

YELLOWSTONE COUNTY ZONING REGULATIONS

May, 2019



ARTICLE 27-100. - TITLE, PURPOSE AND SCOPE

Sec. 27-101. - Title.

This Resolution and maps shall be known and cited as The Yellowstone County Zoning Regulations for the areas in the unincorporated Yellowstone County, Montana 4½ Mile Jurisdictional Area.

Sec. 27-102. - Purpose.

The zoning regulations, classifications, and the districts as herein set forth are in accordance with MCA 76-2-101, MCA 76-2-201, et seq. (County Zoning).

These regulations have been established in accordance with the 1990 Yellowstone County Comprehensive Plan and have been deemed necessary and developed with consideration, among other things, to the character of each zoning district and its peculiar suitability for particular uses, to conserve the value of buildings, to stabilize property values, to preserve recreation and agriculture lands from conflict with urban development, to promote the interest of health, safety and general welfare, to secure safety from fire and to provide adequate open space for light and air, and to facilitate the economic provision of adequate transportation, water, sewers, schools, parks and other public requirements. To achieve the above stated goals, these regulations 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 unincorporated Yellowstone County 4-1/2 Mile Jurisdictional Area.

The board of county commissioners of Yellowstone County further declares these zoning regulations are adopted for the following specific purposes:

- (a) To promote and guide development consistent with the goals and objectives of the 1990 Yellowstone County Comprehensive Plan;
- (b) To prevent waste and inefficiency in land use;
- (c) 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
- (d) 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 1990 Yellowstone County Comprehensive Plan.

Sec. 27-103. - Scope.

- (a) This chapter applies to all lands within the unincorporated portions of the Yellowstone County 4-½ Mile Jurisdictional Area.
- (b) In their interpretation and application, the provisions of this Resolution may be regarded as the minimum requirements for the protection of the public health, safety, comfort, prosperity and welfare.
- (c) This Resolution 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 Resolution.

ARTICLE 27-200. - DEFINITIONS

Sec. 27-201. - Definitions.

For the purpose of this chapter, certain terms or words used herein are defined as follows:

The word *person* includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular; the word *shall* is mandatory, the word *may* is permissive;

the words *used* or *occupied* include the words *intended, designated, or arranged to be used or occupied*; and the word *lot* includes the words *plot, tract or parcel*. Where other definitions are necessary and are not defined herein, the dictionary may define such terms.

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

- (1) *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.
- (2) *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.

Adult foster family care home: See *Community residential facilities*.

Agriculture: The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, grazing land, animal and poultry husbandry, horticulture, floriculture, viticulture, including all uses customarily incidental thereto but not including any agriculture industry or business such as commercial feed lots, animal hospitals, food processing plants, fur farms or similar uses.

Airport or aircraft landing field: Any runway, landing area or facility whether publicly or privately owned and operated, and which is designed, used or intended to be used either by public carriers or by private aircraft for landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.

Alterations: A change or rearrangement of the structural parts of existing facilities, or an enlargement by extending the sides or increasing the height or depth or the moving from one (1) location to another. In buildings for business, commercial, industrial or similar uses, the installation or rearrangement of partitions affecting more than one third of a single floor area shall be considered an alteration.

Antenna: See Section 27-610.

Apartment house: See *Dwelling, multiple-family*.

Automobile or vehicle salvage or wrecking yard: The dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled, or partially dismantled, obsolete, or wrecked vehicles or their parts or any establishment or place of business which is maintained or used for the storage, keeping, buying or selling of wrecked, scrapped or dismantled motor vehicles or motor parts. The presence on any lot or parcel of land of two or more motor vehicles, which, for a period exceeding thirty (30) days, have not been capable of operating under their own power and from which parts have been removed for reuse or sale, shall constitute a salvage or wrecking yard.

Automobile sales area: See *Vehicle sales area*.

Bars, taverns and cocktail lounges: An establishment where alcoholic beverages are sold and consumed on the premises.

Bed and Breakfast inn: A house, or a portion thereof, that contains short-term guest rooms where lodging, with or without meals, is provided for compensation. The operator of the inn shall live on the same property upon which the inn is located.

Berm: An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise levels.

Billings and Yellowstone County Plant List ("Plant List")

Board: The board of adjustment of Yellowstone County.

Boarding or lodging house: "Boarding house" means the same as lodging house, but where meals (with or without lodging) are provided for compensation and by prearrangement for a definite period for

three (3) or more persons. Boarding houses shall not be construed to mean rest homes or convalescent homes. This definition shall also exclude "Bed and Breakfast Inns".

Boat sales area: See *Vehicle sales area*.

Bufferyard: A combination of physical space and vertical elements, such as plants, berms, fences, or walls, the purpose of which is to separate and screen uses from one another.

Building: Any structure having a roof, but excluding all forms of vehicles even though immobilized. When a use is required to be within a building, or where special authority granted pursuant to this chapter requires that a use shall be within an entirely enclosed building then the term "building" means one so designed and constructed from the ground to the roof line, and shall contain no openings except for windows and doors which are designed so that they may be closed.

Building height: The vertical distance from the highest point of a structure to the "grade", excluding permissible height exceptions in sections 27-308 and 27-309.

Building, principal: The primary building or use on a lot that accommodates the principal use to which the premises are devoted.

Caliper: A standard for trunk measurement of nursery stock.

Camp, public and private: Any area or tract of land used or designed to accommodate two (2) or more camping parties, including cabins, tents, travel trailers and other camping outfits.

Canopy tree: A species of tree which normally bears crown foliage no lower than six feet above ground level upon maturity.

Carport: A structure to house or to protect motor vehicles owned or operated by the occupants of the main building which is open on three (3) or fewer sides.

Car wash: A building or area that provides facilities for washing and cleaning motor vehicles, excluding semi-tractors and/or semi-trailers, which may use production line methods with a conveyor, blower or other mechanical devices. This term also includes facilities which require hand labor in the cleaning of the vehicle.

Child care facilities:

- (1) *Family day care home:* A private residence in which supplemental parental care is provided for up to six (6) children, including the operator's children, from separate families on a regular basis. Such day care home shall be licensed by the Montana Department of Social and Rehabilitation Services under M.C.A., Title 53, Chapter 4, Part 5, as required by state law.
- (2) *Group day care home:* A private residence in which supplemental parental care is provided for seven (7) to twelve (12) children, including the operator's children, on a regular basis and which is licensed by the Montana Department of Social and Rehabilitation Services under M.C.A., Title 53, Chapter 4, Part 5, as required by state law.
- (3) *Day care center:* A place in which supplemental parental care and/or adult supervision is provided to thirteen (13) or more children, including the operator's children, on a regular basis, and which may include nursery schools, private kindergartens or after school care and supervision. Such day care center shall be licensed as required by the state, city or county and conducted in accordance with applicable state and local requirements.

Church or other place of worship: A building which is used primarily for religious worship and related religious activities, including but not limited to churches, convents, monasteries, shrines and temples.

Clinic, medical: A building designed and used for the medical, dental and surgical diagnosis and treatment of patients under the care of doctors and nurses, but where no surgery other than minor emergency care is performed and where no overnight care is provided.

Clinic, surgical: A clinic where surgery is performed on an outpatient basis only.

Club, fraternal: A group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal membership requirements. This definition includes such organizations as the Knights of Columbus, Masons, Elks and other similar organizations.

Club, service: Any nonprofit organization, the services of which are devoted entirely to the betterment or improvement of community in which it is located, including organizations such as the Lions, Kiwanis, Rotary, Optimists and other similar organizations.

Community group home: See Community residential facilities.

Community residential facilities:

- (1) *Adult foster family care home:* A private home licensed by the Montana Department of Public Health and Human Services owned by one (1) or more persons eighteen (18) years of age or older which offers light personal care or custodial care to disabled adults who are not related to the owner by blood or marriage or which offers light personal care or custodial care to aged persons. The number of aged persons or disabled adults in an adult foster family care home may total no more than four (4).
- (2) *Community group home:* A family oriented residence or home licensed by the appropriate state agency designed to provide residential services and facilities for developmentally, severely disabled or mentally disabled persons, but does not provide skilled or intermediate nursing care.
- (3) *Halfway house:* A place operated in accordance with the regulations of the Montana Department of Public Health and Human Services for the rehabilitation of alcohol or drug dependent persons.
- (4) *Youth foster home:* A youth care facility licensed by the Montana Department of Public Health and Human Services in which substitute care is provided to one (1) to six (6) foster children or youths, other than the foster parents' own children, stepchildren or wards.
- (5) *Youth group home:* A youth care facility licensed by the Montana Department of Public Health and Human Services in which substitute care is provided to seven (7) to twelve (12) children or youth.
- (6) *Assisted living facility:* An assisted living facility licensed by the Montana Department of Public Health and Human Services in a congregate residential setting that provides or coordinates personal care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-related services for persons eighteen (18) years old or older.

Condominium: Property that is owned as single units with common elements located on property submitted to the provisions of MCA Title 70 Chapter 23. This term does not include a townhome or townhouse.

Coniferous: A plant with foliage that persists and remains green year-round.

Convenience store: A retail store that is designed and stocked to sell primarily food, beverages and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is designed to attract, and depends upon, a large volume of stop-and-go traffic. Illustrative examples of convenience stores are those operated by the "7-11" and "Kwik-Way" chains. These stores may also include pumps and/or storage tanks from which fuels are dispensed at retail. No servicing, maintenance or repair work shall be conducted on the business premises. This definition shall exclude truck stops.

Day care center: See *Child care facilities*.

Deciduous: A plant with foliage that is shed annually.

Dripline: A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

Drive-in service: A use whose character is dependent on a driveway approach, a drive-through and/or parking space for motor vehicles so as to either serve customers while in the vehicle or permit consumption of food or beverages in a vehicle obtained on the premises. Drive-in or drive-up window restaurants, drive-

in banking, pickup windows for beverages or food, and other drive-in or drive-through services are included in this category. This definition shall exclude car washes and insurance adjusters.

Drought avoidance: The ability of a plant, once established, to withstand drought without showing signs of stress.

Drought tolerance: The ability of a plant, once established, to withstand drought without dying.

Duplex: See *Dwelling, two-family*.

Dwelling: A building designed exclusively for residential purposes, including single-family, two-family, and multiple-family dwellings, but not including hotels or motel units, bed and breakfast guest rooms, boarding or lodging houses, or travel trailers and/or vehicles.

Dwelling, types of:

- (1) *Dwelling, single-family:* A building constructed and designed for occupancy by one (1) family and containing one (1) dwelling unit.
- (2) *Dwelling, two-family (duplex):* A building constructed and designed for occupancy by two (2) families living independently of each other, and containing two (2) dwelling units, where the dwelling units share a common separation such as a ceiling, wall, etc. (including, without limitation, the wall of an attached garage or porch) and where access cannot be gained between the units through an internal doorway.
- (3) *Dwelling, multiple-family:* A building constructed and designed for occupancy by three (3) or more families living independently of each other, and containing three (3) or more dwelling units, where the dwelling units share a common separation such as a ceiling, wall, etc. (including, without limitation, the wall of an attached garage or porch) and where access cannot be gained between the units through an internal doorway, excluding common hallways.

Dwelling unit: One (1) or more rooms designed for or occupied by one (1) family for living or sleeping purposes and may contain kitchen and/or bathroom facilities for use solely by one (1) family. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit. A studio/efficiency apartment constitutes a dwelling unit within the meaning of this chapter.

Enclosed structure: A building that protects the contents thereof from the elements, including sight obscuring walls on all sides and a roof.

Family: Any number of individuals, related by blood, marriage, adoption or other legal means, including any number of minor children in foster care, and/or any number of unrelated persons (including any domestic servants or caregivers) living together in a dwelling unit. The total number of persons living together in the dwelling unit cannot exceed the recommended guidelines, as amended time to time by HUD, of two (2) persons per bedroom (24 CFR Part 4, Section 982.401). A "family" is distinguished from a group occupying a boarding house, lodging house, bed and breakfast inn, fraternity/sorority house, hotel or clubhouse.

Family day care home: See *Child care facilities*.

Fence: A barrier constructed of materials erected for the purpose of protection, confinement, enclosure, or privacy. This term also includes a masonry wall.

Fireworks: Those substances and/or articles which are more specifically defined in M.C.A. 50-37-101 through 50-37-103.

Fireworks stand: A structure from which fireworks are sold, displayed or offered for sale. A fireworks stand is specifically limited to an approved temporary structure, as regulated in section 27-614.

Fireworks storage building: A structure used for the storage of fireworks.

Floodplain or floodway: In all cases of interpretation, designated floodplain or floodway definitions as established by the Montana Department of Natural Resources and Conservation shall apply.

Fraternity/sorority house: A dwelling or dwelling unit occupied by and maintained exclusively for fraternity or sorority members, their guests or visitors and affiliated with and acknowledged as a fraternity/sorority house by an academic or professional college or university or other recognized institution of higher learning.

Gambling establishment: See Section 27-612.

Garage, residential: An accessory building or an accessory portion of the main building, enclosed on more than three (3) sides and designed or primarily used only for the shelter or storage of vehicles owned and operated by the occupants of the buildings.

Grade (adjacent ground elevation): The lowest point of elevation of the finished surface of the ground, or the lowest point of elevation of the finished surface of the ground between the exterior wall of the building and the property line, if it is less than five (5) feet distance from the wall. In cases where walls are parallel to and within five (5) feet of a public sidewalk, alley or other public way, the grade shall be the elevation of the sidewalk, alley, or public way.

Gross floor area: The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Group day care home: See *Child care facilities*.

Halfway house: See *Community residential facilities*.

Hazardous waste facilities: See Sections 27-605, et seq.

Height: The vertical distance from the highest point of a structure to the "grade", excluding permissible height exceptions in section 27-310.

Heliport: Any facility whose primary purpose is for the landing or taking off of helicopters. This would include any accessory uses or structures related to the principal use as a heliport, such as maintenance and overhaul, fueling, service, storage, tie-down areas and hangars.

Home occupation: See Section 27-606.

Hospital, animal: A building or premises including veterinary hospitals for the medical or surgical treatment of animals or pets, including dogs and cats, also including the boarding of hospitalized animals subject to medical or surgical treatment.

Hospital, general: An institution specializing in giving clinical, temporary and emergency services of a medical or surgical nature to human patients and licensed by state law to provide facilities and services in surgery, obstetrics and general medical practice, as distinguished from treatment of mental and nervous disorders and alcoholism, but not excluding surgical and post-surgical treatment of mental cases. Nursing homes and convalescent homes are excluded from this definition.

Hospital, mental: An institution licensed by state agencies under the provisions of law to offer facilities, care and treatment for cases of mental and nervous disorders.

Hotel: A building, or portion thereof, designed or used for temporary lodging, being less than thirty (30) days, where lodging with or without meals is provided for compensation. A central dining room, banquet meeting hall, kitchen, plus accessory shops and services catering to the general public can be provided.

Inoperable vehicle: Any vehicle incapable of immediate operation under its own power safely and in concurrence with governing and applicable traffic ordinances and statutes or any vehicle not having current license plates lawfully affixed thereto.

Invasive Species: An alien (non-naturalized) species whose introduction does or is likely to cause economic or environmental harm or harm to human health and which tends to disrupt natural ecosystems by displacing naturalized species.

Irrigation system: An artificial watering system designed to transport and distribute water to plants.

Junk: Any worn out cast off or discarded article or material which is ready for destruction or has been collected or stored as salvage, for conversion to some other use or for reduction into components. Junk includes but is not limited to old or scrap brass, rope, rags, batteries, paper, tires, rubber debris or waste, iron, steel and other old or scrap ferrous or non-ferrous material.

Junkyard: An open area where wastes, or used or secondhand materials are bought, sold, exchanged, stored, processed or handled, which are not intended to be recycled. Materials shall include, but are not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles.

Kennel, commercial: Any lot, building, structure or premises where more than two (2) dogs or cats over the age of six (6) months, other than those owned by the kennel owner are kept or maintained for boarding, training, breeding or selling, exclusive of medical care or for quarantine purposes in excess of twenty-four (24) hours. Female dogs bred for the sole purpose of the sale of puppies for profit, and female dogs numbering more than three (3) constitute a Commercial Kennel.

Kennel, noncommercial: A kennel at, in, or adjoining a private residence where more than two (2) dogs or cats are kept for the hobby of the householder in using them in shows or obedience trials, personal pleasure or for the guarding or protecting of the householder's property. The occasional raising of a litter of puppies or kittens at the kennel and the occasional sale of puppies or kittens by the keeper of a noncommercial kennel should in no way change the character of the residential property.

Landscape architect: A person who holds a license to practice landscape architecture in the State of Montana.

Landscaping: To change the natural features of a plot of ground by combination of organic and inorganic elements, as further described in sections 27-1101, et seq.

Landscaping material, inorganic: Material such as rock, stone, flower tubs, fountains, outdoor plazas or other amenities.

Landscaping material, organic: Any material that is or is derived from living plants, such as trees, shrubs, vines, turf, and flowerbeds, bark chips, or mulch.

Limited pharmaceutical manufacturing: Establishments primarily engaged in manufacturing bulk organic and inorganic medicinal chemicals and their derivatives and processing bulk botanical drugs and herbs. This definition also includes premises engaged in manufacturing, fabricating, or processing drugs in pharmaceutical preparations for human or veterinary use.

Livestock and fowl: Livestock shall include all animals of the equine, bovine and swine class, including goats, sheep, mules, horses, hogs, cattle and other grazing animals. Fowl shall include chickens, geese, ducks, turkeys and other poultry.

Lot: A tract of land, no matter how legally described whether by metes and bounds, Certificate of Survey and/or by lots and block designation as in a recorded plat.

Lot area: The total area circumscribed by the boundaries of a lot, except that when the legal instrument creating a lot extends into a public street right-of-way and/or easement, then the lot boundary for purposes of computing the lot area shall be the street right-of-way.

Lot coverage: The total area of a lot covered by buildings or roofed areas, excluding allowed projecting eaves, balconies and similar features. Lot coverage includes, but is not necessarily limited to the following: principle structures, accessory structures, carports, and covered decks and patios. Uncovered decks less than thirty (30) inches in height shall not be counted towards lot coverage.

Lot frontage: That portion of the lot nearest the public street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to public streets shall be considered frontage, and yards shall be provided as indicated in sections 27-308 and 27-309, District Regulations.

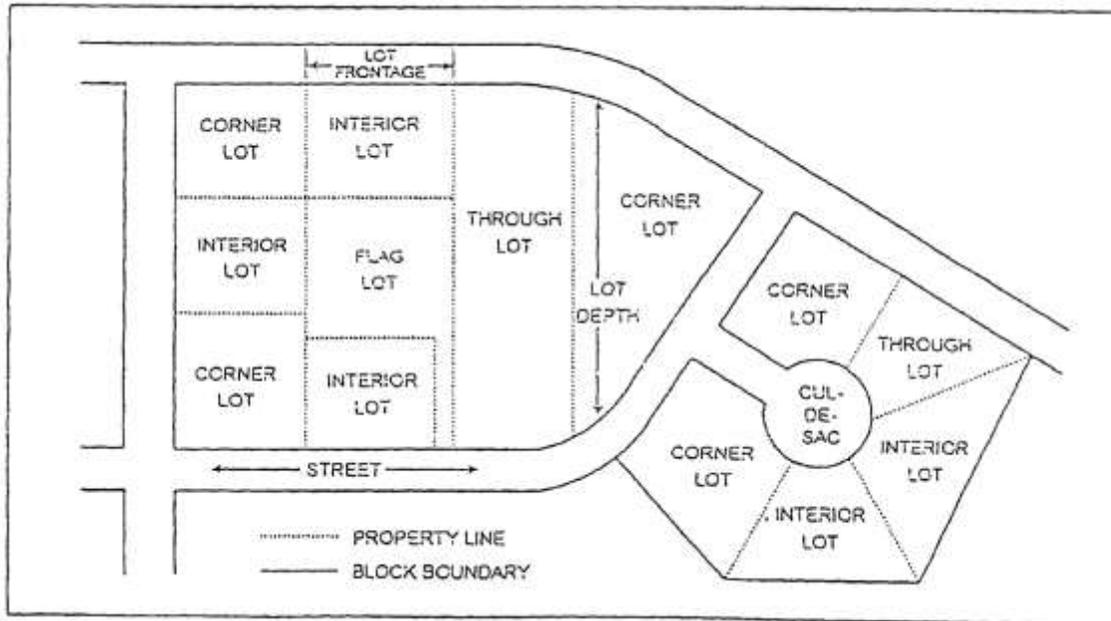
Lot line: A line of record bounding a lot which divides one lot from another lot or from a public or private street, alley or other public space.

(1) *Front lot line:* The lot line or lines abutting a public or private street.

- (2) *Rear lot line*: The lot line not intersecting a front lot line that is most distant from and most clearly parallel to the front lot line.
- (3) *Side lot line*: Any lot line that is not a front or a rear lot line.

Lot types:

- (1) *Corner lot*: A lot located at the intersection of two (2) or more streets.
- (2) *Interior lot*: A lot other than a corner lot with only one (1) frontage on a street other than an alley.
- (3) *Through lot or double frontage lot*: A lot other than a corner lot with frontage on more than one (1) street other than an alley.



Lot types

Manufactured home: A factory assembled structure or structures, equipped with the service connections necessary to be used as a dwelling unit, and constructed to be readily movable as a unit or units either on its own running gear or other system. Since 1976 manufactured home construction has been regulated by the federal Manufactured Housing Construction and Safety Standards Act as administered by the Department of Housing and Urban Development (HUD), and are not constructed in accordance with the standards set forth in the Uniform Building Code, applicable to site-built homes. See section 27-608.

Manufactured home park or court: Land designed or used that contains temporary or permanent parking for two (2) or more manufactured homes spaces which are available to the general public for use as residences. This term does not include a parcel composed of individually platted lots, each lot of which is filed with the Yellowstone County clerk and recorder, which contain only one manufactured home per lot.

Merchandise: All items of movable personal property offered for sale to the public for which no title is required to be registered with or issued by the state.

Micro-irrigation: The frequent application of small quantities of water directly on or beneath the soil surface, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the lateral water delivery pipes. Micro-irrigation includes drip, subsurface, bubbler, and spray irrigation and may also be referred to as trickle irrigation, low volume, or low flow irrigation.

Mobile home or trailer: See *Manufactured home*.

Motel: A group of attached or detached buildings containing individual sleeping units where a majority of such units open individually and directly to the outside, or to a common corridor and where a garage is attached to or a parking space is conveniently located at each unit, all for the temporary use, being less than thirty (30) days, by automobile tourist or transient and such word shall include tourist courts, motor courts, automobile courts and motor lodges.

Motor vehicle: A two (2) or more wheeled or track vehicle designed to transport one (1) or more persons or properties from one (1) location to another including without limitation: trucks, buses, cars, motorcycles, scooters, farm and industrial equipment.

Multi-unit developments:

- Condominium, townhome, townhouse or commercial development projects that include common, private facilities shared by buildings or lots.
- Residential developments that have more than two (2) dwelling units and include common, private facilities shared by buildings or lots.

Native plant: Plant species occurring naturally and native to a given ecosystem or plant community that is suited to the soil, topography, hydrology, and wildfire risk of a particular site.

Naturalized plant: A plant species that has become established in an area where it is not native.

Nonconforming lot: See Section 27-402.

Nonconforming structure: See Section 27-404.

Nonconforming use: See Sections 27-403 and 27-405.

Nursing homes, convalescent homes, orphanages and charitable institutions: A home operated similarly to a boarding house but not restricted to any number of guests or guest rooms, and the operator of which is licensed by the state, city or county to give special care and supervision to his/her patients. In such homes, nursing, dietary and other personal services are furnished to convalescents, invalids and aged persons, but within which homes are kept no persons suffering from a contagious or communicable disease, and within which are performed no surgery, maternity or other primary treatments such as are customarily provided in sanitariums or hospitals, and within which no persons are kept to be served who normally would be admitted to a mental hospital. Adult Foster Family Care Homes are not included in this definition.

Occupied: Includes the words intended, designated or arranged to be occupied.

Open storage: The storage for a period of five (5) consecutive days or more of junk, salvage, trash, inoperable vehicles and/or merchandise outside of an enclosed structure.

Parking, public: An open area other than a street used for the temporary parking of more than four (4) automobiles and available for public use whether free, for compensation or as an accommodation for clients or customers.

Pawn shop: See *Secondhand store and/or antique shops*.

Permanent tree protection devices: Structural measures, such as retaining walls or aeration devices that are designed to protect the tree and its root system throughout its lifetime.

Planned development: See Sections 27-1301, et seq.

Planning board: The Yellowstone County Board of Planning as authorized under the provisions of M.C.A., Title 76, Chapter 1, Part 1, Section 76-1-101.

Planning director: The individual appointed by the City, after consideration of the recommendations from the County Commissioners and Board of Planning. The Director's duties and responsibilities shall be those defined in the Interlocal Agreement on Planning.

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 uses listed in sections 27-305 and 27-306, District Regulations, are principal uses.

Project animal: An animal raised exclusively for educational purposes and/or for participation in programs such as F.F.A., 4-H, or other similar types of programs.

Projection: The distance any part of a structure extends beyond the building setback line. See Section 27-310 for a list of permitted projections.

Recreation, commercial: An area operated for profit and devoted to facilities and equipment for recreational purposes; swimming pools, tennis courts, playgrounds, golf courses, community clubhouses and other similar uses whether the use of such area is limited to private membership or whether open to the public upon the payment of a fee or service charge.

Recreation, noncommercial: An area devoted to facilities and equipment for recreational purposes; swimming pools, tennis courts, playgrounds, community clubhouses and other similar uses maintained and operated by a nonprofit club, homeowners' association or other corporate structure and whose membership is limited to the residents within the area.

Recreational vehicle: See *Travel trailer*.

Recreational vehicle park: See *Travel trailer park*.

Recycling center: A facility that is not a junkyard and in which recoverable resources, such as newspaper, glassware and metal cans are collected, stored, flattened, crushed or bundled. This term does not include automobile or vehicle salvage or wrecking yards.

Retirement home: A place of residence for several families or individuals in apartment-like quarters, rented or condominiums, which may feature services to retired persons such as limited nursing facilities, minimum maintenance living accommodations and recreation programs and facilities.

Right-of-way: A strip of land dedicated or acquired for use as a public way, or that is acquired through an easement.

Runoff: Water or liquid that is not absorbed by the soil or landscape to which it is applied and flows from the area.

Salvage: Something saved as valuable or useful from trash, rubbish, worn out equipment, or junk.

Satellite dish antenna: See Section 27-610.

School, college or university: A public or private institution for higher learning (beyond grade 12) providing instruction as approved by the Montana Department of Education or a national collegiate or university accreditation agency.

School, elementary, junior, and senior high, including public, private and parochial: An institution of learning which offers instruction in the several branches of learning and study required to be taught in the schools by the Montana State Board of Education.

School, trade or vocational-technical: A building where instruction is given to pupils in arts, crafts, or trades and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation.

Scrap or waste processing yard: See *Junkyard*.

Secondhand store and/or antique store: Any retail establishment in which the principal portion of the articles, commodities, or merchandise handled, offered for sale, or sold on the premises are used or not new. Pawn shops are included in this definition.

Service station, automobile: A place where fuel and/or lubricants are dispensed at retail and where light maintenance activities such as engine tuneups, lubrication, tire repair, battery servicing and air conditioning service may be conducted. Service stations do not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, body work and/or drive-train repair and rebuilding are conducted.

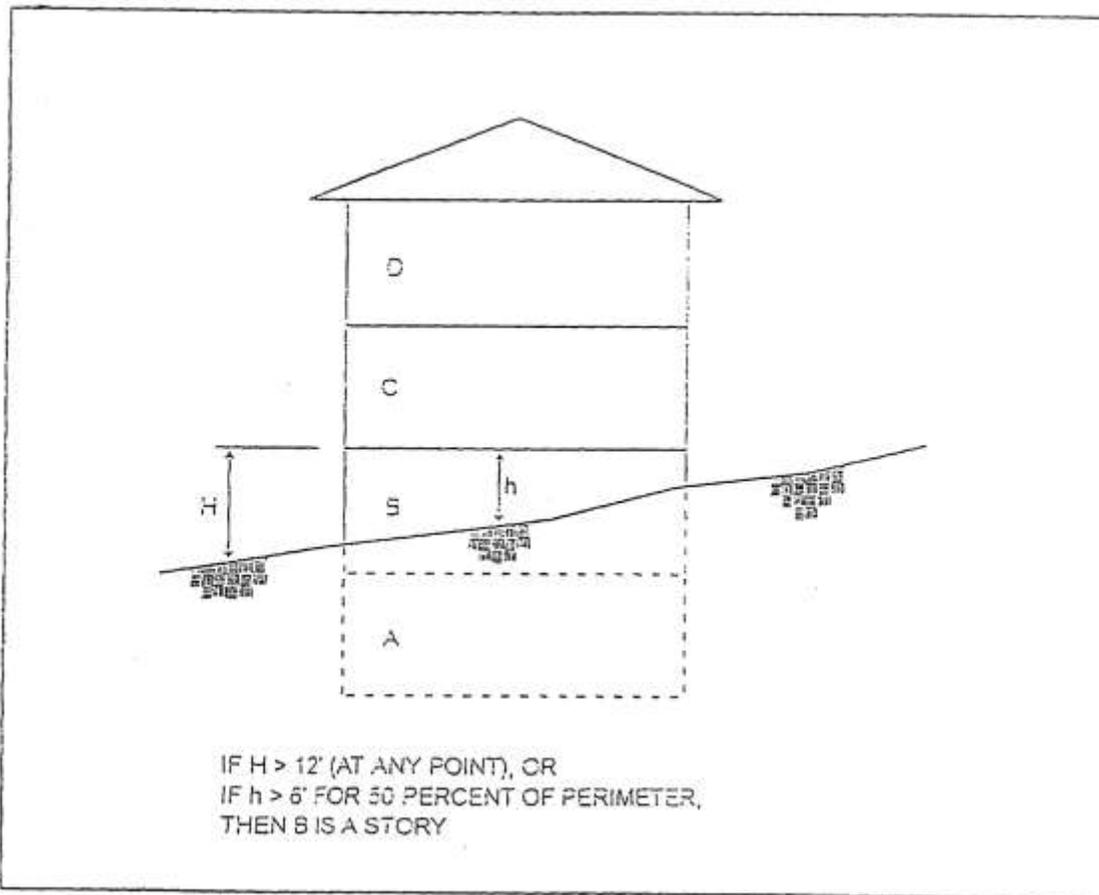
Setback: That distance measured from the lot or property line to a supporting point(s) or wall(s) of a structure or building.

Shrub: A woody plant that usually remains low and produces shoots or stems from the base and is not usually tree-like or single stemmed.

Stable, private: A detached accessory building in which horses or other beasts of burden owned by the occupant of the premises are kept, and in which no such animals are kept for hire, remuneration or sale, and are kept for the owner's private use only.

Stable, commercial: A stable other than a private stable.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar or unused under-floor space shall be considered a story.



Story

Streets:

- (1) *Street*: A public way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place, or however otherwise designated which has been dedicated to or acquired for public use and which extends the full width between right-of-way lines, which includes areas acquired or prescribed through an easement.
- (2) *Alley*: A minor way which is used primarily for vehicular service access or for utility lines to the back or the side of properties otherwise abutting on a street.

