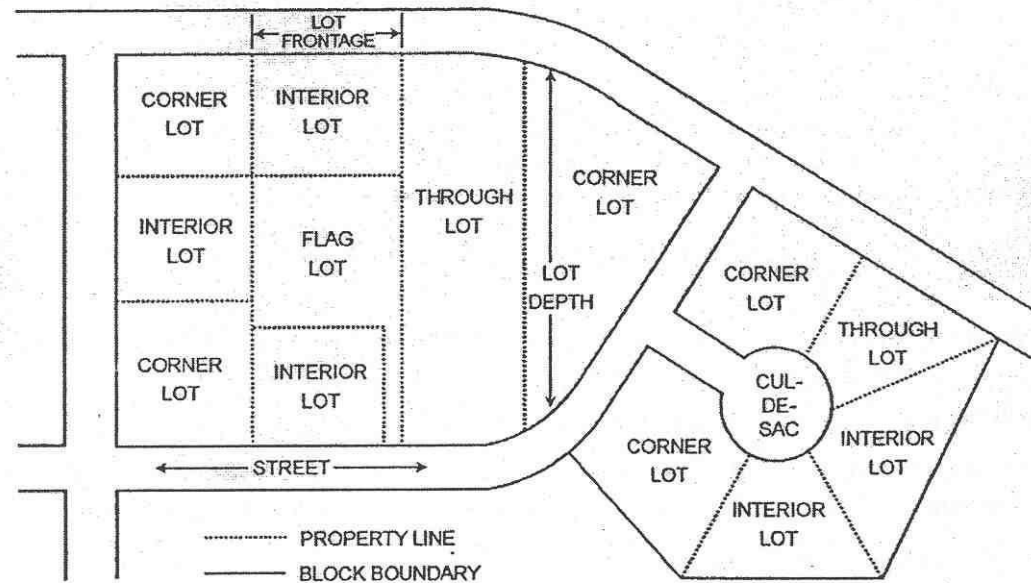
- a. Lot Depth -- The length of a line drawn perpendicularly to the front lot line and extending to the rear lot line.
- b. Lot Width -- The average width of the lot.
- c. Lot Frontage -- The width of the lot line that fronts a public street right-of-way or public road easement where the lot usually has a driveway access.
- d. Lot Area -- The area of a lot determined exclusive of street, highway, alley, road, or other rights-of-way.

LOT TYPES: (See Figure 23.200.1)

- a. Corner Lot: A lot located at the intersection of two streets.
- b. Interior Lot: A lot with frontage on only one street.
- c. Through or Double-Frontage Lot: A lot whose front and rear lines both abut on streets.
- d. Flag Lot
- e. Irregular Lot

MANUFACTURED HOME: A detached residential dwelling unit, constructed on a non-removable steel chassis or frame. Each transportable unit of a manufactured home has a red certification label on the exterior section and is built according to the Manufacture Home Construction and Safety Standards (HUD Code). A manufactured home does not include a mobile home or house-trailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976. (See MCA 15-1-101(m)).

Figure 23.200.1. Lot Types



MANUFACTURED HOME SPACE: A designated portion of a parcel of land designed for the accommodation of one manufactured home and its accessory buildings or structures for the exclusive use of the occupants.

MANUFACTURED HOME PARK: A single parcel of land or a lot that is designed or used for temporary or permanent spaces for 2 or more manufactured homes where either the space for a manufactured home or a manufactured home itself is available to the general public for residential use.

MANUFACTURED HOME PAD: That area of a manufactured home space that has been prepared for the placement of a manufactured home.

MASTER PLAN (Overall Plan; Sequential Development): The plan of a subdivision designed for a single tract and proposed to be subdivided in various stages, phases or configurations.

MEDIAN: A raised divider made of dirt, concrete or other material located in the middle of a street or road between travel lanes that is often landscaped (See BOULEVARD).

MOBILE HOME OR TRAILER: See MANUFACTURED HOME.

MODULAR HOME: A dwelling unit constructed in accordance with the standards set forth in the International Residential/Building Code and bearing the insignia of the State of Montana, applicable to site-built homes, and composed of components assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY MINIMUM STANDARDS: Minimum standards promulgated by the Montana Department of Environmental Quality, pursuant to Title 76, Chapter 4, Part 1, MCA.

MONUMENT (PERMANENT MONUMENT): Any structure of masonry, metal, or other permanent, durable material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.

MULTI-MODAL TRAIL TYPES:

- a. Bike Lane: A portion of the roadway that has been designated by striping, signage, and pavement markings for the preferential or exclusive use of bicyclists. (NACTO)
- b. Buffered Bike Lane: Conventional bicycle lanes that are paired with a designated buffer space separating the bicycle lane from the adjacent motor vehicle travel lane and/or parking lane (NACTO).
- c. Cut-through: A linking trail through the end of a cul-de-sac or from street to street between lots within a subdivision. It can encourage diverse types of transportation. It can reduce travel time and distance for pedestrians and bicyclists to areas in and out of neighborhoods, thereby reducing vehicle trips. By increasing connectivity with cut-throughs, it can reduce the time it takes to get from point A to point B and promote mobility for people in the subdivision.
- d. Neighborhood Bikeway: A local street or series of contiguous street segments that have been modified to function as a through street for bicyclists, while discouraging through automobile travel. (AASHTO Guide for the Development of Bicycle Facilities 4th Edition)
- e. Neighborhood Trail: A paved path located outside of the right of way of between 7-9.9 feet in width.
- f. Separated Bike Lane: A separated bike lane is a facility for exclusive use by bicyclists that is located within or directly adjacent to the roadway and is physically separated from motor vehicle traffic. A separated bike lane can be configured for one- or two-way travel. (Small Town and Rural Design Guide)
- g. Shared Lane Markings (also known as sharrows): Road symbol used to indicate a shared lane environment for bicycles and automobiles. The shared lane marking is a pavement marking with a variety of uses to support a complete bikeway network; it is not a facility type and should not be considered a substitute for bike lanes or other separation treatments where these types of facilities are otherwise warranted or space permits. Sharrows consist of a double chevron and a bike symbol. The Manual on Uniform Traffic Control Devices (MUTCD) outlines guidance for shared lane markings in section 9C.07. (NACTO)
- h. Shared Use Path: a multi-use facility outside the traveled way and physically separated from motorized vehicular traffic by an open space or barrier and either within the right-of-way or within an independent alignment. Shared-use paths are used by pedestrians (including skaters, users of manual and motorized wheelchairs, and joggers), bicyclists, and other authorized motorized and non-motorized users. (AASHTO Guide for Pedestrian Facilities 2nd Edition)
- i. Sidewalk: The portion of a street that is between the curb lines or the lateral lines of a roadway and the adjacent property lines and that is intended for use by pedestrians. Sidewalks are paved in concrete.
- j. Traffic Calming: Traffic Calming is the combination of mainly physical measures that reduce the negative effects of motor vehicle use, alter driver behavior and improve

conditions for non-motorized street users and area residents (ITE)

NATURAL ENVIRONMENT: The physical conditions that exist within a given area, including land, air, water, minerals, plants, animals, and objects of aesthetic significance.

NO ACCESS EASEMENT: A line designated on a subdivision plat for the purpose of restricting vehicular access from a public right-of-way to a lot.

OPEN SPACE: Any land which is provided or preserved for park or recreational purposes as designated by the governing body; conservation of land or other natural resources; historic or scenic purposes; or assisting in the shaping of the character, direction, and timing of community development. Open space may be privately or publicly owned and shall designate through the plat or an easement whether or not the land is publicly accessible.

PARK: Land that is dedicated to the City through (76-25-404 (I), MCA) or acquired through a donation or purchase by the City and designated on a plat as a park. In order to be platted as a park the land must be owned by a public entity and public access is allowed. A park must be classified as defined by the City of Billings Parks Master Plan.

PARKLAND AMENITIES: Amenities within a park allow passive or programmed space. Amenities will be considered if they add value to parkland. Below is a short, non-exclusive list of passive and active parkland amenities:

- Shade structure.
- Sensory playground equipment.
- Park benches and other park furnishings.
- Water play areas, splash pads.
- Picnic tables and trash cans.
- Challenge course.
- Slides, swings and ziplines.

PHASED DEVELOPMENT: Where a subdivision is platted in whole but developed in phases, a phasing plan shall be prepared and included in the Subdivision Improvement Agreement by the subdivider, and reviewed and approved by the City of Billings with the preliminary plat.

PLANNED NEIGHBORHOOD DEVELOPMENT (PND): See BMCC 27-800.

PLANNED UNIT DEVELOPMENT (PUD): A subdivision consisting of a planned mixture of land uses such as residential clusters, industrial parks, shopping centers, and/or

office building parks built in a prearranged relationship to each other and having open space and community facilities in common ownership or use (*See* BMCC 27-700).

PLANNING COMMISSION: The Billings Planning Commission.

PLAT: A graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

- a. Preliminary Plat: A neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnishes a basis for review by a governing body.
- b. Final Plat: The final drawing of the subdivision and dedication required to be prepared for filing for record with the County Clerk and Recorder containing all elements and requirements set forth in these regulations and the Montana Land Use Planning Act (76-25-410, MCA).
- c. Amended Plat: The final drawing of any change to a filed platted subdivision.
- d. Exempt Plat: The final drawing of a plat that is exempt from subdivision review but subject to survey requirements in accordance with (76-25-402 MCA).

PUBLIC HEALTH AND SAFETY: A condition of optimal well-being, free from danger, risk, or injury for a community at large, a small class of persons or a specific individual.

PUBLIC IMPROVEMENT: Any structure or facility constructed to serve the residents of a subdivision or the general public.

PUBLIC ROAD OR STREET: A road, street or easement that has been dedicated for public use.

RECREATIONAL CAMPING VEHICLE: A vehicle primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motor power or is mounted on or drawn by another vehicle.

RECREATIONAL VEHICLE PARK: Any area or tract of land containing two (2) or more spaces that are available for rent to the general public for parking or placement of temporary recreational vehicles. This term does not include a parcel composed of individually platted lots.

RECREATIONAL VEHICLE SPACE: A designated portion of a recreational vehicle park designed for the placement of a single recreational vehicle and the exclusive use of its occupants.

REVIEWING AUTHORITY: City-County Planning Division.

STATE: The State of Montana.

STREET TYPES: For purposes of these regulations, street types are defined using the Institute of Transportation Engineers Manual as follows:

- a. Alley: Minor rights-of-way used primarily for vehicular access to the back or side of properties that abut on and are otherwise served by public roads.
- b. Arterial: Any major carrier of traffic which generally terminates at both ends at a location that will produce more than 2,000 vehicles per day traffic, or upon which the nature of the traffic is such that more than 60% of the vehicles are using the street for mobility rather than land access. They are typically located no more than 1 mile apart.
 - 1. Principal Arterial: A street which serves the major centers of a metropolitan area, the highest traffic volume corridors, and the longest trip desires, and which carries a high proportion of the total urban area travel on a minimum of mileage.
 - 2. Minor Arterial: A street that interconnects with and augments the principal arterials, provides service to trips of moderate length at a lower level of travel mobility than principal arterials, and distributes travel to geographic areas smaller than those identified as principal arterials.
- c. Collector: A street that generally terminates at both ends at an arterial or collector but because of location, curvilinear design, or limited feeder area will not generally serve more than 2,000 vehicles per day, or the nature of the traffic is such that approximately 50% of the traffic is using the street for land access and 50% for mobility. They are typically located between arterial streets at no more than ½ -mile from an arterial street.
- d. Cul-de-sac: A street having only one outlet for vehicular traffic and terminating in a turn-around area.
- e. Frontage Access (Service Road): A local or collector street, usually parallel and adjacent to an arterial or major collector, which provides access to abutting properties and controls traffic access to arterials or collectors.
- f. Half-Street: A portion of the width of a street, usually located along the perimeter of a subdivision, the remaining portion of which street must be located on adjacent property if the street is to be fully constructed.
- g. Local Streets: A street or road having the primary function of serving abutting properties, and the secondary function of moving traffic.
- h. Loop: A local street which begins and ends on the same street, generally used for access to properties.

SUBDIVIDER: Any person or entity that owns or buys land, divides it into usable lots and develops or rents the lots, or sells the lots to others for development.

SUBDIVISION: A division of land or land so divided which creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold or otherwise transferred and includes any

re-subdivision and a condominium or townhome created in accordance with the Unit Ownership Act (70-23-101, et seq., MCA). However, condominiums or townhomes constructed on land divided in compliance with the Montana Land Use Planning Act are exempt from the provisions of the Act.

SURVEYOR (REGISTERED LAND SURVEYOR): A person licensed in conformance with the Montana Professional Engineer's Registration Act (Title 37, Chapter 67, MCA) to practice surveying in the State of Montana.

SURVEYOR (EXAMINING LAND SURVEYOR): A registered land surveyor duly appointed by the City of Billings or Yellowstone County to review surveys and plats submitted for filing.

SWALE: A drainage channel or depression designed to direct surface water flow.

TOWNHOME/TOWNHOUSE: Property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities (70-23-103(16)(a), MCA).

TRACT OF RECORD: An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the County Clerk and Recorder's office (76-25-103, MCA).

TRAFFIC CONTROL DEVICES: All signs, signals, markings, and other devices used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, pedestrian facility, or multi-use trail by authority of a public agency having jurisdiction.

TRANSPORTATION PLAN: Currently adopted Billings Urban Area Long Range Transportation Plan, or any newer transportation planning document adopted Transportation Policy Coordinating Committee (TPCC) for the Billings urban area.

UTILITY: A service to the public including, but not limited to, sanitary and storm sewers, water, electric power, gas, telephone, cable television, and other communication means.

VICINITY SKETCH: A map included with a site plan or placed on a plat that enables the viewer to clearly determine the location of a proposed subdivision in the City.

WILDLIFE: Non-domesticated animals.

WILDLAND-URBAN INTERFACE: Areas where wildland vegetation meets urban developments, or where forest fuels meet urban fuels (such as homes). These areas encompass not only the interface (areas immediately adjacent to urban development) but also the continuous slopes and fuels that lead directly to a risk to urban developments, and are generally mapped in the Yellowstone County WUI Community Wildfire Protection Plan.

WILDLIFE HABITAT: A place frequented by wildlife or a site where wildlife lives.

Article 23-300. SUBDIVISION REVIEW

PROCEDURES.

Section 23-301. Compliance with Local Regulations and State Law.

No subdivision of any lot, tract or parcel of land shall be undertaken; no street, sanitary sewer, storm sewer, water main, or other facilities in connection therewith shall be constructed, opened or extended for public use and travel, or for the common use of occupants of buildings except in strict accordance with the provisions of this Chapter and related state statutes.

Section 23-302. Preapplication

- A. **Preapplication Request.** The purpose of the preapplication meeting is to provide the subdivider with requirements of local subdivision regulations and the Montana Land Use Planning Act. An applicant may request a preapplication meeting prior to submitting a subdivision application. The preapplication review must take place no more than thirty (30) business days from the date that the Planning Director or designee receives a request for review with the required fee. The Planning Director or designee shall notify the requestor and any affected City Departments or other Agencies of the time of the meeting.
- B. **Preapplication Material.** At the time of request, the subdivider shall provide the Planning Director or designee with electronically submitted plans of the proposed subdivision for review and discussion. The plan should be legibly drawn to scale no greater than 1 inch = 400 feet (1:4,800), showing in simple form the layout of proposed features in relation to existing conditions.

The pre-application meeting shall not constitute approval of a preliminary or final plat. Rather, it shall be deemed an opportunity to provide an overview of state subdivision law, these local subdivision regulations, and other relevant local planning and code requirements that may apply to the subdivision application submitted.

Section 23-303. Preliminary Plat

- A. **Complete and Sufficient Application Review.** The subdivider shall submit one (1) electronic copy of the application including the preliminary plat and supporting documents to the Planning Director or designee for review accompanied by the applicable fee. After receipt of the electronic copy the Planning Director or designee shall notify the subdivider within ~~five (5)~~ twenty (20) working days that the application contains all information and materials necessary to complete the review of the application as set forth in these regulations. as to the completeness of the application. A complete application will include all those items listed online under "Preliminary Plat Requirements", where applicable, and any additional information identified at the pre-application meeting. If the Planning Director or designee determines the application is incomplete, the subdivider must correct the deficiencies and resubmit the application restarting the twenty working day timeline. The Planning Director or designee may review subsequent submissions of the application only for information found to be deficient during the original review of the application (76-25-408(5)(b), MCA). A determination that an application contains sufficient information for review does not ensure approval or conditional approval of the proposed subdivision and does not limit the ability of the Planning Director or designee to request additional information during the review process (76-25-408(5)(c), MCA).

1. **Survey Element Requirement.** Applicable information required in submittal of plats and supporting

documents shall be performed by or under the supervision of a registered land surveyor or professional engineer licensed to practice in the State of Montana, as their respective licensing laws allow.

2. **Content.** The preliminary plat shall submit all the applicable and complete documents listed in Exhibit 1 and online in “Preliminary Plat Requirements.”
3. **Copies.** The subdivider shall provide one electronic copy of all required documents for the preliminary plat to the Planning Director or designee. All plats shall be scaled to 24 inch by 36-inch in size as specified by the Planning Director or designee.

B. Initial Determination (Section 23-303.B. shall expire July 1, 2027.)

1. Once the Planning Director or designee determines that the application contains sufficient information for review, the Planning Director or designee shall make an initial determination if the proposed application, with or without variances or deviations from adopted standards is:
 - (a) in substantial compliance with the zoning and subdivision regulations, and;
 - (b) all impacts resulting from the development were previously analyzed and made available for public review and comment prior to the adoption of the land use plan, zoning regulations, and subdivision regulations.
2. If the Planning Director or designee determines that the application meets the requirements of Section 23-303.B.1, then the Planning Director or designee shall provide fifteen (15) working day public notice of its initial determination in accordance with Section 23-303.D. and Section 23-303.E.

C. Determination (Effective July 1, 2027)

1. Once the Planning Director or designee determines that the application contains sufficient information for review, the Planning Director or designee shall make a determination if the proposed application, with or without variances or deviations from adopted standards is:
 - (a) in substantial compliance with the zoning and subdivision regulations; and
 - (b) all impacts resulting from the development were previously analyzed and made available for public review and comment prior to the adoption of the land use plan, zoning regulations, and subdivision regulations.
2. If the Planning Director or designee determines that the application, with or without variances, does not meet the requirements in Section 23-303.C.1, then the Planning Director or designee shall follow the process outlined in Section 23-303.G.
3. If the Planning Director or designee determines that the application meets the requirements of Section 23-303.C.1, then the Planning Director or designee shall the Planning Director or designee shall issue a final written decision approving, approving with conditions, or denying the application within fifteen (15) business days.

D. Public Notice.

1. Public notice shall be mailed to adjacent property owners.
2. Notice shall be posted on the Planning Division website providing initial determination and materials for review.

3. Notice shall be publicly advertised once.

E. **Public Comment.** The public shall submit comment on or before the last day of the public comment period.

F. **Final Determination. (Section 23-303.E. shall expire July 1, 2027.)**

1. Unless public comment received on or before the last day of the comment period supports a determination that the proposed subdivision fails to meet one or both of the requirements in Section 23-303.B.1, the Planning Director or designee shall issue written findings stating the results of the public comment and a final written decision approving, approving with conditions, or denying the application within fifteen (15) business days.

G. **Does not meet requirements.**

1. A proposed subdivision of a site, with or without variances or deviations from adopted standards, must establish:
 - (a) Substantial compliance with the zoning and subdivision regulations; and
 - (b) That all impacts resulting from the proposed subdivision were previously analyzed and made available for public review and comment, including but not limited to the adoption, amendment, or update of the land use plan, zoning regulations, or subdivision regulations.
2. Compliance may be determined:
 - (a) Upon initial review of the planning administrator; or
 - (b) Upon evidence provided by public comment received under Section 23-303.B.2.
3. If compliance is not established, the Planning Director or designee shall:
 - (a) request the applicant to collect any additional data and perform any additional analysis necessary to provide the Planning Director or designee and the public with the opportunity to comment on and consider the lack of substantial compliance with the zoning and subdivision regulations and any new or significantly increased potential impacts not previously identified and considered in the adoption, amendment, or update of the land use plan, zoning regulations, and subdivision regulations;
 - (b) Provide public notice of the planning administrator's initial or revised initial determination in accordance with Section 23-303.D. and Section 23-303.E. a written comment period of fifteen (15) business days during which the public must have an opportunity to participate in and comment on the data collected and analysis performed.
4. After the public comment period, the Planning Director or designee shall issue written findings stating the results of the public comment and a final written decision approving, approving with conditions, or denying the application within fifteen (15) business days.

H. **Written Decision Contents.** The Planning Director or designee shall prepare a written decision evaluating the proposed subdivision and any requested variances for compliance with these regulations. The written decision shall contain:

1. Recommendation for approval, conditional approval including any conditions for mitigation measures, or denial of the subdivision application and preliminary plat;

2. Summary of the basis for the decision, including findings of fact which describe factual evidence and analysis of substantial compliance with the zoning and subdivision regulations and all impacts resulting from the development were previously analyzed and made available for public review and comment prior to the adoption of the land use plan, zoning regulations, and subdivision regulations;
3. A decision for approval or denial of any requested variances (based on review criteria for variances) including any conditions of approval, and a summary of facts forming the basis of the decision;
4. The preliminary plat approval shall be three (3) calendar years; and,
5. Copies of comments received.
6. Made available to the public via the Planning Division website.
7. Be provided to the applicant
8. Include information regarding the appeal process

I. Preliminary Plat Approval Period.

1. The approval or conditional approval shall be valid for not more than three (3) calendar years. At the end of this period the Planning Director or designee may, at the request of the subdivider, extend the approval once by written agreement.
2. Upon receipt of a request for an extension, the Planning Director or designee shall determine whether the preliminary plat remains in substantial compliance with the zoning and subdivision regulations. If the preliminary plat is no longer in substantial compliance with the regulations cited above, the extension shall not be granted, per MCA 76-25-409.
3. When considering a request for an extension of the preliminary plat approval period, the Planning Director designee may use the following criteria to evaluate the request:
 - a. Changes to the subdivision regulations since the original approval and whether the subdivision as originally approved is essentially compliant with the new regulations;
 - b. Progress to date in completing the subdivision as a whole and any phases;
 - c. Phasing of the subdivision and the ability for the existing development to operate without the delayed development;
 - d. Dependence of infrastructure development on the subdivision;
 - e. Duration of the requested extension;
 - f. Demonstrated ability of the subdivider to complete the subdivision;
 - g. Such other factors or criteria as deemed material in the discretion of the governing body.
4. After the preliminary plat is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval, providing the approval is obtained within the original or extended approval period.

J. Appeal Process. A decision of the City of Billings regarding a preliminary plat of a subdivision may be appealed as provided in 76-25-503, MCA.

Section 23-304 Final Plat.

A. Checkprint/Errors and omissions Review. Prior to submitting the final plat on mylar, a subdivider must submit draft electronic copies of all applicable items as required within the “Checkprint/Final Plat Submittal Requirements” (see Exhibit 2 and online) to the Planning Director or designee for review.

1. Copies of submitted documents will be available to reviewers electronically. Reviewing departments shall notify Planning staff of any changes required to conform to the conditions of final plat approval or local regulations and state law within ten (10) business days after receipt of the checkprint.
2. Planning staff shall notify the subdivider no later than fifteen (15) business days after receipt of any changes required. A red-lined copy of the checkprint shall be returned to the subdivider along with the reviewer’s comments

B. Final Plat Application Submittal and Review.

1. The final plat mylar application including all supplementary documents must be submitted to the Planning Director or designee at least 30 business days prior to the expiration of preliminary plat approval (See Exhibit 2 and online for “Checkprint/Final Plat Submittal Requirements”).
2. Within 10 business days of receiving the final plat application, the Planning Director or designee shall review the final plat and supplemental documents to ensure that all conditions and requirements for final plat approval have been met. The Planning Director or designee will not accept, begin processing, nor schedule any actions on a final plat submittal until a complete application and fee, and copies of the final plat have been received. Final plat applications will not be considered complete until all conditions of preliminary approval have been satisfied.
3. If the application is not complete, the Planning Director or designee will submit a written notice to the subdivider indicating the missing information. The subdivider is required to correct the final plat materials in accordance with preliminary plat approval.
4. Once the Planning Director or designee determines that the application is complete, staff shall prepare a report documenting the final plat application materials conform to the conditions of the preliminary plat.

C. Final Mylar Submittal. The subdivider shall submit one (1) electronic copy. The subdivider must also submit two (2) signed mylar originals of the final plat and original, wet signature versions of all required documents for recording. (See Exhibit 2 and online for “Checkprint/Final Plat Submittal Requirements”).

D. Governing Body Decision. Once the Planning Director or designee determines the final plat application is complete, the governing body shall examine the final subdivision plat and shall approve the document if it conforms to the conditions of the preliminary plat approval, or deny the plat. The governing body shall complete its review within 20 business days of the Planning Director or designee’s determination that the application is complete.

1. If the final plat is approved, the governing body shall certify its approval on the face of the final plat, see Appendix C. When applicable, a certificate of the governing body’s acceptance of any dedicated land, easements, or improvements shall be filed on the face of the final plat and/or on documents that accompany the final plat for recording.

- E. **Filing the Final Plat.** After receiving approval, the final plat may be recorded.
- F. **Amending Final Plats.** An amended plat is subject to the review procedures for subdivisions.
- G. **Public Improvements** shall be provided prior to the approval of the final plat. Except as provided in MCA 76-25-413.

Section 23-30. Amended Plats.

- A. **Required.** A division of lots within a platted subdivision filed with the County Clerk and Recorder that results in an increase in the number of lots, or that redesigns or rearranges six (6) or more lots must be reviewed in accordance with Section 23-300.

Section 23-305 Corrections or Adjustments to Plats, Conditions and Supporting Documents

- A. Minor adjustments may be made, in consultation with the appropriate agencies, prior to the filing of the final plat. Minor adjustments are those changes, which, in the opinion of the Planning Director or designee, do not affect the basic character of lots or blocks, do not affect the open space requirements or amount provided, and do not affect the original street design. Minor adjustments shall not change existing Conditions of Approval or require additional conditions. Minor adjustments may require that a new plat be drawn; however, they do not require that the plat be re-submitted for preliminary plat review.
- B. Major adjustments are those which, in the opinion of the Planning Director or designee, substantially alter the basic design, or change open space requirements or amount provided for the subdivision. Changes to conditions of approval placed on the preliminary plat shall be considered major adjustments. Any changes which constitute a major adjustment shall require that a new plat be drawn and the plat be re-submitted for preliminary plat review as specified in Article 23-300.

Article 23-400. DEVELOPMENT REQUIREMENTS.

Section 23-401. General.

All subdivisions must comply with the provisions of this Article, except where granted a variance pursuant to Section 23-1101, Variances, of these Regulations. The requirements contained in this Article apply to subdivisions within the City of Billings as outlined in Section 23-104 of these Regulations.

Section 23-403. Improvement Design.

Engineering and survey plans, specifications, and reports required in connection with public improvements and other elements of the subdivision required by the governing body must be prepared by a professional engineer or professional land surveyor as their respective licensing laws allow in accordance with the Montana Land Use Planning Act (MLUPA) and these Regulations. Subdivisions must meet the current Access Management Plan adopted by the City.

Section 23-404. Lots.

- A. **Regulation of Lots:** Each lot must contain a building site that can be designed to meet applicable building codes, site development standards, driveway slope standards, and zoning requirements of the Zoning Regulations.

B. **Dimensions, Orientation and Topography:** The lot size, depth, shape and orientation shall be appropriate for the location, contemplated use of the subdivision and the zoning of the property. Flag lots shall be prohibited except in cases where zoning districts allow flag lots.

Slopes of more than 25% are excessive for building sites and shall be subject to a geotechnical analysis. Areas within the subdivision with a slope of 25% or greater shall be identified on the face of the preliminary and final plats.

C. **Frontage:** Residential lots shall provide the minimum lot width as required by the existing or proposed zone, as defined in BMCC 27-300 and shall be on a public right of way or private easement. Lots in commercial and industrial subdivisions shall have a minimum lot width, as defined in BMCC 27-400, on a public right of way or private easement, or through a reciprocal access easement.

D. **Division by Rights-of-Way:** No single lot may be divided by a public road, alley, or access easement.

E. **Corner Lots:** Design of corner lots must meet the following requirements:

1. Corner lots must be of sufficient size to provide a building site while meeting the clear vision requirements specified in Section 27-618 of the Zoning Regulations.
2. All residential corner lots adjacent to a street identified as a Principal or Minor Arterial must have vehicular access only to an internal street in the subdivision identified as a Collector or Residential street.

F. **Double Frontage Lots:** Double frontage lots (See Figure 23.200.1.) are allowable where they are necessary due to topography and when a one (1) foot wide no-access easement is provided for separation of residential development from railroad or street rights-of-way.

1. Residential Areas: For any residential subdivision where an Arterial street abuts or runs through any portion of the subdivision, the subdivision plan shall provide for the rear lot line to be adjacent to the arterial street and provide a one (1) foot wide no-access easement to prevent vehicle access to the arterial street.
2. Commercial Areas: For any commercial subdivision where an Arterial street abuts or runs through any portion of the subdivision, the subdivision plan shall provide for shared accesses to the arterial street or access via internal roads with a one (1) foot wide no-access easement to prevent uncontrolled vehicle access to the Arterial street.

Section 23-405. Blocks.

A. **Size and Orientation Blocks:** Block Length, Section, and Perimeter shall be provided in accordance with Table 23-405.1.

TABLE 23-405.1 REQUIRED BLOCK DESIGN

Zone District	Block Length			Block Perimeter		Block Section	
	Max.	Min.	Preferred	Max.	Preferred	Max.	Preferred
N1/NX1	780'	160'	600'	1,900'	1,480'	797'	622'
N2	950'	160'	720'	2,200'	1,700'	960'	740'

N3	1,000'	200'	780'	2,400'	1,900'	1,029'	806'
NX2/NX3	700'	100'	500'	1,200'	800'	708'	510'
RMH	750'	200'	570'	2,000'	1,600'	777'	605'
NO/NMU	780'	160'	600'	1,900'	1,480'	797'	622'
CMU1	700'	160'	500'	1,900'	1,400'	720'	525'
CMU2	1,400'	300'	700'	4,200'	2,800'	1,432'	762'
CX	N/A	N/A	N/A	N/A	N/A	N/A	N/A
I1	N/A	N/A	N/A	N/A	N/A	N/A	N/A
I2	N/A	N/A	N/A	N/A	N/A	N/A	N/A
EBURD/CBD/DX	600'	300'	160'	1,800'	1,200'	622'	340'
Public 1-3	N/A	N/A	N/A	N/A	N/A	N/A	N/A

1. Block Length means the measurement along the property lines of all lots that share the same street frontage until another street intersects (see Figure 23-405.2.). A block length continues until the street frontage changes from one cardinal direction to another.
2. Block Perimeter means the aggregated measurement along all perimeter property lines contained within a Block (see Figure 23-405.3.).
 - a. Block Perimeter excludes portions of lots along a project boundary where connections cannot be made because of physical obstacles, such as prior platting of property, existing structures or other barriers, steep slopes, wetlands and other water bodies, railroad and utility rights-of-way, existing highway rights-of-way, and parks and dedicated open space (see Figure 23-405.4.).
3. Block Section measures the greatest straight-line distance between any two points around the perimeter of an area enclosed by streets (see Figure 23-405.5.).
4. Block Length and Block Perimeter preferred measurements are not minimums. Less than the preferred measurement is also acceptable if the design enhances the connectivity of the subdivision.
5. Breaks in Block Length or Block Section such as, a dedicated pedestrian right-of-way of at least 30 feet in width, or a dedicated public park or open space area with at least 30 feet of street frontage (see Figure 23-405.6.) can substitute for an intersecting street. Alleys and similar service corridors will not count as a break in the block perimeter.
6. When designing new roads and streets, curvilinear streets are still required to follow the basic block layout as outlined in Section 23-405.
7. When Block Lengths exceed 500 feet, traffic calming shall be included in the design.

Figure 23-405.2. Block Length

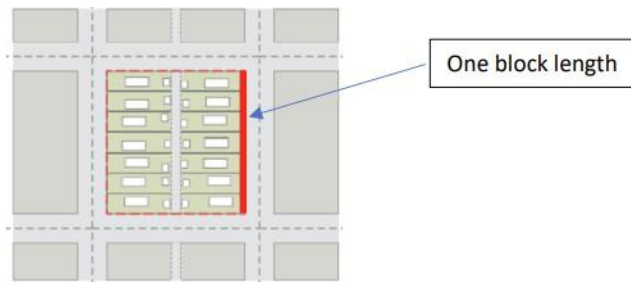


Figure 23-405.3. Block Perimeter



Figure 23-405.4. Block Obstructions



Figure 23-405.5. Block Section

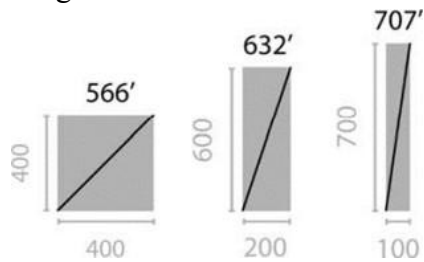
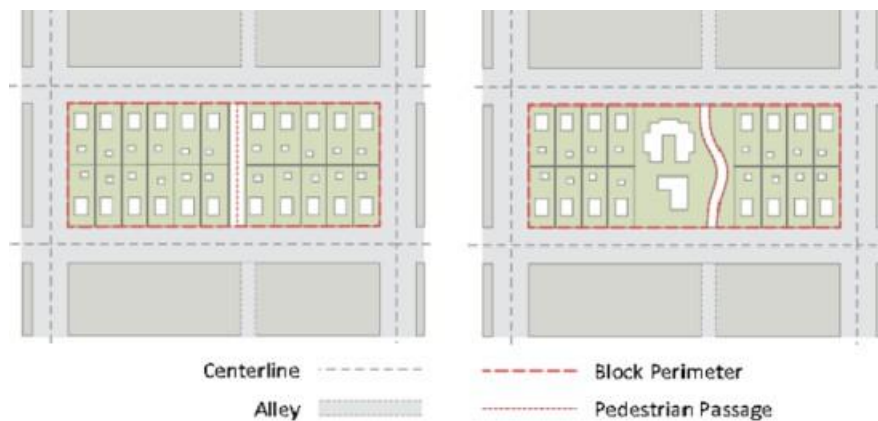


Figure 23-405.6. Breaks in Block Length



B. Rights-Of-Way for Internal Non-motorized Connections: Public rights-of-way for internal non-motorized connections within blocks will be required to provide circulation or safe access to schools, playgrounds, shopping, transportation and other community facilities. Pathways shall also be installed at the end of cul-de-sacs.

C. Block Numbering: All blocks shall be identified with Arabic numerals.

Section 23-406.

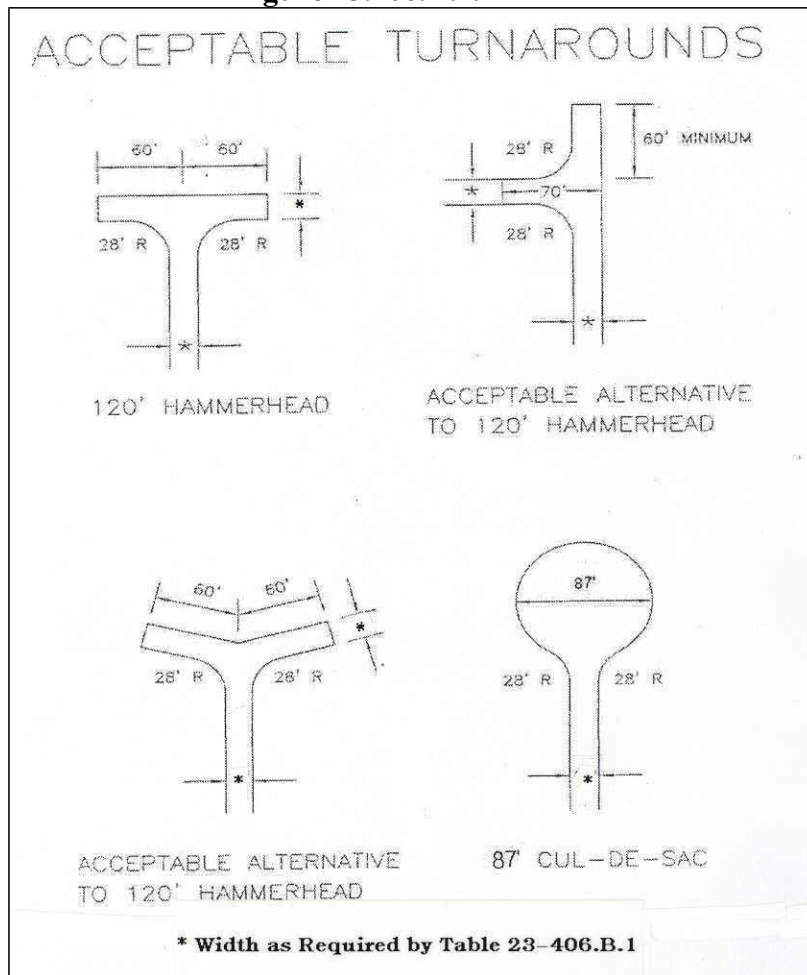
Streets and Roads.

A. Streets and Roads, General: The arrangement, type, extent, width, grade, and location of all streets shall conform to any adopted area plans including, but not limited to, the Growth Policy and Transportation Plan, and must be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed uses of the land to be served by them.

1. **Relation to Undeveloped Areas:** When a proposed subdivision adjoins undeveloped land, streets within the proposed subdivision shall be arranged to allow access to the adjoining undeveloped land. This may require multiple connections to multiple adjacent undeveloped parcels. The maximum distance between connections to undeveloped lands shall not exceed 600 feet. Streets within the proposed subdivision shall be constructed to the boundary lines of the tract to be developed, unless prevented by topography or other physical conditions or granted by a variance. A variance may not be requested to eliminate connectivity to any street proposed on the most recently adopted Functional Classification Map.
2. **Relation to Developed Areas:** The subdivider shall arrange the streets to provide for the continuation of streets between adjacent developed properties, to provide effective provision of emergency services and efficient provision of utilities. Such provision may be waived when prevented by topography or other physical conditions.
3. **Separation of Through and Local Traffic:** Whenever a subdivision abuts or contains an existing or proposed highway, Arterial street or Collector street, the subdivider may be required, as a condition of approval, to provide frontage roads, reverse frontage lots with a no-access strip preventing access along the rear property lines, planting or fencing screens, shared accesses, or other treatment as may be necessary to adequately protect residential properties and to separate through and local traffic.
4. **Distance between Parallel Right-of-Way:** Where a subdivision borders on or contains a railroad, limited access highway, canal, stream or ditch right-of-way, the subdivider may be required to provide a street or easement approximately parallel to and on each side of the right-of-way at a distance sufficient to allow for the operations and maintenance of the intervening land. Such distances shall also be determined with regard for the requirements of approach grades and future grade separation.
5. **Second Access:** To facilitate traffic movement, the provision of emergency services, and the placement of utilities, all major subdivisions and subsequent minor subdivisions shall provide at least two means of vehicular access built to the standards of this Chapter and designed to ensure public health and safety.