- (3) *Arterial street*: A street which is intended to provide for high operating speeds, high levels of service and to serve longer trips through access management and the interconnection of major development areas such as the central business district, large commercial and industrial developments and major residential areas.
- (4) *Collector street*: A street that functions as a link between local streets and arterial streets and provides both access and movement functions within residential, commercial and industrial areas.
- (5) *Cul-de-sac*: A street that terminates in a vehicular turnaround.
- (6) *Local street*: A street whose primary function is access and whose movement function is incidental and involves traveling to and from a collector. In addition, local streets are characterized by short trip lengths, low traffic volumes, slow speeds and deliberately discouraging through traffic.

Street Front Landscaping: Required landscaping that is placed along the edge of a yard adjacent to a public street or right-of-way.

Structure: A building or anything constructed in the ground or anything erected which requires location on the ground or water, or is attached to something having location on or in the ground, but not including fences less than six (6) feet in height or paved areas.

Structure, principal: A structure accommodating the principal use to which the property is devoted.

Swale: A shallow channel with gently sloping sides that can be used to manage water runoff, filter pollutants, and increase storm water infiltration.

Temporary irrigation: An irrigation system that is used to establish plants and is removed after the establishment period.

Temporary structure: A structure established for a fixed period of time as established by this chapter.

Temporary use: A use established for a fixed period of time as established by this chapter.

Theater, drive-in: An establishment to provide entertainment through projection of motion pictures on an outdoor screen for audiences whose seating accommodations are provided by their own motor vehicles parked in car spaces provided on the same site with the outdoor screen.

Townhome or townhouse: Property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities.

Trailer sales area: See *Vehicle sales area*.

Trash: Something worth little or nothing.

Travel trailer: A portable structure, not more than eight (8) feet wide, built on a chassis designed to be used as a temporary dwelling for travel, recreational and vacation use. Recreational Vehicles are included within this definition.

Travel trailer park: Any area or tract of land designed or used that contains two (2) or more spaces which are available for rent to the general public for parking or placement of temporary recreational or vacation housing units. This term does not include a parcel composed of individually platted lots.

Truck stop: Any occupancy which provides a service for highway travel directly or indirectly related to the servicing, repairing, and/or refueling of semi-trucks (also commonly known as tractors), semi-trailers, and their components. A truck stop is a point at which semi-trucks may stop for refueling or where truck drivers can park their trucks, trailers and components and seek lodging and/or food services, as well as, other services related to highway trucking needs.

Truck wash: A building or area that provides facilities specifically designed for washing and cleaning semi-tractors and/or semi-trailers and recreational vehicles, which may use production line methods with a conveyor, blower or other mechanical devices. This term also includes facilities which require hand labor in the cleaning of the vehicle.

Turf grass: Continuous plant coverage consisting of grass species suited to growth in Billings and Yellowstone County.

Usable open space: That space on the same lot and contiguous to the principal building or buildings and which is either landscaped or developed and maintained for recreational purposes and excludes that portion of the lot which is utilized for off-street parking or loading space or for front yard setback requirements. Usable open spaces can be provided within a building or the roof top where facilities are provided for residents of the development.

Used: Includes the words intended, designated or arranged to be used.

Utility, public: A private business organization performing some public service and subject to special governmental regulations or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include, but are not limited to, water supply, electric power, gas and transportation for persons and freight.

Variance: See Sections 27-1501, et seq.

Vegetation: Organic plants, including trees, shrubs, vines, and flowers.

Vehicle sales area: An open area other than a street, used for the display, sale or rental of new or used automobiles, boats, trailers, motorcycles, snowmobiles or semi-tractors and/or trailers; and where no repair work is done except minor incidental repair excluding body and fender work or spray painting on the vehicle(s) to be displayed, sold or rented on the premises.

Vehicular use area: The area of a site devoted to vehicular parking and driving aisles.

Vine: A woody plant whose stem requires support and climbs by tendrils or twining or creeps along the ground.

Walking distance: That distance measured along the shortest path accessible to foot traffic.

Watercourse: Any natural stream, river, creek or drainage in which water flows either continuously or intermittently and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow. This term shall not include any facility created exclusively for the conveyance of irrigation water.

Wholesale: An establishment primarily engaged in the sale of goods and merchandise for resale instead of for direct consumption.

Xeriscape: Landscape methods which conserve water through the use of drought-tolerant plants and planting techniques

Yard: An open space about a building, other than a court, unoccupied and unobstructed from the ground to the sky, except as otherwise specifically provided in this Chapter.

- (1) *Front yard:* A yard extending along the full length of the front lot line or lines and which is situated between a principal building and the front lot line or lines.
- (2) *Rear yard:* A yard extending along the full length of a rear lot line and situated between the principal building and the rear lot line.
- (3) *Side yard:* A yard not designated as a front or a rear yard.

Youth foster home: See *Community residential facilities*.

Youth group home: See *Community residential facilities*.

Zoning coordinator: The person designated by the Planning Director to oversee the administration of this Chapter, unless otherwise noted.

ARTICLE 27-300. - ZONING DISTRICTS AND OFFICIAL MAPS

Sec. 27-301. - Zoning Districts.

It is the intent of this section to establish zones wherein compatible uses of land may be located to create, protect and maintain a desirable living environment, to stabilize and protect residential harmony and to conduct profitable businesses. It is also the intent of this Chapter to make it possible to efficiently and economically design and install public facilities in terms of size and capacity to adequately meet the needs resulting from a defined intensity of land use.

To carry out the provisions of this chapter, the county 4½ mile jurisdictional area is hereby divided into the following zoning districts in which the erection, construction, alteration, reconstruction, repair or use of buildings, structures and land shall be regulated and restricted. The regulations in each district shall be uniform throughout each district but may differ from those in other districts.

A-1	Agricultural-Open Space
A-S	Agricultural-Suburban
R-150	Residential 15,000
R-96	Residential 9,600
R-80	Residential 8,000
R-70R	Residential 7,000 Restricted
R-70	Residential 7,000
R-60R	Residential 6,000 Restricted
R-60	Residential 6,000
R-50	Residential 5,000
RMF	Residential Multi-Family
RMF-R	Residential Multi-Family - Restricted
RMH	Residential Manufactured Home
RP	Residential Professional
NC	Neighborhood Commercial
CC	Community Commercial

HC	Highway Commercial
CI	Controlled Industrial
HI	Heavy Industrial
P	Public
ELC	Entryway Light Commercial
EGC	Entryway General Commercial
EMU	Entryway Mixed Use
ELI	Entryway Light Industrial

A-1 Agricultural-Open Space: A district to protect and preserve agricultural lands for the performance of a wide range of agricultural functions. The intent is to limit the scattered intrusion of uses not compatible with an agricultural environment; to encourage agricultural pursuits and protect environmental concerns.

A-S Agricultural-Suburban: A district to protect and preserve agricultural lands for the performance of limited agricultural functions and to provide a buffer between urban and unlimited agricultural uses and to encourage concentration of such uses in areas so that potential conflict between uses will be minimized.

R-150 Residential 15,000: A zone intended to provide for low density, single-family residential developments in areas which may or may not be serviced by a public water and/or sewer system.

R-96 Residential 9,600: A zone intended to promote primarily a single-family residential environment on lots that are served by public water and sewer service.

R-80 Residential 8,000: A residential zone intended to primarily provide a single-family residential environment with provisions for duplexes that are served by public water and sewer service.

R-70R Residential 7,000 Restricted: a residential zone intended to primarily provide a single family residential environment on smaller lots at a medium density that are served by a public water and sewer service.

R-70 Residential 7,000: Primarily a single-family residence district, with provisions for duplexes on lots that are served by public water and sewer services.

R-60R Residential 6,000 Restricted: A residential zone intended to primarily provide a single family residential environment on smaller lots at a medium density that are served by a public water and sewer service.

R-60 Residential 6,000: A zone intended to provide for medium density residential dwellings on lots served by public water and sewer services, with provisions for multi-family dwellings with a maximum of ten (10) dwelling units per structure.

R-50 Residential 5,000: A primarily single-family district provides for higher density development on lots served by public water and sewer services, with provisions for duplexes.

RMF Residential Multi-family: A residential classification intended to provide adequate sites for multi-family developments including high-rise apartment complexes. Dwelling unit density is increased in this

classification to encourage development in areas where it will complement existing developments. Land within the classification should be located with access to major arterial transportation routes plus financial, cultural and retail stores and be served by public water and sewer services.

RMF-R Residential Multi-family-Restricted: A residential classification intended to provide adequate sites for multi-family developments. The classification is intended to provide higher density apartment development, which may establish a buffer between single-family residence areas and other zoning classifications. Lots are to be served by public water and sewer services.

RMH Residential Manufactured Home: A zone intended to provide stable environments for individual manufactured homes, manufactured home parks and compatible accessory uses.

RP Residential Professional: A zone intended to accommodate limited commercial and professional offices as would be compatible with adjoining residential districts and consistent with the objectives of the comprehensive plan.

NC Neighborhood Commercial: A zone for commercial centers and limited retail activities conducted in a unified development designed to serve the surrounding neighborhood with shopping facilities consisting of convenience retail and personal service establishments which secure their principal trade by supplying the daily needs of the neighboring population. Only uses serving the above purpose without undue detriment to surrounding residences should be permitted.

CC Community Commercial: The community commercial zone is intended primarily to accommodate community retail, service and office facilities offering a greater variety than would normally be found in a neighborhood or convenience retail development. Facilities within the classification will generally serve the community, and is commensurate with the purchasing power and needs of the present and potential population within the trade area. It is intended that these business facilities be provided in business corridors or in islands (thirty (30) acres) centrally located in the trade area rather than a strip development along arterials.

HC Highway Commercial: The highway commercial zone is intended to provide areas for commercial and service enterprises which are intended primarily to serve the needs of the tourist, traveler, recreationist or the general traveling public. Areas designated as Highway Commercial should be located in the vicinity of, and accessible from interstate interchanges, intersections on limited access highways, or adjacent to primary or secondary highways. The manner in which the services and commercial activities are offered should be carefully planned in order to minimize the hazard to the safety of the surrounding community and those who use such facilities.

CI Controlled Industrial: The controlled industrial zone is intended to accommodate a variety of business, warehouse and light industrial uses related to wholesale plus other business and light industries not compatible with other commercial zones, but which need not be restricted in industrial or general commercial zones, and to provide locations directly accessible to arterial and other transportation systems where they can conveniently serve the business and industrial centers of the county.

HI Heavy Industrial: A zone intended to accommodate manufacturing, processing, fabrication, and assembly of materials and products. Areas designated as Heavy Industrial should have access to two (2) or more major transportation routes, and such sites should have adjacent space for parking and loading facilities.

P Public: The public zone is intended to reserve land exclusively for public or semi-public uses in order to preserve and provide adequate land for a variety of community facilities which serve the public health, safety and general welfare.

ELC Entryway Light Commercial: See Section 27-1004.

EGC Entryway General Commercial: See Section 27-1004.

EMU Entryway Mixed Use: See Section 27-1004.

Sec. 27-302. - Official zoning map.

- (a) The county is hereby divided into zoning districts as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.
- (b) The official zoning map shall be identified by the signature of the county commissioners attested by the county clerk and recorder and shall bear the words "the official zoning map of Yellowstone County, Montana 4½ mile jurisdictional area". 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 Yellowstone County board of planning and the Yellowstone County clerk and recorder.
- (c) Changes made in district boundaries shall be promptly entered on the official zoning map after amendment by the governing body. Amendments to the official zoning map shall not become effective until entered on the map.
- (d) No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the provisions set forth in this chapter. In the event the official zoning map is damaged or destroyed, the county commissioners may, by resolution, adopt a new official zoning map. No such map shall have the effect of amending the official zoning map or any subsequent amendment thereof.

Sec. 27-303. - Rules for interpretation of district boundaries.

- (a) Boundaries indicated as appearing to follow the centerline of streets, highways or alleys shall be construed to follow such centerlines;
- (b) Boundaries indicated as appearing to follow platted lot lines shall be construed as following such lot lines;
- (c) Boundaries indicated as appearing to follow 4½ Mile Jurisdictional Limits shall be construed as following 4½ Mile Jurisdictional Limits;
- (d) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- (e) Boundaries indicated as following shore lines shall be construed to follow such shore lines. In the event of change in the shore line, they shall be construed as moving with the actual shore line. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines. In the event of change in the location of streams, rivers, canals, lakes or other bodies of water, the boundaries shall be construed as moving with the actual body of water and following the centerlines; and
- (f) Boundaries indicated as parallel to or extensions of features indicated in above Subsections A. through F. above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map or by specific distances enumerated in a Resolution amending the Official Zoning Map.

Sec. 27-304. - Application and general rules.

Within the various zoning districts as hereinbefore defined and as indicated on the official zoning map and subject to the requirements of sections 27-301 through 27-1511, no building or structure shall be erected, reconstructed or structurally altered, nor shall any land, building or structure be used for any purpose except as they are allowed in the district in which such building, land or use is located. The regulations set forth by this chapter within each zone shall be minimum regulations and shall apply uniformly to each class or type of structure or land except as hereinafter provided:

- (a) No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered after the effective date of this chapter unless in conformity with all of the regulations herein

specified for the zone in which it is located except nonconforming uses and structures as provided in sections 27-401, et seq.;

(b) No building or other structure shall hereafter be erected or altered:

- (1) To exceed the height limitation;
- (2) To accommodate or house a greater number of families;
- (3) To occupy a greater percentage of lot area; or
- (4) To have a narrower or smaller rear yard, front yard, side yard or other open space than herein required, or in any manner contrary to the provisions of this chapter.

Sec. 27-305. - District regulations: Residential uses.

Titles and Description of Industries SR - Special Review A - Allowed	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000 Restricted	Residential - 7,000	Residential - 6,000 Restricted	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
Accessory Uses and Structures Associated with a Permitted Principal Structure	A	A	A	A	A	A	A	A	A	A	A	A	A
Agricultural Uses	A	A											
Amateur Radio Antenna Support Structures:													
100 Feet or Less in Height (See Section 27-619 for Additional Requirements)	A	A	A	A	A	A	A	A	A	A	A	A	A
Greater Than 100 Feet in Height	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Auction Houses (Excluding Livestock)	SR												
Auction Yards (Including Livestock)	SR												
Blacksmiths	A												

Titles and Description of Industries SR - Special Review A - Allowed	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000 Restricted	Residential - 7,000	Residential - 6,000 Restricted	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
Boarding, Lodging, and Bed and Breakfast Houses	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Broadcasting (Radio and Television) Stations and Studios and antenna support structures (see section 27-621 for additional requirements)													
Alternative antenna support structures located on school, government-owned utility and other government sites.	A	A	A	A	A	A	A	A	A	A	A	A	A
Roof-mounted antennae located on school, government-owned utility and other government sites.	A	A	A	A	A	A	A	A	A	A	A	A	A
Antennae co-located on existing or approved alternative antenna support structures or antenna support structures.	A	A	A	A	A	A	A	A	A	A	A	A	A

Titles and Description of Industries SR - Special Review A - Allowed	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000 Restricted	Residential - 7,000	Residential - 6,000 Restricted	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
Antenna support structures 50 feet or less in height (see additional requirements in section 27-621).	A												
Antenna support structures greater than 50 feet in height.	SR												
Broadcast antenna or tower farm	SR												
Campgrounds, Public or private	SR	SR											
Cemeteries	A	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Child Care Facilities:													
Family day care home	A	A	A	A	A	A	A	A	A	A	A	A	A
Group day care home	A	A	A	A	A	A	A	A	A	A	A	A	A
Day care center	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Churches and Other Places of Worship, including Sunday School Buildings	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR

Titles and Description of Industries SR - Special Review A - Allowed	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000 Restricted	Residential - 7,000	Residential - 6,000 Restricted	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
Community Residential Facilities Serving Eight (8) or Fewer Persons, Providing Care on a 24-hour-a-day Basis	A	A	A	A	A	A	A	A	A	A	A	A	A
Community Residential Facilities Serving Nine (9) or More Persons	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Community Residential Facilities not Providing Care on a 24-hour-a-day Basis	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Commercial Antenna Support Structures:													
Alternative antenna support structures located on school, government-owned utility and other government sites.	A	A	A	A	A	A	A	A	A	A	A	A	A
Roof-mounted antennae located on school, government-owned utility and other government sites.	A	A	A	A	A	A	A	A	A	A	A	A	A

Titles and Description of Industries SR - Special Review A - Allowed	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000 Restricted	Residential - 7,000	Residential - 6,000 Restricted	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
Antennae co-located on existing or approved alternative antenna support structures or antenna support structures.	A	A	A	A	A	A	A	A	A	A	A	A	A
Antenna support structures 50 feet or less in height (see additional requirements in section 27-620)	A												
Antenna support structures greater than 50 feet in height	SR												
Tower Farms	SR												
Convalescent Nursing Homes, Retirement Homes, Orphanages, and Charitable Institutions	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Convents	SR	SR	SR	SR	SR		SR		SR	SR	A	A	SR

Titles and Description of Industries SR - Special Review A - Allowed	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000 Restricted	Residential - 7,000	Residential - 6,000 Restricted	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
Dwellings:													
Single-family	A	A	A	A	A	A	A	A	A	A	A	A	A
Two-family					A		A		A	A	A	A	
Multiple-family									SR		A	A	
Manufactured Homes													
Class A	A	A	A										A
Class B	A	SR	SR										A
Class C	SR	SR	SR										A
Modular Homes	A	A	A	A	A	A	A	A	A	A	A	A	A
Farm Tenant Houses	A												
Emergency Services, including Fire Stations and Ambulance Services	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Extractive Industries:													

Excavation of sand and gravel	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Titles and Description of Industries SR - Special Review A - Allowed	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000 Restricted	Residential - 7,000	Residential - 6,000 Restricted	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
Fraternity/Sorority House									SR		A	A	
Fur Farms	SR												
Grain Elevators:													
Commercial	SR												
Private	A												
Greenhouses:													
Commercial	A	SR	SR										
Domestic	A	A	A	A	A	A	A	A	A	A	A	A	A
Gun and Archery Range:													
Indoor and/or Outdoor	SR												
Home Occupations	A	A	A	A	A	A	A	A	A	A	A	A	A
Kennels:													

Commercial	A	SR											
Noncommercial	A	A	A	A	A	A	A	A	A	A	A	A	A
Titles and Description of Industries SR - Special Review A - Allowed	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000 Restricted	Residential - 7,000	Residential - 6,000 Restricted	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
Landfills: Reclamation, Sanitary Dump Sites and Sanitary Incinerators	SR												
Libraries, Museums and Art Galleries	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Livestock: Commercial Feeding Yards and Auction Houses	SR												
Livestock*	A*	A*	A*	A*			A*						A*
Fowl including Chicken Hens*	A*	A*	A*	A*			A*						A*
Chicken Hens (<i>Gallus gallus domesticus</i>)	A	A	A	A	A	A	A	A	A	A	A	A	A
* See Section 27-607 for Minimum Area Requirements in the County Zoning 4-½													

Mile Jurisdictional Area													
Lumber, Plywood and Shingle Mills	SR												
Titles and Description of Industries SR - Special Review A - Allowed	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000 Restricted	Residential - 7,000	Residential - 6,000 Restricted	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
Manufactured Home Parks	SR	SR	SR										A
Parking, Public	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Pipelines and Distribution Lines (oil and gas) and Accessory Structures	A	A	A	A	A	A	A	A	A	A	A	A	A
Publicly-owned or Government Operated Buildings and Uses	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Recreation:													
Commercial	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Noncommercial	A	A	A	A	A	A	A	A	A	A	A	A	A
Rodeos and Indoor and/or Outdoor Roping Arenas	SR												

Titles and Description of Industries SR - Special Review A - Allowed	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000 Restricted	Residential - 7,000	Residential - 6,000 Restricted	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
Schools (public or private):													
Preschool, elementary, junior or senior high	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
Colleges and universities	SR	SR											
Trade or vocational-technical	SR	SR											
Stables:													
Commercial	A	SR											
Private*	A*	A*	A*	A*			A*						A*
* See Section 27-607 for minimum Area Requirements													
Transmission and Distribution Lines	A	A	A	A	A	A	A	A	A	A	A	A	A

(electric) and Accessory Structures													
Travel Trailer Parks	SR	SR											
Utilities (Public Service Installations):													
Station only	A	SR											
Storage yard	SR												
Veterinary Clinics:													
Boarding	A	SR											
Outpatient only	A	SR											

Sec. 27-306. - District regulations—Commercial and industrial uses.

Titles and Description of Industries	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
SR - Special Review A - Allowed							
DIVISION A - AGRICULTURE, FORESTRY AND FISHING							
01 Agricultural Production - Crops:							
Offices only	A	A	A	A	A	A	

Production only	A	A	A	A	A	A	A
Sales		A	A	A	A	A	
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
02 Agricultural Production - Livestock and Animal Specialties:							
Offices only	A	A	A	A	A	A	
021 Livestock, except dairy and poultry						SR	
07 Agricultural Services (except below):				A	A	A	
Offices only	A	A	A	A	A	A	
0741 Veterinary services for livestock:							
Boarding					A	A	
Outpatient only				SR	A	A	
0742 Veterinary services for animal specialties:							
Boarding			SR	A	A	A	
Outpatient only		SR	A	A	A	A	
075 Animal services, except veterinary (except below):				A	A	A	
Dog grooming*		A*	A	A	A	A	

Public animal shelters							A
*In NC zones no outdoor exercise areas or kennels allowed							
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
08 Forestry:							
Offices only	A	A	A	A	A	A	
Retail sales			A	A	A	A	
Equipment storage and wholesale sales				A	A	A	
09 Fishing, Hunting and Trapping (except below):				A	A	A	
Offices only	A	A	A	A	A	A	
092 Fish hatcheries and preserves					SR	SR	
DIVISION B - MINING							
Offices only	A	A	A	A	A	A	
1081, 1231, 1241, 1381, 1382, 1389 Mining and oil and gas field services with equipment storage				A	A	A	
1442 Construction sand and gravel mining	SR	SR	SR	SR	SR	SR	SR
DIVISION C - CONSTRUCTION							

15 Building Construction - General Contractors and Operative Builders:							
Offices only	A	A	A	A	A	A	
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
152, 153, 154 Residential, operative, and nonresidential buildings with open storage of equipment and supplies			A	A	A	A	
Restricted to open storage as allowed by Sec. 27-601							
16 Heavy Construction Other Than Building Construction - Contractors:							
Offices only	A	A	A	A	A	A	
Open storage of equipment and supplies				A	A	A	
Restricted to open storage as allowed by Sec. 27-601							
17 Construction - Special Trade Contractors:							
Offices only	A	A	A	A	A	A	A
Shop with enclosed storage of equipment or supplies			A	A	A	A	
Open storage of equipment and supplies				A	A	A	
See division F and G for wholesale and retail sales of equipment and supplies. Restricted to open storage as allowed by Sec. 27-601							
DIVISION D - MANUFACTURING							

20 Food and Kindred Products:							
Offices only	A	A	A	A	A	A	
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
2011 Packing plants						SR	
2013 Meat products					SR	A	
2015 Poultry slaughtering and processing plants					SR	SR	
202 Dairy products					A	A	
203 Canned, frozen, and preserved fruits, vegetables, and food specialties					SR	A	
204 Grain mill products					SR	SR	
205 Bakery products			SR	A	A	A	
2061, 2062, 2063 Sugar manufacturing and refining						SR	
2064, 2066, 2067, 2068 Candy; chocolate; chewing gum; salted and roasted nuts and seeds manufacturing					SR	A	
207 Fats and oils						SR	
2082, 2083, 2084, 2085 Alcoholic beverages manufacturing and bottling (except below):					SR	A	
1,500 to 5,000 31-gallon barrels per year			SR	SR	A	A	

Less than 1,500 31-gallon barrels per year			A	A	A	A	
2086, 2087 Soft drinks and flavorings extracts manufacturing and bottling				SR	A	A	
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
2091 Canned and cured fish and seafoods						SR	
2092 Prepared fresh or frozen fish and seafoods					SR	A	
2095, 2096, 2098 Roasted coffee; potato or corn chips; macaroni manufacture					A	A	
2097 Manufactured ice				A	A	A	
2099 Food preparations, not elsewhere classified					SR	A	
21 Tobacco Products:					SR	A	
Offices only	A	A	A	A	A	A	
22 Textile Mill Products:				SR	A	A	
Offices only	A	A	A	A	A	A	
23 Apparel and Other Finished Products Made From Fabrics and Similar Materials:				SR	A	A	
Offices only	A	A	A	A	A	A	
24 Lumber and Wood Products, Except Furniture:							

Offices only	A	A	A	A	A	A	
2411 Logging						SR	
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
2421 Sawmills and planing mills					SR	A	
2426, 2429 Hardwood and special product sawmills				SR	A	A	
2431, 2435, 2436, 2439, Millwork, plywood veneer, wood members manufacture				SR	A	A	
2434 Cabinet manufacture			SR	SR	A	A	
244 Wood container manufacture			SR	SR	A	A	
245 Wood buildings and mobile home manufacture				SR	A	A	
249 Miscellaneous wood products manufacture					A	A	
25 Furniture and Fixtures:				SR	A	A	
Offices only	A	A	A	A	A	A	
26 Paper and Allied Products:					SR	A	
Offices only	A	A	A	A	A	A	
27 Printing, Publishing, and Allied Industries:			SR	A	A	A	
Offices only	A	A	A	A	A	A	

28 Chemicals and Allied Products						A	
Offices only	A	A	A	A	A	A	
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
2833—Medicinal and botanical products				A	A	A	
2834—Pharmaceutical Preparations				A	A	A	
29 Petroleum Refining and Related Industries:							
Offices only	A	A	A	A	A	A	
291 Petroleum refining						SR	
All others						A	
30 Rubber and Miscellaneous Plastics Products:					SR	SR	
Offices only	A	A	A	A	A	A	
31 Leather and Leather Products:				SR	A	A	
Offices only	A	A	A	A	A	A	
32 Stone, clay, Glass, and Concrete Products (except below):					A	A	
Offices only	A	A	A	A	A	A	

3231, 3269, 3281 Products made from purchased glaze, pottery products, cut stone products					SR	A	A	
324, 325, 327 Hydraulic cement; structural clay products; concrete, gypsum, and plaster products						SR	A	
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public	
33 Primary Metal Industries (except below):					SR	A		
Offices only	A	A	A	A	A	A		
332, 336 Foundries						A		
3312, 333, 334 Blast furnaces, primary and secondary smelters						SR		
34 Fabricated Metal Products, Except Machinery and Transportation Equipment (except below):					SR	A		
Offices only	A	A	A	A	A	A		
348 Ordnance and accessories, except vehicles and guided missiles						SR		
35 Industrial and Commercial Machinery and Computer Equipment:					SR	A		
Offices only	A	A	A	A	A	A		
36 Electronic and Other Electrical Equipment and Components, Except Computer Equipment:					SR	A		
Offices only	A	A	A	A	A	A		

37 Transportation Equipment:						A	
Offices only	A	A	A	A	A	A	
38 Measuring, Analyzing, and Controlling Instruments; Photographic, Medical, and Optical Goods; Watches and Clocks					A	A	
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
Offices only	A	A	A	A	A	A	
39 Miscellaneous Manufacturing Industries:					A	A	
Offices only	A	A	A	A	A	A	
391, 393, 394 Jewelry, silverware, plated ware; musical instruments; dolls, toys, games, sporting, and athletic goods				A	A	A	
395, 396, 399 Pens, pencils, and artists materials; costume jewelry and novelties; miscellaneous manufacturing industries				A	A	A	
DIVISION E - TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SEWER							
40 Railroad Transportation:							
Offices only	A	A	A	A	A	A	
Switching yards						A	
Passenger and freight terminals					A	A	

41 Local and Suburban Transit and Interurban Highway Passenger Transportation:				A	A	A	A
Offices only	A	A	A	A	A	A	A
4173 Bus terminal operation only, without maintenance facilities				A	A	A	A
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
42 Motor Freight Transportation and Warehousing:							
Offices only	A	A	A	A	A	A	
421, 423 Trucking terminal and maintenance facilities (except below):				A	A	A	
4215 Courier services, except by air (without truck terminal facilities)				A	A	A	
422 Public warehousing (except below):					A	A	
4225 General warehousing and storage			A	A	A	A	
4226 Special warehouse and storage						A	
43 U.S. Postal Service:							
Without truck terminal facilities	A	A	A	A	A	A	A
With truck terminal facilities				A	A	A	A
44 Water Transportation:							

Offices only	A	A	A	A	A	A	
45 Transportation By Air:							A
Offices only	A	A	A	A	A	A	A
4513 Air courier services (without truck terminal facilities)				A	A	A	A
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
46 Pipelines, Except Natural Gas:	SR	SR	SR	SR	SR	SR	SR
Offices only	A	A	A	A	A	A	
47 Transportation Services:							
Offices only	A	A	A	A	A	A	
Warehouses, terminals				A	A	A	
48 Communications:							
Offices only	A	A	A	A	A	A	A
Amateur Radio Antenna Support Structures							
100 feet or less in height (See Section 27-619 for additional requirements)	A	A	A	A	A	A	A
Greater than 100 feet in height	SR	SR	SR	SR	SR	A	SR
Broadcasting (Radio and Television) Services:							

Stations and studios	SR	SR	A	A	A	A	A
Antenna Support Structures that meet the height restrictions for buildings in Section 37-309	SR	SR	A	A	A	A	A
Antenna Support Structures exceeding the maximum height for buildings in , Section 27-309, or exceeding 50 feet in height, whichever is less	SR	SR	SR	SR	SR	A	SR
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
Broadcast antenna or tower farms	SR	SR	SR	SR	SR	A	SR
Commercial Antenna Support Structures:							
Alternative antenna support structures	A	A	A	A	A	A	A
Antenna support structures located on school, government-owned utility or other government sites.	A	A	A	A	A	A	A
Antennae co-located on existing or approved alternative antenna support structures or antenna support structures.	A	A	A	A	A	A	A
Roof-mounted antenna	SR	SR	A	A	A	A	A
Antenna support structures 50 feet or less in height (see additional requirements in Section 27-620)	SR	SR	A	A	A	A	A
Antenna support structures greater than 50 feet in height	SR	SR	SR	SR	SR	A	SR
Tower farms			SR	SR	SR	A	SR
Dishes over 12" in diameter	SR	SR	A	A	A	A	SR

49 Electric, Gas, and Sanitary Services:							
Offices only	A	A	A	A	A	A	
Municipal water supply (4941) or sewerage (4952) treatment facilities						A	A
4953 Refuse systems*						SR	
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
Sanitary landfills							SR
Transmission and distribution, electric and gas	A	A	A	A	A	A	A
Production, manufacture and generation, electric or gas					SR	SR	
All others this group					SR	SR	
* See Sec. 27-605 Hazardous Waste Facilities							
DIVISION F - WHOLESALE TRADE							
50 Wholesale Trade - Durable Goods:							
Offices only	A	A	A	A	A	A	
Warehouses with enclosed storage				A	A	A	
Open storage			SR	A	A	A	
5093 Scrap and waste materials (auto wrecking)					SR	SR	

Restricted to open storage as allowed by Sec. 27-601							
51 Wholesale Trade - Nondurable Goods:							
Offices only	A	A	A	A	A	A	
511, 512, 513 Paper, drugs and apparel				A	A	A	
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
514, 518 Groceries; beer, wine and distilled beverages				SR	A	A	
515 Farm product raw materials (except below):					A	A	
5154 Livestock auctions						SR	
516 Chemicals and allied products					SR	A	
517 Petroleum and petroleum products						A	
5191, 5198 Farm supplies; paints, varnishes, and supplies					A	A	
5192, 5193, 5194, 5199 Books, periodicals, and newspapers; flowers, nursery stock and florists' supplies; tobacco and tobacco products; nondurables not elsewhere classified				SR	A	A	
DIVISION G - RETAIL TRADE							
* Under 10,000 square feet gross floor area (GFA). A special review is required if over 10,000 square feet GFA. No warehousing of storage in excess of twenty-five (25) percent of total GFA. Restricted to open storage as allowed by Sec. 27-601.							