- a. Exceptions to the requirement to provide at least two means of vehicular access may be made for major and subsequent minor subdivisions that meet all of the following criteria:
 1. Access is provided by a cul-de-sac with an approved turnaround that is 1,000 feet or less in length; and
 2. The subject cul-de-sac is served by a local, collector, or arterial street that is not classified as a dead-end street; and
 3. The subject cul-de-sac serves no more than 20 lots, and no more than 30 dwelling units, when residential development is proposed.
 - b. Provision of a second means of vehicular access may be required for any subdivision when deemed necessary for public health, safety or welfare.
 - c. When not otherwise exempt, if a second means of vehicular access built to City street standards cannot be provided for reasons of topography or other physical conditions, the subdivider shall provide an emergency access road, built to the standards detailed in Section 23-413 of these Regulations.
 - d. Variance requirement in relation to Emergency Access Roads (EAR). If a full city standard access road is required, and the developer proposes to build an EAR, a variance shall be required showing the hardship encountered.
6. Dead-end Roads: Dead-end access roads or driveways in excess of one hundred fifty (150) feet shall not be permitted without an approved turnaround at the terminus. Where streets terminate, the subdivider shall provide a “cul-de-sac” or “hammerhead- T” turnaround conforming to the design standards outlined in Figure 23.406.A.1. The maximum allowable length of a dead-end road is one thousand (1,000) feet. In cases where a dead-end road may be extended in the future, a right-of- way easement or dedication will be required to be provided.

Figure 23.406.A.1.



7. Half Streets: Half streets are prohibited except when they are essential to the subdivision, are beneficial to the City, or when the City Public Works Department is satisfied that the other half of the street will be dedicated to the public when the adjoining property is subdivided. When an existing half street is adjacent to a tract to be subdivided, the other half of the street must be platted within the new subdivision.
8. Street Continuity: Streets that are a continuation of streets in contiguous territory shall be so aligned as to assure that their centerlines shall coincide and shall have matching names. In cases where straight continuations are not physically possible, such centerline shall be continued by a centerline offset of not less than one hundred twenty-five (125) feet.
9. Tangent for Reverse Curves: A tangent shall be introduced where necessary as determined by City Engineering between reverse curves on arterial and collector streets.

10. Deflected Street Lines to be Curved: When continuing street lines deflect from each other at any one point by more than five (5) degrees, they shall be connected by a curve with a radius adequate to ensure adequate stopping sight distance at the center line of a street in accordance with the most current American Association of State Highway and Transportation Officials (AASHTO) Manual guidelines.
11. Intersections: Local streets shall be laid out to intersect as nearly as possible at right angles and no local street shall intersect any other local street at less than eighty (80) degrees. Such angle of eighty (80) degrees or greater shall be retained for at least fifty (50) feet back from the intersection. Any street intersection involving an arterial and/or collector street, shall intersect at ninety (90) degrees and shall be retained for at least one hundred (100) feet back from the intersection. Not more than two (2) streets shall intersect at any one point unless specifically approved by the City Public Works Department.
12. Lot Corners at intersections: Lot corners at all street intersections shall be designed to accommodate public infrastructure and the requirements of the American Disabilities Act (ADA).
13. Sight distance: The alignment of all streets and roads must provide adequate sight distances in accordance with Section 27-1802.H, Visibility at Intersections, Billings Zoning Code.
14. Approach Permits: The subdivider shall obtain the applicable approach or curb cut permits for all new accesses to City streets. The subdivider shall obtain an approach permit approved by the Montana Department of Transportation (MDT) for any vehicular access onto a state highway.
15. Street/Road Names and Lot Addresses: New streets/roads aligned with existing streets/roads shall have the same name as the existing street/road. All new street names and lot addresses shall be approved by the City GIS / Land Management prior to final plat approval in order to avoid duplication and confusion with names of existing roads.
16. Street/Road Signs and Traffic Control Devices: Street or road signs and traffic control devices of the size, shape, and height approved by the governing body must be placed at all intersections. Traffic control devices must conform to the standards contained in the Manual on Uniform Traffic Control Devices.
17. Central Mail Delivery: When required by the United States Postal Service, the developer shall provide a cluster/gang mailbox area for mail delivery. All access provided to these mail delivery systems shall be ADA compliant.

B. Streets and Roads Design and Improvement Standards:

1. General: The design and improvement standards contained in this section shall apply to all construction or reconstruction of streets and roads, public or private, dedicated to the public within the City limits.
2. Improvement Design: All street improvements shall be designed by and constructed under the supervision of a professional Civil Engineer, registered in the State of Montana, and shall meet or exceed the right-of-way and construction standards for the type of street to be constructed found within these regulations, the adopted Transportation Plan, and adopted policies of the City Public Works Department.
3. Plans and Specifications approval: Plans and specifications for all streets shall be provided to and approved by City Engineering. The subdivider shall provide professional engineering services for construction inspections and post-construction certifications. The plans and specifications shall be approved by the City Engineer prior to initiation of any street improvement construction. In addition, a copy of the road plans and specifications for any emergency access roads shall be reviewed and approved by the City Fire Department prior to construction.
4. Traffic Impact Study: At the time of preliminary plat submittal, a traffic impact study shall be prepared and stamped by a Professional Engineer and approved by the City Engineer for any new residential, institutional, commercial or industrial subdivision or development which will generate one thousand (1,000) or more vehicle trips per day or 100 peak-hour trips, as referenced in the Trip Generation Report of the Institute of Transportation Engineers. The Professional Engineer shall certify "that the Traffic Impact Study has been prepared by me or under my immediate supervision and that I have experience and training in the field of traffic and transportation engineering." The report shall be stamped by a Professional Traffic Operations Engineer for generation of five thousand (5,000) or more vehicle trips per day.

The traffic generation threshold shall apply to any development or cumulative phases of development.

A vehicular trip is defined as a one-way journey of a person in an automobile or a transit vehicle. If the study indicates a need for the installation of traffic signals, intersection improvements, or other off-site street improvements to facilitate traffic flow generated by the entire proposed development, the identified improvement shall be installed or a financial contribution for the subdivision's proportional share shall be made prior to final plat approval of the subdivision, as determined by City Engineering. The financial contribution for proportionate share shall be by cash contribution, traffic system development fee, or traffic impact fee, whichever is in effect at the time of final plat approval. The applicant shall meet and discuss elements of the study with City Engineering to determine the general extents of the study at the time of the pre-application meeting

All developments generating less than 100 peak-hour trips or 1,000 average daily trips shall analyze and design for the following basic street design elements. The applicant shall review these elements with City Engineering at the time of a preapplication meeting to determine what elements may apply. In addition, the applicant shall provide an explanation of how each element applies or does not apply, and that summary shall be included with the preliminary plat or development application.

- a. Location of approaches (access management);
- b. Sight distance review;
- c. Turn lane analysis;

- d. Connectivity and circulation review;
- e. On-street parking impacts;
- f. Review of impacts to adjacent property streets, accesses, and intersections with site generated pedestrian and vehicular traffic;
- g. Truck circulation, including solid waste pick-up;
- h. Location and type of traffic-control devices;
- e. Traffic calming.

City Engineering reserves the right to require applicant analysis and review of a specific traffic impact due to known traffic or adjacent access issues for a subdivision or development generating less than 100 peak-hour or 1,000 trips per day.

- 5. Street and Road Dedication: All streets providing access to the proposed subdivision shall be dedicated to the public.
- 6. Right-of-Way and Street Widths: Street right-of-way and surface widths shall be provided as shown in Table 23.406.B.1, below. Street widths (b-b curb width) and lane widths shall be determined and approved by City Engineering. Right-of-Way dedications at intersections shall be determined by City Engineering, and may include chamfered corners in order to accommodate ADA compliance or a future roundabout.

**Table 23-406.B.1. Required Dedications and Street Improvements for
Subdivisions within the City Limits**

Street Type	Right-of- Way	B-B Curb Width Range	Parking Width***	Boulevard Width	Sidewalk Width	Shared Use Path Width
Principal Arterial	120'	*	---	10'	5' **	10'
Minor Arterial	100'	*	---	10'	5' **	10'
Collector	74'	39'-53'*	8'	5'	5'	
Commercial Local Access	70'	39'-45'*	8'	5'	5'	
Residential Local Access	56'	34' min. §	n/s	5'	5'	
Cul-de-Sac 100-1000	56'	34' min.	n/s	5'	5'	
Cul-de-Sac <100 feet	40'	29' min.	n/s	---	---	

* As approved by City Engineering.

** Sidewalk is 5' on one side with a 10-foot multi-use trail on the other side.

*** Lane Width measured from lip of curb. Parking width measured from face of curb.

§ Street sections that (a) do not require parking or allow for parking on both sides, (b) must be signed no parking, and (c) are approved by City Engineering, City Planning, and City Fire Marshal, may be reduced to 24-feet back of curb to back of curb. For example, a street through a golf course that is fronted by a golf course on both sides or an entry road into a subdivision.

§ Street sections with less than 120 average daily trips (ADT), for local residential streets with two street connections or street sections, or that have a block length of 300-feet or less may reduce the back of curb to back of curb width street requirement to 31-feet.

§ Street sections that (a) do not require parking or allow for parking on one side, (b) must be signed no parking, and (c) are approved by City Engineering, City Planning, and City Fire Marshal, may be reduced to 29-feet back of curb to back of curb. For example, a street that is fronted on one side by a golf course, drainage, or ditch.

7. Alleys: Proposed alleys in both residential and commercial subdivision shall meet the following standards:

- a. The width of an alley shall be a minimum of twenty (20) feet.
- b. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be designed to permit single unit truck movement.

- c. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the end.
8. Grading/Cut and Fill: All streets and alleys within or adjacent to the subdivision shall be excavated or filled to the grade established and shall provide for surface water drainage as specified by City Public Works according to City specifications.
9. Base Construction: The type of base required will vary depending on the nature of the existing material and with the particular type of traffic to be accommodated, and shall be approved by City Public Works according to a geotechnical analysis.
10. Street Surfacing: A pavement surface shall be required on all streets as specified by City Public Works.
11. Street Grades: All street grades shall conform to the requirements of the City. Street grades shall not exceed the following, with due allowance for reasonable vertical curves and intersection treatment. Street centerline horizontal curves shall be designed for the following maximum speeds:

Street Type	Percent Grade	Speed (M. P. H.)
Collector	7	25-35
Local Access	12	25

12. Curbs and Gutters: Standard integral curb and gutter shall be placed on all arterial, collector and commercial streets. Standard integral curb and gutter is required on local residential streets, but ribbon curb may be approved by City Engineering as part of the storm drain design for the subdivision.
13. Sidewalks: Boulevard-style sidewalks shall be installed on both sides of all streets, except cul-de-sacs less than one hundred (100) feet in length. Arterial and Collector streets may have a multi-use trail on one side in lieu of one of the required boulevard sidewalks. City Engineering may recommend to the City Council that it waive or modify the requirement for boulevard walks on both sides of a local residential street when the subdivision constructs an approved multi-use bicycle/pedestrian path connected and ADA accessible to all lots in combination with or in lieu of sidewalks. Required sidewalk and boulevard widths shall follow those listed in Table 23-406.B.1, above.
14. Street Lights: Street lights shall be installed within residential subdivisions. Residential street lights shall be designed by a licensed professional engineer in accordance with the American National Standard Practice for Roadway Lighting RP- 8, current edition.
 - a. New Street Lighting:
 1. Residential Light Fixture Configuration: Street light fixtures installed after the effective date of these regulations shall be equipped with full cutoff optics,

and positioned to minimize any glare source and not create light spillover.

2. Mercury Vapor Bulbs or Lamps: Mercury Vapor bulbs or lamps may not be used in Residential street lights installed after the effective date of this ordinance. LED type luminaires shall be utilized in new street lights.
 3. Residential Street Light Mounting Height: Residential Street Light fixtures installed after the effective date of this ordinance shall not be mounted higher than 30 feet above grade.
 4. Exceptions to the requirements of 23-406.B.14.
 - a. Traffic signals and other traffic safety and control devices
 - b. Historic streetlights
15. Access Driveways: Access driveways to new lots shall be allowed as regulated by the City's Curb Cut Regulations found in Article 6-1208, BMCC.
16. Permanent cul-de-sac streets may not represent more than 20% of total roadway miles in a subdivision unless approved by a variance.
- a. Exceptions to this do not require a variance but can be approved administratively. Exception provisions are:
 1. Infill projects where a dead-end cul-de-sac is the only viable road option.
 2. Long narrow lots that are not wide enough for more than a single road that is less than 1,000 feet long. Future connections to adjacent properties shall be provided as outlined in Section 23-406.A.1. and Section 23-406.A.2.
 3. Topography that does not allow for a grid system as outlined in the subdivision regulations.
 - b. Developments with cul-de-sacs must provide non-motorized access easements that connect the ends of these streets with each other or provide non-motorized access to existing or reasonable expected future streets, schools, shopping, parks, trails or open space, bus stops and community facilities.

C. **Multi-Use Trails, General:** All subdivisions must be reviewed for compliance with the currently adopted Active Transportation Plan to provide multi-use trail and greenway corridors for safe, convenient non-motorized transportation routes throughout the City and County.

1. To comply with the currently adopted Active Transportation Plan, all subdivisions shall provide a thirty (30) foot wide multi-use trail easement across the property if:
 - a. The currently adopted Active Transportation Plan indicates that a proposed multi-use trail corridor crosses the subdivision property;

2. If the currently adopted Active Transportation Plan indicates that a proposed trail crosses the subdivision property, and a segment of the trail has already been provided on adjacent property, then the subdivision shall connect the trail at the property lines to provide for a continuous trail corridor.
3. Trail infrastructure identified and designated as Neighborhood Bikeways, Bike Lanes, Shared Use Path in the currently adopted Active Transportation Plan are required to be constructed by the developer when the trail is in the adjacent right of way or within the development itself. This is considered a public improvement.

Section 23-411.

Watercourse and Irrigation Easements 76-25-404(1)(d)(3)

A. Easements for irrigation facilities WITHIN the subdivision: Easements are required to be shown on the face of the preliminary and final plats for all drainage ways, irrigation canals/ditches and their laterals, and below-ground pipelines that traverse the property to be subdivided, providing for irrigation within the subdivision, except as noted in Section 23-411.B., below. In addition, an easement document shall be filed with the final plat. The easements provided shall meet the following standards:

1. Easements shall be provided in locations of appropriate topography and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or below ground pipelines for the delivery of water for irrigation to persons and land legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
2. Easements of a sufficient width to allow for construction, repair, maintenance, and inspection of the ditch shall be provided. The easement width shall be based on the policy of the appropriate irrigation district; and
3. The easement document shall prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the water users.
4. Irrigation or ditch easements may be located within parkland but shall not be used to satisfy parkland dedication requirements.

B. Exclusion of easement requirements for irrigation within the subdivision: The subdivider need not establish irrigation easements as provided in Section A. above if one of the following is met:

1. The average lot size in the proposed subdivision will be one acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, notifying potential buyers that lots within the subdivision are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable to the lots; or
2. The water rights are removed from the property being subdivided or evidence is provided by the subdivider that the appropriate legal or administrative process has been initiated to

remove the water rights from the land within the subdivision. Furthermore, the fact the water rights have been or will be removed from the land within the subdivision shall be denoted on the preliminary plat. If the removal of water rights has not been completed at the time the final plat is filed, the subdivider shall provide written notification to prospective buyers of the subdivider's intention to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

C. Easements through the subdivision for the benefit of downstream water users:

Easements are required to be shown on the face of the preliminary and final plats for all drainage ways, irrigation canals/ditches and their laterals, and below-ground pipelines on the property being subdivided that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights. In addition, an easement document shall be recorded with the final plat. The easements provided shall meet the following standards:

1. Easements shall be provided in locations of appropriate topography and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or below ground pipelines for the delivery of water for irrigation to persons and land legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
2. Easements of a sufficient width to allow for construction, repair, maintenance, and inspection of the ditch shall be provided. The easement width shall be based on the policy of the appropriate irrigation district; and
3. The easement document shall prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the water users.

D. Additional Provisions:

1. The realignment or relocation of active irrigation ditches or pipelines is discouraged. If an irrigation facility is proposed to be realigned or relocated, the developer shall receive written permission of the appropriate irrigation district and/or water user and the subdivider's Professional Engineer shall certify prior to final plat approval that the water entering and exiting the realigned or relocated irrigation facility is the same quality and amount of water that entered or exited the facility prior to realignment or relocation.
2. New storm water generated from a subdivision shall not be discharged into an irrigation facility unless the subdivider receives written approval from the appropriate irrigation district and/or water user prior to final plat approval.

Section 23-412.

Disposition of Water Rights (76-25-404(1)(c)(i), MCA).

The subdivider shall submit evidence with the final plat indicating that either A. and B., below, or C., below, has been provided:

- A. Reservation and transfer of water rights:** The subdivider shall reserve all of the water rights on the land to be subdivided and transfer these water rights to a single entity for use by landowners within the subdivision who have a legal right to the water; and

- B. **Establish landowner's water use agreement:** If the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide for the use of a water right on the subdivision lots, the subdivider shall establish a landowner's water use agreement administered through a single entity. This agreement must specify how the water rights will be administered and describe the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
- C. **All rights severed and granted to the City:** All surface water rights and/or ditch shares shall be severed from the land proposed for subdivision and granted to the City.

Section 23-413. Fire Protection Requirements.

To ensure a reasonable level of fire protection and life-safety for the public and firefighters, fire apparatus access roads and an approved water supply capable of providing the required water flow for fire protection shall be provided in accordance with this section and the adopted fire code to all premises upon which facilities, buildings, or portions of buildings are hereafter constructed or moved into the jurisdiction.

A. **Definitions.**

Approved: Acceptable to the fire department having jurisdiction.

Fire Department having jurisdiction: The Fire Department or Fire District serving the area in which the subdivision is located.

- B. **Major, Minor, and Subsequent Minor Subdivisions:** For all subdivisions, the subdivider shall provide the following minimum mechanism for fire suppression: A pressurized fire hydrant system meeting the flow requirements of the adopted Fire Code, National Fire Protection Association (NFPA) 1142, and the City of Billings Public Utilities Department Rules and Regulations.
- C. **Emergency Secondary Access Roads:** In the event that an emergency secondary access road is approved, through the variance process, as a means of providing a second access to a subdivision, as required by Section 23-406.A.5. of these Regulations, it shall be built to the following standards:
1. Emergency access roads shall be designed to a minimum unobstructed surface width of not less than twenty (20) feet and shall be constructed to support a forty (40) ton vehicle with a surface that provides all weather driving capabilities. The road shall be constructed to City standards. The emergency access road shall be maintained throughout the year including the removal of snow and ice. Where required by the Fire Department having jurisdiction, gates or other approved barricades shall be required at either end of the road to restrict through traffic. A sign shall be fixed to each gate in a conspicuous manner. The sign shall read "EMERGENCY ACCESS ONLY" using black letters not less than two (2) inches wide and six (6) inches high on a white retro reflective background.
 2. Prior to construction, a cross-sectional design of the road including location, section, surfacing, and drainage, and design of gates or barriers shall be submitted to and approved by the Billings Fire Department and the City Engineer's Office. The storm drain design shall accommodate runoff during a ten (10) year storm event to ensure that there is no blockage of the roadway in the event of an emergency. The drainage shall not encroach into the travel way.

3. Emergency access roads will be assigned a name by City GIS / Land Management. In order to ensure the roads are entered into and reflected on the County GIS mapping system, the road shall be shown on the plat along with the name assigned to the road. Emergency access roads will not have conventional street signs identifying them by the assigned name.

Two (2) sets of final plans showing corrections/revisions after review and approval shall be submitted to City GIS / Land Management. City GIS will forward one (1) set of plans to County GIS to ensure that the emergency access road and road name are entered into the GIS mapping system.

Section 23-414. Flood Hazard Evaluation.

If any portion of a proposed subdivision is within the floodway of a flood of one hundred year frequency as defined by 76-5-103(9), MCA and the Federal Emergency Management Agency (FEMA), or deemed subject to flooding by the City, or if any portion of a proposed subdivision is within two thousand (2,000) horizontal feet and less than twenty (20) vertical feet of a live stream draining an area of twenty-five (25) square miles or more, the flood hazard evaluation criteria found in Appendix B shall be applied, as applicable.

Article 23-500. GUARANTEE OF PUBLIC IMPROVEMENTS.

Section 23-501. Subdivision Improvements Agreement.

Prior to granting approval of the final plat by the governing body, the subdivider shall:

1. Have installed all of the required improvements as stipulated in these regulations; or
2. Prior to receiving approval of the final plat, provide a financial guarantee in accordance with Section 23-502 and enter into a written subdivision improvement agreement (SIA) with the governing body guaranteeing the construction and installation of all required improvements in conformance with all policies, standards and ordinances adopted by the City.
 - a. The agreement shall stipulate terms including, but not limited to:
 - i. which type of security arrangements acceptable to the governing body the subdivider elects to use;
 - ii. the time schedule acceptable to the City;
 - iii. the subdivider's plans for accomplishing the required improvements; and
 - iv. an agreement that the subdivider shall guarantee all improvements for a period of two years from the date of acceptance by the City.

Section 23-502. Security Guarantee. (76-25-413, MCA).

The subdivider shall provide a monetary security guarantee from the following listed methods in the amount of one hundred twenty-five (125) percent of the estimated total cost or actual construction contract amount of installing all required improvements including engineering and administration fees, as estimated by a Professional Engineer and approved by the Public Works Department.

A. Escrow account. The subdivider shall deposit cash, or other instrument readily convertible

into cash at face value, either with the City, or in escrow with a financial institution. The use of any instrument other than cash, and in the case of an escrow account, the financial institution with which the funds are to be deposited, shall be subject to the approval of the governing body or designee. In the case of an escrow account, the subdivider shall file with the City an agreement between the financial institution and the subdivider guaranteeing the following:

1. That the funds of the escrow account shall be held in trust until released by the governing body or designee and may not be used or pledged by the subdivider as security in any other matter during that period; and
2. That in the case of a failure on the part of the subdivider to complete the improvements, then the financial institution shall immediately make the funds in the account available to the City for use in the completion of those improvements.

B. **Irrevocable letter of credit.** The subdivider shall provide, from a financial institution or other reputable institution subject to the approval of the governing body or designee, an irrevocable letter of credit. This letter shall be deposited with the City and shall certify the following:

1. That the creditor does guarantee funds of the required amounts, as estimated by the subdivider and approved by the Public Works Department, for completing all required improvements; and
2. That, in the case that the subdivider fails to complete the specified improvements within the required time period, the creditor shall pay to the City immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter; and
3. That the letter of credit may not be withdrawn, or reduced in amount, until released by the governing body or designee; and
4. That the letter of credit shall be renewed from year to year until such time the improvements are completed.

C. **Bond.** The subdivider shall provide a surety bond to guarantee the funds to complete improvements, subject to any requirements of the bonding company. The bond shall be payable to the City and shall remain in effect until the improvements have been completed and accepted by the City. The subdivider shall bear all costs associated with the provision of the guarantee.

D. **Phased Development.** For phased developments, the phasing plan shall be included in the SIA and shall describe which lots are included in each phase, and what improvements shall be completed with each phase. Improvements included in the first phase shall be constructed or guaranteed using one of the acceptable monetary security guarantees prior to final plat approval by the governing body. Lots within subsequent phases shall be restricted from being transferred or developed, and a "Restrictions on Transfers and Conveyances" contract shall be entered into for subsequent phases by the subdivider and the governing body and shall be filed with the final plat documents with the Clerk & Recorder.

A release on the restrictions on transfers and conveyances may be filed with the Clerk & Recorder only after the necessary improvements for each particular phase are constructed,

approved and accepted by the City, or guaranteed using one of the acceptable monetary security guarantees.

The subdivider shall set a future date that each phase is proposed to commence not exceeding twenty (20) years. For a period of five (5) years after approval of the phased preliminary plat, the subdivider may apply for final plat of any one or more phases following the process set forth in Section 23-304.

After five (5) years have elapsed since approval of a phased preliminary plat, the Planning Director or designee shall review each remaining phase to determine if a phase may result in new or significantly increased potential impacts that have not been previously identified or considered in the adoption of the land use plan, zoning or subdivision regulations, or review and approval of the phased preliminary plat using the criteria within Section 23-303.I. If the planning administrator identifies any new or significantly increased potential impacts not previously identified and considered, the planning administrator shall proceed as set forth Section 23-303.G.

- E. **Provision for security requirement to ensure construction of public improvements.** The subdivider may provide a monetary security guarantee by any other method specified in 76-25-413, MCA, that is also acceptable to the governing body. In all circumstances the guarantee method shall provide the City of Billings as the beneficiary.

Section 23-503. Reduction of Guarantees.

In those cases where improvement guarantees have been made as provided in Section 23-502, the amount of the guarantee shall be reduced upon installation and acceptance by the City of the required improvements. The amount of the reduction shall not exceed the percentage that the accepted improvements made up of all originally required improvements.

Section 23-504. Release of Guarantee.

Upon completion of required improvements by the subdivider and acceptance of them by the City, all in conformance with this Chapter, the City shall authorize the release of any remaining portion of the improvement guarantee of ninety percent (90%) of the original amount. The remaining ten percent (10%) will be released after any deficiencies are corrected after the two- year warranty inspection. The acceptance of improvements by the City shall initiate the two- year warranty period.

**Article 23-600. DEVELOPMENTS PROVIDING MULTIPLE SPACES FOR RENT OR
LEASE FOR RECREATIONAL VEHICLES, MOBILE HOMES,
AND MANUFACTURED HOMES**

Section 23-601. **Development subject to this Section must follow requirements in BMCC 27-1619.**

Article 23-700. CLUSTER DEVELOPMENTS

Section 23-702. **Definitions.**

For the purposes of this Article the following definitions shall apply:

Cluster Development: A Cluster Development is a subdivision creating five or more lots clustered in a group that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.

Master Plan: A master plan is a site plan for a Planned Neighborhood Development that shows lots, blocks, streets, alleys and areas for various land uses including open space within the development. The master plan shall be part of the subdivision approval and any significant change to such master plan shall be considered an amended subdivision.

Section 23-707. **Ownership and Management of Open Space.**

A. Ownership of Open Space. Open space shall be owned by one of the following entities:

1. The open space may be dedicated to the public upon acceptance of the open space, which shall be at the discretion of the governing body, as recommended by the City's Park and Recreation Department's staff. Open space must allow public access through a plat dedication or easement; or
2. A Homeowners' Association representing residents of the subdivision may own the open space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The Homeowners' Association shall have lien authority to ensure the collection of dues from all members. Open space owned by a Homeowners' Association must indicate through a plat dedication or easement, whether or not there is public access to the open space. The park will display signs indicating public or private use.

B. Management Plan. The applicant shall submit a Plan for Management of Open Space and Common Facilities (Management Plan) that:

1. Allocates responsibility and guidelines for the maintenance and operation of the open space and any facilities located thereon, including provisions for ongoing maintenance as provided in subsection 23-707.C, below, and for long-term capital improvements;
2. Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the open space and outlines the means by which such funding will be obtained or provided;
3. Provides that any changes to the Management Plan be approved by the Planning Department, or in the case of publicly accessible open space, approved by the Parks and Recreation Department; and

4. Provides for enforcement of the Management Plan.

C. Maintenance.

1. Open space dedicated to the public shall be maintained according to the Management Plan by a Park Maintenance District (PMD) to be established prior to final plat approval.
2. Maintenance of open space owned by a Homeowner's Association shall be the responsibility of the Homeowner's Association. In the event the party responsible for maintenance of the open space fails to maintain all or any portion in reasonable order and condition the City of Billings may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the Homeowners' Association, or to the individual property owners that make up the Homeowners' Association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

Article 23-800. CONDOMINIUMS AND TOWNHOMES.

Section 23-801. Condominium and Townhome or Townhouse Development.

- A. Exemptions.** All condominium, townhome, or townhouse developments are subject to the terms of these Regulations and the Montana Land Use Planning Act (76-25-402 (1)(I), and 70-23-102, MCA).
1. The approval of the original subdivision of land expressly contemplated the construction of the condominiums, townhomes, or townhouses, and any applicable park dedication requirements are complied with; or
 2. The condominium, townhome, or townhouse proposal is in conformance with applicable local zoning regulations when local zoning regulations are in effect.

Article 23-900.RESERVED.

Article 23-1000. DEDICATION OF PARKS, TRAILS AND OPEN SPACE

Section 23-1001. Purpose.

The purpose of parkland dedication is to: Meet the objectives associated with adopted City plans and policies and comply with 76-25-404, MCA.

Section 23-1002. Park Land Dedication Requirements (76-25-404, MCA).

- A.** Except as provided in Sections 23-1008 and 23-1009, a subdivider shall dedicate to the City cash or land donation equal to the below. The required donation shall not exceed .03 acres per dwelling unit:
1. 11% of the area of the net land proposed to be subdivided into parcels of one-half acre or smaller;
 2. 7.5% of the area of the net land proposed to be subdivided into parcels larger than one-half acre and not larger than 1 acre;

3. 5% of the area of the net land proposed to be subdivided into parcels larger than 1 acre and not larger than 3 acres; and
 4. 2.5% of the area of the net land proposed to be subdivided into parcels larger than 3 acres and not larger than 5 acres.
- B. Park dedication requirements for subdivisions that provide for multi-family and condominium developments, and that provide permanent, multiple spaces for recreational camping vehicles or manufactured homes shall be in lieu of those provided in Section 23- 1002(A) and are as follows:
1. 11% of the area of the net land proposed to be developed at a density of one dwelling unit per half acre or less;
 2. 7.5% of the area of the net land proposed to be developed at a density of between one dwelling unit per half acre and one dwelling unit per one acre;
 3. 5% of the area of the net land proposed to be developed at a density of between one dwelling unit per one acre and one dwelling unit per 3 acres; and
 4. 2.5% of the area of the net land proposed to be developed at a density of between one dwelling unit per 3 acres and one dwelling unit per 5 acres.
- C. A park dedication may not be required for:
1. Land proposed for subdivision into parcels larger than 5 acres;
 2. Subdivision into parcels that are all nonresidential;
 3. A subdivision in which parcels are not created, except when that subdivision provides multiple permanent spaces for recreational camping vehicles, mobile homes, or condominiums;
 4. Subdivision in which only one additional parcel is created.
- D. The Planning Director or designee, Parks and Recreation Department, and the subdivider may determine suitable locations for parks. Land dedicated for park purposes shall:
1. Be usable land;
 2. Street frontage requirements for parks is 200 continuous, linear, feet for each park of one acre, and 30 feet of frontage for every acre after that. The 30 feet segments are not required to be continuous with the original 200 feet. Example: 5-acre park requires 200 linear feet for first acre and $4 \times 30 = 120$ for the others for a total of 320 linear feet. The developer shall coordinate park street frontage openings with the City of Billings Parks Department before the preliminary plat is completed. Minimum width for additional accesses into parkland shall be 30 feet. If the parkland dedication requirement is under 1 acre the required street frontage will be a percentage of the one acre minimum. Minimum street frontage is 60 linear feet for parks less than 1 acre. For example: If 20,000 square feet is what is required by sub regs, $20,000 \div 43,560$ equals 46%. $200 \times 46\%$ equals 92 feet of frontage.
 3. Accessible to bicycle and pedestrian facilities where possible;
 4. At least 50% of the park must have slopes under 5%.

- E. Land not suitable to meet parkland dedication:
1. More than 5% of the area has grades 25% or higher;
 2. Riparian resources and areas adjacent to or within irrigation, floodway or wetlands unless it includes a programmable space.
 3. Monument entry areas and central landscaped boulevards;
 4. Exclusively stormwater facilities;
 5. Street lights, cell towers, overhead power, major transmission lines, or other similar uses;
- F. A Park Maintenance District shall be formed or expanded with any new parkland dedication. If a developer provides cash in lieu, but is located directly adjacent to an existing public park maintained by a PMD, the PMD shall be expanded to include the newly subdivided lots.
- G. Irrigation of public and private parkland are encouraged to be provided by ditches or wells when possible. If neither of these methods is possible, city treated water is an alternative.

Section 23-1003. School Land Dedication in lieu of Park Land Dedication (76-25-404 (6)(b), MCA)

Subject to the approval of the local governing body and acceptance by the school district trustees, a subdivider may dedicate a land donation provided in subsection (6)(a) to a school district to be used for school facilities or buildings.

Section 23-1007. Use of Dedicated Money or Land for Parks

The governing body shall use the dedicated money or land for development, acquisition, or maintenance of parks to serve the subdivision and community as follows:

- A. The governing body may use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks or recreational areas, or use the money for the purchase of public open space or conservation easements only if:
1. The park, recreational area, open space, or conservation easement is within a reasonably close proximity to the proposed subdivision; and
 2. The City Council has formally adopted a park plan that establishes the needs and procedures for use of the money.
 3. The governing body may not use more than 25% of the dedicated money for park maintenance.

Section 23-1008. Waiving Park Land Dedication Requirement

The Planning Director or designee waive the park dedication requirement if:

- A. The subdivision provides for a planned development or other development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development; and the area of the land and any improvements set aside for park and recreational purposes equals or exceeds the area of the dedication required under Section 23-1002 of this Article.

- B. The subdivision provides long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; and the area of the land proposed to be subdivided, by virtue of providing long-term protection is reduced by an amount equal to or exceeding the area of the dedication required under Section 23-1002 of this Article.
- C. The area of the land proposed to be subdivided, by virtue of a combination of the provisions of Sections 23-1009.A. and B. of this Article, is reduced by an amount equal to or exceeding the area of the dedication required under Section 23-1002 of this Article.
- D. The subdivider dedicates land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and the area of the land equals or exceeds the area of the dedication required under Section 23-1002 of this Article.

Article 23-1100. ADMINISTRATIVE PROVISIONS.

Section 23-1101. Variances.

The City may grant reasonable variances from the design and improvement standards of these Regulations when strict compliance would result in undue hardship and the result would not negatively affect public health and safety. The granting of a variance shall not have the effect of nullifying the intent and purpose of these Regulations or justifying submission of an incomplete application. The City may not approve a variance that would permit structures within the floodway of the 100-year floodplain, as defined in BMCC 23-201.

- A. **Requesting a Variance.** The subdivider shall include with the submission of the variance request, a written statement describing the facts of hardship upon which the request for the variance is based. Each requested variance shall be deemed a separate application, for which a fee shall be required. Information addressing each of the following findings shall accompany the application. The Planning Director or designee shall review the submitted findings and make a recommendation to the City on whether the request satisfies the following findings:
 - 1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;
 - 2. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced;
 - 3. The variance will not result in an increase in taxpayer burden;
 - 4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or Growth Policy; and
 - 5. The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied.
- B. In granting variances, the City may require conditions of approval that will, in their

judgment, secure the objectives of these Regulations.

- C. When any such variance is granted, the motion of approval of the proposed subdivision shall contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based.

Section 23-1103. Corrections or Vacations of Recorded Final Plats and Supporting Documents.

- A. Corrections to recorded final plats shall be processed as exempt plats pursuant to the requirements, provided that there is evidence of at least one of the following:
 - 1. There is a discrepancy in the map.
 - 2. Material evidence is provided that does not appear on any map filed by the Yellowstone County Clerk and Recorder.
 - 3. There is evidence that suggests alternate locations of lines or points.
 - 4. The recorded plat does not positively show the location, size of lots or blocks, or the location or width of any street or alley.
- B. Corrections to a recorded Subdivision Improvements Agreement (SIA) or other supporting document of the final plat to which the City Council is party, may be submitted provided that they do not significantly alter the original approval. Requests to alter a recorded SIA or supporting document shall follow these procedures:
 - 1. A written request to amend the recorded document shall be submitted to the Planning Department.
 - 2. The request will be circulated for review by the agencies affected by the proposed amendment. The Planning Department will, in consultation with the affected agencies, submit a recommendation to the City Council.
 - 3. A public hearing may be required based on the information received by the reviewing agencies. Notice of the public hearing shall be given in accordance with these Regulations.
 - 4. The City Council may approve the request if it does not significantly alter the original approval and does not conflict with the review criteria set forth in these Regulations.
- C. Any plat prepared and recorded in accordance with these Regulations may be vacated, either in whole or in part in consultation with 76-25-411, MCA.
 - 1. If the vacation affects five (5) or fewer lots it shall be processed as an exempt plat pursuant to the requirements.
 - 2. If the vacation affects twelve (12) or more lots it shall be reviewed as an amended plat pursuant to Section 23-300 of these Regulations.

Section 23-1105. Schedule of Fees.

The required fee shall accompany the preliminary plat, final plat, exempt surveys, and any proposed variances. A schedule of fees for plats shall be established by the City Council by resolution. Fee information is available online.

APPENDIX A

Evasion Criteria

City of Billings Evasion Criteria

A. Purpose.

The State of Montana provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the development is an attempt to evade the Montana Land Use and Planning Act (76-25-402 MCA).

The following procedures, criteria and requirements shall be used to review an exemption from subdivision review and to determine whether the division of land is for the purpose of evading the Montana Land Use Planning Act (MLUPA).

B. Procedures and General Requirements.

1. Any person seeking exemption from the requirements of MLUPA shall submit to the Planning Director or designee (1) a certificate of survey, exempt amended plat, or where a survey is not required an instrument of conveyance, (2) evidence of, and a notarized statement affirming, entitlement to the claimed exemption signed by the landowner, and (3) all documents identified in Exhibit 3 "Exempt Plat Submittal Requirements."
2. When a certificate of survey, exempt amended plat, or instrument of conveyance is submitted to the Planning Department, the Planning Department shall cause the documents to be examined by the designated agents of the governing body: (the City Works Department, City Attorney, Treasurer, and Clerk and Recorder). The agents shall examine the proposed land division to determine whether it complies with the requirements set forth in these regulations, the Montana Land Use Planning Act and the Montana Sanitation in Subdivisions Act (76-4-101, et seq., MCA).
3. After the review to evaluate compliance with the requirements contained in this section, the agents shall submit written comments as to whether the use of the exemption is intended to evade the purposes of the Act, after which a written recommendation will be presented to the governing body for its review.
4. If the designated agents find that the proposed use of the exemption complies with the statutes and these criteria, they shall recommend to the Clerk and Recorder to file the certificate of survey, exempt amended plat, or record the instrument of conveyance and accompanying documents. If the agents find that the proposed use of the exemption does not comply with the statutes and these criteria, they shall advise the Clerk and Recorder of their determination and recommend whether or not to file or record the documents, and upon his/her concurrence, the Clerk shall return the materials to the landowner with an explanation as to why the recordation was declined.