52 Building Materials, Hardware, Garden Supply, and Mobile Home Dealers:							
521 Lumber and other building materials stores			SR	A	A	A	
523, 525 Paint, glass and wallpaper; hardware stores		A*	A	A	A	A	
526 Nurseries, lawn and garden supply stores			A	A	A	A	
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
527 Mobile home dealers (manufactured homes)				A	A	A	
53 General Merchandise Stores		A*	A	A	A	A	
54 Food Stores		A*	A	A	A	A	
Convenience store with gas pump islands		A*	A	A	A	A	
55 Automotive Dealers and Gasoline Service Stations (except below):			A	A	A	A	
553 Auto supply		A*	A	A	A	A	
554 Gasoline service stations							
Convenience store		A*	A	A	A	A	
Service station		SR	A	A	A	A	
Accessory car wash with above two uses		SR	A	A	A	A	
Truck stop				A	A	A	

556 Recreational vehicle dealers			A	A	A	A	
56 Apparel and Accessory Stores		A*	A	A	A	A	
57 Home Furniture, Furnishings, and Equipment Stores		A*	A	A	A	A	
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
58 Eating and Drinking Places (see-Section 27-612)							
Without the sale of alcoholic beverages		A	A	A	A	A	
With the sale of beer and wine only for on-premise consumption, without gaming			A	A	A	A	
With the sale of beer and wine only for on-premise consumption with gaming			SR	SR	SR	SR	
With the sale of all alcoholic beverages for on-premise consumption, with gaming			SR	SR	SR	SR	
*Establishments with drive-in service shall comply with -Section 27-612							
59 Miscellaneous Retail (Strictly Carryout), (except below):		A*	A	A	A	A	
598 Fuel dealers			A	A	A	A	
* Fireworks stands shall comply with Section 27-614.							
** Sexually oriented business, as classified and defined in Section 27-611.							

DIVISION H - FINANCE, INSURANCE, AND REAL ESTATE (See Section 27-612).							
60 Depository Institutions	A	A	A	A	A	A	
61 Nondepository Credit Institutions	A	A	A	A	A	A	
62 Security and Commodity Brokers, Dealers, Exchangers, and Services	A	A	A	A	A	A	
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
63 Insurance Carriers	A	A	A	A	A	A	
64 Insurance Agents, Brokers, and Service	A	A	A	A	A	A	
65 Real Estate (except below):	A	A	A	A	A	A	
6515 Operators of residential mobile home sites							
6553 Cemetery subdividers and developers							A
66 Combinations of Real Estate, Insurance, Loans, or Law Offices	A	A	A	A	A	A	
67 Holding and Other Investment Offices	A	A	A	A	A	A	
DIVISION I - SERVICES							
70 Hotels, Rooming Houses, Camps and Other Lodging Places:							
701 Hotels and motels			A	A	A	A	

702, 704 Rooming, boarding houses; organization hotels and lodging houses, on a membership basis		A	A	A	A	A	
703 Camps and recreational vehicle parks			A	A	A	A	A
72 Personal Services:							
7211, 7213, 7217, 7218 Power laundries, family and commercial; linen supply; carpet and upholstery cleaning; industrial launderers				SR	A	A	
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
7212, 7216, 7219 Garment pressing and agents for laundries and drycleaning plants, except rug cleaning; laundry and garment services, not elsewhere classified; (10,000 SF GFA MAX)	SR	A	A	A	A	A	
Over 10,000 SF GFA MAX		SR	A	A	A	A	
7215 Coin-operated laundries and drycleaning		A*	A	A	A	A	
722 Photographic studios	A	A	A	A	A	A	
723, 724, Beauty, and barber shops	A	A	A	A	A	A	
725 Shoe repair shops and shoeshine parlors		A	A	A	A	A	
726 Funeral service and crematories	A	A	A	A	A	A	A
729 Miscellaneous personal services, except 7291			A	A	A	A	
7291 Tax return preparation services	A	A	A	A	A	A	

73 Business Services:							
Offices only	A	A	A	A	A	A	
With retail sales		A*	A	A	A	A	
With use of vehicles over 8,000 GVW			A	A	A	A	
With research, testing, and development laboratories (See also manufacturing industries)			SR	A	A	A	
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
75 Automotive Repair, Services, and parking (except below):			A	A	A	A	
7513, 7519 Truck rental and leasing; utility trailer and recreational vehicle rental			A	A	A	A	
752 Automobile parking	A	A	A	A	A	A	
7542 Car washes		SR	A	A	A	A	
76 Miscellaneous Repair Services (except below):			A	A	A	A	
763 Watch, clock, and jewelry repair	A	A	A	A	A	A	
78 Motion Pictures (except below):			A	A	A	A	
7833 Drive-in motion picture theaters				SR	SR		
79 Amusement and Recreation Services*:							

791 Dance studios, schools, and halls	A	A	A	A	A	A	
792 Theatrical producers, bands, orchestras, and entertainers		A	A	A	A	A	
793, 799 Bowling centers; miscellaneous amusement and recreation services, and gambling operations* (except below):			A	A	A	A	
Public swimming pools							A
Riding stables					SR	SR	
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
Martial arts instruction	A	A	A	A	A	A	
7992 Public golf courses							A
794 Commercial sports			SR	A	A	A	A
*See Section 27-612.							
80 Health Services (except below):	A	A	A	A	A	A	A
Establishments where retail sales constitutes more than an accessory use		A	A	A	A	A	
81 Legal Services	A	A	A	A	A	A	
82 Educational Services (except below):		A	A	A	A	A	A
821 Elementary and secondary schools	A	A	A	A	A	A	A

822 Colleges, universities, professional schools, and junior colleges	SR	SR	SR	SR	SR	SR	A
83 Social Services (except below):	A	A	A	A	A	A	A
833 Job training and vocational rehabilitation services	SR	SR	A	A	A	A	A
84 Museums, Art Galleries, and Botanical and Zoological Gardens:							
841 Museums and art galleries		A	A	A	A	A	A
842 Arboreta and botanical or zoological gardens							A
Titles and Description of Industries SR - Special Review A - Allowed	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
86 Membership Organizations (except below):	A	A	A	A	A	A	
864 Civic, social and fraternal associations*			A	A	A	A	
*See also Section 27-612.							
87 Engineering, Accounting, Research, Management, and Related Services (except below):			A	A	A	A	
871, 872 Engineering, architectural and surveying services; accounting, auditing and bookkeeping services	A	A	A	A	A		
8731 Commercial physical and biological research			SR	A	A	A	
8733 Noncommercial research organizations			SR	A	A	A	
8734 Testing laboratories			SR	A	A	A	

8744 Facilities support management services other than below				A	A	A	
- Privately operated correctional facilities					SR		SR
88 Private Households	A	A	A	A	SR		
89 Services, Not Elsewhere Classified	A	A	A	A	A	A	A
DIVISION J - PUBLIC ADMINISTRATION							
91 Executive, Legislative, and General Government, Except Finance	A	A	A	A	A	A	A
Titles and Description of Industries							
SR - Special Review	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Controlled Industrial	Heavy Industrial	Public
A - Allowed							
92 Justice, Public Order, and Safety (except below):	A	A	A	A	A	A	A
9223 Correctional institutions							SR
93 Public Finance, Taxation, and Monetary Policy	A	A	A	A	A	A	A
94 Administration of Human Resource Programs	A	A	A	A	A	A	A
95 Administration of Environmental Quality and Housing Programs	A	A	A	A	A	A	A
96 Administrative of Economic Programs	A	A	A	A	A	A	A
97 National Security and International Affairs	A	A	A	A	A	A	A
DIVISION K - NONCLASSIFIABLE ESTABLISHMENTS							
99 Nonclassifiable Establishments: The Zoning District and Requirements of These Establishments Will Be Determined By The Planning Director.							
Dwellings							
Single-family*	A	A	A	A	SR		
Two-family		A	A	A			
Multiple-family		A	A	A			
Modular home*	A	A	A	A	SR		

*Chicken Hens Allowed See Section 27-607

Sec. 27-307. - Adoption of Standard Industrial Classification Manual, 1987.

There is adopted by the board of county commissioners for the purpose of classifying the industries set forth in section 27-306, the whole 1987 Edition of the Standard Industrial Classification Manual, published by the Executive Officer of the President, Office of Management and Budget, of which manual one copy is now filed in the offices of the county clerk and recorder, and the same is adopted and incorporated as fully as if set out at length in his chapter, and from the date on which this Resolution is adopted said manual shall take effect.

Sec. 27-308. - Area, yard and height requirements—Residential.

ZONING REQUIREMENTS	ZONING CLASSIFICATION DISTRICTS												
	Agricultural Open Space	Agricultural Suburban	Residential 15,000	Residential 9,600	Residential 8,000	Residential 7,000 Restricted	Residential 7,000	Residential 6,000 Restricted	Residential 6,000(c)	Residential 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
Minimum Lot Area Per Dwelling Unit: (a) (b)													
One Unit	10A	1A	15,000	9,600	8,000	7,000	7,000	6,000	6,000	5,000		6,000	6,000
Two Units (attached or detached)					10,000		9,600		7,000	8,000		7,000	
Three Units (attached)									8,500			8,500	
Four Units (attached)									10,000			10,000	
Five Units (attached)									11,500			11,500	
Six Units (attached)									13,000			13,000	
Seven Units (attached)									14,500			14,500	
Eight Units (attached)									16,000			16,000	

Nine Units (attached) Ten Units (attached)									17,500 19,000		400 each add. (attached) unit	1,500 each add. (attached) unit	
ZONING REQUIREMENTS	Agricultural Open Space	Agricultural Suburban	Residential 15,000	Residential 9,600	Residential 8,000	Residential 7,000 Restricted	Residential 7,000	Residential 6,000 Restricted	Residential 6,000(c)	Residential 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
Minimum Yard Requirements: (d) (e)													
Front (f) (g)	35	25	25	20	20	20	20	15	15	15	15	15	20
Side (h) (k)	15	10	10	5	5	5	5	5	5	5	5	5	8
Side Adjacent to Street (l)	35	25	25	10	10	10	10	10	10	10	10	10	10
Rear	35	25	25	20	20	20	20	20	20	20	15	15	20
Maximum Height (m) (n)	34	34	34	34	34	34	34	34	34	34	N/A	40	34
Maximum Lot Coverage in Percent	15	25	30	30	30	30	30	40	40	40	55	55	30

- (a) In the A-1 & A-S districts, minimum lot area figures are in Acres. All other minimum lot area figures denote square footage.
- (b) The above requirements are applicable to all structures located on a single lot. For building groups see subsection 27-310(b).
- (c) In the Residential-6,000 zone, three-plexes up through ten-plexes up require special review approval, see section 27-1509.
- (d) For arterial setback and watercourse setback requirements, see sections 27-602 and 27-616, respectively.
- (e) For yard setbacks on corner lots, refer to definitions of lot frontage and yard (side) in section 27-201.
- (f) Block frontages which have buildings constructed prior to the effective date of this resolution shall have a minimum 20-foot front setback for all districts.
- (g) Garages and carports that have their approach from a street shall be setback a minimum of twenty (20) feet.
- (h) Required side yards shall be increased to eight (8) feet in distance from the nearest second story portion of the building, plus one (1) foot for each story in excess of two (2).
- (i) Reserved.
- (j) Reserved.
- (k) In the Residential Manufactured Home district, a site built structure complying with the CABO One and Two Family Dwelling Code, may be setback a minimum of five (5) feet from the side property line, unless the structure contains two (2) or more stories.

- (l) Front yard setbacks as required in the district shall be provided on side streets when a side street frontage exceeds one hundred fifty (150) feet.
- (m) In the A-1 district, maximum height restrictions apply to buildings designed and constructed for human occupancy.
- (n) Where there is a change in the adjacent grade of three (3) feet or more the maximum height will be increased one (1) foot for each two (2) feet of grade change.

NOTE:

- All height and setback requirements denote feet.
- For height exceptions, see subsection 27-310(f).
- For permitted projections, see subsection 27-310(g).
- For setbacks for detached accessory structures, see subsection 27-310(i).
- N/A = Not Applicable

Sec. 27-309. - Area, yard and height requirements—Commercial and industrial.

ZONING REQUIREMENTS	ZONING CLASSIFICATION DISTRICTS							
	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial		Controlled Industrial	Heavy Industrial	Public
Minimum Lot Area Requirement in Square Feet: (a)	10,000	N/A	N/A	N/A		N/A	N/A	N/A
Minimum Yard Requirements: (a) (b)								
Front	20	20	20	20		20	20	20
Side	10	0	0	0		0	0	0
Side Adjacent to Street	10	10	10	10		10	10	10
Rear	0	0	0	0		0	0	0
Maximum Height	34	34	45	45		70	N/A	N/A
Maximum Lot Coverage in Percent (a)	50	50	50	75		75	75	50

(a) For minimum lot size, yard and lot coverage requirements for residential dwellings in Commercial or Industrial zones, see section 27-310.

(b) For arterial setback and watercourse setback requirements, see sections 27-602 and 27-616, respectively.

Note:

- All height and setback requirements denote feet; all minimum lot area figures denote square footage.
- For height exceptions, see section 27-310(F).
- For permitted projections, see section 27-310(G).
- N/A = Not Applicable.

Sec. 27-310. - Supplemental area, yard and height restrictions.

The following requirements provide exceptions or qualify and supplement the specific district regulations set forth in this part. Planned developments shall be governed by section 27-1301, et seq.

- (a) *Access for buildings.* All buildings and structures shall have vehicular access to a minimum width public street or an approved private street. Where the provision of the zoning code on this matter is more restrictive than the building code, then the zoning code restrictions shall be applied. A street shall provide the primary means of pedestrian access for any dwelling unit. Alleys, where they exist, shall provide only a secondary means of access.
- (b) *Building groups.* In any residential or agricultural district, more than one (1) principal structure housing a permitted use may be located on a single lot or combination of lots provided that:
 - (1) Area requirements are met for each structure as though it were on an individual lot;
 - (2) A minimum of ten (10) feet is maintained between principal structures;
 - (3) Side yard setbacks are provided between adjacent properties as required in the district;
 - (4) Principal structures are setback from alleys a minimum of twenty (20) feet; and
 - (5) Front yard setbacks as required in the district are provided on side streets when a side street frontage exceeds one hundred and fifty (150) feet.
 - (6) The requirements of section 27-622 are met where applicable for condominium and multi-unit developments.
- (c) *Division of lots.* No recorded lot or combination of lots shall be divided into smaller lots unless such division results in the creation of lots which conform to all of the applicable regulations of the zoning district in which the property is located.
- (d) *Lot sizes.* Yards or lots created after the effective date of this resolution shall conform to all of the applicable requirements of the zoning district in which the property is located. In such case as no public water and/or sewer services are available, lot sizes shall also meet the minimum requirements of the Montana Department of Environmental Quality.
- (e) *Dwellings in commercial/industrial zones.*
 - (1) In the residential professional, neighborhood commercial, community commercial, highway commercial, controlled industrial zones: Lot area, yard, and lot coverage requirements for dwelling units shall be the same as those in the RMF-R district.
- (f) *Height exceptions.* The following requirements supplement those specific district regulations set forth in Sections 27-308 and 27-309:
 - (1) The height limitations 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.
 - (2) Churches, schools, hospitals, nursing or retirement homes, or public buildings may exceed the height limitations of the district if the minimum depth of the front, side and rear yard setbacks are increased two (2) feet for every one (1) foot by which the structure exceeds the height limitation of the district. This allowed height shall not exceed two (2) times the allowed height in the zoning district in which it is located, without approval through the Variance procedure, as described in Section 27-1511.
 - (3) The maximum building height may be increased by up to ten (10) percent in all zoning districts when the majority of the roof pitch is 7:12 or steeper.
- (g) *Permitted projections.*
 - (1) Residential districts: The following projections shall be permitted in required setbacks in residential districts:
 - a. Fireplaces and bay windows not to exceed two (2) feet;
 - b. Roof overhangs, eaves, gutters, cornices or other architectural features not to exceed two (2) feet;

- c. Open exterior stairways or decks not to exceed two (2) feet in side yards, four (4) feet in front yards, nor eight (8) feet in the rear yards;
 - d. Covered unenclosed porches over front stoops or walkways not to exceed four (4) feet;
 - e. The above projections are not permitted if they protrude into or hang over public right-of-way.
- (2) Commercial and industrial districts: The following projections shall be permitted in required setbacks in commercial and industrial districts:
- a. Roof overhangs, eaves, gutters, cornices or other architectural features not to exceed two (2) feet;
 - b. Canopies not to exceed four (4) feet. For the purposes of this subsection, "canopies" are defined as covers that are solely attached to and supported by the structure on which it is attached to and which can be removed without destroying any part of that supporting structure.
- (3) Ramps that provide accessibility.
- (4) Exception. The above projections are not permitted if they protrude into or hang over public right-of-way.
- (h) Required yards. No part of a yard, other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this resolution shall be included as part of a yard, open space for any other building.

- (i) Yards and setbacks for accessory buildings in residential zones within the county jurisdictional zoning area. The following setbacks shall be provided for accessory buildings in residential zones:
- (1) Detached garages, carports, patios, tool or storage sheds, playhouses, greenhouses or other accessory buildings shall meet the setbacks required in below Table 1.

TABLE 1. Setbacks From Property Lines For Detached Garages, Carports, Tool Or Storage Sheds, Greenhouses Or Other Detached Accessory Structures

	Front (b)	Side Adjacent to Street (b)	Side	Rear with Alley (c)	Rear Without Alley
Buildings Less Than 18 Feet In Height (a) (d) (e)					
Approach from a street	20	20	3	0	3
Approach at right angle from an alley	20	10	3	6	N/A
All others	20	10	3	0	3
Buildings Greater Than 18 Feet In Height Up To And Including The Maximum Allowed Height (a) (d) (e)					
Approach from a street	20	20	8	6	8
Approach at right angle from an alley	20	10	8	6	N/A
All others	20	10	8	6	8

(a) All setbacks are denoted in feet from the property line.

(b) In districts with front or side adjacent to street setbacks greater than those required in above Table 1, the structure shall meet the most restrictive setback requirement.

(c) No above building or structure nor any part thereof shall protrude into or hang over the public right-of-way.

(d) Structures located adjacent to arterial streets must meet the arterial setbacks as outlined in section 27-602.

(e) Detached accessory buildings used to house, keep or shelter livestock or fowl shall meet the setbacks described in section 27-607.

N/A = Not Applicable

- (2) Garages, carports and other accessory buildings attached to a dwelling shall be considered to be part of the dwelling and setbacks shall be the same as those required for such dwelling. In addition, garages and carports attached to the dwelling that have their approach from a street shall be setback from that street property line a minimum of twenty (20) feet or meet the front setback in the zoning district in which it is located, whichever is greater.
- (3) The maximum size allowed for detached accessory structures shall be based on the following criteria, based on the size of the lot:
 - Lots containing less than one-quarter (.25) acres = one thousand (1,000) square feet maximum size.
 - Lots containing one-quarter (.25) acres up to one (1) acre shall use the following formula:

$$(667 \times \text{lot acreage}) + 833 = \text{maximum detached structure size}$$
 - Lots containing more than one (1) acre = one thousand five hundred (1,500) square foot maximum size.

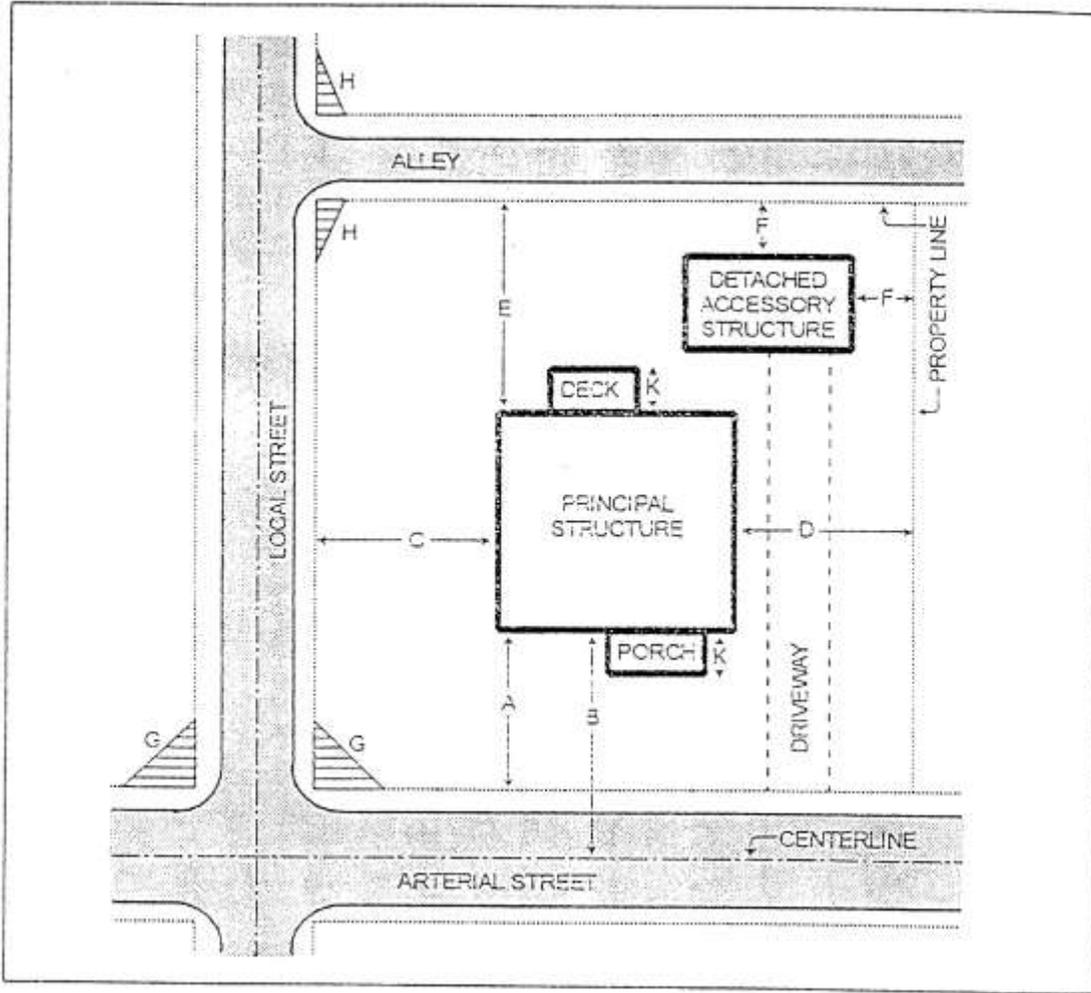
This provision shall not apply in the Agricultural-Open Space or Agricultural-Suburban zoning districts.
- (4) The maximum total square footage in detached accessory structures on any lot shall not exceed three thousand (3,000) square feet or that amount which, when added to the square footage of the principal

structure(s), will achieve the maximum lot coverage allowable in that district, whichever is less. This three thousand (3,000) square foot limit shall not apply in the Agricultural-Open Space zoning district.

- (5) See section 27-607, for setbacks regarding detached structures used to house livestock or fowl.
- (6) For watercourse setbacks, see section 27-616.
- (7) No above allowed building or structure nor any part thereof shall protrude into or hang over any public right-of-way.

Sec. 27-311. - Illustrations.

FIGURE 1. YARD REQUIREMENTS. RESIDENTIAL



- (a) *Front setback*
- (b) *Arterial setback*
- (c) *Side adjacent to street setback*
- (d) *Side setback*
- (e) *Rear setback*
- (f) *Detached accessory structure setback*
- (g) *Clear vision triangle at street intersections*
- (h) *Clear vision triangle at alley and drive entrances*
- (k) *Permitted projections*

FIGURE 2: YARD REQUIREMENTS: COMMERCIAL AND INDUSTRIAL

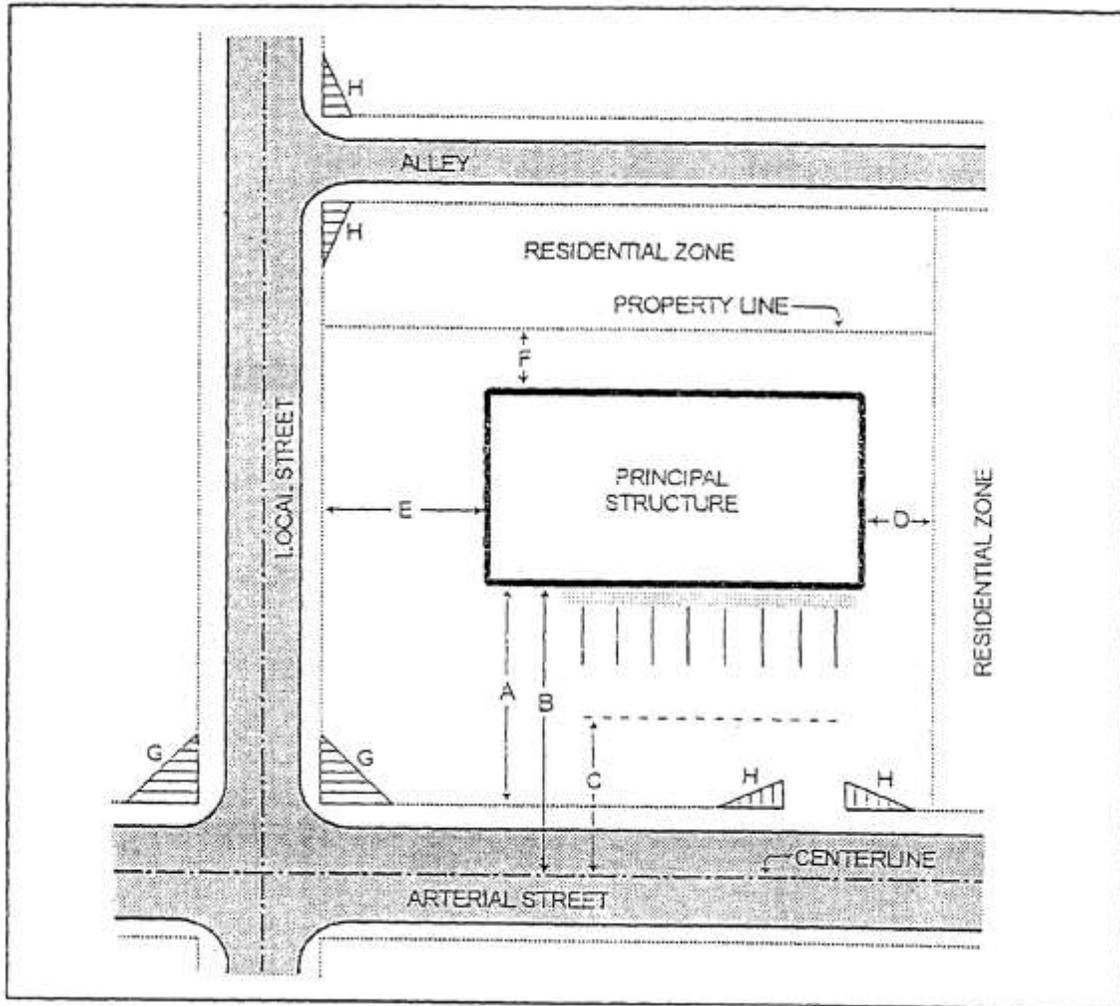


Figure 2

- (a) *Front setback*
- (b) *Arterial setback: structures*
- (c) *Arterial setback: Required Parking and Driving Isle*
- (d) *Side setback*
- (e) *Side adjacent to street setback*
- (f) *Rear setback*
- (g) *Clear vision triangle at street intersections*
- (h) *Clear vision triangle at alley and drive entrances*

ARTICLE 27-400. - NONCONFORMING LOTS AND USES OF LAND, STRUCTURES, NONCONFORMING STRUCTURES AND USES OF STRUCTURES

Sec. 27-401. - Intent.

- (a) The provisions of this chapter shall apply to buildings, structures, lands and uses which become nonconforming as a result of the application of this Resolution to them, or from classification or reclassification of property or any subsequent amendments thereto. If a use originally authorized by a variance, special review or other valid use permit prior to the effective date, as defined in below subsection (b) of this resolution is located within a district in which such use is not permitted by the terms of this resolution, such use shall be a nonconforming use; however, pre-existing valid uses requiring a special review after the effective date of this resolution shall not require a special review.
- (b) The effective date for any property located within the Yellowstone County 4½ mile jurisdictional area, is on or before November 6, 1973.
- (c) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment these regulations and upon which actual building construction has been carried on diligently. "Actual construction" is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Sec. 27-402. - Nonconforming lots of record.

- (a) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this resolution, a single-family dwelling and customary accessory buildings may be erected on any vacant single lot of record at the effective date of adoption, as defined in above subsection (b), or amendment of this resolution. Such lot must be in separate ownership and not of contiguous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area, that are generally applicable in the district, provided that the yard dimensions, lot coverage and other requirements not involving area of the lot shall conform to the regulations of the district in which such lot is located. An additional variance of area and yard requirements shall be obtained only through affirmative action by the board of adjustment (see sections 27-1501, et seq.)
- (b) If two (2) or more vacant lots or combinations of lots and portions of lots with contiguous frontage in single ownership or record exist at the time of adoption, as defined in Section 27-401, subsection B, or amendment of this resolution, and if all or part of the lots do not meet the requirements for lot area as established by this resolution, the land involved shall be considered to be an undivided parcel for the purpose of this resolution, and no portion of the parcel shall be used or sold which does not meet lot area requirements established by this resolution, nor shall any division of the parcel be made which leaves remaining any lot, with area below the requirements stated in this resolution.

Sec. 27-403. - Nonconforming uses of land.

Where, on the effective date of adoption, as defined in Section 27-401, subsection B, or amendment of this resolution, lawful use of land exists that is no longer permissible under the terms of this resolution as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- (a) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption, as defined in Section 27-401, subsection B, or upon amendment of this resolution.
- (b) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption, as defined in Section 27-401, subsection B, or upon amendment of this resolution.
- (c) If any such nonconforming use of land ceases for any reason for a period of one (1) year or more, any subsequent use of such land shall conform to the regulations specified by this resolution for the district in which such land is located.

Within a period of one (1) year or less, a manufactured home used for residential purposes which is a legal nonconforming use of land may be replaced by another manufactured home for residential purposes, so long as the new home is not substantially larger than the manufactured home that it replaced. In addition, the new manufactured home shall meet the minimum yard setback requirements including arterial setbacks (see Section 27-602), along with lot coverage requirements for the zoning district in which it is located.

Sec. 27-404. - Nonconforming structures.

Where a lawful structure exists at the effective date of adoption, as defined in Section 27-401, subsection b, or amendment of this resolution that could not be built under the terms of this resolution by reason of restriction on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains lawful, subject to the following provisions:

- (a) No such structure may be enlarged or altered in a way which increases its nonconformity unless an enlargement or structural alteration makes the building more conforming or is required by law.
- (b) Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this resolution.
- (c) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.
- (d) Structural alterations may be permitted if necessary to adapt a nonconforming building to new technologies or equipment pertaining to uses housed in such building. Any enlargement necessary to adapt to new technologies shall be authorized only by a variance, as described in section 27-1511.

Sec. 27-405. - Nonconforming uses of structures.

If a lawful use of a structure or of structures and premises in combination exists at the effective date of adoption, as defined in Section 27-401, subsection B, or amendment of this resolution, that would not be allowed in the district under the terms of this resolution, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (a) No existing structure devoted to a use not permitted by this resolution in the zone in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located.
- (b) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption, as defined in section 27-401, subsection (b), or amendment of the resolution, but no such use shall be extended to occupy any land outside such building.
- (c) If no structural alterations are made, any nonconforming use of a structure, or structures and premises, may be changed to another nonconforming use provided that the governing body with jurisdiction on the property shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the governing body with jurisdiction on the property may require appropriate conditions and safeguards in accordance with the provisions of this chapter. Any proposed change from one nonconforming use to another nonconforming use shall be processed and reviewed under the special review provisions of sections 27-1501, et seq., and the following criteria shall be considered:
 - (1) The nature and purpose of the existing nonconforming use;
 - (2) The difference in quality and character of the proposed use;
 - (3) The difference in the degree of use of the proposed use, including but not limited to hours of operation and parking requirements;
 - (4) The reasons for the proposed change; and
 - (5) The overall impact of the proposed use on the surrounding property.
- (d) Any structure, or structures and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure(s) is located, and the nonconforming use may not be thereafter resumed.
- (e) When a nonconforming use of a structure, or structures and premises in combination, is discontinued or abandoned for one (1) year or more, the structure, or structures and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Abandonment shall include, but not be limited to, cessation of the use for one (1) year or more.
- (f) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty (50) percent of the replacement cost at time of destruction.

Sec. 27-406. - Repairs and maintenance.

Any building or other structure containing a nonconforming use, or any nonconforming building or portion thereof, declared unsafe by the County Fire Marshal may be strengthened or restored to a safe condition.

Sec. 27-407. - Unlawful use.

Nothing in this resolution shall be interpreted as authorization for or approval of a continuance of the use of a structure or premises in violation of the zoning regulations in effect at the time of the effective date of this resolution.

ARTICLE 27-500. Reserved

ARTICLE 27-600. - SUPPLEMENTARY GENERAL PROVISIONS

Sec. 27-601. - Parking and storage restrictions.

- (a) *Residential.* The following standards for off-street parking and storage shall apply in all residential zoning districts and on property that is developed for residential use.
- (1) Open storage and off-street parking of licensed and operable motor vehicles is an allowed accessory use as defined in section 27-201.
 - (2) Open storage and off-street parking of inoperable motor vehicles for more than five (5) consecutive days is a prohibited use.
 - (3) Within the city limits open storage and off-street parking of licensed and operable motor vehicles in any front or side yard shall be on a surface prepared with asphalt or concrete. Open storage and off-street parking of licensed and operable motor vehicles in any rear yard may be on any type of surface. (See also section 27-1201.)
 - (4) Open storage and off-street parking of one (1) licensed and operable motor vehicle used for commercial or business purposes is an allowed accessory use provided it does not exceed twelve thousand (12,000) pounds in G.V.W. (gross vehicle weight). On property zoned agriculture open space or agriculture suburban this motor vehicle weight limitation shall not apply.
 - (5) Display of merchandise other than for a garage sale or a use allowed by permit under the temporary use section (section 27-614) is prohibited.
 - (6) Open storage and off-street parking of licensed and operable recreational vehicles including but not limited to snowmobiles, boats, and campers, all-terrain vehicles, off-road motorcycles, and sport/utility trailers is an allowed accessory use in any rear yard. Open storage and off-street parking of licensed and operable recreational vehicles is an allowed accessory use in a front or side yard only if there is no access to a rear yard. Open storage of licensed and operable recreational vehicles in a rear yard may be on any type of surface. Open storage and off-street parking of licensed and operable recreational vehicles in any yard shall provide at least a five-foot separation between such recreational vehicle and any door, window or other opening of a dwelling or accessory building that provides ventilation or access to the structure. Open storage and off-street parking of licensed and operable recreational vehicles in any yard shall provide setbacks to property lines at a minimum of three (3) feet to a side or rear property line and eight (8) feet from the back of a sidewalk. If no sidewalk exists, all measurements shall be made from the front and side adjacent to street property lines.
 - (7) The use of any recreational vehicle for living or sleeping purposes for more than five (5) consecutive days is prohibited when parked off-street or stored in any residential zoning district or in an area developed for residential use.
 - (8) Open storage for more than five (5) consecutive days of junk, salvage and trash is prohibited.
- (b) *Commercial and industrial.* The following standards for off-street parking and storage shall apply in all commercial and industrial zoning districts.
- (1) Open storage for more than five (5) consecutive days of junk, salvage and trash is prohibited.
 - (2) Open storage for more than five (5) consecutive days of material collected as salvage for recycling, re-use, dismantling to remove parts for re-use or for separation prior to recycling or destruction is a special review use of property only in highway commercial (SIC 5015), controlled industrial (SIC 5093) and heavy industrial (SIC5093).

- (3) Open storage and off-street parking of inoperable motor vehicles for more than five (5) consecutive days is a special review use of property only in highway commercial (SIC 5015), controlled industrial (SIC 5093) and heavy industrial (SIC5093).
- (4) Open storage and off-street parking of inoperable motor vehicles for more than five (5) consecutive days is an allowed accessory use of property for principal uses classified as automotive repair shops (SIC 753). The open storage and off-street parking area shall be located in the rear or side yard, and inoperable motor vehicles or vehicle parts shall not be visible from any right of way or adjoining property. A sight obscuring fence of at least six (6) feet in height from grade shall be required to enclose the storage or off-street parking area for inoperable motor vehicles. Chain link fence may be allowed as a sight obscuring fence if opaque slat inserts are used.
- (5) Outside display of merchandise is permitted in residential professional, neighborhood commercial, community commercial, highway commercial, and controlled industrial zoning districts only if the merchandise is related to the principal use of the property, and such merchandise is removed each night into an enclosed structure. The continuous outside display of merchandise is permitted when the principal use of property is for lumber and construction materials (SIC 503, 521 and 525), wholesale and retail nurseries, lawn and garden supply (SIC 078, 081, 5191, 5193, and 526) or for temporary uses and structures regulated by section 27-614.
- (6) Bufferyards and required landscaping shall not be used for the displaying of merchandise in any commercial or industrial zoning district.
- (7) The use of any recreational vehicle for living or sleeping purposes for more than five (5) consecutive days is prohibited when parked off-street or stored on property zoned for commercial or industrial uses or on property developed for commercial or industrial uses.
- (8) Open storage of equipment and supplies is an allowed accessory use of property as limited in section 27-306. Any property where open storage of equipment and supplies is an allowed accessory use, the open storage area shall be located in the rear or side yard. A sight obscuring fence of at least six (6) feet in height from finished grade shall be required to enclose the storage area. Chain link fence may be allowed as a sight obscuring fence if opaque slat inserts are used.

Sec. 27-602. - Arterial setbacks.

- (a) In any residential or public zoning district, no building or structure shall be erected within eighty (80) feet of the centerline of a principal arterial street, or within seventy (70) feet of the centerline of a minor arterial street. In addition, within any such residential or public zoning district, no required parking area or portion thereof, shall be constructed or located within seventy (70) feet of the centerline of a principal arterial street or within sixty (60) feet of the centerline of a minor arterial street.
- (b) In any commercial or industrial zoning district within the county zoning jurisdiction, no building or structure shall be erected or maintained within eighty (80) feet of the centerline of a principal arterial street, or within seventy (70) feet of the centerline of a minor arterial street. In addition, within any such commercial or industrial zoning district, no required parking area or portion thereof, including driving aisles, shall be constructed or located within seventy (70) feet of the centerline of a principal arterial street or within sixty (60) feet of the centerline of a minor arterial street.
- (c) Any new construction that increases the number of required off-street parking spaces, must locate these additional required parking spaces in areas that comply with above subsections (A) and (B). The term "new construction" shall be defined as construction on a previously vacant lot or parcel, construction of new structures after existing structures are demolished or removed, or expansion of existing structures.
- (d) Approved advertising signs and public use controls and systems, trees trimmed up eight (8) feet and canopies with at least eight (8) feet clearance, shall be permitted in this setback area. For the purpose of this subsection, canopies shall be defined as covers that are solely attached to and supported by the structure on which it is attached to and which can be removed without destroying any part of that supporting structure. This shall only apply to canopies attached to the principal structure.
- (e) The designation of a street as an arterial shall be recommended by the city engineer, county public works director or in conformity with the most recent urban transportation plan.
- (f) The centerline of such arterials shall be established by the City of Billings or Yellowstone County:

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

Sec. 27-603. - Building permits issued prior to adoption.

Where construction has started pursuant to a building permit validly issued by State of Montana, or by a Zoning Compliance Permit issued by the Planning Director or designee prior to the effective date of this resolution, it may be completed (under the regulations in effect at the time of issuance) thereunder without regard to this resolution.

Sec. 27-604. – **Reserved** (formerly Fences, Walls, & Hedges – refer to new Sec. 27-1109)

Sec. 27-605. - Hazardous waste facilities.

- (a) *Intent.* The purpose and intent of this section is to establish review criteria for the citing of any new hazardous waste facility as defined herein, in order to prevent any significant threat to human health or the environment. When used in citing new hazardous waste facilities, the criteria shall:
- (1) Protect the residents of Yellowstone County;
 - (2) Ensure the structural stability of the new hazardous waste facility;
 - (3) Protect surface water;
 - (4) Protect groundwater;
 - (5) Provide for the safe transportation of hazardous waste to new hazardous waste facilities;
 - (6) Protect environmentally sensitive areas; and
 - (7) Protect air quality.
- (b) *Definitions.* For the purposes of this Section, the following definitions shall apply:
1. *Hazardous waste:* Means a waste or combination of wastes that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:
 - a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness;
 - b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed; or
 - c. A material which is classified by the Environmental Protection Agency (EPA) as being Hazardous or Extremely Hazardous.
 - (2) *Facility (hazardous waste management facility):* Means all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous wastes. A facility may consist of several treatment, storage or disposal operational units.
 - (3) *Transfer facility:* Means any transporter-owned or operated land, structure, or improvement, including loading docks, parking areas, holding sites, and other similar areas used for the transfer and temporary storage of hazardous wastes and where shipments of hazardous waste are held temporarily for a period of

ten (10) days or less during the normal course of transportation, up to but not including the point of ultimate treatment, storage, or disposal.

- (4) *Long-term storage facility*: This facility is the same as a "transfer facility", except that it is designed to store hazardous wastes for a period longer than ten (10) days.
- (c) *Use allowed*. Any hazardous waste facility shall only be allowed in the heavy industrial (HI) zoning district and must be approved through the special review procedure as outlined in section 27-1501, et seq.
- (d) *Supplemental requirements*. Any hazardous waste facility shall, in addition to meeting all other requirements of this resolution, comply with the following supplemental requirements:
 - (1) Submit with the required special review application, twenty (20) copies of a community and environmental impact statement which shall include the following elements:
 - a. Description of impact of proposal upon existing environmental conditions:
 - 1. Population and land use.
 - 2. Soils.
 - 3. Drainage.
 - 4. Vegetation.
 - 5. Topography.
 - 6. Wildlife.
 - 7. Air quality.
 - 8. Surface water quality.
 - 9. Ground water quality.
 - 10. Floodplain data.
 - 11. Scenic vistas.
 - 12. Historic and cultural sites.
 - b. Description of impact of proposal upon existing and required services:
 - 1. Public Utilities
 - i. Water
 - ii. Sewer
 - iii. Drainage
 - iv. Electric
 - v. Gas
 - vi. Telephone
 - 2. Schools
 - c. The applicant(s) shall document the adequacy and availability of fire, police, medical and other emergency management facilities and services in the area, as well as, their familiarity with the substance(s) being treated, disposed or stored. Documentation shall also be required as to the adequacy and availability of transportation means and routes for the purposes of evacuation of the population at risk in the event of an accident. Evacuation methods and routes shall be indicated. In addition, information shall be provided on spill mitigation measures and pollution risk analysis.

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

Statements in writing which grant preliminary, tentative or conditional approvals as required by any local, county, state, federal, or public authority shall be submitted to the planning department along with all other materials as required by this chapter. These documents shall be submitted along with the information required through the special review process.

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

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

Sec. 27-606. - Home occupations.

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

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

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

The home occupation shall comply with all of the following restrictions:

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

S.I.C. Number	Description
7231	Beauty shops
7241	Barber shops
7251	Shoe repair shops
7291	Tax return preparation services
7631	Watch, clock and jewelry repair

76—	Office only for miscellaneous repair services
7911	Dance studios, schools and halls

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

- (b) No person shall be employed other than the residents of the dwelling.
- (c) The occupation shall be conducted entirely within the dwelling or an accessory building.
- (d) The floor area devoted to the occupation shall not exceed five hundred (500) square feet or twenty-five (25) percent of the total ground area occupied by the buildings, whichever is less.
- (e) The occupation shall not produce light, noise, vibration, glare, fumes, odors, electrical interference, etc., which is inconsistent with the character of the residential area.
- (f) There shall be no sign advertising or calling attention to the home occupation on the premises.
- (g) There shall be no display, evidence or activity apparent from the exterior of the lot which would indicate that the premises are being used for any purpose other than that of a dwelling.
- (h) There shall be no group instruction, assembly or activity for greater than five (5) persons.
- (i) One (1) business vehicle that is associated with the home occupation and which does not exceed eight thousand (8,000) pounds gross vehicle weight (G.V.W.), may be parked or stored on the premises. In addition, there shall be no outside storage of materials or equipment related to the home occupation, except the one (1) allowed business vehicle.

Sec. 27-607. - Livestock and fowl.

Livestock, as defined in section 27-201, may be maintained in any zoning district as provided within section 27-305 or 27-306. Areas within certain agricultural or residential zoning districts, as shown in the residential district regulations (see section 27-305), shall be permitted to have livestock and/or fowl. The allowance of livestock and/or fowl in commercial or industrial zoning districts, may be permitted when the regulations established in below subsection (b) are met, regardless of the lot size. However, if the number of animals requested exceeds the allowed limit in below subsection (b), then the property must conform to the uses allowed by right or through special review, as shown in the commercial/industrial district regulations matrix in section 27-306.

- (a) Lots which are 2.5 net acres or less in size are allowed to have livestock and/or fowl provided that all of the following regulations are satisfied.
 - (1) One (1) livestock and/or fowl unit is allowed per twenty thousand (20,000) square feet of land devoted exclusively to the raising of the animal(s). Livestock or fowl that are listed in the livestock and/or fowl unit table(s) below are allowed types of animals under this subsection, with the exception of bison.
 - (2) Supplemental feeding of the animal(s) is required.
 - (3) Any keeping of animal(s) in this section shall be secondary and accessory to the primary residential use of the property. Commercial breeding and/or commercial raising of any type of animal or fowl shall be prohibited, except as allowed by right or through special review in the residential district regulations matrix located in section 27-305.
 - (4) In addition to the above regulations, project animal(s), as defined in section 27-201, are allowed, but shall be limited to one (1) livestock or fowl unit (as defined below) per youth actively enrolled in F.F.A., 4-H or other similar types of programs. In addition, project animals are required to be supplementally fed and shall only be allowed to remain on the property for no more than six (6) months during any twelve (12) month period. Breeding projects shall be exempt from the above time limit.
 - (5) All accessory structures used for the purpose of housing, keeping or sheltering livestock or fowl shall be setback a distance of fifty (50) feet from any property line and fifty (50) feet from any dwelling.

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

(d) Livestock and fowl units, for the purpose of this section, shall be defined as follows:

Livestock Class	Livestock Units
Cow - Mature	1.00
Cow with calf	1.00
Bull - Mature	1.00
Bull - Yearling	.50
Calf - Weaned or under 6 months	.50

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

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

Sec. 27-608. - Manufactured home parks and individual manufactured homes.

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

- (1) *Manufactured home*: A dwelling unit that: (a) is constructed in accordance with the standards set forth by the U.S. Department of Housing and Urban Development, (b) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and (c) exceeds forty (40) feet in length and eight (8) feet in width.
- (2) *Manufactured home, Class A*: A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:
 - a. The home has a length not exceeding four (4) times its width;

- b. The pitch of the home's roof has a minimum vertical rise of three (3) inches for each twelve (12) inches of horizontal run (3:12), and the roof is finished with a type of shingle that is commonly used in standard residential construction;
 - c. The exterior siding consists of wood, hardboard, aluminum or vinyl siding comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
 - d. A continuous, permanent perimeter foundation, which complies with the Uniform Building Code, is installed under the home; and
 - e. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.
- (3) *Manufactured home, Class B:* A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a Class A manufactured home.
 - (4) *Manufactured home Class C:* Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home.
 - (5) *Manufactured home park:* A residential use in which more than one manufactured home is located on a single lot. Manufactured home parks must also comply with the subdivision regulations for the jurisdiction in which it is located.
 - (6) *Modular home:* A dwelling unit constructed in accordance with the standards set forth in the Uniform Building Code and bearing the insignia of the State of Montana, applicable to site-built homes, and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the Uniform Building Code Standards applicable to site-built homes), or a series of panels or room sections transported on a truck and erected or joined together on the site.
 - (7) *Commercial use:* Trailers or manufactured homes shall not be used for any commercial use other than an on-premise office in connection with a trailer or manufactured home sales area.

Sec. 27-609. - Plats recorded after effective date.

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

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

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

Sec. 27-610. - Satellite antennas and dishes.

(a) For the purpose of this section, the following definitions shall apply:

- (1) *Satellite dish antenna:* A device incorporating a reflective surface that is solid, open mesh or bar configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition shall include but not be limited to what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), direct satellite systems (D.S.S.) and satellite microwave antennas.

- (2) *Satellite signal, usable*: That level of signal received via the satellite dish antenna which will run the television and/or radio with a minimum level of distortion, a distortion level that is barely discernible to the naked eye and a picture quality consistent with other reception in the area.
- (b) *Residential districts*. The following setbacks and height restrictions shall apply in residential zoning districts:
- (1) Satellite dish antennas shall be placed only in the rear yard.
 - (2) In the event that a usable satellite signal cannot be obtained from the rear yard, the satellite dish antenna may be located on the side or front yard provided that no satellite dish antenna shall be placed in a required front or side setback or arterial setback.
 - (3) In the event that a usable satellite signal cannot be obtained by locating the satellite dish antenna on the rear, side or front yard of the property, such satellite dish antenna may be placed on the roof of the dwelling structure. These satellite dish antennas or pole mounted antennas shall not extend more than ten (10) feet above the height limit established for the zone in which the structure is located.
 - (4) In either above subsections (2) or (3), it is the responsibility of the owner to provide proof, satisfactory to the zoning coordinator, that a usable satellite signal cannot be obtained from the required location.
 - (5) No satellite dish antenna shall exceed a diameter of twelve (12) feet.
 - (6) No satellite dish antenna may be installed on a portable or movable device except as a temporary means (not to exceed 30 days) to test for a usable satellite signal.
- (c) *Commercial and industrial districts*. The following setbacks and height restrictions shall apply in commercial and/or industrial zoning districts:
- (1) No satellite dish antenna shall be placed in any required front yard, side adjacent to street or arterial setback.
 - (2) No satellite dish antenna shall be placed in any required side setback when contiguous to residentially zoned property.
 - (3) A satellite dish antenna may be permanently mounted or may be installed on a portable or movable device.
 - (4) No satellite dish antenna (whether permanent or portable) shall be installed in a required parking space.
 - (5) No satellite dish antenna shall exceed the maximum height of the zoning district.
- (d) *Permit required*. Before any satellite antenna is erected in any zoning district, the property owner(s) shall first obtain the applicable permits from the State of Montana.
- (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.

SEC. 27-611. SEXUALLY ORIENTED BUSINESSES. (ADOPTED FOR COUNTY ZONING JURISDICTION June 20, 2006)

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

(b) Findings Yellowstone County Commission hereby finds and determines that:

Based upon evidence concerning the adverse secondary effects of sexually oriented businesses on the community presented in hearings and reports made available to the City Council and Board of County Commissioners, and upon findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.* 475 U.S.41 (1986); *Young v. American*

Mini Theatres, 426 U.S. 50 (1976); and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *Arcara v. Cloud Books, Inc.* 478 U.S. 697 (1986); *California v. LaRue*, 409 U.S. 109 (1972); *Iacobucci v. City of Newport, Ky.*, 479 U.S. 92 (1986); *United States v. O'Brien*, 391 U.S. 367 (1968); *DLS Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); *Hang On Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *South Florida Free Beaches Inc. v. City of Miami*, 734 F.2d 608 (11th Cir. 1984); and *N.W. Enterprises v. City of Houston*, 27 F. Supp. 2d 754 (S.D. Tex. 1998), as well as studies conducted in other cities including but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and findings reported in the Final Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the City of Billings and Yellowstone Commission find that:

- (1) Sexually oriented business lend themselves to ancillary unlawful and unhealthy activities that are currently uncontrolled by the operators of the establishments. Further, there is currently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.
- (2) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located. See, e.g. Studies of the cities of Phoenix, Arizona; Indianapolis, Indiana; and Austin, Texas.
- (3) Sexual acts, including masturbation, sadomasochistic abuse, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos or live sex shows. See, e.g. *California v LaRue*, 409 U.S. 109, 111 (1972); See also Final Report of the Attorney General's Commission on Pornography (1986) at 377.
- (4) Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions. See, e.g. Final Report of Attorney Generals' Commission on Pornography (1986) at 367-77.
- (5) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses, for the purpose of engaging in sex within the premises of such sexually oriented businesses. See e.g. *Arcara v. Cloud Books Inc.* 478 U.S. 697, 698 (1986), see also Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.
- (6) At least 50 (fifty) communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections, See, e.g. Study of Fort Meyers, Florida.
- (7) As of December 31, 1996, the total number of reported cases of AIDS in the United States caused by the human immunodeficiency virus (HIV) was 581, 429. See, e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (8) As of December 31, 1999, there have been 92 (ninety-two) reported cases of AIDS in the State of Montana for the years 1997 through 1999.
- (9) The total number of cases of genital Chlamydia trachomatis infection in the United States reported in 1997 was 526,653, an 8% increase over the year 1996. See, e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (10) The total number of cases of early (less than one year) syphilis in the United States reported during the twelve year period 1985-1997 was 387,233. See, e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (11) The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,901,365 cases reported during the period 1993-1997. See e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.
- (12) The Surgeon General of the United States, in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (13) According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts, See, e.g. Findings of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

- (14) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted therein are unhealthy, and, in part, because of the unregulated nature of the activities and the failures of the owners and operators of the facilities to self-regulate those activities and maintain those facilities. See, e.g. Final Report of the Attorney General's Commission on Pornography (1986) at 377, and testimony to the Montana Senate Judiciary Committee February 9, 2001, in reference to SB399.
- (15) Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually oriented businesses where persons view "adult" oriented films. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 377.
- (16) Studies show nude dancing in adult establishments increases prostitution, increases sexual assaults, and attracts other criminal activity. See, e.g., Barnes v. Glen Theatre, 501 U.S. 560, 583 (1991).
- (17) Nude dancing in adult establishments increases the likelihood of drug dealing and drug use. See, e.g., Kev, Inc. v. Kitsap County, 793 F.2d 1053, 1056 (9th Cir. 1986).
- (18) The findings noted in paragraphs numbered (1) through (17) raise substantial governmental concerns.
- (19) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (20) Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing illegal and unsanitary sexual activity occurring in adult establishments.
- (21) The general welfare, health, morals and safety of citizens in Yellowstone County will be promoted by enactment of this regulation.

(c) Definitions.

- (1) Adult Arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (2) Adult Book Store or Adult Video Store means a commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:
 - (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, video reproductions, slides, or other visual representations which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
 - (b) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."
- (3) Adult Motel means a hotel, motel, or similar commercial establishment which:
 - (a) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;
 - (b) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - (c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- (4) Adult Motion Picture Theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (5) Church or Other Place of Worship means a building which is used primarily for religious worship and related religious activities, including but not limited to churches, convents, monasteries, shrines, and temples.

- (6) City means the City of Billings, Montana.
 - (7) County means Yellowstone County, Montana.
 - (8) Establishment means and includes any of the following:
 - (a) The opening or commencement of any sexually oriented business as a new business;
 - (b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - (c) The additions of any sexually oriented business to any other existing sexually oriented business; or
 - (d) The relocation of any sexually oriented business.
 - (9) Nudity or State of Nudity means a male appearing without clothing to conceal his genitals or anal cleft or a female appearing without clothing to conceal her breasts, genitals or anal cleft. A male or female's genitals or anal cleft are concealed when they are not visible. A female's breasts are concealed when her areolas and nipples are not visible.
 - (10) Sexually Oriented Business means an adult bookstore, adult theater, adult motel, adult massage parlor, adult sauna, adult entertainment center, adult cabaret, adult health/sport club, adult steam room/bathhouse facility and/or nude dancing establishment
 - (11) Specified Anatomical Area means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.
 - (12) Specified Sexual Activities means and includes any of the following:
 - (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 - (c) Masturbation, actual or simulated; or
 - (d) Excretory functions as part of or in connection with any of the activities set forth in above (a) through (c).
 - (13) Transfer of Ownership or Control of sexually oriented business means and includes any of the following:
 - (a) The sale, lease, or sublease of the business;
 - (b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or
 - (c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.
 - (14) Viewing Room/Booth/Adult Arcade means a room or booth of less than one hundred fifty (150) square feet of floor space to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (d) Classification. Sexually oriented businesses are classified as follows:
- (1) Adult Arcades;
 - (2) Adult Book Stores or Adult Video Stores;
 - (3) Adult Motels; and
 - (4) Adult Motion Picture Theaters.
- (e) Location of Sexually Oriented Business.
- (1) No person, whether as a principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any sexually oriented business within one thousand (1,000) feet of the following residential zones:
 - (a) Agricultural Suburban (A-S) Zone;

- (b) Residential 15,000 (R-150) Zone;
 - (c) Residential 9,600 (R-96) Zone;
 - (d) Residential 8,000 (R-80) Zone;
 - (e) Residential 7,000 Restricted (R-70R) Zone;
 - (f) Residential 7,000 (R-70) Zone;
 - (g) Residential 6,000 Restricted (R-60R) Zone;
 - (h) Residential 6,000 (R-60) Zone;
 - (i) Residential 5,000 (R-50) Zone;
 - (j) Residential Multi-Family (RMF) Zone;
 - (k) Residential Multi-Family - Restricted (RMF-R) Zone;
 - (l) Residential Manufactured Home (RMH) Zone; or
 - (m) Entryway Mixed Use (EMU) Zone.
- (2) No person, whether as a principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own, or operate any sexually oriented business within one thousand (1,000) feet of the following land uses:
- (a) Public library;
 - (b) Public playground or park;
 - (c) Public or private school and its grounds, from kindergarten through twelfth grade;
 - (d) A state licensed family day care home, group day care home, or day care center; or
 - (e) Church or other place of worship.
- (3) No person, whether as a principal or agent, clerk or employee, either for himself or any other person, or as an officer of any corporation, or otherwise, shall place, maintain, own or operate any sexually oriented business within six hundred (600) feet of another sexually oriented business.
- (4) For purposes of this section, specified distances will be measured in a straight line, without regard to intervening structures, from the property line of the sexually oriented business to the property line of the preceding land uses or zoning districts.
- (5) In addition to the preceding requirements, sexually oriented businesses are permitted in the following zones only:
- (a) Highway Commercial (HC) Zone;
 - (b) Controlled Industrial (CI) Zone; or
 - (c) Heavy Industrial (HI) Zone.

(g) **Applicability.** The provision of this section shall apply to all existing and future sexually oriented businesses. Pursuant to MCA 76-2-208 and Section 27-401 of these regulations, any such existing business that does not meet the zoning district restrictions or the distance limitations, may continue its existence as a nonconforming use; but such nonconforming use will be subject to curtailment by current state law and these regulations. If a sexually oriented business is nonconforming to these regulations and such use is discontinued or abandoned for a period of thirty (30) consecutive days the nonconforming status shall lapse and any subsequent use of the property shall conform to the regulations specified by this resolution for the district in which such land is located.

(h) **Sign Limitations.** Notwithstanding any other city ordinance or county resolution, code or regulations to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.

- (1) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:
 - a. not contain any flashing lights;
 - b. be a flat plane, rectangular in shape;

- c. not exceed seventy-five (75) square feet in area or the maximum size allowed under any other relevant city ordinance or county resolution, whichever is less; and
 - d. not exceed ten (10) feet in height or ten (10 feet in length or the maximum size allowed under any other relevant city ordinance or county resolution, whichever is less.
- (2) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations of any type and may contain only the name of the business.
- (3) Each letter forming a word on a primary sign shall be of solid color, and each letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be uniform and solid color.
- (4) Secondary signs shall have only one (1) display surface. Such display surface shall:
 - a. be a flat plane, rectangular in shape;
 - b. not exceed twenty (20) square feet in area or the maximum size allowed under any other relevant city or county regulations, whichever is less;
 - c. not exceed five (5) feet in height and four (4) feet in width or the maximum size allowed under any other relevant city or county regulations, whichever is less; and
 - d. be affixed or attached to any wall or door of the business.
- (5) Each sexually oriented business operation must post a sign on each door stating with "Adults only" or "No Minors Allowed".
- (i) Operating Standards. All sexually oriented businesses shall operate in accordance with the following:
 - (1) No employee shall solicit business outside the building in which the business is located;
 - (2) All live entertainment in sexually oriented businesses shall be performed on a platform or other exclusive area provided for such purpose, and no entertainer or performer shall be permitted to leave such platform or area while entertaining or performing. This platform or other exclusive area shall be constructed in such a manner as to keep the performers at least nine (9) feet away from patrons;
 - (3) Nudity and specified sexual activities while on the premises of a sexually oriented business, other than adult motel, shall be prohibited. Nothing in these regulations shall be construed to prohibit a person from appearing in a state of nudity while using a restroom. Restrooms may not contain video reproduction equipment or be used in any way to circumvent this zoning regulation;
 - (4) No sexually oriented business shall operate between the hours of 12:01 am and 9:00 am;
 - (5) No sexually oriented business, other than an adult motel, shall be located in any building where alcoholic beverages are dispensed or consumed; and
 - (6) No minors shall be allowed in sexually oriented businesses.
- (j) Operating Standards that Pertain to Establishments that Exhibit Sexually Explicit Films, Videos or any other Images. A sexually oriented business which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, other video reproduction that specified sexual activities or specified anatomical areas, shall comply with the following requirements:
 - (1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose, excluding restrooms. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations, excluding restrooms. The view required in this subsection must be direct line of sight from the manager's station;
 - (2) No opening or holes of any kind shall exist between viewing booths/rooms or adult arcades;
 - (3) No doors shall be allowed on viewing booths/rooms or adult arcades;
 - (4) The premises shall be equipped with and have in continuous operation, while patrons are present, overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candle as measured at the floor level; and

- (5) All floor coverings and walls in viewing booths/rooms and adult arcades are to be constructed of nonporous, easily cleanable surfaces, with no rugs or carpeting.
- (k) Building Exterior Appearance.
 - (1) It shall be unlawful for an owner or operator of sexually oriented business to allow merchandise or activities of the establishment to be visible from outside the establishment.
 - (2) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, words, lettering, photographs, silhouettes, drawings, or pictorial representations of any type except to the extent permitted by the provisions of this section.
 - (3) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single monochromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:
 - a. The establishment is part of a commercial multi-unit center; and
 - b. The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.
 - (4) Nothing in this section shall be construed to require painting of an otherwise unpainted exterior portion of a sexually oriented business.

Sec. 27-612. - Supplemental commercial development standards.