APPENDIX A

Evasion Criteria

5. Any person whose proposed use of an exemption has been denied by the designated agents may appeal the agents' decision to the governing body. The person may request a hearing, and may submit additional evidence to show that the use of the exemption in question is not intended to evade the Act.

If the governing body concludes that the information provided by the developer overcomes the recommendation by staff that the exemption is being used to evade the Act, they may authorize the use of the exemption in writing. A certificate of survey claiming such an exemption from subdivision review, which otherwise is in proper form, may be filed (or an exempt amended plat or an instrument of conveyance recorded) if the governing body has signed a certificate of an exemption as provided in these regulations.

6. Landowners or their representatives are encouraged to meet with the governing body's designated agents to discuss whether a proposed land division or use of an exemption is in compliance with these criteria.

The agents may issue an advisory opinion only, and the opinion does not constitute a commitment by the local officials when the documents creating the proposed land division are submitted to the Clerk and Recorder.

7. The governing body and its agents, when determining whether an exemption is claimed for the purpose of evading MLUPA, shall consider all of the surrounding circumstances. These circumstances may include but are not limited to: (1) the nature of the use of the parcel, (2) the prior history of uses of the particular tract in question, (3) the proposed configuration of the tracts if the proposed exempt transaction is completed, and (4) any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review (State ex rel. Dreher v. Fuller, 50 St. Rptr. 454, 1993).
8. Exempt divisions of land that would result in a pattern of development equivalent to a subdivision shall be presumed to be adopted for purposes of evading the Act. A "pattern of development" occurs whenever three (3) or more parcels of less than 160 acres each with common covenants or facilities pertaining to each parcel have been divided from the original tract.
9. If the use of an exemption is determined to be an evasion of MLUPA, the landowner may submit a subdivision application for the proposed land division.

C. Exemption as a Gift or Sale to a Member of the Immediate Family (76-25-402 MCA)

1. Statement of Intent: The intention of this exemption is to allow a landowner to convey one parcel to each member of the immediate family without local subdivision review. A single parcel may be conveyed to each member of the immediate family under this exemption in each county where the landowner owns property.

APPENDIX A

Evasion Criteria

2. "Immediate family" is defined as the spouse, children by blood or adoption, or parents of the grantor (76-25-402 MCA)
3. Any certificate of survey filed that would use this exemption to create a parcel for conveyance to a family member must clearly identify the name of the grantee, the grantee's relationship to the landowner, and the parcel to be conveyed under this exemption, and be accompanied by, or contain, the landowner's written certification of compliance. The certificate of survey or other instrument must also cite the exemption claimed and include the proper language. Also, the certificate of survey or instrument of conveyance shall be accompanied by a deed or other conveying document.
4. One conveyance of a parcel to each member of the landowner's immediate family is eligible for exemption from subdivision review. However, the use of the exemption may not result in more than one remaining parcel of less than 160 acres.
5. Any proposed use of the family conveyance exemption to divide a tract that was previously created through use of an exemption shall be presumed to be an evasion of the Act if it creates a pattern of development consistent with an overall plan with characteristics such as common roads, utility easements, restrictive covenants, open space or common marketing. This presumption will not be rebutted by previous ownership of the tracts, and pertains to remaining tracts of less than 160 acres as well as to those tracts that were previously created through the use of one or more of the exemptions.
6. The use of the family conveyance exemption to divide tracts that were created with the subdivision process are allowed as long as they can also meet the requirements of zoning.
7. An immediate family member or the spouse of an immediate family member who receives a division of land as part of a gift or sale may not transfer or otherwise convey the division of land for a period of up to 2 years after the date of the division. The governing body may authorize variances from these requirements to address hardship situations.

D. Exemption to Provide Security for a Construction Mortgage, Lien or Trust Indenture (76-25-402 MCA)

1. Statement of Intent: Under policies of many lending institutions and federal home loan guaranty programs, a landowner who is buying a tract with financing or through a contract for deed is required to hold title to the specific site on which the residence will be built. The intended purpose of this exemption is to allow a landowner who is buying a tract using financing or a contract for deed to segregate a smaller parcel from the tract for security for financing construction of a home on the property.
2. When claiming this exemption, the landowner shall submit the following documents to the City-County Planning Department:

APPENDIX A

Evasion Criteria

- a. A signed statement from both the landowner and the lending institution that the creation of the exempted parcel is necessary for the owner to secure construction financing through a construction mortgage, lien or trust indenture on the exempted parcel.
 - b. Any certificate of survey that uses this exemption must bear the acknowledged certificate of the property owner stating that the division of land in question is exempted from review as a subdivision, cite the exemption claimed, and include the language provided in Section H. of this Chapter.
3. The use of this exemption is presumed to have been adopted for the purpose of evading MLUPA if:
- a. It will create a site for more than one dwelling unit;
 - b. The loan is for someone other than the owner of record or the recorded contract purchaser of the parcel to be divided.
 - c. It will create a pattern of development which is equivalent to a subdivision with characteristics such as common roads, sewer, water, utility easements, restrictive covenants, open space or a common marketing or promotional plan.

E. Exemption for Agricultural Purposes (76-25-402 MCA)

1. Statement of Intent: The intention of this exemption is to allow a landowner to create a parcel without local review where the parcel will be used only for production of livestock or agricultural crops and where no residential, commercial, or industrial buildings will be built.
2. "Agricultural Purpose," for purposes of these evasion criteria, means the use of land for raising crops or livestock, or for the preservation of open space, and specifically excludes residential structures and facilities for commercially processing agricultural products. Agricultural lands are exempt from review by the Montana Department of Environmental Quality (MDEQ), provided the applicable exemption is properly invoked by the property owner.
3. The following conditions must be met or the use of the exemption will be presumed to have been adopted for the purposes of evading MLUPA.
 - a. The parties to the transaction by gift, sale, or agreement, must enter into a covenant running with the land and revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes or open space. The covenant must be signed by the property owner, the buyer or lessee and the governing body. An example of a covenant is provided in Section H. of

this Chapter.

- b. The landowner must demonstrate that the planned use of the exempted parcel is for agricultural purposes and that no residential, commercial or industrial buildings will be built (e.g., a statement signed by the buyer).
- c. Any change in use of the land for anything other than agricultural purposes subjects the parcel to full review as a subdivision.
- d. Residential, commercial and industrial structures, including facilities for commercial processing of agricultural products are excluded uses on parcels created under this exemption unless the covenant is revoked and the land division is reviewed under (76-25-402 MCA).
- e. A certificate of survey that uses this exemption must bear the acknowledged certificate of the property owner stating that the division of land in question is exempted from review as a subdivision, cite the exemption claimed, and include the language provided in Section H. of this Chapter.

F. Relocation of Common Boundary (76-25-402 MCA)

- 1. Statement of Intent: The intended purpose of this exemption is to allow a change in the location of a boundary line between two parcels and to allow a one-time transfer of a tract to affect that change in location without subdivision review.
- 2. If the relocation of a common boundary would result in the permanent creation of an additional parcel of land, the division of land must be reviewed as a subdivision. If a temporary tract is created, language shall be added to indicate that the temporary tract is merged forever with the adjacent tract.
- 3. Within a platted subdivision, a division of lots that redesigns or rearranges six or more lots must be reviewed and approved by the governing body and an amended plat must be filed with the County Clerk and Recorder in accordance with Section 306 of these Regulations.
- 4. Certificates of survey or amended plats claiming this exemption must be clearly distinguished between the existing boundary location and the new boundary. This shall be accomplished by representing the existing boundary with a dashed line and the new boundary with a solid line. The appropriate certification must be included on the certificate of survey as provided in Section H. of this Chapter.

G. Remainder Parcels.

Statement of Intent: Any part of an original tract of record, less than 160 acres that is left following the segregation of other parcels from the tract for the purpose of transfer shall be reviewed as part of the subdivision.

APPENDIX A
Evasion Criteria

H. Certification.

1. **Exemption Certificates.** The following represents examples of certificates to be used on certificates of surveys for the following types of exemptions: relocation of common boundaries, land gift or sale to family member, agricultural exemption, and security for constructions.

CERTIFICATE OF EXEMPTION
(RELOCATION OF COMMON BOUNDARY)

I (We) certify that the purpose of this survey is to relocate common boundaries between adjoining properties. Therefore, this survey is exempt from review as subdivision pursuant to Section 76-25-402 (1)(m)(MCA.

DATED THIS _____ day of _____, 20

(Signature) _____
Property
Owner(s)

CERTIFICATE OF EXEMPTION
(FAMILY GIFT OR SALE)

I (We) certify that the purpose of this survey is to create Tract # _____ for transfer of ownership as a family gift or sale and that no prior family sale has been conveyed to ((name), our(my) (relationship) and that this exemption complies with all conditions imposed on its use. Therefore this survey is exempt from review as a subdivision pursuant to Section 76-25-402(n) MCA, and the City of Billings Subdivision Regulations.

DATED THIS _____ day of _____, 20_____.

(Signature) _____
Property
Owner(s)

APPENDIX A
Evasion Criteria

CERTIFICATE OF EXEMPTION
(FOR AGRICULTURAL PURPOSES)

I (We) certify that the purpose of this survey is to create Tract # _____, as shown on this certificate of survey, for gift or sale, which is to be used for agricultural purposes only, and that this exemption complies with all conditions imposed on its use. Therefore, this survey is exempt from review as a subdivision pursuant to Section 76-25-402(f) MCA and the City of Billings Subdivision Regulations.

I also hereby enter a covenant, to run with the land, that Tract _____ as shown hereon, will be used exclusively for agricultural purposes only. No building or structure requiring water or sewer facilities shall be utilized on Tract _____. This covenant is revocable only by the mutual consent of the governing body and the property owner.

DATED THIS _____ day of _____, 20_____.

(Signature) _____
Property Owner(s)

CERTIFICATE OF EXEMPTION
(SECURITY FOR CONSTRUCTION)

I certify that the purpose of this survey is to create a parcel of land to provide security for construction or loan purposes and that this exemption complies with all conditions imposed on its use. Therefore, this survey is exempt from review as a subdivision pursuant to Section 76-25-402(1)(b)MCA and from review by the Montana Department of Environmental Quality (16.16.605(1)(b)).

DATED THIS _____ day of _____, 20_____.

(Signature) _____
Property Owner(s)

APPENDIX A
Evasion Criteria

2. **Governing Body Certification.** If the exemption is approved after appeal to the Governing Body, the Governing Body shall so certify in a printed certificate on the Certificate of Survey.

I, Mayor of the City of Billings, do hereby certify that the use of the exemption claimed on the accompanying Certificate of Survey has been duly reviewed, and has been found to conform to the requirements of the MLUPA, Section 76-25-402, et. seq., MCA, and the City of Billings Subdivision Regulations.

DATED THIS _____ day of _____, 20_____.

(Signature) _____
Mayor, City of Billings

Attest: (Signature) _____

APPENDIX B

Flood Hazard Evaluation

- A. Definitions. (Sec. 76-5-103, MCA) Whenever the following words and phrases are used in this Appendix, they shall be given the meaning attributed to them by this section.
1. Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.
 2. Flood Fringe: the identified portion of the floodplain outside of the floodway.
 3. Flood of 100-year Frequency: A flood magnitude expecting to recur on the average of once every 100 years or a flood magnitude that has a 1% chance of occurring in any given year.
 4. Floodplain: The area adjoining the watercourse or drainway that would be covered by the floodwater of a flood of 100-year frequency, except for sheet flood areas that receive less than 1 foot of water per occurrence and are considered "shaded X zone" by the federal emergency management agency.
- B. Floodway: The channel of a watercourse or drainway and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge the floodwater of any watercourse or drainway.
1. Land located within the floodway of a flood of 100-year frequency as defined by Title 76, chapter 5, MCA, may not be subdivided for building purposes, or other uses that may be prohibited by state or local floodplain regulations.
 2. Where the 100-year floodway has been delineated by a Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), or a City- or County-approved study on land in a subdivision, the 100-year floodway boundary and 100-year floodplain boundary shall be shown on the plat of the subdivision and the area within the 100-year floodway shall be labeled as a "No-Build Zone."
 3. Any development of land that is in the flood fringe, a Zone A as shown on a FIRM, or an identified flood prone area is subject to the requirements of the City of Billings Floodplain Regulations.

APPENDIX B
Flood Hazard Evaluation

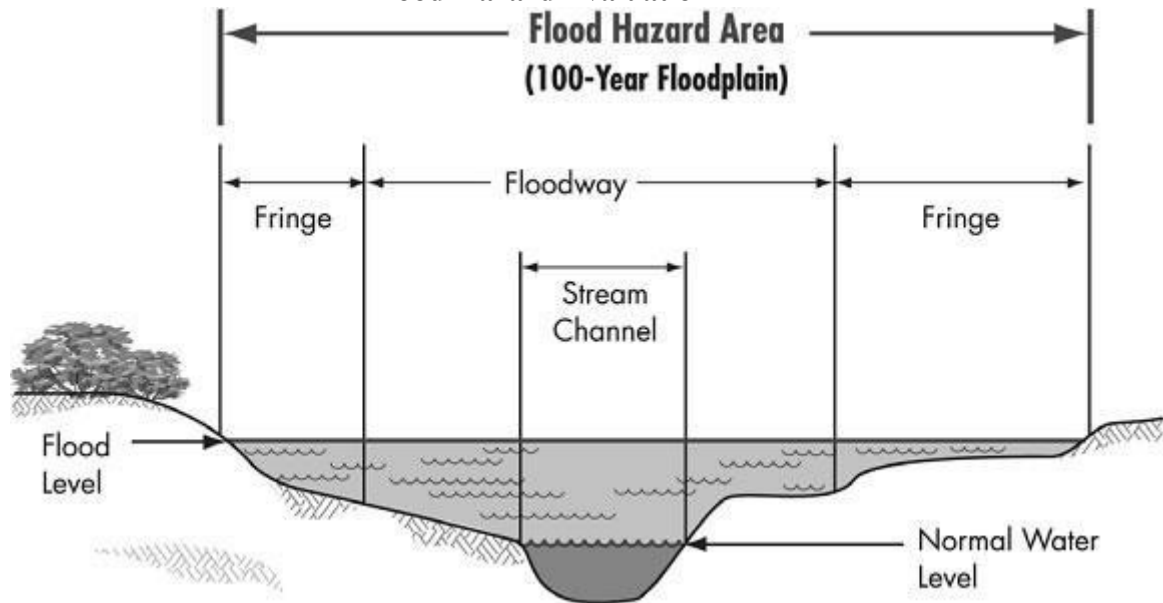


Figure 1. 100-Year Floodplain Cross-Section Diagram

APPENDIX C
Final Plat Certification

I, Mayor of the City of Billings, do hereby certify that the use of the exemption claimed on the accompanying Certificate of Survey has been duly reviewed, and has been found to conform to the requirements of the Montana Land Use Planning Act, Section 76-25-410, et. seq., MCA, and the City of Billings Subdivision Regulations.

DATED THIS _____ day of _____, 20_____.

(Signature) _____
Mayor, City of Billings

Attest: (Signature) _____

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinance, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on the first reading this 11th day of May, 2026.

PASSED, ADOPTED and APPROVED on second reading this 26th day of May, 2026.

CITY OF BILLINGS

By _____
Mike Nelson, Mayor

Attest:

BY: _____
Denise R. Bohman, City Clerk

City Council Special Session

Meeting Date: 05/05/2026

Title: FY2027 Departmental Budget Presentation

Presented by: Andy Zoeller, Finance Director

Department: Finance

RECOMMENDATION

Staff will be present to provide FY27 budget information to City Council. Council action will occur in June at a regular City Council meeting.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

Council will receive information about the FY27 budget over multiple work sessions. Each department has provided an overview of their proposed FY27 budget. The entire proposed FY27 budget can be found online at www.billingsmt.gov/finance. City Council will receive information from the following departments on May 5th, 2026

City Attorney
Parks, Recreation, & Public Lands
Fire Department

ALTERNATIVES

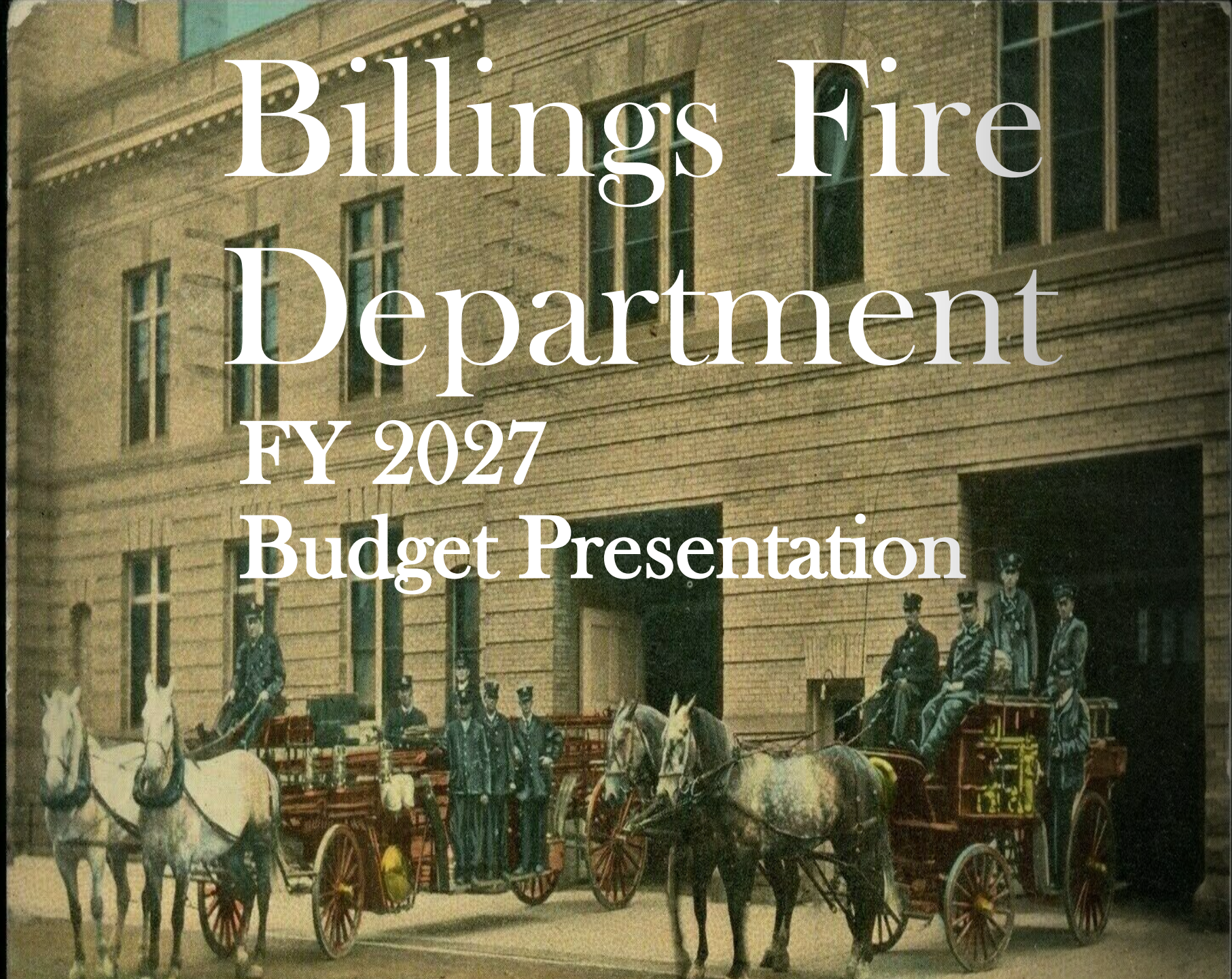
No Council action will be required at this meeting. Final adoption of the FY2027 budget is planned for June.