Certain commercial uses shall be specifically restricted as follows:

- (a) *Eating and drinking places.* The use of any premises or the construction or alteration of any new or existing building or structure where alcoholic beverages are served for on-premises consumption as a primary or accessory use shall only be allowed in commercial or industrial zoning districts as regulated by section 27-306. No building, structure or premises shall be used for the on-premise consumption of alcoholic beverages unless:
 - (1) A distance of six hundred (600) feet between property lines, measured in a straight line, is maintained from any building that is predominantly used as a church or school or from a public park that contains a children's playground or playfield.
 - (a) Properties may be granted a waiver from the 600-foot separation required in subsection (1) if the governing body finds that a physical barrier exists between the proposed use requiring the 600-foot separation. These barriers include, but are not limited to, the following:
 - 1. An arterial street with no existing or proposed signalized pedestrian crossing;
 - 2. A building or buildings that entirely obstruct the view between the separated uses; and
 - 3. No direct physical access exists between the separated uses. The person applying for the special review must provide the governing body with proof that the proposed property or establishment meets one of the above described physical barriers or that other types of physical barriers exist that warrant the waiving of the 600-foot separation.

Exemptions to above subsection (a) for establishments previously granted a special review are located in section 27-613.

- (b) *Drive-in service.* Any persons desiring to use any premises or to erect, construct or alter any new or existing building or structure for a drive-in service as defined in section 27-201 shall satisfy the following criteria, based upon the adjoining zoning district(s).
 - (1) When a drive-in establishment adjoins (including any location across an alley) residentially zoned property, the use shall obtain approval of a Special Review as outlined in sections 27-1503 and 27-1509.
 - (2) All other drive-in establishments, including those which are located across a public street from residentially-zoned property, shall meet the following criteria:

- a. A traffic accessibility study shall be completed and approved by the city engineer or county public works director; and
- b. The use shall comply with all other sections of ~~the~~ Code.

(c) - Reserved

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

- (1) Limited to 3,000 square feet or less of gross floor area not including any outdoor seating area.
- (2) Located no closer than 1,500 feet from another Neighborhood Convenience Store.
- (3) Comply with the underlying zoning district setbacks, building height and lot area per dwelling unit if dwelling units are included as part of the store development.
- (4) Lot coverage may be up to 55% regardless of the underlying zoning district.
- (5) Shall include one off-street parking space per 500 square feet of gross floor area of retail space, one of which will be a handicapped accessible space.
- (6) If a dwelling unit is included in a store development, one additional off-street parking space shall be provided per dwelling unit.
- (7) The off-street parking requirements in subsections d(5) and d(6) supersedes and replace the off-street parking standards in Section 6-1203 and Sections 27-1202 through 27-1211 of the . Design and construction standards for curb cuts, driveways, size of off-street parking spaces, storm water control and paving standards shall otherwise apply.
- (8) No such store shall take delivery of goods before 8:00 am or after 8:00 pm.
- (9) At least two trash receptacles shall be provided per store that are accessible to the public on the store property. These trash receptacles will be emptied daily near the time of close of business.
- (10) Lighting on the building, in the parking lot or other yard area shall have full cut-off shields.
- (11) No light fixture shall exceed 15 feet in height from grade to the top of the fixture.
- (12) Signage shall be limited to one non-illuminated wall sign of 24 square feet or less per retail business.
- (13) No store shall have an outdoor announcement or music system.

Sec. 27-613. - Supplemental special review standards.

(a) *Eating and drinking places.* The following exemptions from the special Review requirements, as regulated by section 27-306, shall apply to those establishments where alcoholic beverages are served for on-premise consumption, which have previously been approved pursuant to a special review by the board of county commissioners:

- (1) Such an establishment shall be allowed to remodel, expand or relocate within the same structure without an additional special review, as regulated by section 27-306 provided that:
 - a. The gross floor area of the remodeled, expanded or relocated establishment is not over ten (10) percent greater than the gross floor area originally occupied by the establishment;

- b. The number of potential occupants is not increased by more than ten (10) percent, than the number that is currently allowed;
 - c. The number of new parking stalls is not more than ten (10) percent greater than the original number of spaces; and
 - d. All other requirements of this resolution and/or this Code are met.
- (2) Such an establishment in which additions and/or remodels include an outdoor patio lounge shall be required to obtain special review approval, as regulated by section 27-306 and as outlined in section 27-1509.
- (b) *Churches.* Churches and other places of worship shall be reviewed as a special review use in all residential zones pursuant to section 27-305. The following exemptions from the special review requirements shall only apply to those churches and other places of worship which have previously been approved pursuant to a special review by the board of county commissioners or which are legal nonconforming uses:
- (1) Such a church or place of worship shall be allowed to remodel or expand without an additional special review provided that:
 - a. The number of potential occupants is not increased by more than ten (10) percent, than the number that is currently allowed;
 - b. The gross floor area of the facility after such remodeling or expansion is not over ten (10) percent greater than the gross floor area originally occupied by the facility;
 - c. The number of new parking stalls is not more than ten (10) percent greater than the original number of spaces; and
 - d. All other requirements of this resolution are met.
 - (2) If, at the time the original or subsequent Special Review was conducted and approved, the applicant submitted a master plan showing: (a) future additions to the structure(s); (b) future structure(s); and/or (c) future parking area(s), those future improvements may be constructed without additional Special Review provided that these future improvements were considered in the Special Review approval and all other requirements of this resolution are met. Minor modifications and expansions to the future improvements identified on the master plan may also be constructed without additional Special Review provided that such modifications and/or expansions to the master plan meet the provisions of above subsection (1).
- (c) *Other special review uses.* Uses not listed in above subsections (a) or (b), which have been approved pursuant to a special review by the board of county commissioners, may be allowed to expand or remodel without an additional special review, provided that the expansion or remodeling meets all of the following criteria:
- (1) The gross floor area of the remodeled or expanded establishment is not over ten (10) percent greater than the gross floor area originally occupied by the establishment;
 - (2) The number of potential occupants is not increased by more than ten (10) percent, than the number that is currently allowed;
 - (3) The number of new parking stalls is not more than ten (10) percent greater than the original number of spaces; and
 - (4) All other requirements of this resolution are met.

Sec. 27-614. - Temporary uses and structures.

- (a) *Definitions.* For the purposes of this section, the definitions found in section 27-201 for both temporary uses and temporary structures shall be used in the regulation of such uses and structures. In addition, all uses contained in temporary structures shall be considered temporary uses of property and therefore must comply with the provisions of this section.
- (b) *Temporary uses in nonresidential zoning districts.*
 - (1) *Group 1 temporary uses.* This group shall be defined as temporary uses of property continuing for less than seventy-two (72) hours. Group 1 uses do not require a temporary use/structure permit from planning 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 (section 27-615) for driving aisles, drive approaches from streets, or at the intersection of streets or alleys;
 - d. Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed one-hundred (100) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of any freestanding sign is eight (8) feet from finished grade. Paper or cardboard signs are prohibited.
 - e. All signage and temporary structures must be removed at the time the temporary use has ceased on the property.
- (2) *Group 2 temporary uses.* This group shall be defined as temporary uses of property continuing for longer than seventy-two (72) hours but less than sixty-one (61) days and are required to obtain a temporary use/structure permit from the planning and community services department.
- a. The following temporary uses may be allowed in this temporary use group:
 - 1. Carnival, circus, seasonal sales or other uses as allowed in the district regulations in section 27-306.
 - b. Supplemental standards. Uses in this group shall comply with the following:
 - 1. Such use shall be an allowed use in the underlying zoning district;
 - 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 (section 27-615) for driving aisles, drive approaches from streets, or at the intersection of streets or alleys;
 - 4. Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed one hundred (100) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of any freestanding sign is eight (8) feet from finished grade. Paper or cardboard signs are prohibited.
 - 5. All signage and temporary structures must be removed at the time the temporary use has ceased on the property.
 - 6. New access drives to public right-of-ways must be approved by the county public works department as required.
- (3) *Group 3 temporary uses.* This group shall be defined as temporary uses of property continuing for longer than sixty-one (61) days but less than one (1) year and are required to obtain a temporary use permit from the planning 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 the district regulations in sections 27-305 and 27-306:
 - 1. Greenhouses or other similar seasonal-oriented uses, as determined by the zoning coordinator;
 - 2. Portable classrooms;
 - 3. Portable offices; or
 - 4. Other uses, such as carry-out food and/or beverage service.
 - b. Location restrictions.
 - 1. Any group 3 temporary use/structure existing upon adoption of this chapter, which does not comply, depending upon its location, with the applicable county site development regulations, shall comply with such standards within one (1) year from the date of the enactment of this section or any amendment thereto;
 - 2. Any new or relocated temporary use must be located on a site which complies, depending upon its location, with the applicable county site development regulations, including landscaping, surfacing and number of required off-street parking spaces;

3. The structure shall be a factory-built structure and shall not have an axle(s). Temporary structures which do not comply with one or both of these requirement(s) and which exist on the date of adoption of these regulations, shall be deemed legal nonconforming structures and may continue to be used as a temporary structure, provided the temporary use and structure complies with all other requirements of this section; and
4. Temporary uses as listed in subsection (3)a.4. shall also comply with the following criteria:
 - a. Maximum size of the structure shall be ten (10) feet by twelve (12) feet or one hundred twenty (120) square feet;
 - b. Site circulation shall be approved by the county public works director, along with the location of any drive-in window. This group of temporary uses shall be exempt from any special review requirements for drive-in service;
 - c. The temporary use must provide the required number of paved off-street parking spaces. In addition, the temporary use shall not utilize any parking spaces that would make the principal use deficient in the required number of off-street parking spaces;
 - d. Utilities to serve the temporary use shall be located underground or suspended overhead, in compliance with all applicable codes; and
 - e. All structures are subject to local, county and state requirements and must obtain all relevant licenses before a temporary use/structure permit is issued.
- c. Supplemental standards.
 1. When submitting for a temporary use/structure permit, a group 3 use shall provide the following:
 - a. Existing site plan, including parking stalls and buildings;
 - b. Proposed site plan, including location of temporary use and its relationship to existing site circulation and off-street parking spaces and driving aisles, including existing and proposed surfacing;
 - c. Location of drive-in service, if applicable;
 - d. Setbacks from property lines and arterial streets;
 - e. Size of temporary structure; and
 - f. Proposed use of the temporary structure.
 2. Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed one-hundred (100) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of a freestanding sign is eight (8) feet from finished grade. Banner signs, paper or cardboard signs are prohibited.
 3. The temporary use must provide sufficient space to accommodate the structure and paved off-street parking for customer and use-related vehicles;
 4. Clear vision standards set forth in section 27-615 shall be followed;
 5. Access to any public right-of-way must be approved by the county public works department;
 6. It shall be the responsibility of the owner of the temporary structure to ensure that the structure is secured to withstand an eighty (80) miles per hour (m.p.h.) wind load and to meet all applicable Americans with Disabilities Act (A.D.A.) and accessibility standards;
 7. All temporary structures that exceed one hundred twenty (120) square feet, except greenhouses, shall have the structure permitted, inspected and approved by the State of Montana 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 (1) year. An annual renewal may be given by the zoning coordinator, provided that the use complies with the above requirements. However, permits for portable offices or classrooms may be renewed only one time per location.

- (c) *Temporary uses in residential or agricultural zoning districts.* In any residential district, the temporary use of land for uses listed below may be allowed for a period not to exceed sixty-one (61) days and are required to obtain a temporary use permit from the planning 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 a church, school or other tax exempt premises which provides sufficient space to accommodate the seasonal sales and off-street parking for customer and other sale related vehicles;
 - b. Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed thirty-two (32) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of any freestanding sign is eight (8) feet from finished grade. Banner signs, paper or cardboard signs are prohibited.
 - c. Clear vision standards set forth in section 27-615 shall be followed; and
 - d. All signage and temporary structures must be removed at the time the temporary use has ceased on the property.
- (2) *Roadside stands.* The sale of flowers or produce at temporary roadside stands shall be allowed when all of the following restrictions are met:
- a. Only items which are produced on the premises may be sold on the premises;
 - b. Any structure used must be portable and removed after the temporary use/structure has ceased operation. However, structures which are located in the agricultural-open space (A-1) zoning district may be used even if they are permanent;
 - c. Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed thirty-two (32) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of any freestanding sign is eight (8) feet from finished grade. Banner signs, paper or cardboard signs are prohibited.
 - d. The use must provide sufficient space to accommodate the stand and off-street parking for customer and other sale related vehicles;
 - e. No structure, either temporary or permanent, nor any parking area shall be located within any public right-of-way and shall meet the clear vision standards set forth in section 27-615;
 - f. New access to any public right-of-way must be approved by the county public works department; and
 - g. All signage and temporary structures must be removed at the time the temporary use has ceased on the property.
- (d) *Fireworks stands.* The erection of a temporary fireworks stand may be permitted if it meets the following restrictions:
- (1) The stand is located in one of the following zoning districts:
 - a. Public (P) zone;
 - b. Community commercial (CC) zone;
 - c. Highway commercial (HC) zone;
 - d. Controlled Industrial (CI) zone;
 - e. Heavy industrial (HI) zone; or
 - f. Agricultural-open space (A-1) zone.
 - (2) No fireworks stand shall be allowed to operate within five hundred (500) feet of any other structure. Nor shall any fireworks stand be allowed to operate within one thousand five hundred (1,500) feet of structures which have any flammable or combustible liquid handling, distribution or sales (including gas pumps);
 - (3) All fireworks stands shall display warning signs in red letters on white background with letters not less than three (3) inches in height and one-half (½) inch in stroke. Such signs shall state:

- a. Danger - Explosives
 - b. No smoking
 - c. No discharge of fireworks within five hundred (500) feet
 - d. No parking of flammable or combustible liquid transportation vehicles within five hundred (500) feet
- (4) There must be a minimum of fifty (50) feet clear cut radius measured from the corner of each exterior wall. Vegetation within this radius shall be a maximum of two (2) inches in height and shall be raked clean of any dead vegetation. Any trees within this radius will be subject to review and approval by the county fire marshal;
 - (5) Each fireworks stand shall have a minimum of two (2) pressurized water extinguishers (class 2A or approved equivalent) on premises at all times;
 - (6) Location of each stand shall also be approved by the county fire marshal;
 - (7) Each fireworks stand shall be setback a minimum of fifty (50) feet from any public right-of-way;
 - (8) All fireworks stands shall receive fire protection from a fire protection service licensed or registered in the state;
 - (9) An application for a permit must be submitted a minimum of fifteen (15) working days prior to the fireworks season, as defined by M.C.A. 50-37-106. The sale of fireworks shall only be allowed within this time period. However, the fireworks stand, without any sales occurring, may be allowed to be erected between June 17 through July 12;
 - (10) Signs advertising the temporary use or activity are allowed at the same location as the temporary use. Signage may not exceed one hundred (100) square feet in area and may be displayed while the temporary use is on the property. Wall signs affixed to temporary structures and freestanding signs are allowed. The maximum height of any freestanding sign is eight (8) feet from finished grade. Banner signs, paper or cardboard signs are prohibited. All signage and temporary structures must be removed at the time the temporary use has ceased on the property.
 - (11) The fireworks stand must provide sufficient space to accommodate the stand and off-street parking for customer and other sale-related vehicles;
 - (12) An "Application For Sale of Fireworks" must be obtained and signed by the planning department, county fire marshal, Yellowstone county treasurer and the applicant. In addition, the applicant must obtain "Proof of Fire Protection";
 - (13) No structure, either temporary or permanent, nor any parking area shall be located within any public right-of-way; and
 - (14) Access to any public right-of-way must be approved by the county public works office.
- (e) *Temporary uses and structures.*
- (1) *Construction equipment, sheds and materials.* The temporary staging and storage of equipment and materials and use of buildings or modular structures for offices or equipment sheds during construction projects may be permitted in any zoning district. A temporary use/structure permit is not required if the equipment, materials and structures are part of an approved construction project. In addition, all equipment, materials and structures shall meet the following criteria:
 - a. Equipment, materials and structures include any items procured by a contractor that are necessary to complete the approved construction project including, but not limited to:
 1. Heavy equipment, pipe, fittings, manholes, and the appurtenances;
 2. Gravel, sand, soil, concrete mix, forms, lumber and similar materials;
 3. Traffic control devices and stacked pallets of materials; and
 4. Modular offices and equipment sheds.
 - b. Staging and storage of equipment and materials shall be conducted in a safe, neat and orderly manner at all times;
 - c. Any such equipment, materials and structures shall be removed upon completion of the construction project; and

- d. No such structure shall be used for living or sleeping purposes.
- (2) *Other temporary structures.* Temporary structures not used for construction or equipment sheds may be allowed when the following criteria are met:
 - a. For group 3 uses, the structure shall meet the applicable setbacks for the zone in which it is located, including arterial setbacks as found in section 27-602;
 - b. The structure shall meet the clear vision standards set forth in section 27-615;
 - c. No such structure shall be used for living or sleeping purposes; and
 - d. The use of the structure shall comply with subsections 27-614(b) and 27-614(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 27-614(b).
 - f. A temporary use/structure permit shall be obtained for each location by the owner for seasonal sales and roadside stands in residential and noncommercial zoning districts as defined in subsection 27-614(c).
- (3) *Time limit established.* The zoning coordinator shall establish the time period that a building or modular structure can be used on a temporary basis. This time period shall coincide with the temporary use/structure permit time period established under above 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.
- (f) *Temporary use/structure permit required.* Before any group 2 or group 3 temporary use or structure is established, the property owner shall obtain a temporary use/structure permit for each location from the zoning coordinator or his/her designee. Before any seasonal sale or roadside stand is established in a residential or noncommercial zoning district, the property owner shall obtain a temporary use/structure permit for each location from the zoning coordinator or his/her designee.

Sec. 27-615. - Visibility at intersections.

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

Table 1—Clear Vision Areas at Intersections

INTERSECTION TYPE	Clear Vision Area Required:	Reference Figure in Section 27-618
Minor Street Stop	Entering a Local Street—10' × 55' (along property lines)	Fig. 2a
	Entering Collector Street—10' × 75' (along property lines)	
	Entering Arterial Street—10' × 95' (along property lines)	
All-Way Stop	20' × 20' along property lines	Fig. 2b
Yield	25' × 60' along property lines	Fig. 2c

Traffic Signal	Same as minor street stop looking toward approaching traffic in nearest travel lanes Same as all-way stop looking opposite direction	Fig. 2d
<i>Open (uncontrolled)</i>		
4-legged	110' × 110' along street centerline	Fig. 3a
2-legged (right angle curve with street centerline radius of 100 feet or less)	80' × 80' along street centerlines (extended)	Fig. 3b
"T" intersection	25' along stem × 60' along top of "T" measured along property lines (see Note 1)	Fig. 3c

Notes and exceptions for Table 1:

- (1) Only applies to "permanent" T-intersections where there is no chance of the street extending through. Intersections where the property along the top of the "T" is not subdivided or is split into lots significantly larger than the majority of lots in the subdivision, or where there is a private street extending into the adjacent property opposite the stem of the "T" will be treated as a four-legged intersection.
 - (2) In cases where there is a curve coming into the intersection or the street alignment near the intersection deviates by more than five (5) degrees from tangent may be subject to increased (additional) restrictions based on technical review by the county public works director.
 - (3) Along arterial and collector streets where the "major" street curbline is more than twenty (20) feet from the property line, the clear vision area may be reduced to that provided for a stop controlled local street intersection.
 - (4) For minor street stop (case 2a) entering a street with a posted speed limit greater than forty-five (45) mph, the required clear vision area will be based on an engineering review subject to approval by the county public works director.
 - (5) Along private streets where there is no property line, controlled intersection areas shall be measured as though there is a property line twelve (12) feet behind the curbline of the private street.
- (b) On corner lots at intersections where one (1) or more approaches are controlled by a stop sign, yield sign, or a traffic signal, no fence, hedge, wall, shrub, structure or vision impediment over thirty (30) inches in height above an established top-of-curb grade shall be located within a triangular area formed by the intersecting lines measured along the property lines as provided in Table 1 (See section 27-618, figures 2a, 2b, 2c, and 2d).
- (c) On the street side of all lots where an alley or private driveway enters the street right-of-way, a clear vision area shall be maintained. Such area shall be measured as defined in Table 2. No fence, hedge, wall, shrub or structure over thirty (30) in height above an established top-of-curb grade shall be erected or maintained within the above defined this clear vision area (See section 27-618, figure 1a). If no sidewalk exists, all measurements shall be made from and along the property line.

Table 2—Clear Vision Area at Driveways and Alley Approaches

Clear Vision Area For:	Clear Vision Area Required
Vehicular Traffic	<i>Entering local street</i> —Triangle measured along centerline of the driveway or alley fourteen (14) feet from back of curb by one hundred seventy-five (175) feet along the curb line or the extension of the curb line on the cross street
	<i>Entering collector street</i> —Triangle measured along centerline of the driveway or alley fourteen (14) feet from back of curb by two hundred fifty (250) feet along the curb line or the extension of the curb line on the cross street

	<p><i>Entering arterial street</i>—Triangle measured along centerline of the driveway or alley fourteen (14) feet from back of curb by three hundred fifteen (315) feet along the curb line or the extension of the curb line on the cross street</p> <p>(See Note 1)</p>
Pedestrian Traffic	Triangle ten (10) feet from back of walk into property measured along the edge of the drive, and twenty (20) feet along the back of sidewalk measured from the edge of the driveway

Notes for Table 2:

- (1) For commercial driveways the point of reference for "centerline" shall be the actual marked centerline separating inbound and outbound traffic when there are two (2) or more exit lanes.
- (2) For driveways entering a street with a posted speed limit greater than forty-five (45) mph, the required clear vision area will be based on an engineering review subject to approval by the county public works director.
- (d) Approved advertising signs, and public use controls and systems may be permitted in any of the above defined clear vision areas. In addition, trees with a maximum trunk diameter of one (1) foot measured four (4) feet above the ground line, and trimmed of all branches between the ground line and eight (8) feet in height, may be permitted in the above defined clear vision areas.

Sec. 27-616. - Watercourse setbacks.

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

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

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

Sec. 27-617. - Reserved.

Sec. 27-618. - Illustrations.

FIGURE 1a. VISIBILITY AT ALLEY AND DRIVE APPROACHES

At the intersection of any alley or any driveway and a public street outside of the central business district, the illustrated clear vision area shall be maintained.