FISCAL EFFECTS

The current proposed budget for FY27 is \$447 million. A summary can be found on pages 1-15 of the budget proposal.

Fire Department Budget Presentation
PRPL Budget Overview
City Attorney Budget Overview

Billings Fire Department FY 2027 Budget Presentation



FY27 FIRE STRATEGIC GOALS



Goal: Initiation and completion of a current strategic plan.

Objective: To provide the city with a blueprint for fire and EMS for the next five years.

Action(s): Through a collaborative effort, begin compiling information to create a shared vision for our department.

Goal: Begin the process of staffing Station 8 and construction of Station 9 while pursuing funding for staffing.

Objective: To provide full-service coverage for the heights and far west end.

Action(s): Add staffing and start searching for the proper location and station design phase.

Goal: Develop a standard of cover document for an accreditation process.

Objective: The standard of cover spells out the “why and how” of our resource deployment. This document is crucial for the accreditation process.

Action(s): Compile and complete a detailed step-by-step document explaining every resource we have and our capabilities.

Goal: Initiate deployments to state and national wildland fire disasters.

Objective: The city has the ability to deploy resources for a new revenue stream to help offset expenses.

Action(s): Purchase a Type 3 engine for regional and national deployments with ERP funding already in existence.

FY27 STRATEGIC GOALS FOR EMS

Goal: Rewrite the EMS ordinance to ensure a high level of care for our community.

Objective: To initiate a regulatory body for oversight of all EMS operations, both private and public sectors.

Action(s): Form an EMS committee for the city in collaboration with the Advanced Services Committee (ASC).

Goal: Reimplement the crisis response program.

Objective: To focus on a specific demographic within our jurisdiction and provide greater efficiency for our police and fire departments while providing greater opportunities for definitive and long-term solutions for our citizens in need.

Action(s): Continue monitoring data to determine the correct model for our jurisdiction and the proper number of CRU units to maximize service efficiency.

Goal: Monitor the effectiveness of the new service agreement with AMR.

Objective: To continue our partnership with a transport agency.

Action(s): Review and update the current service agreement as needed to address new and changing conditions in our jurisdiction.

Goal: Fees for service for motor vehicle accidents and lift assistance.

Objective: To find new revenue streams to offset expenses.

Action(s): Implement a charge for these services similar to our false alarm policy.



FY27 STRATEGIC GOALS FOR 911



Goal: Evaluation and assessment of current systems for NEXTGEN 911 compatibility.

Objective: Conduct assessment of current technologies for compatibility with NEXTGen 911 services

Action(s): Work with the project manager and Motorola to evaluate these systems to determine what is current and what will need to be updated or replaced to be compliant with state protocols.

Goal: Continued advertising and recruitment of high-quality personnel for vacant Emergency Operator Positions.

Objective: Identify and recruit quality people for open vacancies at the center.

Action(s): Continue to work with HR on advertising, testing, and hiring or quality candidates of open vacancies.

Goal: Evaluation and assessment for potential implementation of a Real-Time Intel Center (RTIC) and Drone First Responder program (DFR).

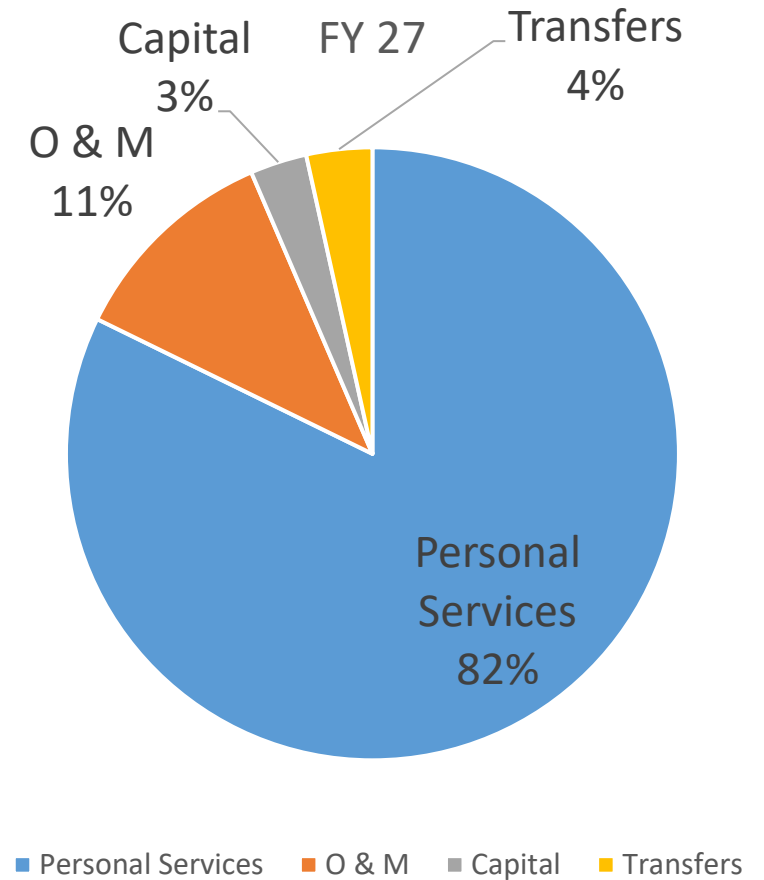
Objective: Evaluate and assess our current capabilities and plan for the implementation of a RTIC/DFR.

Action(s): Work with known vendors to plan for the building out of a RTIC/DFR and establish a viable phased plan for the project.

OPERATING BUDGET

PUBLIC SAFETY FUND

	Proposed FY 2027
Personnel Services	\$25,060,478
Operations & Maint.	\$3,439,280
Capital	\$912,500
Transfers	<u>\$1,058,975</u>
Total Expenditures	\$30,471,233



PERSONNEL (+1 FTE)

	Actual FY 2025	Budget FY 2026	Proposed FY 2027
Administration	7.0	6.0	7.0
Prevention/Investigations	7.0	7.0	7.0
Training	3.0	3.0	3.0
911	37.0	37.0	37.0
Communication Equipment Tech	0.3	0.3	0.3
Crisis Response EMT	2.0	2.0	2.0
Suppression	<u>127.0</u>	<u>127.0</u>	<u>127.0</u>
Fire Public Safety Total	182.3	181.3	182.3
State 9-1-1 Fund	<u>1.3</u>	<u>1.3</u>	<u>1.3</u>
Total	183.6	182.6	183.6



ASSISTANT CHIEF OF ADMINISTRATION

- Assumption of Fire Chief administrative duties in their absence.
- Assist budget administration and prep
- Office of Professional Standards
- Direct Report for 911 Center
 - Improve support & communication to the center
 - Budget oversight & Prep
- Overall research and development of what Emergency Management needs to look like for the City of Billings, as well as implementation of that program.
- Research & Implementation of alternative funding:
 - Grant funding and application for grants
 - Exploration and implementation of fees for advanced services
 - Assist in the development and implementation of impact fees/TIF/CDBG funding





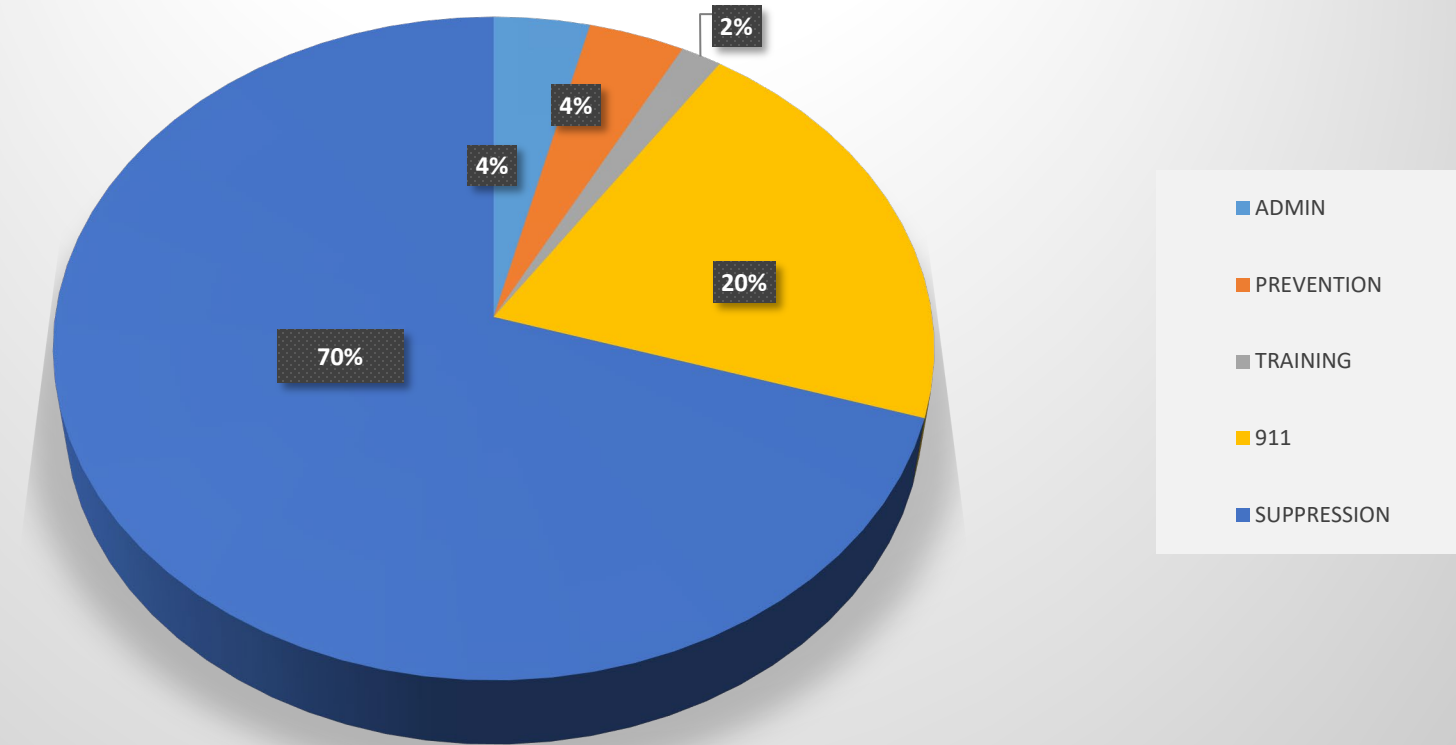
OPERATING BUDGET

BY FIRE DEPT. DIVISIONS

	Actual FY 2025	Budget FY 2026	Estimate FY 2026	Proposed FY 2027
Administration	2,163,259	1,957,645	1,790,302	2,021,125
Prevention/Investigation	839,035	918,440	939,212	1,117,458
Training	530,967	544,002	480,083	772,437
Equip/Maintenance	1,724,265	2,466,534	2,354,535	2,733,425
Suppression	19,039,599	18,752,106	18,233,608	19,358,925
Crisis Response Units	157,078	202,621	159,662	218,283
9-1-1 Center	3,562,460	4,141,551	3,724,225	4,122,427
Communication Equip	<u>52,883</u>	<u>92,741</u>	<u>63,089</u>	<u>127,153</u>
Total Fire	\$28,069,546	29,075,540	27,744,622	30,471,233

Personnel Allocation

2027 ALLOCATION



Alternative Funding

Program	Amount	Details
AFG SAFER Funding(Personnel)	1st & 2 nd Year, the amount of federal funding may not exceed 75 percent of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted; and in the 3 rd year of the grant, federal funding may not exceed 35 percent of the usual annual cost of a first-year firefighter in that department.75% (25 % Match)	3 Years
FEMA Grants (Facilities/Equipment)	TBD	Various
Fees for service	TBD	MVC/Lift Assists
False Alarm Ordinance	TBD	\$60,000 - \$90,000
Wildland Deployment	TBD	
Community Integrated Health	TBD	
BRIC (Building Resilient Infrastructure & Communities)	\$1 billion in federal funds to states, local governments, territories, and Tribal Nations, enabling them to take proactive, decisive steps to safeguard their communities from potential disasters such as fires, floods, earthquakes, and hurricanes.	Federal Funds
Impact Fees/TIF/CDBG		



2027 Five Year Strategic Plan

	FY27	FY28	FY29	FY30	FY31
Addition Firefighter FTE/ Stations 8 & 9		\$1,788,315(17)		\$849,049 (8)	\$880,444 (8)
Additional Firefighters/additional MRT			\$636,000 (6)		
Additional Battalion		\$504,000 (3)			
Additional FTE Training Division			\$152,000		
Training FTE Vehicle			\$60,000		
New Apparatus for Station 8 & 9		\$1,300,000	\$1,400,000		
Construction of Station 9			9,000,000		
Additional MRT Vehicle		\$80,000			
On-going Station Renovations	\$862,500	\$674,070	\$523,000	\$386,000	\$600,000
Strategic Plan/Standard of Cover Consultation		\$70,000			
TOTAL	\$862,500	\$4,416,385	\$11,771,000	\$1,235,049	\$1,480,444

Crisis Response Unit Status

- **Current Status**

- Hybrid until a sustainable partnership/program is completely funded
- Current FD EMT Staffing is making a difference (adding a second budgeted EMT)
- Exploring Alternative Partnerships (MSU-Billings)
- Critical in helping with addressing the needs of Domestic Violence concerns in the community
- Nurse Navigation proposal

Mobile Response Team (MRT) “Squad”

- **Mobile Response Team Success**
 - Squad 1 & Squad 5 Fully Staffed 24/7
 - Average of 2200 Call For Service 2025 per Unit
 - Great success in implementation and addressing the recommendations within the CPSM Report

ESCI Long Range Master Plan 2018

- Currently, the first BFD apparatus arrives at approximately 51 percent of emergency incidents in four minutes or less travel time. Overall, the first apparatus on scene arrives at 90 percent of emergency incidents in 10 minutes, 57 seconds, from the time the emergency call is received at the 911 center to the arrival of the first apparatus on scene.
- In the case of BFD, the argument can be made that there is an immediate need to add additional stations, based on the analysis of current conditions and some of the criteria presented in the preceding sections. ESCI recommends that BFD move forward with a phased Fire Department Facility Master Plan with goals of improving response performance by decreasing travel time and improving the concentration of resources available in the BFD service area



NFPA 1710 Appropriate Staffing

When a New Station or Response Resource is Needed

Action Choices	Travel Distance	Criterion		
		Response Time Parameter	Out of Area Calls	Building/Risk Inventory
Maintain status quo	All risks within 1.5 miles.	First due company is within 4 minutes travel, 90% of the time.	100% of calls in station area.	Existing inventory and infill.
Temporary facilities and minimal staffing	Risks 1.5 to 3 miles from existing station.	First due company exceeds 4 minutes travel, 10% of the time, but never exceeds 8 minutes.	More than 10% of calls are in adjacent area.	New area has 25% of same risk distribution as in initial area.
Permanent station needed	Risk locations exceeding 4 miles from the station.	First due company exceeds 4 minutes travel, 20-25% of the time.	More than 20-25% of calls are in outlying area.	New area has 35% of same risk distribution as in initial area of coverage.
Permanent station essential	Outlying risk locations exceeding 5 miles from any station.	First due company exceeds 4 minutes travel, 30% of the time.	More than 30% of calls are in outlying area.	New area has 50% of same risk distribution as in initial area.

SUMMARY

- **Emergency Response Capability**

Maintain the department's minimum effective response capability within current fiscal constraints, ensuring consistent and reliable service delivery to the community.

- **Fiscal Stewardship & Funding Strategy**

Operate with a strong commitment to responsible use of taxpayer funds while actively pursuing alternative and sustainable funding sources to enhance operational effectiveness before, during, and after emergency incidents.

- **Safe and Effective Service Delivery**

Provide the personnel, equipment, and resources necessary to ensure safe, efficient, and effective emergency response, protecting both community members and the firefighters who serve them.

- **Crisis Response Services**

Identify and implement strategies to restore and sustain Crisis Response Services, improving the department's ability to address behavioral health and community-based service needs. (Community Paramedicine)

- **Implementation of Strategic Studies**

Continue progress toward implementing key recommendations from the 2018 Emergency Services Consulting International (ESCI) study and the 2021 Center for Public Safety Management (CPSM) analysis, aligning resources and policies with identified best practices.





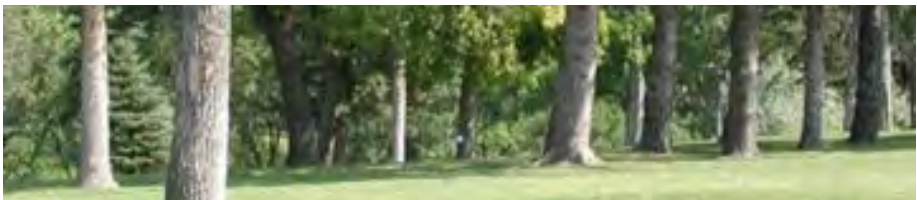
Questions

**PARKS,
RECREATION,
& PUBLIC
LANDS**



Parks, Recreation, & Public Lands

BUDGETED EXPENSE TOTAL | \$13,262,505
CHANGE FROM PRIOR YEAR | (\$152,306)



Budget Justification

The FY27 proposed budget for the Parks and Recreation Department focuses on the continuation of providing safe and enjoyable programs, services, and facilities that enhance the community's quality of life. The proposed budget reflects increases in seasonal wages and inflationary adjustments for goods and services to maintain PRPL's current level of service, and activation of the Courts Complex at the Amend Recreation Campus.





New Programs

BUDGETED EXPENSE TOTAL | \$13,262,505

CHANGE FROM PRIOR YEAR | (\$152,306)

Administration Division

“Amend Recreation Center” Courts Facility: \$733,501. This allocates funding for ARC operations and maintenance within the new 5300 fund. Projected revenue totals \$762,000. A forthcoming MOU with the Tourism and Business Improvement District will outline a \$500,000 commitment to offset potential operating shortfalls during the first three years.

Total New Program Request package for Administration: **\$733,501**



Parks Division

·Wages: \$57,739. One additional full-time employee. One Equipment Operator/Maintenance Worker position which is to be offset by revenue from using existing PMD funds.

·Misc Benefits/Insurance/FICA: \$20,268. Unemployment, Workers Comp, Health Insurance, Social Security, Retirement, Deferred Comp, Medicare, and Life Insurance for one additional full-time employee. One position to be offset by revenue from using existing PMD funds.

·Temporary Wages: \$66,820. Temporary wages are currently budgeted at FY24 levels. In that time, Parks increased wages to attract and retain employees. Request will allow the hiring of a sufficient number of temporary employees.