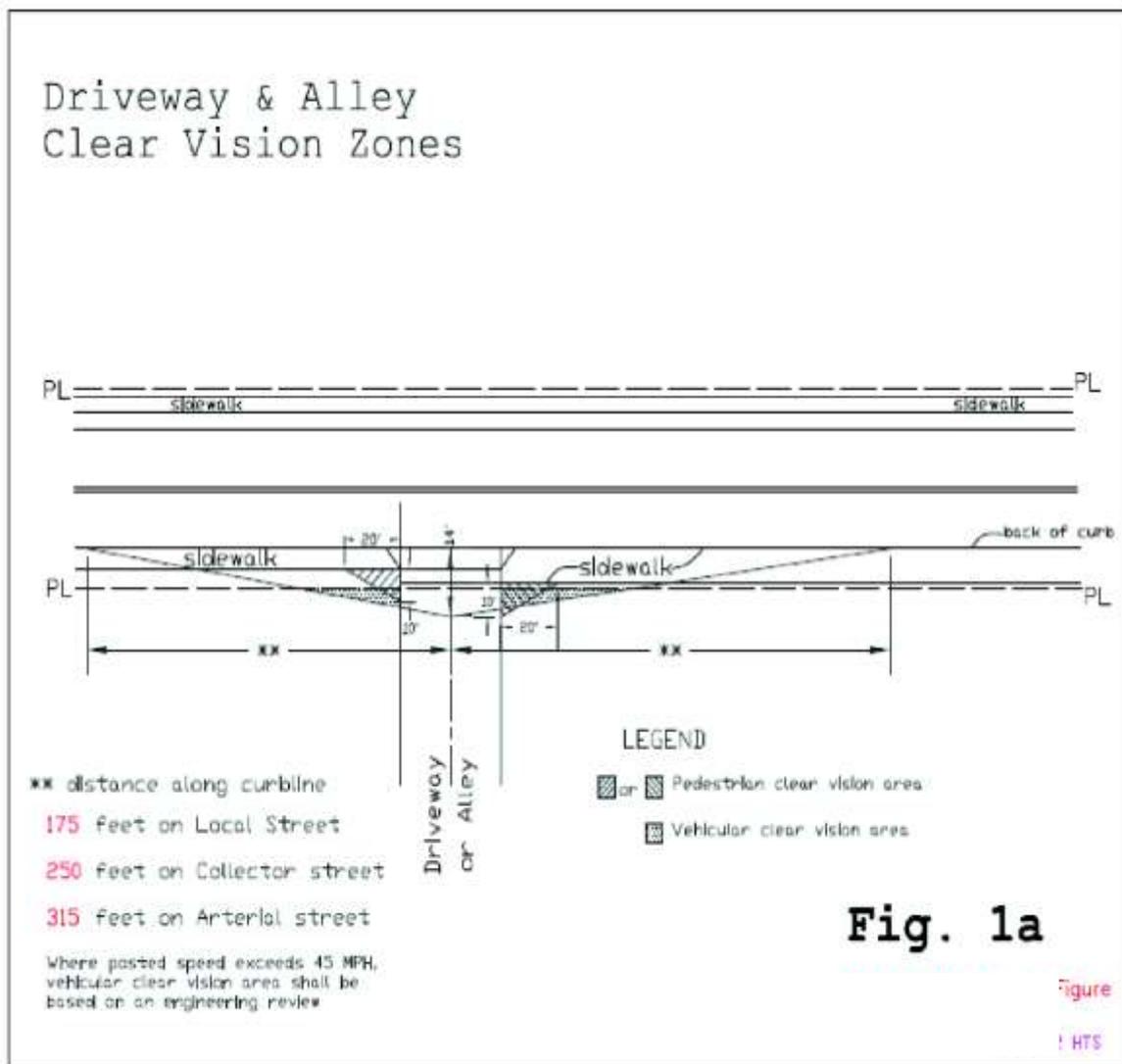


FIGURE 2a. VISIBILITY AT INTERSECTIONS: MINOR STREET STOP CONTROL

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

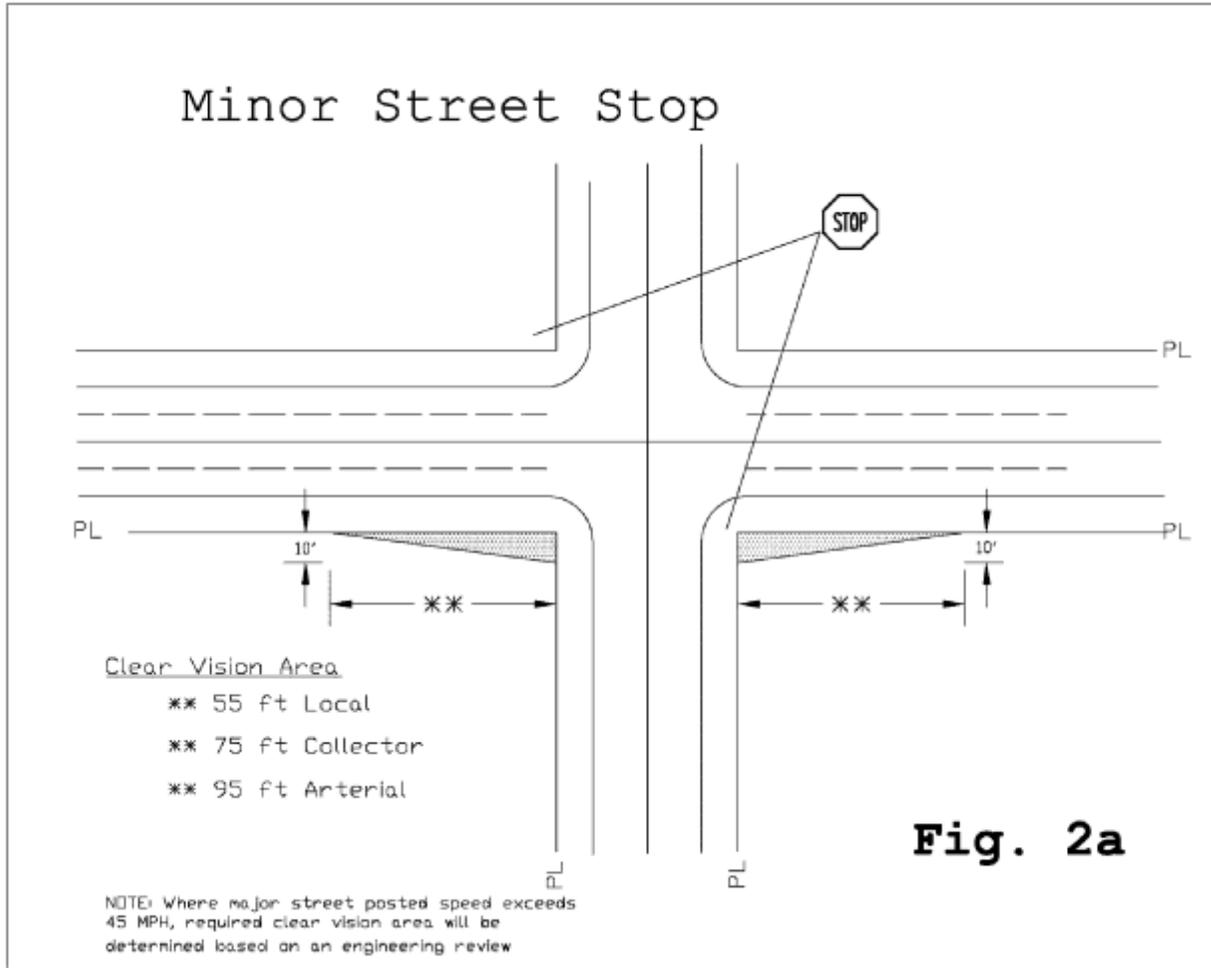


FIGURE 2b. VISIBILITY AT INTERSECTIONS: ALL-WAY STOP CONTROL

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

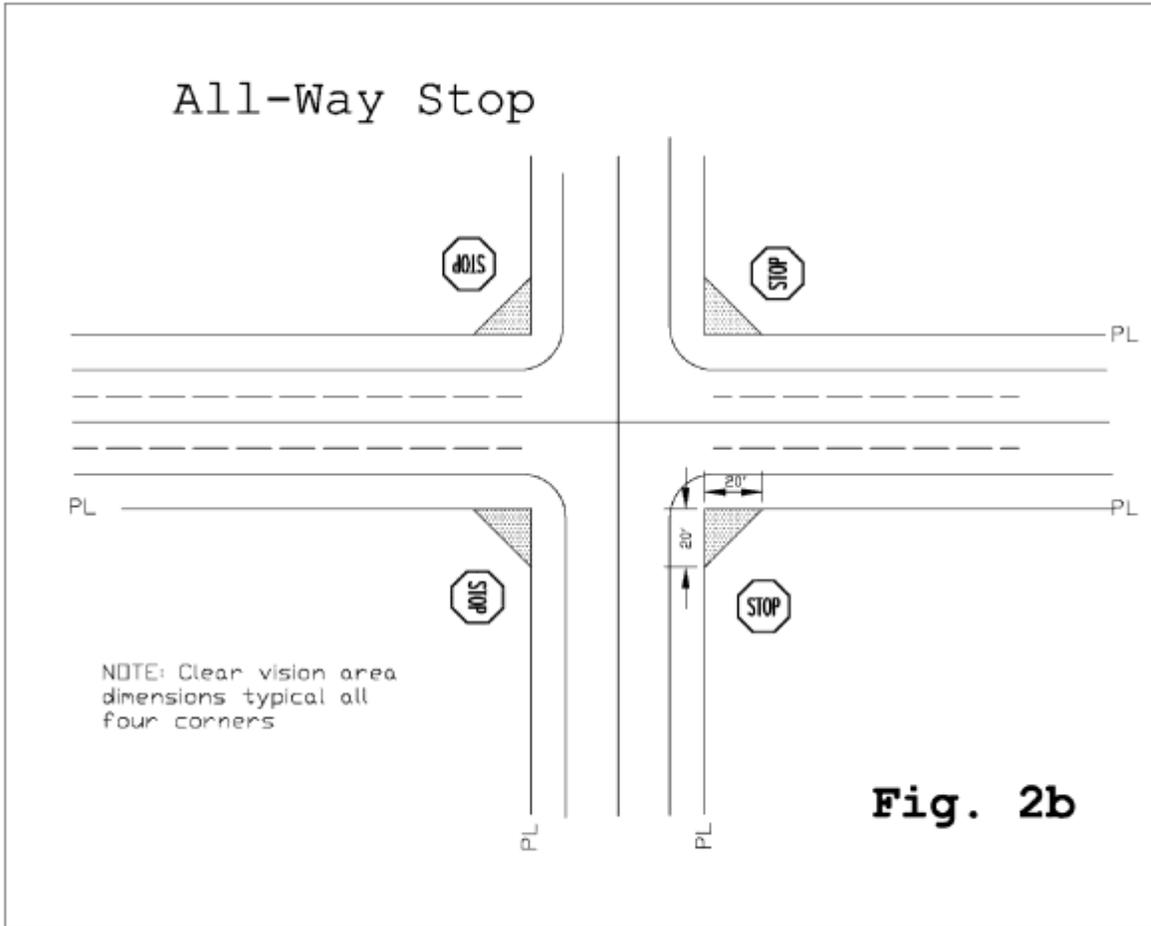


FIGURE 2c. VISIBILITY AT INTERSECTIONS: YIELD CONTROL

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

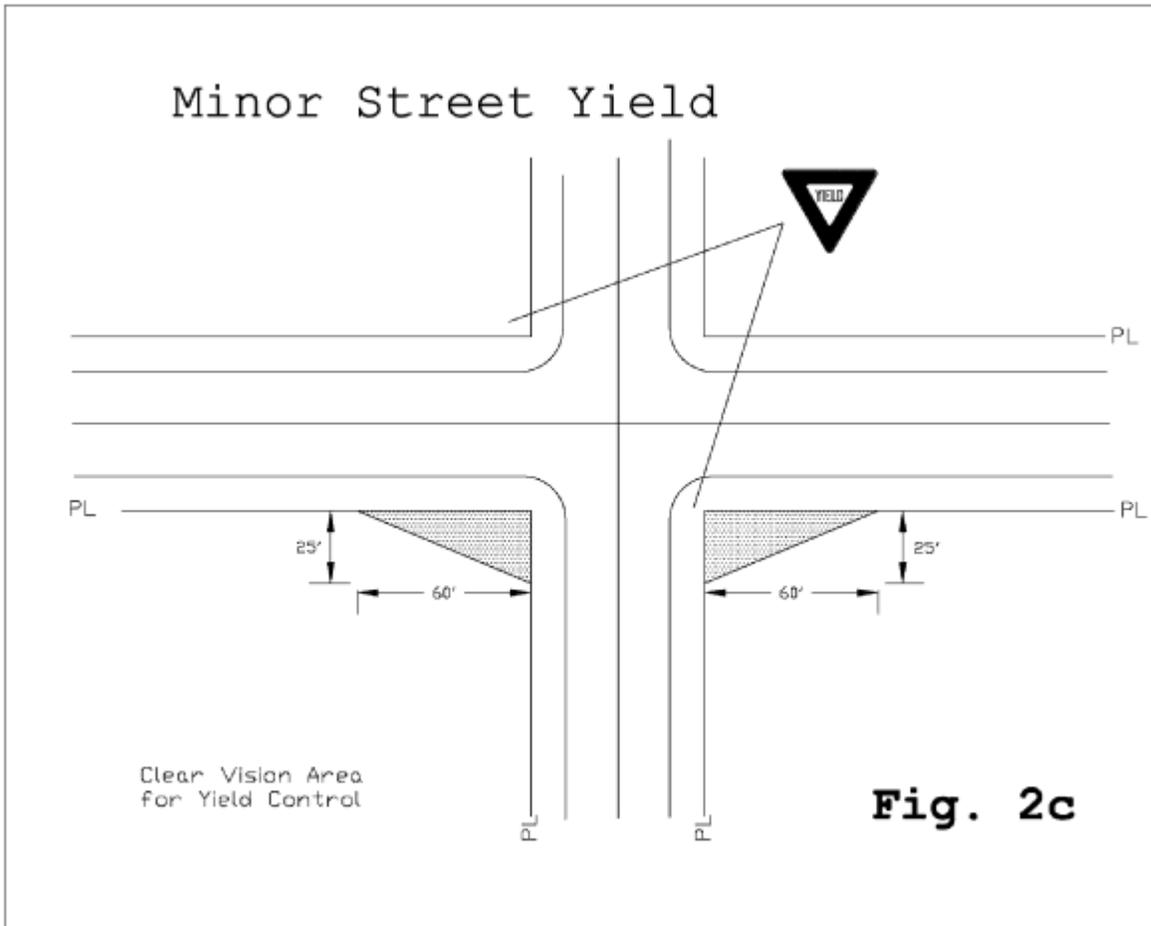


FIGURE 2d. VISIBILITY AT INTERSECTIONS: TRAFFIC SIGNAL CONTROL

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

"Uncontrolled" Intersection

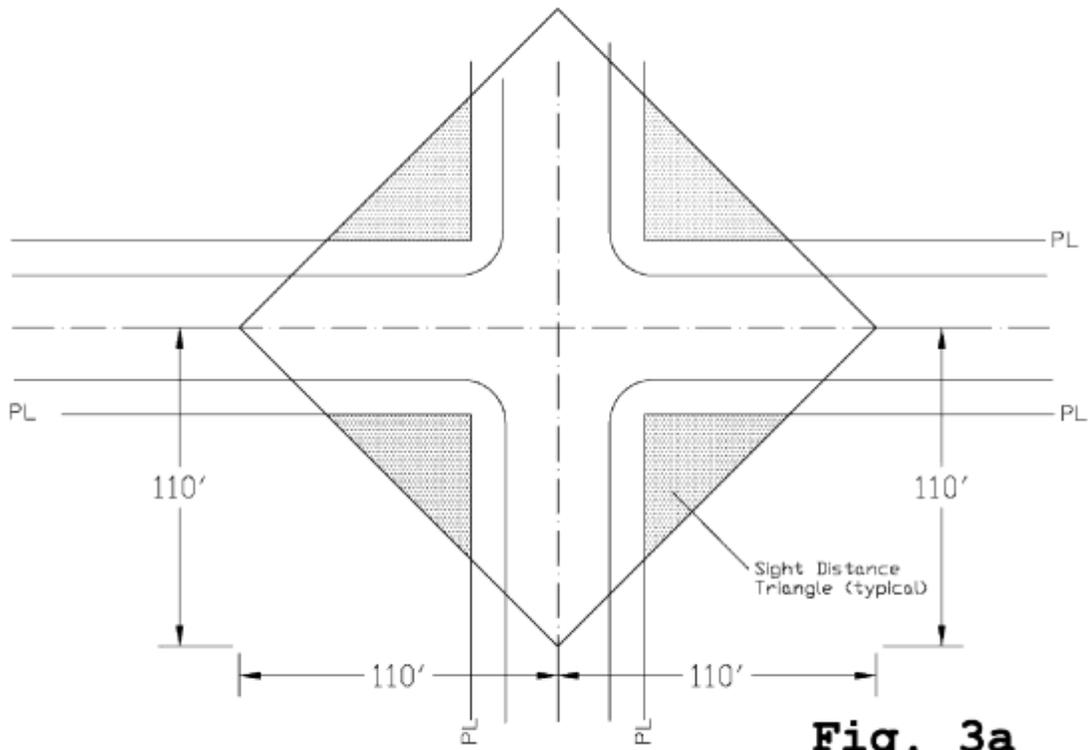


Fig. 3a

2-Leg Uncontrolled Intersection

(90 degree curve with street centerline radius of 100 feet or less)

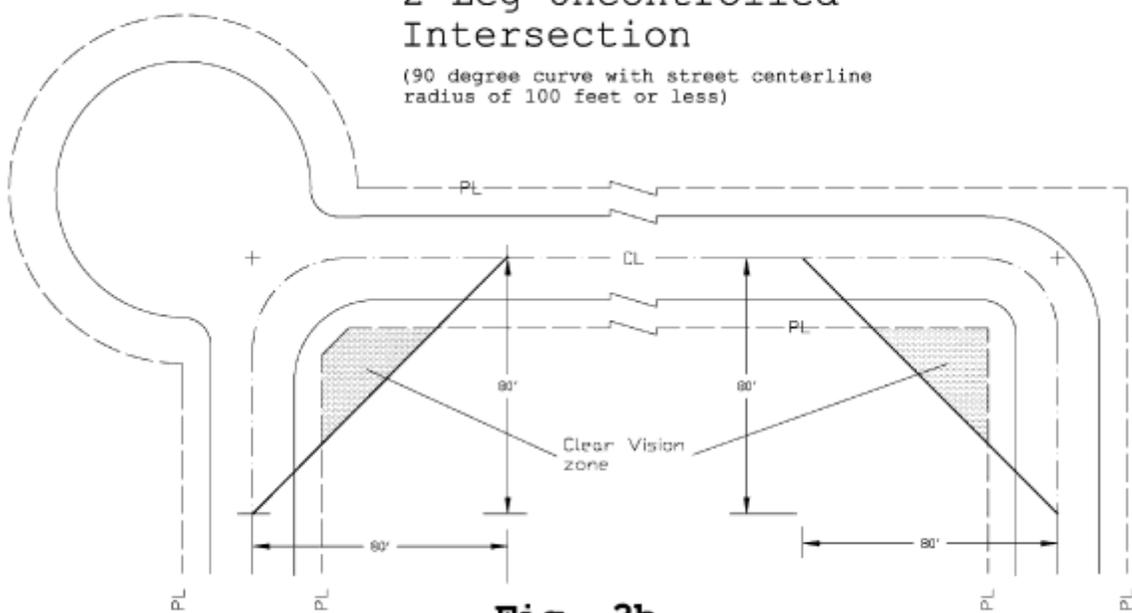


Fig. 3b

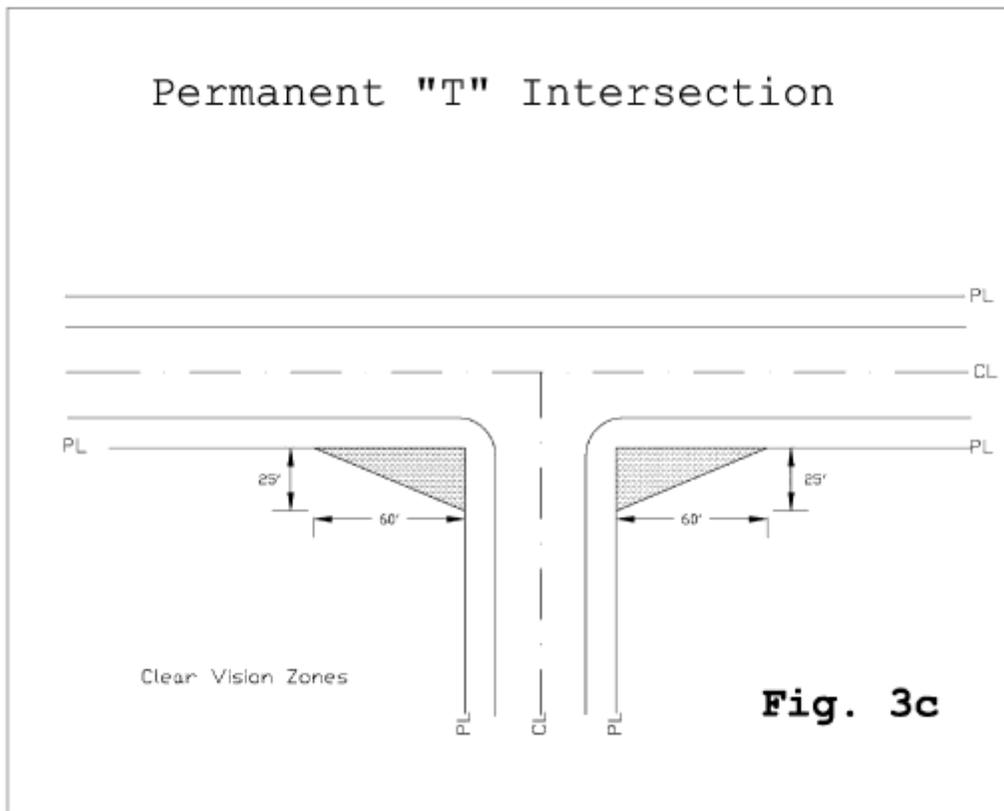


FIGURE 4. WATERCOURSE SETBACKS

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

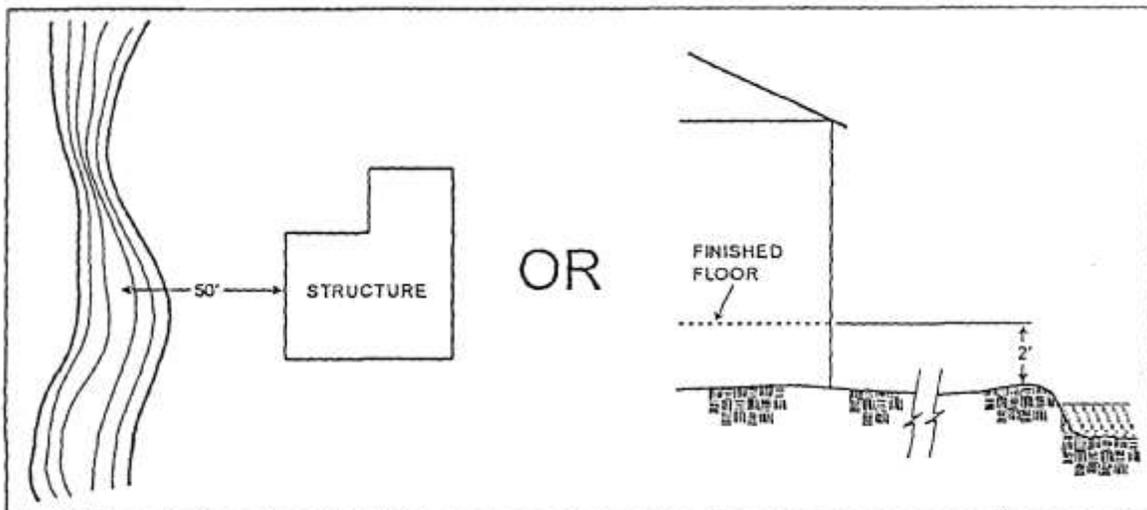
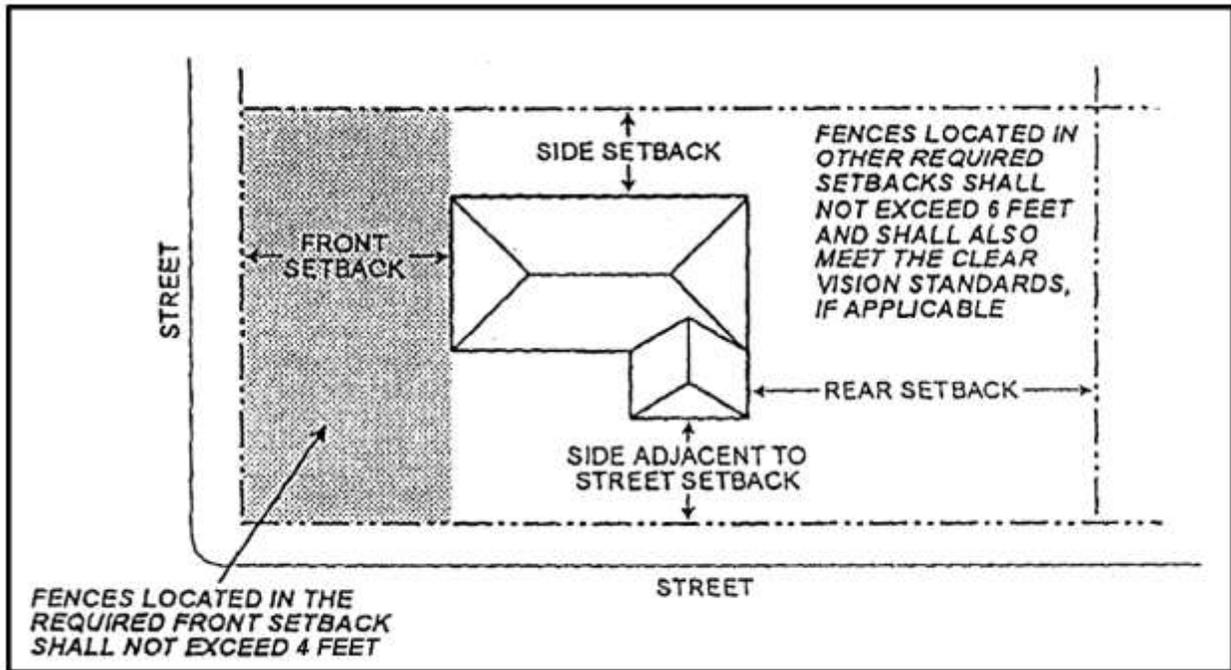


FIGURE 5. RESERVED

FIGURE 6. FENCES



Sec. 27-619. - Standards for amateur radio antenna support structures.

(a) *Definitions.* For the purposes of this section, the terms used shall be defined as follows:

- (1) *Amateur radio antenna:* A ground-, building- or tower-mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, 49 CFR § 97 and as designated by the Federal Communications Commission (FCC).
- (2) *Amateur radio antenna support structure:* Any structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing amateur radio antennae. The term includes the structure and any support thereto.
- (3) *Antenna support structure height:* The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure including any attached antennae. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

(b) *General provisions.* All amateur radio towers shall comply with the following requirements:

- (1) Amateur radio antenna support structures and antennae shall be located only within the rear yard and shall not be placed within any required setback and shall be located so as to minimize their impact on adjacent residential properties and adjacent rights-of-way while maintaining acceptable signal quality.
- (2) Amateur radio antenna support structures and antennae exceeding six (6) feet in height above grade (if ground-mounted) or above the roof or ridge of the building on which they are located (if building-mounted), shall require a building permit. With each building permit, the applicant shall submit evidence as is required to show that the device is adequately anchored, designed and/or constructed so as to safeguard the general public and/or adjacent property from damage in the event of failure of the device.
- (3) It is recommended that amateur radio antenna support structures be designed, installed, and maintained so as to blend into the surrounding environment through the use of color and alternative designs, except in instances where the color is dictated by the Federal Aviation Administration (FAA).
- (4) In accordance with the FCC's preemptive ruling PRB1, 101 FCC 2d 952 (1985), antenna support structures erected for the primary purpose of supporting amateur radio antennae may exceed the height limitations of the underlying zoning as indicated in section 27-305, .
- (5) Attachments to amateur radio antenna support structures, such as guy wires, shall not cross any property line or any existing or proposed easement.
- (6) No lighting shall be permitted on any amateur radio antenna support structures except as mandated by the FAA.

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

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

Sec. 27-620. - Standards for wireless communication facilities.

- (a) *Purpose.* The purpose of this section is to establish regulations for the siting of antenna support structures and antennae on public and private property. The goals of this section are to:
- (1) Encourage the location of antenna support structures in non-residential areas and minimize the total number of antenna support structures throughout the community;
 - (2) Strongly encourage the joint use of new and existing antenna support structures;
 - (3) Require wireless communication facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal;
 - (4) Require wireless communication facilities to be configured in a way that minimizes the adverse visual impact of the towers and antennae; and
 - (5) Enhance the ability of the providers of wireless communication services to provide such services to the community, as quickly, effectively, and efficiently as possible.
- (b) *Definitions.*
- (1) *Abandoned antenna support structures:* Any antennae or antenna support structures that are not utilized for the provision of wireless communications services for a continuous period of six (6) months shall be considered abandoned.
 - (2) *Alternative antennae support structure:* An antenna support structure designed to shield, conceal or disguise the presence of antennae or towers and blend with the surrounding setting. Alternative structures may include, but are not limited to, unobtrusive architectural features on new or existing structures, utility poles, clock towers, flagpoles and church steeples. Examples of alternative antenna support structures are illustrated in subsection (o) of this section.
 - (3) *Antenna:* Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennae, such as panels, microwaves dishes, and satellite dishes, and omni-directional antennae, such as whip antennae but not including satellite earth stations.
 - (4) *Antenna support structure:* Any structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennae. Antenna support structures may include, but are not limited to, self-supporting lattice towers, guyed towers, or monopole towers. The term also includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative antenna support structures, and the like. The term includes the structure and any support thereto. Types of antenna support structures are illustrated in subsection (o) of this section. Land mobile radio and radio and television antenna support structures are regulated under section 27-621 of these regulations.
 - (5) *Antenna/antenna support structure height:* The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure including any attached antennae. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height. The height of roof-mounted antenna support structure height does not include the height of building on which they are mounted.
 - (6) *Wireless communication facility antenna or tower farm:* An antenna or tower farm is a tract of land that contains no more than three (3) antenna support structures within seven hundred fifty (750) linear feet of

each other. No antenna support structures located in tower farms shall exceed two hundred fifty (250) feet in height. Legal tracts must be adjacent to each other to be included in this definition.

- (7) *Co-location*: The use of a wireless communications facility by more than one wireless communications provider.
 - (8) *Commercial wireless communications services*: Licensed commercial wireless telecommunication services including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.
 - (9) *Equipment enclosure*: A structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies, and emergency generators.
 - (10) *Wireless communication facility*: An unstaffed facility for the transmission and/or reception of radio frequency (RF), microwave or other signals for commercial communications purposes, typically consisting of an equipment enclosure, an antenna support structure and one or more antennae. Amateur radio, land mobile radio, and commercial radio and television facilities are excluded from this definition.
 - (11) *FAA*: Federal Aviation Administration.
 - (12) *FCC*: Federal Communications Commission.
- (c) *Applicability*. All wireless communication facilities located within the Yellowstone County zoning jurisdiction whether upon private or public lands shall be subject to this section. This section shall apply to wireless communication facilities upon state and federal lands to the extent of the county's jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise. Only the following facilities shall be exempted from the application of this section.
- (1) Amateur radio stations and antenna support structures (See sections 27-305; 27-306 and 27-619)
 - (2) Antennae and antenna support structures for land mobile radio and radio and television (See sections 27-305, 27-306 and 27-621).
 - (3) Pre-existing antenna support structures or antennae. Pre-existing antenna support structures and pre-existing antennae shall not be required to meet the requirements of this section, so long as said pre-existing antenna support structures have received all required approvals, permits and exceptions prior to adoption of this section. (See subsection (h) of this section.)
- (d) *Commercial antenna support structures and antennae located in residential zoning districts*.
- (1) Antenna support structures and antennae shall be permitted as an allowed use in all residential zoning districts provided they meet all of the following criteria:
 - a. Alternative antenna support structures conforming to all applicable provisions of this Code and roof-mounted antennae that do not add more than twenty (20) feet to the total height of the building on which they are mounted shall be permitted as an allowed use only when located on school, government-owned utility, and other government sites. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in sections 27-1509 of these zoning regulations, or may be submitted to the board of adjustment for a hearing, whichever is the preference of the owner/agency. The board of adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with subsection 27-1510(c). The board of adjustment shall forward comments and recommendations to the affected government agency for their consideration.
 - b. Antennae co-located on existing or approved alternative antenna support structures or existing or approved antenna support structures which have previously received all required approvals and permits shall be permitted as an allowed use.
 - (2) Antenna support structures and antennae shall be permitted in the Agricultural-Open Space (A-1) zoning district provided the following conditions and all applicable setback, lot coverage, and building (commercial equipment enclosures) height requirements are met:
 - a. Antenna support structures conforming to all applicable provisions of this Code shall be permitted when:
 1. Located on school, government-owned utility, and government sites and alternative antenna support structures or roof-mounted antenna are used. Proposed antennae or antenna support

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

2. Antenna support structures fifty (50) feet or less in height.
 - b. Antenna support structures that are greater than fifty (50) feet in height shall be required to obtain special review approval.
 - c. Antennae co-located on existing or approved alternative antenna support structures or existing or approved antenna support structures which have previously received all required approvals and permits shall be permitted as an allowed use.
 - d. Wireless communication facility tower farms are permitted by special review.
- (e) *Commercial antenna support structures and antennae located in commercial zoning districts.*
 - (1) Alternative antenna support structures shall be permitted as an allowed use in all commercial zoning districts.
 - (2) Antenna support structures shall be permitted as an allowed use in all commercial zoning districts when located on school, government-owned utility, and other government sites. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in sections 27-1509 of these zoning regulations, or may be submitted to the board of adjustment for a hearing, whichever is the preference of the owner/agency. The board of adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with subsection 27-1510(c). The board of adjustment shall forward comments and recommendations to the affected government agency for their consideration.
 - (3) Antennae co-located on existing alternative antenna support structures or existing antenna support structures which have previously received all required approvals and permits shall be permitted as an allowed use in all commercial zones.
 - (4) Antenna support structures and antennae located in Residential Professional (RP), Neighborhood Commercial (NC), and Entryway Mixed Use (EMU) that do not meet the requirements of subsections E 1, E 2, and E 3 shall be required to obtain special review approval. Wireless communication facility tower farms are not allowed in these zoning districts.
 - (5) Reserved
 - (6) Antenna support structures and antennae located in Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI), Entryway Light Commercial (ELC), Entryway General Commercial (EGC), Entryway Light Industrial (ELI) and Public (P) zoning districts shall be permitted as an allowed use provided that the towers meet the requirements subsections E 1, E 2, and E 3, or:
 - a. Roof-mounted antenna that do not add more than twenty (20) feet to the total height of the building on which it is mounted shall be permitted as an allowed use. See additional requirements for roof-mounted antenna in subsection (g) (10) b. of this section.
 - b. Antenna support structures fifty (50) feet in height or less shall be permitted as an allowed use.
 - c. Antenna support structures that are greater than fifty (50) feet in height shall be required to obtain special review approval.
 - d. Wireless communication facility tower farms are permitted with special review approval.
 - (7) All antenna support structures located in Heavy Industrial (HI) shall be permitted as an allowed use, including tower farms.
- (f) *Antenna support structures located in parks.* The presence of certain wireless communication facilities may conflict with the purpose of some county owned parks. Wireless communication facilities will be considered only following a recommendation by the city-county planning department; the city parks, recreation, and cemetery advisory board or county parks board, and approved by the county commissioners. Factors that will be considered include:

- (1) Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use;
 - (2) Commercial recreation areas and major playfields; and,
 - (3) Park maintenance facilities.
- (g) *General requirements.* The requirements set forth in this section shall govern the location and construction of all wireless communications facilities governed by this section.
- (1) *Building codes and safety standards.* To ensure the structural integrity of wireless communication facilities, the owner of a facility shall ensure that it is maintained in compliance with standards contained in applicable state building codes and the applicable standards for such wireless communication facilities, as amended from time to time.
 - (2) *Regulatory compliance.* All wireless communication facilities must meet or exceed current standards and regulations of the FAA, the FCC, and other local, state or federal agencies with the authority to regulate facilities governed by this section. All wireless communication facilities must comply with all revised standards and regulations within the date established by the agency promulgating the standards or regulations.
 - (3) *Setbacks.*
 - a. Antenna support structures adjacent to residential uses or zoning. Antenna support structures must be set back, from all property lines, a distance equal to one-half ($\frac{1}{2}$) the height of the structure from any off-site residential structure or residentially zoned lot. Accessory structures must maintain a minimum of a 15-foot setback from any lot line adjacent to a residential structure or residentially zoned lot, or the required setback of the zoning district where the antenna support structure is located, whichever is greater.
 - b. Commercial and industrial zoning setbacks antenna support structures and accessory facilities must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.
 - (4) *Lot coverage and height.* Antenna support structures and accessory structures shall not exceed lot coverage requirements for the zoning district in which they are located. Accessory structures shall not exceed the height restrictions for the zoning district in which they are located.
 - (5) *Fencing and buffering.*
 - a. *Fencing.* A chain link or solid wood fence, or masonry wall at least six (6) feet in height (eight (8) feet if razor or barbed wire is to be used) shall be constructed and maintained around the perimeter of the antenna support structure site. Climb-proof shields can be substituted for a fence or wall around the structure. Solid fences, at least six (6) feet in height are required adjacent to residential uses and residentially zoned property.
 - b. *Landscaping.* For all facilities the following will be required: a continuous evergreen hedge at least four (4) feet in height when planted, shall be planted and maintained around the perimeter of the antenna support structure outside of the required fencing and spaced close together to provide a continuous visual screen. Shrubs shall also be planted and maintained around the guy anchors for visual screening purposes.

A performance bond or letter of credit for one hundred fifty (150) percent of the landscaping and fencing materials and labor costs shall be posted with the planning department, prior to building permit approval, to ensure the placement of required landscaping and fencing in accordance with section 27-1110.
 - c. *Commercial landscaping.* Landscaping requirements shall not apply to antenna support structures located in the Heavy Industrial (HI) zoning district.
 - (6) *Lighting.* Antenna support structures shall not be artificially lighted unless required by the FAA or other local, state, or federal agency. If the FAA requires safety lighting, the use of red beacons is preferred to flashing strobe lights. Security lighting on site may be mounted up to twenty (20) feet high on the tower, and shall be directed towards the ground to reduce light pollution, prevent off-site light spillage, and avoid illuminating the tower.

Cut-off security lighting must be used adjacent to residential uses or residentially zoned lots. When incorporated into the approved design of the facility, light fixtures used to illuminate sports fields, parking lots, or similar areas may be included in the facility.

(7) *Signage.* Signage shall be limited to non-illuminated warning and equipment identification signs.

(8) *Co-location.*

- a. Antenna support structures should be designed in all respects to accommodate both the applicant's antennae and antennae for at least two (2) additional comparable antennae if the antenna support structure is over one hundred (100) feet in height or for at least one (1) additional comparable antennae if the tower is between fifty (50) feet and one hundred (100) feet in height.
- b. All new antennae must co-locate on existing or approved antenna support structures or alternative antenna support structures unless it can be demonstrated co-location is not feasible as provided for in subsection (k)(7) of this section.

(9) *Maintenance.*

- a. Equipment at a wireless communication facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.
- b. All property used for the siting of an antenna support structure or antenna shall be maintained, without expense to the county, so as to be safe, orderly, attractive, and in conformity with ~~the~~ county codes including those regarding the removal of weeds, trash and landscape maintenance.

(10) *Visual impact/aesthetics.*

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

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

Exceptions to the terms of subsection (g)(11) of this section may be granted by the governing body during the special review process when it is found that no existing or approved antenna support structure within the required separation distance of the proposed site can accommodate the applicant's proposed antenna or a critical need exists for the proposed location and it is technically infeasible to locate or co-locate structures at or beyond the required separation distance.