New Programs

BUDGETED EXPENSE TOTAL | \$13,262,505

CHANGE FROM PRIOR YEAR | (\$152,306)

Parks Division continued...

- Phone: \$960.** One additional full-time employee. One position to be offset by revenue from using existing PMD funds.
- Other Utility Services: \$50,000.** New charges for stormwater are not accounted for in previous budget years.
- Transportation Equipment: \$53,000.** One additional truck for new full-time staff position.
- Various operating supplies, parts and equipment: reduced by (\$60,000).**

Total New Program Request Package for Park Division – \$260,195 – (\$143,291 offset by PMD revenue)





New Programs

BUDGETED EXPENSE TOTAL | \$13,262,505
CHANGE FROM PRIOR YEAR | (\$152,306)

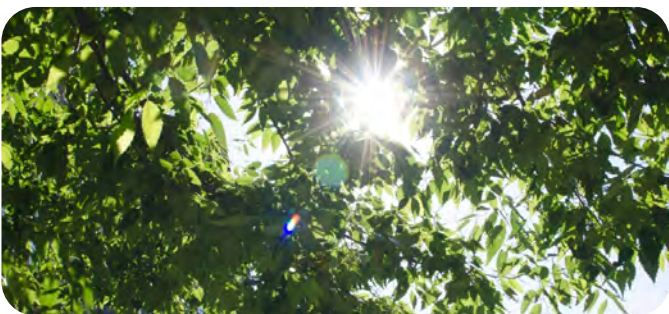
Cemetery Division

Temporary Wages: \$1,304. Increase in temporary wages to attract and retain employees.

Machine/Equipment Parts: \$40,000. Increase for approved ERP replacement unit #1919. Replacement unit will have increased capacities and capabilities suited for operations better.

Membership Fees/Tuition: \$7,000. Provide additional education and training for staff.
Other Utility Services: \$600. Ongoing request for additional new storm water assessment from Public Works charged to Cemetery.

Total New Program Request Package for Cemetery Division – \$48,904



Forestry Division

Wages: \$57,167. Request to hire one additional Arborist. Position is to be offset from current funding re-distributed between Parks and Forestry Divisions. Benefits, insurance, FICA, etc. also covered by offsetting from other funds re-distributed. No additional budget authority requested.

Misc Benefits/Insurance/FICA: \$24,871. Unemployment, Workers Comp, Health Insurance, Social Security, Retirement, Deferred Comp, Medicare, and Life Insurance for the new employee.

Temporary Wages: \$1,920. Temporary wage increase request will allow the hiring of a sufficient number of temporary employees.

Medical Examinations: \$100. One additional Arborist added.

Total New Program Request Package for Forestry Division – \$84,058 (\$82,038 offset from other funds)



New Programs

BUDGETED EXPENSE TOTAL | \$13,262,505

CHANGE FROM PRIOR YEAR | (\$152,306)

Recreation Division

Inflation Adjustments

Inflationary Adjustment for Pool Chemicals and Supplies – \$9,000 in account # 8730-51260-402290 (ongoing).

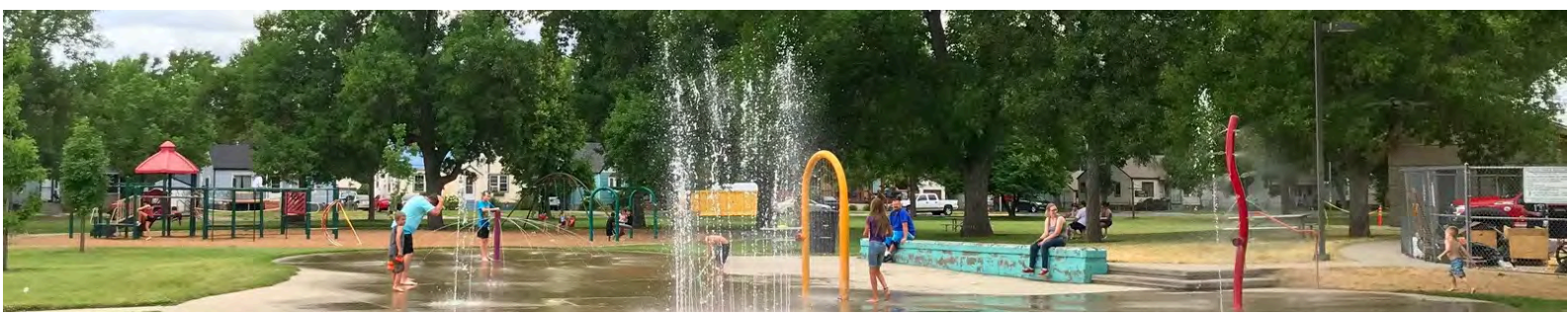
We continue to see sharp increases in pool chemicals, cleaning supplies, first aid supplies, communications, and water testing systems.

Seasonal Wage Increase for Aquatics Staff – \$10,500 in account # 8730-51260-401160 (ongoing). Increase hourly wage rates by \$0.50 for summer seasonal aquatic staff to be competitive in the local economy and with other similar service providers in Billings. With the current hourly pay rates, it is often difficult to attract enough qualified applicants to fill key aquatic staff positions. Without qualified lifeguards, swim instructors and supervisors, the level of aquatics service that PRPL can provide to our community will decline. Without aquatic staff, we will have to consider reducing pool hours or facility closures.

Seasonal Wage Increase for Program Staff – \$6,500 in account # 8730-51250-401160 (ongoing). To remain competitive in attracting seasonal staff for all our youth, adult and senior recreation programs and activities, we have increased wages by \$0.50 on average.

Seasonal Wage Increase for Rec2U Staff – \$1,500 in account # 8730-51240-401160 (ongoing). To remain competitive in attracting seasonal staff for all our youth, adult and senior recreation programs and activities, we have increased wages by \$0.50 on average.

Winter Activity Guide – \$5,600 in account # 8730-51210-403210 (ongoing). As programming and activities offered by the Rec. Div. have increased dramatically over the last few years, so has the cost of providing the winter guide. Our winter guide started 10 years ago as a trifold printed in the office. The Winter Activity Guide now has 32 pages of programs and activities and is now inserted in the November issue of Simply Local Magazine and mailed directly to over 10,000 customers.



New Programs

BUDGETED EXPENSE TOTAL | \$13,262,505

CHANGE FROM PRIOR YEAR | (\$152,306)



Recreation Division

Efficiency / Safety Improvements

Mustang/Legion Baseball MOU – \$15,000 in account # 8730-51250-403690 (on-going). To simplify the pass-through payment from Legion Baseball that is then paid to the Mustangs, we request the funding expenditure be added to offset the revenue deposited in account # 8730-51250-342312.

Total New Program Request Package for Recreation – \$48,100



Goals

BUDGETED EXPENSE TOTAL | \$13,262,505
CHANGE FROM PRIOR YEAR | (\$152,306)

1. **Apply Placer AI data:** Maximize the value of Placer AI data to guide and strengthen park upgrade prioritization decisions. Use visitation trends, dwell time, seasonal patterns, and comparative park performance to identify where investments will have the greatest impact on community use, service levels, and return on capital.

2. **Complete LWCF Conversions:** Complete the LWCF conversion from Wilson Park to the West End Reservoir to expand outdoor recreation opportunities in a higher-use, higher-growth area. Evaluate additional conversion opportunities that improve public access and recreation value while increasing PRPL’s flexibility to develop new amenities that better align with community needs.

3. **Operations at Amend Park Campus:** establish sports tourism and community activation at the Courts Complex.
4. **Aquatic Operations:** Implement strategy for new South Pool and future aquatic operations.

5. **Park Assets:** Continue cataloging Park assets in City Works in order to develop clear criteria for replacement prioritization.

6. **Parkland Development:** Integrate new developments at Annafeld and the Amend Recreation Campus into ongoing park operations. Minimizing disruptions to maintenance in existing parks will be important for a successful transition.

7. **Emerald Ash Borer Mitigation:** Begin the process of thinning the ash population within the 12,882 trees in the Billings PRPL urban forest. This will create a more manageable and resilient urban forest when the emerald ash borer eventually reaches Billings. Our goal is to remove 334 ash trees this year and reduce the overall ash population to fewer than 800 trees by 2029.



5-Year Overview

BUDGETED EXPENSE TOTAL | \$13,262,505

CHANGE FROM PRIOR YEAR | (\$152,306)

Parks Division

There are three overarching five-year goals for PRPL's Parks Division. The first is to attain best practices as identified in the 2017 Comprehensive Plan. The second goal is to move PRPL from the General Fund to its own dedicated source. The third goal is to identify a source of funding for critical life cycle replacement of deteriorating assets.

Best Practices - The Comprehensive Master Plan identified a deficiency of 5.5 FTE from 2017 levels and \$2,797,000 in funding below Best Practices. The FY27 budget requests three new FTE positions, and another five (5) FTE over the next three (3) years. Additional O&M funding of \$585,000/year needed to reach the \$2.7 Million goal of Best Practices.

New Funding – The Department is looking to ask the voters to approve a mill levy to fund PRPL. A timeline for this ask to the public is currently being explored.

Life Cycle Funding – South Park pool, the Zimmerman Center, and the North Park Center are all past their useful life and need replaced. Park asset inventory is ongoing with approximately 40% complete.



5-Year Overview

BUDGETED EXPENSE TOTAL | \$13,262,505

CHANGE FROM PRIOR YEAR | (\$152,306)

Recreation Division

In the next 5 years, PRPL's Recreation Division will increase program development for activities to reach more children, teenagers, adults, families, and seniors at the Amend Park Campus. When this facility becomes operational, recreation staff and community partners will provide additional opportunities for our community and region which will require additional staffing for facility operations, maintenance, programming, and bookkeeping.

	FY26	FY27	FY28	FY29	FY30	FY31
Parks additional FTE		2	2	2	1	
Parks Additional Operation and Maintenance Funding	\$132,660	\$323,053	\$585,000	\$585,000	\$585,000	\$585,000
Alternative Funding Source				Mill Levy Proposed		
Life Cycle Funding		Inventory Park Assets to develop asset management /ERP type program				
Add recreation FTE		3 (ARC)	1 (ARC)	1 (ARC)		
Rec Additional New Program Development and Expansion		\$733,051	\$100,000	\$100,000	\$125,000	\$150,000



Budgeted Revenues

BUDGETED EXPENSE TOTAL | \$13,262,505

CHANGE FROM PRIOR YEAR | (\$152,306)

PARKS RECREATION AND PUBLIC LANDS DEPARTMENT REVENUE

REVENUE BY FUND

	ACTUAL FY 24	ACTUAL FY 25	BUDGET FY 26	E STIMATE FY 26	PROPOSE D FY 27
GENERAL FUND	\$ 1,498,731	\$ -	\$ -	\$ -	\$ -
PARKS OPERATIONS FUND	4,933,116	9,193,496	9,035,659	8,709,366	9,686,819
PARK MAINTENANCE DISTRICT	1,455,824	1,579,924	1,760,020	1,600,000	1,903,568
AMEND PARK	22,660	22,681	32,449	30,000	30,649
AMEND PARK REC CENTER-ARC	-	-	-	-	762,000
BALLPARK DONATION	125,969	83,975	87,297	75,000	84,297
BALLPARK RE PAIR FUND	38,370	37,228	35,217	36,000	35,217
CEMETERY IMPROVEMENTS	43,056	32,462	24,569	31,500	35,597
CEMETERY PERPETUAL TRUST	69,502	63,842	47,598	73,000	66,337
DOG PARK CONSTRUCTION	262	227	5,000	250	250
PARK CONSTRUCTION	3,460	2,981	2,290	150	300
TRAIL CONSTURCTION	-	615,015	-	6,000	3,000
PARKS PROGRAMS	<u>255,389</u>	<u>285,102</u>	<u>224,529</u>	<u>260,469</u>	<u>273,849</u>
TOTAL REVENUE	<u>\$ 8,446,339</u>	<u>\$ 11,916,933</u>	<u>\$ 11,254,628</u>	<u>\$ 10,821,735</u>	<u>\$ 12,881,883</u>



Budgeted Revenues

BUDGETED EXPENSE TOTAL | \$13,262,505

CHANGE FROM PRIOR YEAR | (\$152,306)

PARKS RECREATION AND PUBLIC LANDS DEPARTMENT ALL FUNDS

REVENUE BY CLASSIFICATION

	ACTUAL FY 24	ACTUAL FY 25	BUDGET FY 26	E STIMATE FY 26	PROPOSED FY 27
SPE CIAL ASSESSMENTS - PMD	\$ 1,347,316	\$ 1,464,179	\$ 1,677,378	\$ 1,500,000	\$ 1,787,869
SPE CIAL ASSESSMENTS - PD1	16,336	1,548	-	-	-
TRANSFER FROM GENERAL FUND	3,823,482	7,534,970	7,090,866	7,027,866	7,235,188
CHARGE FOR SERVICE	1,477,077	1,489,808	1,855,877	1,567,490	2,730,415
CONTRIBUTIONS/DONATIONS	193,383	216,131	201,500	249,269	564,000
INTERGOVERNMENTAL	933,984	110,477	50,000	100,000	60,000
INVESTMENT EARNINGS	498,857	419,563	338,297	335,900	393,701
LICENSE AND PERMITS	7,960	6,750	6,000	6,500	7,000
MICELLANEOUS	3,338	9,214	-	-	-
TRANSFERS IN FROM PRPL	<u>75,060</u>	<u>41,011</u>	<u>34,710</u>	<u>34,710</u>	<u>103,710</u>
TOTAL REVENUE	<u>\$ 8,376,793</u>	<u>\$ 11,293,651</u>	<u>\$ 11,254,628</u>	<u>\$ 10,821,735</u>	<u>\$ 12,881,883</u>

Budgeted Expenses

BUDGETED EXPENSE TOTAL | \$13,262,505

CHANGE FROM PRIOR YEAR | (\$152,306)

PARKS RECREATION AND PUBLIC LANDS DEPARTMENT EXPENSE

EXPENSE BY FUND

	ACTUAL FY 24	ACTUAL FY 25	BUDGET FY 26	E STIMATE FY 26	PROPOSED FY 27
GENERAL FUND	\$ 5,195,944	\$ 41,599	\$ -	\$ -	\$ -
PARK DISTRICT 1/PRPL OPS	4,112,035	10,772,439	10,296,644	9,432,111	9,739,832
PARK MAINTENANCE DISTRICT	814,884	983,513	1,655,975	1,249,955	1,757,584
AMEND PARK	28,791	11,011	52,216	46,000	38,599
AMEND PARK REC CENTER-ARC	-	-	-	-	733,501
BALLPARK DONATION	14,785	39,342	312,003	348,233	7,275
BALLPARK REPAIR FUND	24,335	19,797	91,865	131,865	32,085
CEMETERY IMPROVEMENTS	198,464	-	-	-	130,000
CEMETERY PERPETUAL TRUST	30,526	31,451	48,000	47,000	54,000
DOG PARK CONSTRUCTION	-	-	5,000	-	-
PARK CONSTRUCTION	-	43,500	-	28,900	-
PARKS PROGRAMS	97,319	676,127	854,516	36,500	273,546
TRAIL CONSTRUCTION	-	198,348	-	403,632	-
CAPITAL REPLACEMENT	388,855	587,035	98,592	80,000	496,083
TOTAL EXPENDITURES	\$ 10,905,938	\$ 13,404,162	\$ 13,414,811	\$ 11,804,196	\$ 13,262,505



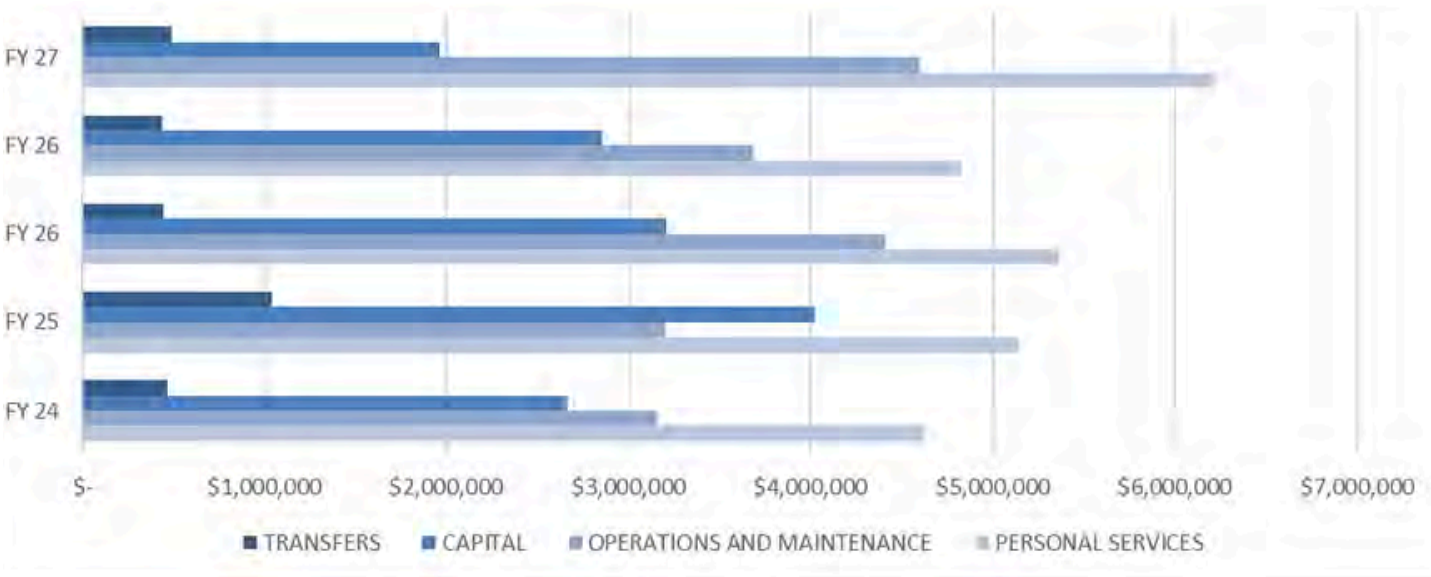
Budgeted Expenses

BUDGETED EXPENSE TOTAL | \$13,262,505
CHANGE FROM PRIOR YEAR | (\$152,306)

PARKS RECREATION AND PUBLIC LANDS DEPARTMENT ALL FUNDS

EXPENSE BY CLASSIFICATION

	ACTUAL FY 24	ACTUAL FY 25	BUDGET FY 26	ESTIMATE FY 26	PROPOSED FY 27
PERSONAL SERVICES	\$ 4,619,700	\$ 5,142,457	\$ 5,358,105	\$ 4,829,116	\$ 6,215,073
OPERATIONS AND MAINTENANCE	3,157,189	3,202,443	4,408,868	3,684,913	4,601,341
CAPITAL	2,664,074	4,021,825	3,206,578	2,853,907	1,959,083
TRANSFERS	<u>464,975</u>	<u>1,037,436</u>	<u>441,260</u>	<u>436,260</u>	<u>487,008</u>
TOTAL EXPENDITURES	<u>\$ 10,905,938</u>	<u>\$ 13,404,161</u>	<u>\$ 13,414,811</u>	<u>\$ 11,804,196</u>	<u>\$ 13,262,505</u>



Budgeted Expenses

BUDGETED EXPENSE TOTAL | \$13,262,505

CHANGE FROM PRIOR YEAR | (\$152,306)

PARKS RECREATION AND PUBLIC LANDS OPERATING BUDGET (GENERAL FUND)