- (h) *Nonconforming wireless communication facilities.* Antenna support structures and/or facilities in existence on the date of the adoption of these regulations, that do not comply with the requirements of these regulations, (nonconforming antenna support structures) are subject to the following provisions:
- (1) Nonconforming antenna support structures may continue their present use, but may not be expanded or increased in height without complying with these regulations, except as further provided in this section.
 - (2) Nonconforming antenna support structures which are hereafter damaged and destroyed, by less than fifty (50) percent of its replacement value, due to any reason or cause may be repaired and restored to their former use, location, and physical dimensions subject to obtaining a building permit and other necessary approvals thereof, but without otherwise complying with these regulations. If an antenna support structure is destroyed or damaged by more than fifty (50) percent of its replacement the antenna support structure must be brought into compliance with these regulations.
 - (3) The owner of any nonconforming antenna support structure may make minor modifications in order to improve the structural integrity of the facility, to allow the facility to accommodate co-located antennae or facilities, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of these regulations.
- (i) *Modifications of existing wireless communication facilities that meet the requirements of these regulations.*
- (1) *Minor modifications.* Minor modifications to facilities permitted under these regulations shall be approved by the city-county planning department so long as they comply with the original approved design. Minor modifications are as follows: the addition of more antenna arrays to any existing antenna support structure, so long as the addition of the antenna arrays add no more than twenty (20) feet in height to the facility and the increase in height of the support structure is no greater than ten (10) percent. Placement of additional antennae, up to the number the antenna support structure was originally designed to accommodate, shall be considered a minor modification.
 - (2) *Major modifications.* Major modifications to antenna support structures permitted under these regulations shall be approved through a special review. Major modifications are any that exceed the definition of minor modifications.
- (j) *Abandonment.* Wireless communications facilities will be considered abandoned if they are unused by all providers at the facility for a period of six (6) months. Determination of abandonment shall be made by the city-county planning department, which shall have the right to request documentation from the facility owner regarding support or antenna usage. Upon abandonment, the facility owner shall have ninety (90) days to:
- (1) Re-use the facility, or transfer the facility to another owner who will re-use it; or
 - (2) Dismantle the facility. If the facility is not removed within ninety (90) days of abandonment, the /or county may remove the facility at the facility and/or property owner's expense. If the facility is removed, /or county approval of the facility will expire.
- If the facility owner is unable to remove the facility within the ninety (90) days due to unusual circumstances, the city-county planning department may grant the facility owner an additional ninety (90) days in which to comply with the requirements of this section.
- (k) *Special review submittal requirements.* The applicant of new wireless communication facilities shall provide the following documentation for review by the city-county planning department:
- (1) A map to scale showing the service area of the proposed wireless communication facility and an explanation of the need for that facility.
 - (2) A site/landscaping plan showing the following items:
 - a. North arrow.
 - b. The location and dimensions of all vehicular points of ingress and egress, drives, alleys and streets.
 - c. Property boundaries and lot line dimensions.
 - d. The locations and dimensions of all existing and proposed buildings, structures, and improvements including those that will be removed. All information must be labeled.
 - e. Setbacks from all property boundaries for existing and proposed structures and buildings.
 - f. Centerline and names of major and minor arterial streets relevant to the application.

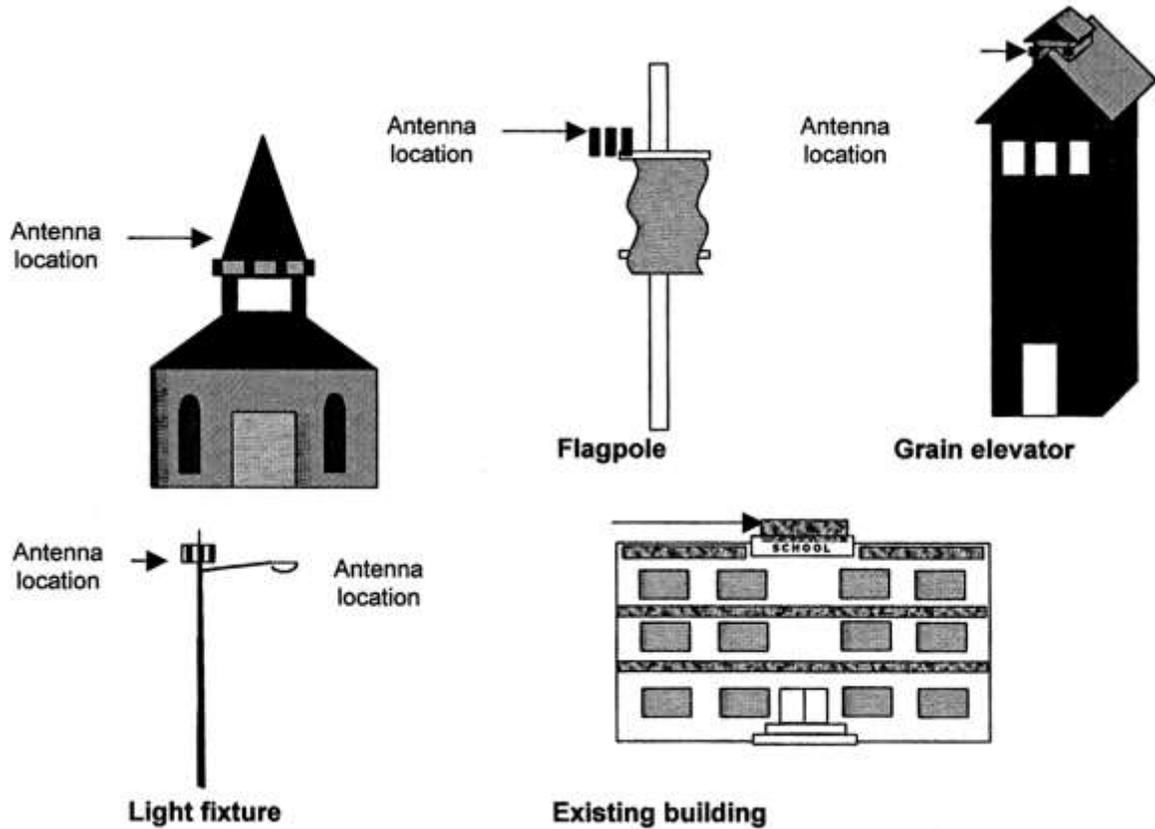
- g. Elevation drawing of proposed wireless communication facility including the antenna support structure, antenna platforms and associated equipment enclosures. Also indicate the maximum number of antenna platforms that can be supported.
 - h. Detailed landscaping plan of the site.
 - i. Location of artificial light sources and the areas of illumination.
 - j. Applications for tower farms shall include items a. through i. of this subsection (k)(2) and an overall development plan showing the location of future structures and equipment enclosures.
 - k. Latitude, longitude and height of proposed antenna support structures.
 - l. Other pertinent features as determined by the zoning coordinator or development review committee.
- (3) Area map showing the property boundaries of adjacent property and the location of existing buildings.
- (4) Inventory of existing and approved sites. Each applicant for one or more antenna support structure shall provide to the city-county planning department a map showing the locations and service area of existing and approved antenna support structures operated or utilized by the applicant, including specific information on the location, height, and design of each antenna support structure. The city-county planning department shall maintain an inventory of existing and approved antenna support structures, including specific information about the location, height, and design of each antenna support structures. The county may share such information with other persons, organizations or governmental authorities.
- (5) Documentation of minimum light requirements from the FAA or other local, state or federal agency for the antenna support structure and/or antennae. Where applicable, applicant will provide documentation of the FAA airspace review and a copy of comments from the FAA.
- (6) When the applicant is a wireless service provider, proof that the applicant is licensed by the FCC to provide the wireless communication services that the proposed facility is designed to support.
- (7) Availability of suitable existing or approved antenna support structures. No new antenna support structure shall be permitted unless the applicant clearly demonstrates, in writing, to the reasonable satisfaction of the city-county planning department that no existing or approved antenna support structure within the required separation distance of the proposed site can accommodate the applicant's proposed antenna. Closer separation distances may be approved if the applicant clearly demonstrates a critical need for the alternative location and the infeasibility of locating or co-locating wireless communication facility at or beyond the required separation distance. Evidence submitted to demonstrate that no existing or approved structure can accommodate the applicant's proposed antenna must include a discussion of the following items, if relevant.
- a. No existing or approved antenna support structures are located within the geographic area required to meet the applicant's engineering requirements.
 - b. Existing or approved antenna support structures are not of sufficient height to meet the applicant's engineering requirements.
 - c. Existing or approved antenna support structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment and cannot be reinforced to provide sufficient structural strength.
 - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing or approved antenna support structures, or the antenna on the existing or approved antenna support structures would cause interference with the applicant's proposed antenna.
 - e. The fees or costs required to share an existing or approved antenna support structure or to adapt an existing or approved antenna support structures for sharing are unreasonable. Costs below new tower development are presumed reasonable.
 - f. Property owners or owners of existing or approved antenna support structures are unwilling to accommodate the applicant's needs.
 - g. The applicant demonstrates that there are other limiting factors that render existing or approved antenna support structures unsuitable.
- (8) Co-location agreement. If co-location is feasible, the owner of the antenna support structure shall certify, prior to permit approval, that the owner will accept for co-location any FCC licensed wireless communication

provider using compatible technology on commercially reasonable terms up to the antenna support structure's capacity to accommodate additional antennae. The applicant shall also include a statement on how requests for co-locators will be processed.

- (9) Effect of surrounding property values. The applicant must submit information that substantiates there will be no adverse effects on surrounding property values resulting from the proposed facility.
- (l) *Special review uses.*
 - (1) A request for a special review shall be initiated by application to the city-county planning department and handled in accordance with the special review procedure provided in section 27-1509 of these zoning regulations. The Yellowstone Board of County Commissioners may issue special review approval under these sections provided they have determined that the requirements of these regulations have been satisfied and, further, that the benefits of and need for the proposed wireless communication facilities are greater than possible depreciating effects and damage to neighboring properties.
 - (2) In granting special review approval, the Board of County Commissioners may impose additional conditions to the extent determined necessary to buffer or otherwise minimize adverse effects of the proposed wireless communication facilities on surrounding properties.
 - (3) Expiration of special review approval.
 - a. A building permit must be applied for within six (6) months of special review approval and the project shall be completed within one (1) year from the date the special review is granted by the county commission. For the purpose of these regulations, the term standard of construction shall be defined as the installation of a permanent foundation for the antenna support structure. The county commission may grant one (1) six-month extension of the period to start construction upon written request by the applicant.
 - b. The county commission shall not approve an extension unless the development plan is brought into conformance with any relevant zoning regulations that have been amended subsequent to the original approval and unless the applicant provides adequate evidence that construction is able to begin within the time period sought. This evidence shall include, but not be limited to, the acquisition of any or all required government approvals and project financing, the county commission may as a condition of approval of a special review establish the period of time such special review may remain in effect.
- (m) *Appeals.* Appeals from any decision of the city-county planning department may be taken by any person aggrieved or any official of the county affected by the decision of the city-county planning department. Such appeal shall be to the county board of adjustment pursuant to section 27-1511 of the Yellowstone County Zoning Regulations.
- (n) *Nuisances.* Wireless communication facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the county noise regulations, shall not be operated so as to cause the generation of heat that adversely affects a building occupant and shall not be maintained or operated in such a manner as to be a nuisance.

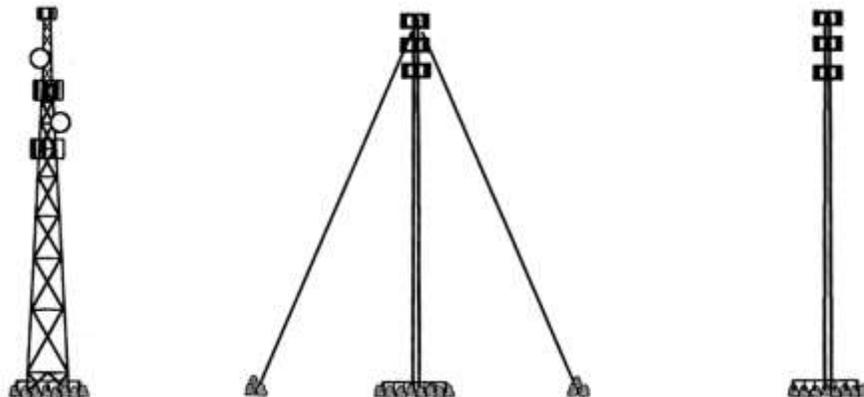
(o) *Wireless communication facilities*. Illustrated examples.

(1) Alternative antenna support structures:



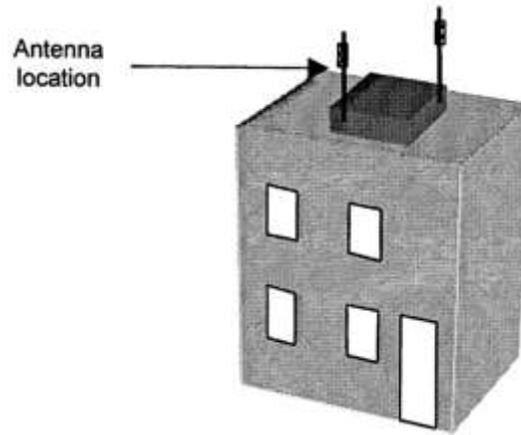
Alternative antenna support structures

(2) Antenna support structures:



Antenna support structures

(3) Roof-mounted antenna support structures and antennae:



Roof-mounted antenna support structures and antennae

Sec. 27-621. - Standards for land mobile radio and radio and television broadcast antennae and antenna support structures.

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

- b. Title 47, PART 73 (47 CFR § 73) RADIO BROADCAST SERVICES, which includes AM, FM, and Television Services; and
 - c. Title 47, PART 74 (47 CFR § 74) EXPERIMENTAL RADIO, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES.
- (4) *Broadcast antenna support structure*: Any structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennae. Antenna support structures may include, but are not limited to, self-supporting lattice towers, guyed towers, or monopole towers. In this section, the term applies to land mobile radio service and broadcast radio and television transmission antenna support structures. The term includes the structure and any support thereto.
 - (5) *Broadcast antenna or tower farm*: A tract of land that contains three (3) or more broadcast or land mobile radio service antenna support structures, any two (2) are spaced no more than seven hundred fifty (750) linear feet of each other. Legal tracts must be adjacent to each other to be included in this definition. The term is inclusive of all antenna support structures, equipment enclosures, buildings and any additions thereto.
 - (6) *Broadcast facilities*: An unstaffed facility for the transmission and/or reception of radio signals for communications purposes, typically consisting of an equipment building or enclosure, an antenna support structure and one (1) or more antennae. This definition applies exclusively to land mobile radio fixed systems, and radio and television broadcast transmission facilities.
 - (7) *FAA*: Federal Aviation Administration.
 - (8) *FCC*: Federal Communications Commission.
 - (9) *Land mobile radio service (LMRS)*: A mobile service between base stations and land mobile stations or between land mobile stations as defined in Title 47, PART 90 (47 CFR § 90)—Private Land Mobile Radio Services.
- (c) *Applicability*. All land mobile radio service and radio and television broadcast antenna and antenna support structures located within Yellowstone County zoning jurisdiction whether upon private or public lands shall be subject to this section. This section shall apply to broadcast antenna and antenna support structures upon state and federal lands to the extent of the county's jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise.

Pre-existing land mobile radio and radio and television broadcast antenna support structures and antennae shall not be required to meet the requirements of this section, except as provided under subsection 27-621(g), "Nonconforming broadcast facilities."

- (d) *Broadcast antenna support structures and antennae located in residential zoning districts*.
- (1) Land mobile radio and radio and television broadcast antenna support structures and antennae shall be permitted as an allowed use in all residential zoning districts provided they meet all of the following criteria:
 - a. Alternative broadcast antenna support structures conforming to all applicable provisions of this Code and roof-mounted antennae that do not add more than twenty (20) feet to the total height of the building on which it is mounted shall be permitted as an allowed use only when located on school, government-owned utility, and other government sites. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in section-27-1509 of these zoning regulations, or may be submitted to the board of adjustment for a hearing, whichever is the preference of the owner/agency. The board of adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with subsection 27-1510(c). The board of adjustment shall forward comments and recommendations to the affected government agency for their consideration.
 - b. Antennae co-located on existing or approved alternative broadcast antenna support structures or existing or approved broadcast antenna support structures, which have previously received, all required approvals and permits shall be permitted as an allowed use.
 - (2) Broadcast antenna support structures and antennae shall be permitted in the Agricultural-Open space (A-1) zoning district provided the following conditions and all applicable setback, lot coverage, and building (commercial equipment enclosures) height requirements are met:
 - a. Broadcast antenna support structures conforming to all applicable provisions of this Code shall be permitted when:

1. Located on school, government-owned utility, and government sites and alternative antenna support structures or roof-mounted antenna are used. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in sections 27-1509 of these zoning regulations, or may be submitted to the board of adjustment for a hearing, whichever is the preference of the owner/agency. The board of adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with subsection 27-1510(c). The board of adjustment shall forward comments and recommendations to the affected government agency for their consideration.
 2. Broadcast antenna support structures fifty (50) feet or less in height.
- b. Broadcast antenna support structures that are greater than fifty (50) feet in height shall be required to obtain special review approval.
 - c. Broadcast antennae co-located on existing or approved alternative broadcast antenna support structures or existing or approved broadcast antenna support structures that have previously received all required approvals and permits shall be permitted as an allowed use.
 - d. Broadcast antenna or tower farms are permitted by special review.
- (e) Broadcast antenna support structures and antennae located in commercial zoning districts.
- (1) Broadcast antenna support structures fifty (50) feet in height or less shall be permitted as an allowed use.
 - (2) Broadcast antenna support structures that exceed fifty (50) feet in height or the maximum height limitations in the underlying commercial and industrial zoning districts as indicated in section 27-306, (whichever is greater) are permitted by special review.
 - (3) Broadcast antenna or tower farms are permitted by special review.
 - (4) All broadcast antenna support structures located in heavy industrial (HI) shall be permitted as an allowed use, including broadcast antenna or tower farms.
 - (5) All broadcast facilities located within the boundaries of an approved or preexisting broadcast antenna or tower farm shall be permitted as an allowed use.
- (f) *General requirements.* The requirements set forth in this section shall govern the location and construction of all land mobile radio service and radio and television transmission facilities governed by this section.
- (1) *Building codes and safety standards.* To ensure the structural integrity of broadcast facilities, the owner of a facility shall ensure that it is maintained in compliance with standards contained in applicable state building codes and the applicable standards for such facilities.
 - (2) *Regulatory compliance.* All broadcast facilities must meet current standards and regulations of the FAA, the FCC, and other local, state or federal agencies with the authority to regulate facilities governed by this section.
 - (3) *Setbacks.*
 - a. Broadcast antenna support structures adjacent to residential uses or zoning. Broadcast antenna support structures must be set back, from all property lines, a distance equal to one-half ($\frac{1}{2}$) the height of the structure from any off-site residential structure or residentially zoned lot. Accessory structures, such as equipment enclosures or transmitter buildings, must maintain a minimum of a 15-foot setback from any lot line adjacent to a residential structure or residentially zoned lot, or the required setback of the zoning district where the antenna support structure is located, whichever is greater.
 - b. Commercial and industrial zoning setbacks: Broadcast antenna support structures and accessory facilities must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.
 - c. Broadcast facilities in broadcast antenna or tower farms: Antenna support structures and accessory facilities located in antenna or tower farms must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.
 - (4) *Lot coverage and height.* Broadcast antenna support structures and accessory structures shall not exceed lot coverage requirements for the zoning district in which they are located. Building and equipment enclosures shall not exceed the height restrictions for the zoning district in which they are located.
 - (5) *Fencing and buffering.*

- a. Fencing. A chain link or solid wood fence, or masonry wall at least six (6) feet in height (eight (8) feet if razor or barbed wire is to be used) shall be constructed and maintained around the perimeter of the broadcast antenna support structure site. Climb-proof shields can be substituted for a fence or wall around the structure. Solid fences, at least six (6) feet in height are required adjacent to residences and residentially zoned property. All AM broadcast antenna support structures must be surrounded by a suitable fence as required by FCC regulations.
- b. Landscaping adjacent to residential uses and/or residential zoning. For broadcast facilities located in a residential zoning district, adjacent to a residential use, or adjacent to a residentially zoned parcel, the following will be required: a continuous evergreen hedge at least four (4) feet in height when planted, shall be planted and maintained around the perimeter of the antenna support structure outside of the required fencing and spaced close together to provide a continuous visual screen. Shrubs shall also be planted and maintained around the guy anchors for visual screening purposes. AM Broadcast stations are exempt from this requirement due to overriding FCC regulations regarding vegetation in ground radial systems.

A performance bond or letter of credit for one hundred fifty (150) percent of the landscaping and fencing materials and labor costs shall be posted with the planning department to ensure the placement of required landscaping and fencing in accordance with section 27-1110, .

- c. *Commercial landscaping.* Landscaping requirements shall not apply to broadcast antenna support structures located in Agricultural-Open Space, commercial or industrial zoning districts or approved broadcast antenna or tower farms.

(6) *Lighting.* Broadcast antenna support structures shall not be artificially lighted unless required by the FAA or other local, state, or federal agency. Security lighting may be placed on a support structure no higher than twenty (20) feet above ground. Cut-off security lights must be used in or adjacent to residential areas to prevent light spillage onto adjacent property.

(7) *Signage.* Signage shall be limited to non-illuminated warning and equipment identification signs unless otherwise required by the FAA and/or FCC.

(8) *Maintenance.*

- a. Equipment at a broadcast facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.
- b. All property used for the siting of a broadcast antenna support structure or antenna shall be maintained, without expense to county, so as to be safe, orderly, attractive, and in conformity with ~~the~~ county codes including those regarding the removal of weeds, trash and landscape maintenance.

(9) *Visual impact/aesthetics.*

- a. Broadcast antenna support structures shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable local, state, or federal agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.
- b. If a broadcast antenna is installed on a structure other than a tower, the associated electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the related equipment as visually unobtrusive as possible. Broadcast antennae and antenna support structures may be mounted on existing buildings that are thirty (30) feet or more in height above the street grade.
- c. Roof-mounted antennae and antenna support structures shall not add more than twenty (20) feet to the total height of the building on which they are mounted. Roof-mounted equipment shall be made visually unobtrusive to match existing air conditioning units, stair, elevator towers or other background. Crow's nest antennae arrays are prohibited on rooftop structures.
- d. Broadcast antenna or antenna support structures attached to new or existing structures shall be designed to blend with the structure's architecture and should be placed directly above, below or incorporated with vertical design elements of a structure.

(g) *Nonconforming broadcast facilities.* Broadcast facilities in existence on the date of the adoption of these regulations, that do not comply with the requirements of these regulations, are subject to the following provisions:

- (1) Nonconforming broadcast facilities may continue their present use, but may not be expanded without complying with these regulations, except as further provided in this section.
 - (2) Nonconforming broadcast antenna support structures which are hereafter damaged and destroyed, by less than fifty (50) percent of its replacement value, due to any reason or cause may be repaired and restored to their former use, location, and physical dimensions subject to obtaining a building permit and other necessary approvals thereof, but without otherwise complying with these regulations. If a broadcast antenna support structure is destroyed or damaged by fifty (50) percent or more of its replacement the broadcast antenna support structure must be brought into compliance with these regulations.
 - (3) The owner of any nonconforming broadcast antenna support structure may make minor modifications in order to improve the structural integrity of the structure, to allow the structure to accommodate co-located antennae, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of these regulations.
- (h) *Modifications of existing or broadcast facilities that meet the requirements of these regulations.*
- (1) *Minor modifications.* Minor modifications to facilities permitted under these regulations shall be approved by the city-county planning department so long as they comply with the original approved design. Minor modifications are as follows:
 - a. The addition of one (1) or more antenna arrays to any existing antenna support structure, so long as the addition of the antenna arrays add no more than twenty (20) feet in height to the facility and the increase in height of the support structure is no greater than ten (10) percent.
 - b. Placement of additional antennae, up to the number the antenna support structure was originally designed to accommodate, shall be considered a minor modification.
 - c. Repairs to or replacement of existing antennae or feedlines or support members (such as guy wires) are not considered modifications under this part.
 - (2) *Major modifications.* Major modifications to antenna support structures permitted under these regulations shall be approved through a special review. Major modifications are any that exceed the definition of minor modifications.
- (i) *Abandonment.* Broadcast facilities will be considered abandoned if they are unused by all providers at the facility for a period of six (6) months. Determination of abandonment shall be made by the city-county planning department which shall have the right to request documentation from the facility owner regarding support or antenna usage. Upon abandonment, the facility owner shall have ninety (90) days to:
- (1) Re-use the facility or transfer the facility to another owner who will re-use it; or
 - (2) Dismantle the facility. If the facility is not removed within ninety (90) days of abandonment, the ~~the~~ county may remove the facility at the facility and/or property owner's expense. If the facility is removed, ~~the~~ county approval of the facility will expire. If the facility owner is unable to remove the facility within the ninety (90) days due to unusual circumstances, the city-county planning department may grant the facility owner an additional ninety (90) days in which to comply with the requirements of this section.
- (j) *Special review submittal requirements.* The applicant of new broadcast facilities shall provide the following documentation for review by the city-county planning department:
- (1) A map to scale showing the service area of the proposed broadcast facility.
 - (2) A site/landscaping plan showing the following items:
 - a. North arrow.
 - b. The location and dimensions of all vehicular points of ingress and egress, drives, alleys and streets.
 - c. Property boundaries and lot line dimensions.
 - d. The locations and dimensions of all existing and proposed buildings, structures, and improvements including those that will be removed. All information must be labeled.
 - e. Setbacks from all property boundaries for existing and proposed structures and buildings.
 - f. Centerline and names of major and minor arterial streets relevant to the application.
 - g. Elevation drawing of proposed broadcast facility including the antenna support structure, antenna platforms and associated equipment enclosures.

- h. Latitude, longitude and height of proposed antenna support structures.
 - i. Location of artificial light sources and the areas of illumination.
 - j. Applications for tower farms shall include items a. through h. of this subsection (j)(2) and a general overall development plan showing the location of future structures and equipment enclosures.
 - k. Detailed landscaping plan of the site when applicable.
 - l. Other pertinent features as determined by the zoning coordinator or development review committee.
- (3) Area map showing adjoining property boundaries and the location of existing buildings within a distance equal to the required setbacks as set forth in section F (3).
- (4) Documentation of minimum light requirements from the FAA or other local state or federal agency for the antenna support structure and/or antennae. Where applicable, applicant will provide documentation of the FAA airspace review and a copy of the comments provided by the FAA. Where an application has been filed with the FAA for the services proposed and decision on minimum light requirements by the FAA is still pending, submittal of a copy of the proposed application shall be sufficient to meet the requirements of this paragraph.
- (5) When the applicant is a land mobile radio service provider, or a radio or television broadcaster, proof must be provided that the applicant is licensed by the FCC to provide the services that the proposed facility is designed to support or the applicant must prove the necessary application have been filed with the FCC and/or FAA for the services proposed, together with proof all filing fees have been paid.
- (k) *Special review uses.*
- (1) A request for a special review shall be initiated by application to the city-county planning department and handled in accordance with the special review procedure provided in section 27-1509, of these zoning regulations. The Board of County Commissioners may issue special review approval under these sections provided they have determined that the requirements of these regulations have been satisfied.
- (2) In granting special review approval, the Board of County Commissioners may impose additional conditions to the extent determined necessary to buffer or otherwise minimize adverse effects of the proposed broadcast facilities on surrounding properties.
- (3) Expiration of special review approval.
- a. A state building permit must be applied for within six (6) months of a special review approval and the project shall be completed within one (1) year from the date the special review is granted by the county commission. For the purpose of these regulations, the term standard of construction shall be defined as the installation of a permanent foundation for the antenna support structure. The county commission may grant one (1) six-month extension of the period to start construction upon written request by the applicant.
 - b. The county commission shall not approve an extension unless the development plan is brought into conformance with any relevant zoning regulations that have been amended subsequent to the original approval and unless the applicant provides adequate evidence that construction is able to begin within the time period sought. This evidence shall include, but not be limited to, the acquisition of any or all required government approvals and project financing, the county commission may as a condition of approval of a special review establish the period of time such special review may remain in effect.
 - c. Small increases in the height of existing antenna support structures approved by special review may be approved by the city-county planning department on an administrative basis provided that the increase in the height of the antenna support structure is ten (10) percent or less.
 - d. Special review approvals for broadcast antenna or tower farms shall not expire until such time as all facilities within the boundaries of the antenna or tower farm have been abandoned.
- (l) *Appeals.* Appeals from any decision of the city-county planning department may be taken by any person aggrieved or any official of the city affected by the decision of the city-county planning department. Such appeal shall be to the ~~the~~ county board of adjustment pursuant to section 27-1511.
- (m) *Nuisances.* Broadcast facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the ~~the~~ county noise regulations, shall not be operated so as to cause the generation of heat that adversely affects a building occupant and shall not be maintained or operated in such a manner as to be a nuisance.

Sec. 27-622 – Reserved

Sec. 27-623. - Zoning compliance permits required.

- (a) *Permits required.* A zoning compliance permit is required for properties that are located within the unincorporated jurisdictional area.
- (b) *County zoning compliance permit.*
 - (1) No change of land use may be made; or no building or other structure shall be erected, moved, enlarged, rebuilt, added to, or structurally altered without first having received a zoning compliance permit issued by the zoning coordinator or his/her designee, who shall determine that the permit is issued in compliance with the regulations set forth in this resolution. The review of a zoning compliance permit application shall be limited only to a review of the applicable zoning regulations and shall not constitute a review of compliance with any applicable building codes. A separate sign permit is required prior to the erection of any sign.
 - (2) Each application for a zoning compliance permit shall be accompanied by a site plan, building elevations and any other information requested by the zoning coordinator to adequately review the proposed project. Additionally, commercial projects require submittal of a landscaping plan and a site plan showing off-street parking, loading, etc. The board of county commissioners may set an application fee by resolution for review of a zoning compliance permit. The zoning coordinator or his/her designee may waive the submittal requirements for some of the above-mentioned plans. Zoning compliance permits are valid for a period of six (6) months from the date of approval and may be extended for an additional six (6) months with written approval from the zoning coordinator.

Section 27-700. – SIGNS

Sec. 27-701 INTENT.

(a) The purpose of this section shall be to coordinate the type, placement and scale of signs within the different land-use zones to recognize the commercial communication requirements of all sections of the business community; to encourage the innovative use of design; to promote both renovation and property maintenance; to allow for special circumstances; and to guarantee equal treatment under the law. These shall be accomplished by regulation of the display, erection, use and maintenance of signs. The use of signs is regulated according to zoning district. The placement and scale of signs are regulated by type and length of street frontage. No sign shall be permitted as a main or accessory use except in accordance with the provisions of this section.

(b) This section shall not relate to building design. Nor shall this section regulate official traffic or government signs; the copy and message of signs; signs not intended to be viewed from a public right-of-way; window displays; product dispensers and point of purchase displays; scoreboards on athletic fields; flags of any nation, government or fraternal organization; gravestones; barber poles; religious symbols; or any display or construction not defined herein as a sign.

Thus, the primary intent of this section shall be to regulate signs of a commercial nature intended to be viewed from any vehicular or pedestrian public right-of-way.

Sec. 27-702 – DEFINITIONS.

Words and phrases used in this Section have the meanings set forth in this section. Principles for computing sign area and sign height are contained in 27-703.

Animated Sign: Any sign that uses movement or change or lighting to depict action or create a special effect or scene.

Area of Sign: Area of Sign: The entire area of a sign including the area within a perimeter which forms the outside shape including the frame, forming an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. The frame of a sign may be excluded from the area where such frame conveys no message and is constructed or affixed for aesthetic reasons beyond the necessary supports.

For computing the areas of any wall or canopy sign which consists of letters mounted or painted on a wall or canopy, the area shall be deemed to be the area of the smallest rectangular figures which can encompass all of the letters.

Banner Sign: Any sign (other than an official flag) made of cloth, paper or fabric of any kind, which is used to attract attention, whether or not imprinted with words or characters.