	ACTUAL FY 24	ACTUAL FY 25	BUDGET FY 26	ESTIMATE FY 26	PROPOSED FY 27
PERSONAL SERVICES	\$ 4,340,695	\$ -	\$ -	\$ -	\$ -
OPERATIONS AND MAINTENANCE	793,277	41,599	-	-	-
CAPITAL	-	-	-	-	-
TRANSFERS	<u>61,973</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
TOTAL EXPENDITURES	<u>\$ 5,195,945</u>	<u>\$ 41,599</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

PARKS RECREATION AND PUBLIC LANDS DEPARTMENT EXPENSE (ALL FUNDS)

	ACTUAL FY 24	ACTUAL FY 25	BUDGET FY 26	ESTIMATE FY 26	PROPOSED FY 26
PERSONAL SERVICES	\$ 4,619,700	\$ 5,142,457	\$ 5,358,105	\$ 4,829,116	\$ 6,215,073
OPERATIONS AND MAINTENANCE	3,157,189	3,202,443	4,408,868	3,684,913	4,601,341
CAPITAL	2,664,074	4,021,825	3,206,578	2,853,907	1,959,083
TRANSFERS	<u>464,975</u>	<u>1,037,436</u>	<u>441,260</u>	<u>436,260</u>	<u>487,008</u>
TOTAL EXPENDITURES	<u>\$ 10,905,938</u>	<u>\$ 13,404,161</u>	<u>\$ 13,414,811</u>	<u>\$ 11,804,196</u>	<u>\$ 13,262,505</u>



Staffing Authorization

BUDGETED EXPENSE TOTAL | \$13,262,505

CHANGE FROM PRIOR YEAR | (\$152,306)

POSITION	ACTUAL FY 24	ACTUAL FY 25	BUDGET FY 26	PROPOSED FY 27
ADMINISTRATIVE SUPPORT I	1.0	1.0	1.0	1.0
ADMINISTRATIVE SUPPORT II	2.0	2.0	2.0	2.0
ARBORIST	1.0	1.0	1.0	2.0
CEMETERY/PARKS SUPERVISOR	2.0	2.0	2.0	2.0
COMMUNITY CENTER SUPERVISOR	1.0	1.0	1.0	1.0
DIR. PARKS, RECREATION, PUBLIC LANDS	1.0	1.0	1.0	1.0
FACILITIES MAINT SUPPORT II	1.0	1.0	1.0	1.0
FACILITIES MAINT SUPPORT II - ARC	-	-	-	1.0
FORESTER/NAT'L RESOURCE SUP	1.0	1.0	1.0	1.0
PARKS SUPERINTENDENT	1.0	1.0	1.0	1.0
PROJECT MANAGER/ASSET CO-ORD	1.0	1.0	1.0	1.0
RECREATION EVENT SPECIALIST	3.0	3.0	3.0	3.0
RECREATION EVENT SPECIALIST-ARC	-	-	-	1.0
RECREATION FACILITY SUPERVISOR-ARC	-	-	-	1.0
RECREATION & WELLNESS ADMIN SUPP II	1.0	1.0	1.0	1.0
RECREATION & WELLNESS SPECIALIST	1.0	1.0	1.0	1.0
RECREATION SUPERINTENDENT	1.0	1.0	1.0	1.0
EQUIPMENT OPER./MAINT. WORKER	9.0	9.0	11.0	12.0
SR EQUIP. OPER./MAINT. WORKER	6.0	6.0	8.0	8.0
VOLUNTEER PROGRAM COORDINATOR	1.0	1.0	-	-
TOTAL	34.0	34.0	37.0	42.0

CITY ATTORNEY



City Attorney

BUDGETED EXPENSE TOTAL | \$4,379,863

CHANGE FROM PRIOR YEAR | \$223,412

Budget Justification

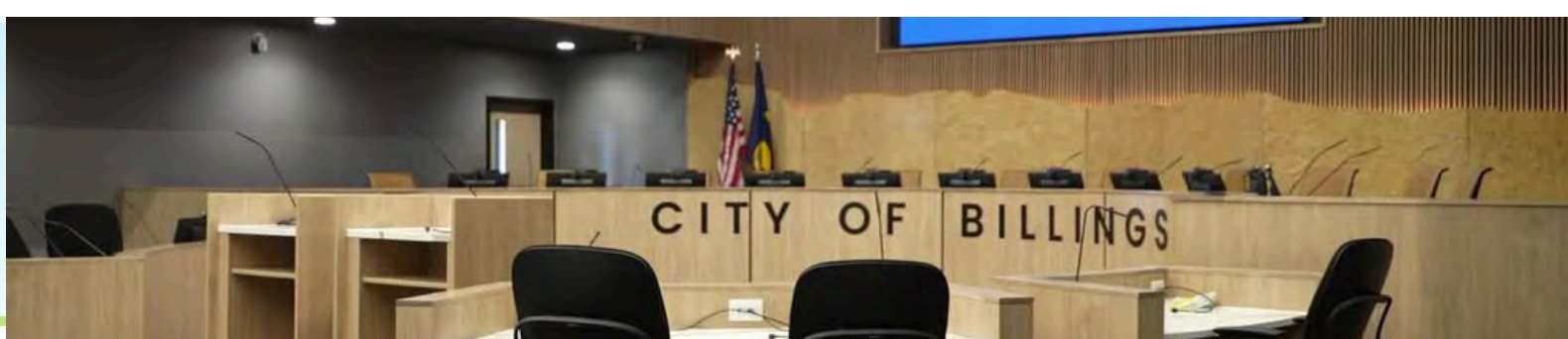
The FY27 budget for the City Attorney is \$4,379,863, which includes an increase of \$223,412 over FY26. The City Attorney's Office currently has two (2) vacant positions that need to be filled. Hiring of these positions will result in additional monthly charges for telephone, parking, membership fees, miscellaneous equipment (computers), office supplies (furniture), and subscriptions for license fees (Westlaw).

There is an approximate increase of \$49,171 in O&M costs due to increased regular monthly charges (IT, Telephone, Facilities, Parking, certification requirements, subscriptions, surface travel, etc.). This total also includes an approximate \$25,100 due to a yearly increase in bar association dues, subscriptions, and software licenses.



New Programs

Implementation of interfaces between the Billings Police Department's database system (New World LERMS by Tyler) and the City Attorney's Office database (Prosecutor by Karpel). These interfaces will work cohesively with one another and will enable easier integration of case information from law enforcement to the City Attorney's Office which will increase productivity and reduce redundancy between the two departments. Annual maintenance for the Tyler interface portion will cost \$7,400 and annual maintenance for the PBK interface portion will cost \$2,000.



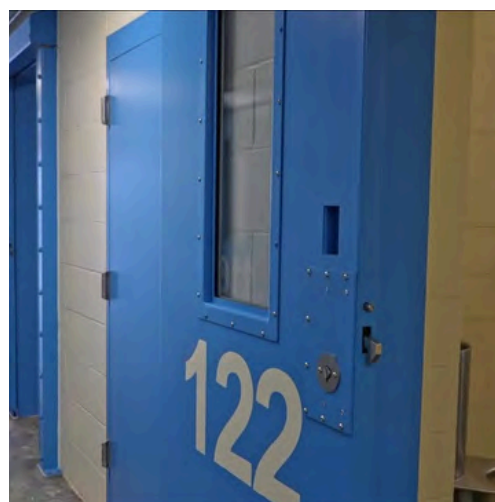
City Attorney

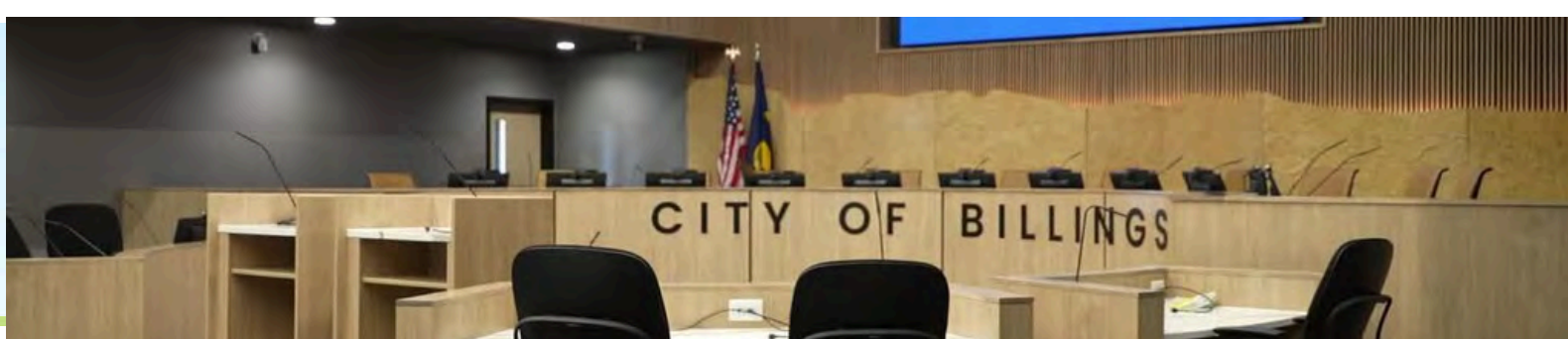
BUDGETED EXPENSE TOTAL | \$4,379,863

CHANGE FROM PRIOR YEAR | \$223,412

Arraignment Court

An arraignment court, which includes all courts in Yellowstone County, was implemented in February 2025. Billings Municipal Court has not yet been incorporated into the arraignment court due to its volume of cases but is expected to begin participating in the arraignment court at some point, likely in FY27. The City Attorney's Office will be required to appear during any court hearings involving Municipal Court defendants. It is unclear what impact this may have on the daily workload of the Municipal Court and the City Attorney's Office and will depend on the number of defendants being seen in arraignment court. The City Attorney's Office is hopeful additional staff will not be necessary to effectively maintain the services it currently provides but this is an unknown factor until Municipal Court is incorporated into the arraignment court.





City Attorney

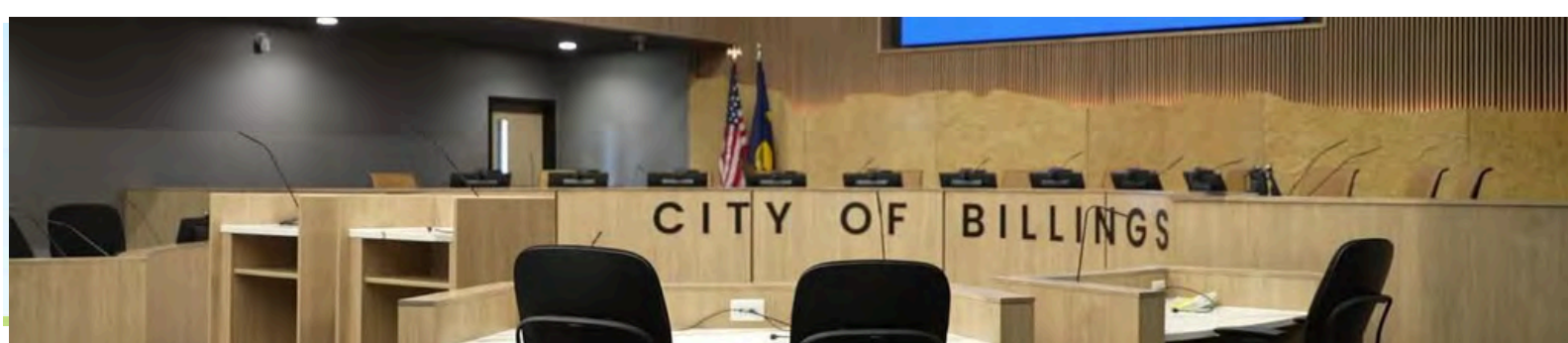
BUDGETED EXPENSE TOTAL | \$4,379,863

CHANGE FROM PRIOR YEAR | \$223,412

Departmental Goals

- To prosecute criminal cases in a timely and efficient manner in the best interests of justice, the best interests of the citizens of Billings, and the interests of victims of crime.
- To be a critical part of the City's leadership team through integration with department directors, City Council, and other city agencies such as the various city boards and commissions.
- To work effectively with the Billings Police Department and other law enforcement agencies, including the Airport Police and MSU-Billings Police Department to enforce state laws and city ordinances related to misdemeanor offenses within the city.
- To work effectively with Code Enforcement and other city personnel and officials in enforcing city ordinances including zoning, building code, fire code, etc.
- To provide legal advice to the City Administrator, Mayor, City Council, departmental staff, and city boards concerning legal matters that arise with respect to city services and operations.
- To practice preventative law by being an integral member of the city's departmental teams and by providing legal risk management services and proactive legal advice.





Budgeted Revenues

BUDGETED EXPENSE TOTAL | \$4,379,863

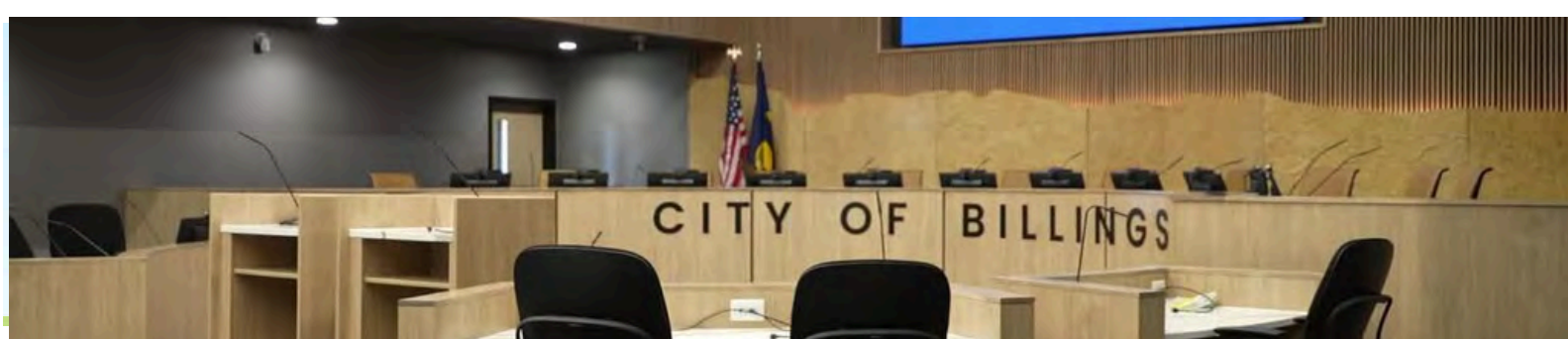
CHANGE FROM PRIOR YEAR | \$223,412

CITY ATTORNEY DEPARTMENT REVENUE

REVENUE BY FUND	ACTUAL FY 24	ACTUAL FY 25	BUDGET FY 26	ESTIMATE FY 26	PROPOSED FY 27
GENERAL FUND	\$ 11,185	\$ 6,398	\$ -	\$ 3,979	\$ -
CITY ATTORNEY GRANTS	<u>589,566</u>	<u>597,681</u>	<u>805,400</u>	<u>455,327</u>	<u>804,452</u>
TOTAL REVENUE	<u>\$ 600,751</u>	<u>\$ 604,079</u>	<u>\$ 805,400</u>	<u>\$ 459,306</u>	<u>\$ 804,452</u>

CITY ATTORNEY DEPARTMENT ALL FUNDS

REVENUE BY CLASSIFICATION	ACTUAL FY 24	ACTUAL FY 25	BUDGET FY 26	ESTIMATE FY 26	PROPOSED FY 27
CHARGE FOR SERVICE	\$ 8,224	\$ 4,028	\$ -	\$ 1,738	\$ -
FINES AND FORFEITURE	57,386	56,740	46,000	53,274	46,000
INTERGOVERNMENTAL	206,392	202,903	270,000	251,838	257,783
INVESTMENT EARNINGS	3,671	2,750	-	2,456	-
TRANSFER IN	<u>325,078</u>	<u>337,658</u>	<u>489,400</u>	<u>150,000</u>	<u>500,669</u>
TOTAL REVENUE	<u>\$ 600,751</u>	<u>\$ 604,079</u>	<u>\$ 805,400</u>	<u>\$ 459,306</u>	<u>\$ 804,452</u>



Budgeted Expenses

BUDGETED EXPENSE TOTAL | \$4,379,863

CHANGE FROM PRIOR YEAR | \$223,412

CITY ATTORNEY DEPARTMENT EXPENSE BY FUND

EXPENSE BY FUND	ACTUAL FY 24	ACTUAL FY 25	BUDGET FY 26	ESTIMATE FY 26	PROPOSED FY 27
GENERAL FUND	\$ 2,557,939	\$ 2,892,293	\$ 3,351,051	\$ 2,572,337	\$ 3,575,411
CITY ATTORNEY GRANTS	<u>594,627</u>	<u>587,069</u>	<u>805,400</u>	<u>750,353</u>	<u>804,452</u>
TOTAL EXPENDITURES	<u>\$ 3,152,566</u>	<u>\$ 3,479,362</u>	<u>\$ 4,156,451</u>	<u>\$ 3,322,690</u>	<u>\$ 4,379,863</u>

CITY ATTORNEY

DEPARTMENT ALL FUNDS BY CLASS

EXPENSE BY CLASSIFICATION	ACTUAL FY 24	ACTUAL FY 25	BUDGET FY 26	ESTIMATE FY 26	PROPOSED FY 27
PERSONAL SERVICES	\$ 2,527,284	\$ 2,744,114	\$ 3,200,647	\$ 2,795,769	\$ 3,400,421
OPERATIONS AND MAINTENANCE	300,204	380,573	453,106	321,426	478,773
TRANSFERS	<u>325,078</u>	<u>354,675</u>	<u>502,698</u>	<u>205,495</u>	<u>500,669</u>
TOTAL EXPENDITURES	<u>\$ 3,152,566</u>	<u>\$ 3,479,362</u>	<u>\$ 4,156,451</u>	<u>\$ 3,322,690</u>	<u>\$ 4,379,863</u>



Staffing Authorization

BUDGETED EXPENSE TOTAL | \$4,379,863
CHANGE FROM PRIOR YEAR | \$223,412



CITY ATTORNEY POSITION	ACTUAL FY 24	ACTUAL FY 25	BUDGET FY 26	PROPOSED FY 27
CITY ATTORNEY	1.0	1.0	1.0	1.0
ASSISTANT CITY ATTORNEY	1.0	1.0	1.0	1.0
CHIEF DEPUTY CITY ATTORNEY	-	1.0	1.0	1.0
DEPUTY CITY ATTORNEY	8.0	7.0	8.0	8.0
LEGAL OFFICE MANAGER	-	1.0	1.0	1.0
VICTIM WITNESS SPECIALIST	2.0	3.0	3.0	3.0
LEGAL SECRETARY	1.0	-	-	-
PARALEGAL	1.0	1.0	1.0	1.0
ADMINISTRATIVE SUPPORT II	3.0	5.0	5.0	5.0
TOTAL	<u>17.0</u>	<u>20.0</u>	<u>21.0</u>	<u>21.0</u>
LEGAL GRANT POSITION				
VICTIM WITNESS SPECIALIST	3.0	3.0	3.0	3.0
ADMINISTRATIVE ASSISTANT	-	-	-	-
DEPUTY CITY ATTORNEY	<u>2.0</u>	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>
TOTAL	<u>5.0</u>	<u>6.0</u>	<u>6.0</u>	<u>6.0</u>
TOTAL CITY ATTORNEY	<u>22.0</u>	<u>26.0</u>	<u>27.0</u>	<u>27.0</u>