Beacon: Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

Billboard: A sign which advertises products or services not sold or distributed on the premises on which the sign is located.

Building Marker: Any sign indicating the name of a building, date or other incidental information about its construction. A sign which is cut into a masonry surface or made of bronze or other permanent material.

Canopy Sign: Any sign that is a part of or attached to any awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area, and which does not extend horizontally beyond the limits of the canopy.

Changeable Copy Sign: A sign whose informational content can be changed or altered by manual or electric, electro-mechanical or electronic means. Changeable signs include the following types:

1. **Manually Activated:** Signs whose alphabetic, pictographic or symbolic information content can be changed or altered by manual means.
2. **Electrically Activated:** Signs whose alphabetic, pictographic or symbolic informational content can be changed or altered on a fixed display surface composed of electrically illuminated or mechanically driven changeable segments. Includes the following two types:
 - a. **Fixed Message Electronic Signs:** Signs whose basic informational content has been pre-programmed to include only certain types of information projections, such as time, temperature, predictable traffic conditions or other events subject to prior programming.
 - b. **Computer controlled Variable Message Electronic Signs:** Signs whose informational content can be changed or altered by means of computer-driven electronic impulses.

Copy: The graphic content of a sign surface in either permanent or removable letter, pictographic, symbolic or alphabetic form.

Directional/Informational Sign: An on-premise sign giving directions, instructions or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs. The sign may contain a logo provided that the logo may not comprise more than 20% of the total sign area.

Director: The Planning Director of the County or his/her designee.

Flag: Any fabric, banner or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

Freestanding Sign: Any sign supported by structures or supports that are placed on or anchored in, the ground and that are independent from any building or other structure, including monument signs.

Government Sign: Any temporary or permanent sign erected and maintained by the city, county, state or federal government for traffic direction or for designation of or direction to any school, hospital, historical site or public service, property or facility.

Height of Sign: The vertical distance measured from the highest point of the sign to the crown of the adjacent street. This does not include the interstate highway.

Lot: Any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record, that is recognized and intended as a unit for the purpose of transfer or ownership.

Maintenance: For the purposes of this Resolution, the cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the structure of the sign.

Monument Sign: A sign mounted directly to the ground with maximum height not to exceed six (6) feet.

Nonconforming Sign: A sign which was erected legally, but does not comply with subsequently enacted sign restrictions and regulations.

Portable Sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs, designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached

to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

Principal Building: The building in which is conducted the principal use of the lot on which it is located. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages and other clearly accessory uses shall not be considered principal buildings.

Projecting Sign: A sign, other than a flat wall sign, which is attached to and projects from a building, wall or other structure not specifically designed to support the sign. Supports shall be covered in a neat and orderly fashion. Guy wire support shall be prohibited.

Roof Sign, Above-peak: Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Roof Sign, Integral: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

Setback: The distance from the property line to the nearest part of the applicable building, structure or sign, measured perpendicularly to the property line.

Sign: Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

Sign Administrator: The Planning Director or his/her designee.

Street: A public way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated which has been dedicated to or acquired for public use and which extends the full width between right-of-way lines.

Street Frontage: The length of the property line of any one (1) premises along each public right-of-way it borders excluding alleys and serviceways.

Suspended Sign: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Temporary Sign: A non-permanent sign erected and maintained for a specific limited period of time.

Wall Sign: Any sign attached parallel to a wall, painted on the wall surface or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface. Sign depth shall not exceed twenty-two (22) inches, measured from the face of the structure.

Wind Driven Sign: Any sign consisting of one (1) or a series of two (2) or more banners, flags, pennants, ribbons, spinners, streamers or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind or breeze.

Window Sign: Any sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Sec. 27-703. GENERAL PROVISIONS

(a) It shall hereafter be unlawful for any person to erect, place or maintain a sign in the Jurisdictional Area of Yellowstone County except in accordance with the provisions of this Section.

(b) **Signs Prohibited.** All signs not expressly permitted under this Section or exempt from regulation hereunder in accordance with the previous section are prohibited in the County. Such signs include, but are not limited to:

- (1) Beacons;
- (2) Wind driven sign, except flags as defined in Section 27-702 of this Section;

- (3) Strings of lights not permanently mounted to a rigid background, except those exempt under Section 27-703(c).
- (4) Inflatable signs and tethered balloons;
- (5) All portable signs not specifically permitted under Section 27-704;
- (6) Animated signs;
- (7) All above-peak roof signs;
- (8) All banner signs except as permitted under Section 27-704;
- (9) Abandoned signs;
- (10) Signs attached to trees, telephone poles, public benches, streetlights or placed on any public property or public right-of-way; and
- (11) Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said signs (this does not apply to allowed portable signs or to signs or lettering on buses, taxis or vehicles operating during the normal course of business).

(c) **Permits Required.** Unless otherwise provided by this Section, all signs shall require permits and payment of fees as described in Section 27-707 of this Section. No permit is required for the maintenance of a sign or for a change of copy on painted, printed or changeable copy signs. Prior to any structural maintenance, the sign owner or the sign contractor is required to apply for and obtain a permit and to notify the Sign Administrator for an inspection when the maintenance is complete.

(1) **Signs Not Requiring Permits.** The following types of signs are exempted from permit requirements but must be in conformance with all other requirements of this Section:

- (a) Construction signs of sixteen (16) square feet or less;
- (b) Special event or holiday lights or decorations;
- (c) Nameplates of two (2) square feet or less;
- (d) Public signs or notices, or any sign relating to an emergency;
- (e) Real estate signs;
- (f) Political signs;
- (g) Interior signs not visible from the exterior of the building;
- (h) Directional signs not to exceed twelve (12) square feet in area or six (6) feet in height; and
- (i) Temporary signs for seasonal agricultural sales in the Agricultural Open Space (A-1) district only. Such signs shall not exceed sixteen (16) square feet and may only be erected for sixty (60) days. One (1) sign per use per calendar year shall be allowed.

(d) **Calculation of Sign Area.** The entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between and adjacent elements of the same. Such perimeter shall not include any structural elements lying outside the limits of such sign which do not form any integral part of the display.

The gross area of a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two (2) identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure, the sign area shall be computed by the measurement of one on the faces.

For computing the area of any wall or canopy sign which consists of letters mounted or painted on a wall or canopy, the area shall be deemed to be the area of the smallest rectangular figures which can encompass all of the letters.

(e) **Clear Vision Triangle.** No sign shall be placed within any clear vision triangle as illustrated in Sec. 27-618 of these regulations.

(f) **Maintenance.** All signs shall be properly maintained. Exposed surfaces shall be clean and painted if paint is required. Defective parts shall be replaced. The Administrator shall have the right under Section 27-708 to order the repair or removal of any sign which is defective, damaged or substantially deteriorated.

(g) Lighting. Unless otherwise prohibited by this Section, all signs may be illuminated.

(h) Changeable Copy. Unless otherwise specified by this Section, any sign herein allowed may use manual or fixed message electronic sign.

Computer controlled variable message electronic signs shall be permitted provided that the bottom of the message center is ten (10) feet above the crown of the adjacent road. Computer controlled variable message electronic signs shall be permitted only in Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI) and Heavy Industrial (HI).

(i) Sign Contractor's License. No person may engage in the business or erecting, altering, relocating, constructing or maintaining signs without a valid contractor's licenses and all required state and federal licenses.

(j) Indemnification and Insurance. All persons involved in the maintenance, installation, alteration or relocation of signs shall agree to hold harmless and indemnify the County, its officers, agents and employees against any and all claims of negligence resulting from such work insofar as this Section has not specifically directed the placement of a sign.

All persons involved in the maintenance, installation, alteration or relocation of signs shall maintain all required insurance and shall file with the state and the county a current satisfactory certificate of insurance to indemnify the state and the county against any form of liability.

Sec. 27-704 - REGULATION BY ZONE

In any zoning district no sign may be placed or designed so as to simulate or interfere with traffic control devices or official highway directional/informational signs.

(a) Signs Permitted in Residential Zones

These requirements apply to the following zoning districts: Agricultural Open Space (A-1), Agricultural Suburban (A-S), Residential 15,000 (R-150), Residential 9600 (R-96), Residential 7000 (R-70), Residential 7000 Restricted (R-70-R), Residential 6000 (R-6000), and Residential 6000 Restricted (R-60-R)

- (1) One non-illuminated sign for each street frontage of a construction project, not to exceed forty-eight (48) square feet in sign area. Such signs may be erected thirty (30) days prior to beginning of construction and shall be removed thirty (30) days following completion of construction.
- (2) One non-illuminated real estate sign per lot or premises not to exceed sixteen (16) square feet in sign area. Such signs must be removed fifteen (15) days following sale, rental or lease of the real estate involved.
- (3) One non-illuminated attached building nameplate per occupancy, not to exceed two (2) square feet in sign area.
- (4) One non-illuminated political sign not to exceed sixteen (16) square feet in sign area. Such signs shall not be erected more than forty-five (45) days prior to the election or referendum concerned and shall be removed ten (10) days following such election or referendum. Political signs may be placed only on private property and only with the permission of the property owner.
- (5) One subdivision sign per street frontage not to exceed forty-eight (48) square feet in sign area in each location.
- (6) One identification sign per entrance to apartment or condominium complex, not to exceed forty-eight (48) square feet in sign area.
- (7) One ranch identification sign at each public entrance, not to exceed forty-eight (48) square feet in sign area or thirty-two (32) feet in height. This sign is permitted in the Agricultural Open Space (A-1) district only.
- (8) One temporary sign not to exceed thirty-two square feet in area or eight (8) feet in height for the sale of agricultural products produced on site. This shall be permitted in the Agricultural - Open Space (A-1) district only. Each sign may be erected for no more than sixty (60) days. A temporary sign permit shall be required.
- (9) For permitted non-commercial and non-residential uses such as schools, churches and synagogues, one freestanding sign, not to exceed forty-eight (48) square feet in sign area, and one wall sign not to exceed forty-eight (48) square feet in sign area.

Special regulations for residential zones are as follows:

- (10) All allowed freestanding signs, except permitted ranch signs, shall have a maximum height limit of six (6) feet and shall have a setback of fifteen (15) feet from the property line.

(b) Signs Permitted in Residential Professional (RP) and Neighborhood Commercial (NC) Zones.

Signs are allowed as follows in the Residential Professional (RP) and the Neighborhood Commercial (NC) zones:

- (1) All signs as permitted in Section 27-704(a).
- (2) The total square feet of all signs located on the property, including, but not limited to freestanding, wall, canopy, under canopy, and directional signs, shall not exceed two (2) square feet in sign area for each lineal foot of property frontage.
- (3) One freestanding sign or monument sign per street frontage not to exceed one (1) square foot in sign area for each lineal foot of property frontage on which the sign is placed. Such signs may not exceed a height of twenty (20) feet. Maximum sign size is seventy-five (75) square feet.
- (4) One (1) wall sign, canopy or electric awning sign not to exceed fifteen (15) percent of the area of the building elevation on which the signs are installed.
- (5) One (1) under-canopy or wall sign for each separate occupancy or separate entrance not to exceed eight (8) square feet in sign area. Under-canopy signs must have a minimum clearance of nine (9) feet from the sidewalk.
- (6) Window signs shall not exceed fifteen (15) percent of the window area. This includes permanent and temporary window signs.
- (7) Directional/informational signs as required.

Special regulations and allowances for Residential Professional (RP) and Neighborhood Commercial (NC) zones are as follows:

- (8) Where any occupancy is on a corner lot, a minimum clear vision zone is to be maintained in a triangulated area at the point of intersection to allow an unobstructed view of oncoming traffic.
- (9) Freestanding signs shall maintain a minimum clearance of ten (10) feet over any sidewalk and fourteen (14) feet over any parking lot, driveway or crown of the street, whichever is higher.
- (10) Minimum setback for the leading edge of the sign shall be five (5) feet inside the property line with a maximum height of ten (10) feet. For each additional foot the sign is setback the sign height may increase one (1) foot to a maximum of twenty (20) feet in height.

(c) Signs Permitted in Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI) and Heavy Industrial (HI)

Signs are allowed as follows in Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI) and Heavy Industrial (HI) zones:

- (1) All signs as permitted in Section 27-704(a) and 27-704(b).
- (2) The total square feet of all signs located on the property, including, but not limited to freestanding, wall, projecting, integrated roof, canopy, under-canopy, and directional signs, shall not exceed three (3) square feet in sign area for each lineal foot of property frontage.
- (3) One freestanding sign per street frontage not to exceed two (2) square feet of sign area for each lineal foot of property frontage on which the sign is placed, with a maximum sign size of one hundred-fifty (150) square feet. The maximum sign height shall be twenty-four (24) feet. Where street frontage exceeds five hundred (500) feet, one additional freestanding sign may be allowed per five hundred (500) foot increment.
- (4) Minimum setback for the leading edge of the sign shall be five (5) feet inside the property line with a maximum height of ten (10) feet. For each additional foot the sign is setback the sign height may increase one and one-half (1-1/2) feet to a maximum of twenty-four (24) feet in height.
- (5) Wall signs shall not exceed twenty percent (20%) of the square footage of the wall area upon which they are installed. Canopy signs and electric awning signs shall not exceed twenty percent (20%) of the square footage of the wall area upon which they are installed (see Section 3.04 for sign area calculations). The combination

of wall signs, canopy signs and electric awning signs shall not exceed the allowable square footage for the wall upon which they are placed.

- (6) Integrated roof signs may be used instead of wall signs. The integrated roof sign size shall not exceed the allowable size for a wall sign. Integrated roof signs shall be constructed so as to conceal all structures and fastenings. The height of the sign shall not exceed the roof to which it is attached.
- (7) Window signs shall not exceed thirty (30) percent of the window area. This included permanent and temporary window signs.
- (8) Projecting signs may be used instead of any wall or freestanding signs provided they do not project beyond the property line and maintain a clearance of ten (10) feet over sidewalk and fourteen (14) feet over any parking lot, driveway or crown of the street, whichever is higher. Projecting sign size shall not exceed the allowable size of wall signs. The height of the sign shall not exceed the roof of the wall to which it is attached.
- (9) One (1) under-canopy sign or wall sign for each separate occupancy or separate entrance not to exceed eight (8) square feet in sign area. Under-canopy signs must have a minimum clearance of ten (10) feet over the sidewalk.
- (10) On-premises directional signs as required

(d) Signs Permitted in the Interstate Corridor

Signs are allowed as follows in the Interstate Corridor (660 feet either side of the right-of-way of the Interstate Highway).

- (1) All signs as permitted in Sections 27-704(a), 27-704(b) and 27-704(c).
- (2) The total square feet of all signs located on the property, including, but not limited to freestanding, wall, projecting, integrated roof, canopy, under-canopy, and directional signs, shall not exceed three (3) square feet in sign area for each lineal foot of property frontage. This frontage shall be calculated using local streets, not the interstate highway.
- (3) Freestanding signs within the Interstate Corridor may be installed to a height of forty (40) feet and may be a maximum of three hundred-fifty (350) square feet if the principal purpose of such signs is to address interstate traffic.
- (4) Minimum setback for the leading edge of the sign shall be five (5) feet inside the property line with a maximum height of ten (10) feet. For each additional foot the sign is setback the sign height may increase one and one-half (1-1/2) feet to a maximum of forty (40) feet, if it is a freestanding sign addressing interstate traffic or twenty-four (24) feet for all other freestanding signs.
- (5) Freestanding signs which do not address interstate traffic must comply with the requirements for the zoning districts as outlined in Sections 27-704(a), 27-704(b) and 27-704(c).

(e) Shopping Center Signs

Shopping Center signs shall be allowed in the following zoning districts: Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI) and Heavy Industrial (HI). Shopping Center signs may not be used in conjunction with a Common Signage Plan.

- (1) Shopping Centers shall be allowed one (1) freestanding directory sign per frontage. The sign may be one hundred-fifty (150) square feet plus five percent (5%) of the one hundred-fifty (150) square feet per tenant. Maximum sign size shall not exceed three hundred-fifty (350) square feet or the allowable square footage for the frontage on which the sign is installed. The setback requirements in Section 27-704(c) (4) shall apply.

(f) Billboards

- (1) Billboards shall be permitted in the Interstate Corridor (660 feet either side of the right-of-way of the Interstate Highway) on properties zoned CC, HC, CI or HI as follows:
 - a. Billboards located within the Interstate Corridor shall have a maximum size of six hundred (600) square feet in size and shall be no more than forty (40) feet in height.

- b. Minimum distance between billboards shall five hundred (500) feet.
- c. Lighting shall be designed to minimize glare and interference with any adjacent residential uses or traffic.

Billboards not located in the interstate corridor are allowed as indicated below.

(2) Billboards shall be permitted in Highway Commercial (HC) as follows:

- a. Billboards shall be a maximum of three hundred (300) square feet in size and a maximum of thirty (30) feet in height.
- b. Minimum distance between billboards shall be seven hundred (700) feet.
- c. Lighting shall be designed to minimize glare and interference with any adjacent residential uses or traffic.

(3) Billboards shall be permitted in Community Commercial (CC) as follows:

- a. Billboards shall be a maximum of two hundred eighty-eight (288) square feet in size and a maximum of thirty (30) feet in height.
- b. Minimum distance between billboards shall be seven hundred fifty (750) feet.
- c. Lighting shall be designed to minimize glare and interference with any adjacent residential uses or traffic.

(4) Billboards shall be permitted in Controlled Industrial (CI) and Heavy Industrial (HI) as follows:

- a. Billboards shall be a maximum of three hundred seventy-eight (378) square feet in size and a maximum of forty (40) feet in height.
- b. Minimum distance between billboards shall be five hundred fifty (500) feet.
- c. Lighting shall be designed to minimize glare and interference with any adjacent residential uses or traffic.

(g) Temporary Signs. Temporary Sign Permits: Temporary signs shall be allowed on private property only upon issuance of a Temporary Sign Permit, which shall be subject to the following requirements:

- (1) Term: A temporary sign permit shall allow the use of a temporary sign for new businesses or to existing businesses which are relocating and shall be limited in use to one (1) time for no more than sixty (60) days.
- (2) Number: Only one (1) temporary sign permit shall be issued to the same business license holder on the same lot in any calendar year.
- (3) Other Conditions: A Temporary sign shall be allowed only NC, CC, HC, CI, and HI zoning districts.

(h) Banner Signs. Permits for Banner Signs in the Public Right-of-Way: Permits for banner signs in the public right-of-way shall be issued in accordance with the following conditions:

- (1) Application: A banner sign application, which has been signed and approved by the owners of all private property to which the sign will be affixed, shall be submitted.
 - (a) The banner sign application must be submitted to and approved by the Director prior to placement of the banner sign.
 - (b) Application for a banner sign may not be submitted earlier than six (6) months prior to the date when the sign will first be displayed.
- (2) Term and Number of Permits: The maximum time during which any banner sign may be displayed is thirty (30) days. One permit shall cover a maximum of five (5) banners and locations.
- (3) Message and Symbols on Banner Signs: Message and symbols are limited to public service messages with no commercial advertising of any nature appearing on the banner. This shall not preclude the identification of an event sponsor provided that such identification shall not occupy more than fifteen percent (15%) of the area of the banner.
- (4) Size of Banner Signs: The maximum allowable size of a banner sign is three (3) feet by twenty (20) feet.
- (5) Banner signs are permitted in the NC, CC, HC, CI and HI zoning districts.

- (6) Other Conditions: The County may require the applicant to indemnify the County and to provide insurance covering any liability that may occur as a result of placement of the banner sign.

Sec. 27-705 - COMMON SIGNAGE PLAN

(a) Common Signage Plan: If the owners of two or more contiguous or adjacent (disregarding intervening streets and alleys) lots or the owner of a single lot with more than one building (excluding accessory buildings) or multiple use buildings, file with the Director for such lots a Common Signage Plan conforming with the provisions of this section, a twenty-five (25) percent increase in the maximum total sign area shall be allowed for each included lot. This bonus shall be allocated within each lot as the owner(s) elects.

(b) Provisions of Common Signage Plan: The Common Signage Plan shall contain all of the following information:

- (1) An accurate plot plan of the lot, at such scale as the Director may reasonably require;
- (2) Location of buildings, parking lots, driveways, clear vision triangles and landscaped areas on such lot;
- (3) Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the lot(s) included in the plan under this Section; and
- (4) An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not.
- (5) Window signs may simply indicate the areas of the windows to be covered by window signs and the general type of the window signs (e.g., paper affixed to window, painted, etched on glass or some other material hung inside the window) and need not specify the exact dimension or nature of every window sign.

and shall also specify standards of consistency among all signs on the lots affected by the Plan with regard to:

1. Color scheme;
2. Letter or graphic style;
3. Lighting;
4. Location of each sign on the buildings;
5. Material; and
6. Sign proportions.

The above criteria does not apply to registered trademarks or established logos.

(c) Limit on Number of Freestanding Signs Under Common Signage Plan: The Common Signage Plan, for all lots with multiple uses or multiple users, shall limit the number of freestanding signs to a total of one for each street on which the lots included in the plan have frontage and shall provide for shared or common usage of such signs.

(d) Other Provisions of the Common Signage Plan: The Common signage Plan may contain other restrictions as the owners of the lots may reasonably determine.

(e) Consent: Common signage Plan shall be signed by all owners or their authorized agents in such form as the Director shall require.

(f) Procedures: Common Signage Plan shall be included in any development plan, site plan, planned unit development or other official plan required by the County for the proposed development and shall be processed simultaneously with such other plan.

(g) Amendment: Common Signage Plan may be amended by filing a new or Common Signage Plan that conforms with all requirements of the Resolution then in effect.

(h) Existing Signs Not conforming to Common Signage Plan: If any new or amended Common Signage Plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance, within five (5) years all signs not conforming to the proposed amended plan or to the requirements of this Resolution effect on the date of submission.

(i) Binding Effect: After approval of a Common Signage Plan, no sign shall be erected, placed, painted or maintained, except in conformance with such plan, and such may be enforced in the same way as any provision of this Resolution.

The Common Signage Plan may be dissolved at the request of the parties involved. Once the Common Signage Plan is dissolved all signage for the development must be brought into compliance with the provisions this Section within thirty (30) days of dissolution of the Common Signage Plan. In case of any conflict between the provisions of this Resolution and Common Signage Plan, the Resolution shall control.

Sec. 27-706 NONCONFORMING SIGNS

(a) Determination of Legal Nonconformity. Existing signs which do not conform to the specific provisions of this Section may be eligible for the designation "legal nonconforming" provided that:

- (1) The Administrator determines such signs are properly maintained and do not in any way endanger the public.
- (2) The sign was installed in conformance with a valid permit or variance, or complied with all applicable laws on the date of adoption of this Resolution.
- (3) The sign owner registers the sign with the Administrator within six (6) months of the adoption of this Resolution. If the owner fails to register the nonconforming sign with the Administrator, the sign then must be brought into compliance with this Section.

(b) Loss of Legal Nonconforming Status. A legal nonconforming sign may lose this designation if;

- (1) The sign is relocated or replaced.
- (2) The structure or size of this sign is altered in any way except toward compliance with this Section. This does not refer to change of copy or normal maintenance.

(c) Maintenance and Repair of Nonconforming Signs. The legal nonconforming sign is subject to all requirements of this Section regarding, safety, maintenance and repair. However, if the sign suffers more than fifty (50) percent damage or deterioration, as based on appraisal, it must be brought into conformance with this Section or removed. The Yellowstone County Appraisers Office appraisal shall be used. If the sign owner does not agree with the County's appraisal of the sign, he/she may then obtain a third party appraisal from a certified appraiser at his/her own expense.

Sec. 27-707 CONSTRUCTION SPECIFICATIONS

(a) Construction Specifications.

- (1) All signs shall be installed in compliance with the Uniform Building Code (UBC) and the National Electric Code (NEC).
- (2) All electrical freestanding signs, except billboards, must have underground electrical service to such signs.

Sec. 27-708 ADMINISTRATION AND ENFORCEMENT

(a) Sign Administrator. The Administrator shall be the Planning Director or his/her appointee and is authorized to process applications for permits and variances, hold public hearing as required, and enforce and carry out all provisions of this Section. The Administrator is authorized to promulgate regulations and procedures consistent with this function.

The Administrator is empowered, upon presentation of proper credentials, to enter or inspect any building, structure or premises in the County for the purpose of inspection of a sign and its structural and electrical connections to ensure compliance with all applicable laws and regulations. Such inspections shall be carried out during business hours unless an emergency exists.

(b) Applications for Permits. Applications for a permit for the erection, relocation or structural repair of a sign shall be made to the Administrator upon a form provided by the Administrator and shall include, but not be limited to, the following information:

- (1) Name and address of the owner of the sign.
- (2) Street address or location of the property on which the sign is to be located, along with the name and address of the property owner.
- (3) The name, address and license number of the sign contractor installing the sign.

- (4) The type of sign or sign structure as defined in this Section.
- (5) A site plan with measurements showing the proposed location of the signs along with the locations of all existing signs on the same premises.
- (6) Specifications and drawings showing the materials, design, dimensions, structural supports and electrical components of the proposed sign.

(c) Permit Fees. All applications for permits filed with the Administrator shall be accompanied by a payment of the initial permit fee for each sign as established by Resolution by the Yellowstone County Board of County Commissioners. Said permit fee may be revised from time to time by resolution and approval of the Yellowstone County Board of County Commissioners.

(d) Issuance and Denial. The Administrator shall issue a permit and permit sticker or tag for the erection, structural alteration or relocation of a sign within ten (10) working days of receipt of a valid application, provided that the sign complies with all applicable laws and regulations of the County. In all applications where a matter of interpretation arises, the more specific definition or higher standard shall prevail.

When a permit is denied, the Administrator shall within ten (10) working days, provide a written notice to the applicant along with a statement of the reasons for denial, citing sections of this Section and interpretation of possible nonconformity. The Administrator may suspend or revoke an issued permit for any false statement or misrepresentation of facts in the application.

(e) Permit Condition, Refunds, and Penalties. If a permit is denied, the permit fee will be refunded to the applicant.

A permit is valid for ninety (90) days upon issuance of the permit. A one (1) time extension for sixty (60) days may be granted by the Administrator, provided that the written request for the extension is made prior to the expiration date of the issued permit.

If any sign is installed or placed on any property prior to receipt of a permit, the specified permit fee shall be doubled. However, payment of the doubled fee shall not relieve any person or any other requirements or penalties prescribed in this Section.

(f) Inspection Upon Completion. Any person installing, structurally altering or relocating a sign for which a permit has been issued shall notify the Administrator upon completion of the work. The Administrator may require a final inspection, including an electrical inspection and inspection of footings on freestanding signs.

The Administrator may require at the time of issuance of a permit written notification for an inspection be submitted prior to the installation of certain signs.

(g) Variances. All variances shall follow the procedure as outlined in Section 27-1511 of the Yellowstone County Zoning Regulations.

(h) Violations. When, in the opinion of the Administrator, a violation of this Section exists, the Administrator shall issue a written notice to the alleged violator. The notice shall specify those sections which the individual may be in violation of, and shall state that the individual has fourteen (14) days from the date of the order in which to correct the alleged violation.

If, upon, inspection, the Administrator finds a sign is abandoned or structurally, materially or electrically defective, or in any way endangers the public, the Administrator shall issue a written notice to the owner of the sign and the occupant of the premises stating the nature of the violation and requiring them to repair or remove the sign within fourteen (14) days of the date of the notice.

In cases of emergency, the Administrator may cause the immediate removal of a dangerous or defective sign without notice. Signs removed in this manner must present a hazard to the public safety as defined in the local building or traffic codes.

(i) Removal of Signs By The Administrator. The Administrator may cause the removal of an illegal sign in cases of emergency, or for failure to comply with the written orders of removal or repair. After removal or demolition of the sign, a notice shall be mailed to the sign owner stating the nature of the work and the date on which it was performed and demanding payment of the costs as certified by the Administrator.

If the amount specified in the notice is not paid within thirty (30) days of the notice, it shall become an assessment upon a lien against the property of the sign owner, and will be certified as an assessment against the property together with 1.5 percent per month penalty for collection in the same manner as the real estate taxes.

The owner of the property upon which the sign is located shall be presumed to be the owner of all signs thereon unless facts to the contrary are brought to the attention of the Administrator, as in the case of a leased sign.

For purposes of removal, the definition of sign shall include all sign embellishments and structures designed specifically to support the sign.

(j) Any person who fails to comply with the provisions of this Resolution may be subject to penalties as outlined in Section 27-1604 of the Yellowstone County Zoning Regulations.

SECTION 27-800. - Reserved

SECTION 27-900. - Reserved

SECTION 27-1000. - INTERCHANGE/ENTRYWAY ZONING DISTRICTS

Sec. 27-1001. - Intent.

The intent of the Interchange/Entryway zoning districts is to promote attractive, high quality development, to provide an appealing image of Yellowstone County, to the travelling public and also the community. Further, it is the intent of this district to maintain a sensitivity toward existing development while preserving scenic vistas and protecting environmentally sensitive areas, including the Yellowstone River Corridor.

Objectives

- (a) Promote a unique, attractive physical landscape through topographic variations, water areas, native vegetation and scenic vistas;
- (b) Create and preserve open space;
- (c) Preserve and enhance unique qualities of the total environment;
- (d) Encourage creativity in design;
- (e) Provide for harmonious land design and quality site planning, which will produce a more desirable and attractive environment;
- (f) Reduce the level of adverse impacts from the transportation system on adjoining lands;
- (g) Promote development patterns in harmony with the goals and objectives of the 1990 Yellowstone County Comprehensive Plan; and
- (h) Promote compatible land use transitions with a sensitivity toward existing residential uses.

Sec. 27-1002. - Application and approval process.

All plans and applications for development and signs shall be submitted to the city-county planning department. All applications must be submitted in person and signed by the property owner, lessee, the contract purchaser or the authorized agent of the property owner.

Planning department approval is to ensure compliance with the zoning regulations. This does not in any way construe approval by any other county department. A state building permit and planning department approval are required prior to construction.

Each application shall include, but not be limited to the following information:

- (1) The name and address of the property owner;
- (2) The name and address of the applicant;
- (3) The legal description of the parcel;
- (4) A map drawn to scale showing the dimensions, acreage, location of the parcel, north arrow, streets and adjacent land uses;
- (5) A complete site plan drawn to a scale of no less than 1" = 40' showing the dimensions and locations of all structures, streets, paving, parking, landscaping, signage, waterways or other significant features of the development;
- (6) Complete elevation drawings drawn to scale including the dimensions and height of the structure; and
- (7) Signage plan specifications and location. (This applies to applications for signs only.)

Within fifteen (15) working days following the submittal of a complete application, the planning director or his/her designee shall issue planning department approval for development or a denial of the application, unless the applicant consents in writing to an extension of the review period. Should the application be denied, the applicant shall be notified in writing specifying all areas of noncompliance with this chapter.

Sec. 27-1003. - Definitions.

Terms not specifically defined in this chapter shall use the same meanings as they are defined in section 27-201. The standard dictionary meaning shall be applied to terms not otherwise defined.

Sec. 27-1004. - Zoning districts.

(a) *Entryway light commercial zone (ELC)* The purpose of the entryway light commercial zone is to provide limited entryway commercial convenience facilities, serving the nearby community.

- (1) *Permitted uses:* The following uses shall be less than three thousand (3,000) square feet gross floor area (GFA):

Accessory uses and structures associated with a permitted principal structure

Apparel and accessory stores

Bakeries, retail

Banking and financial institutions

Barber and beauty shops

Book and stationery stores

Coin-operated laundry and dry-cleaning pick up station

Convenience stores, with or without gas sales

Food stores

General merchandise stores

Hardware stores

Home furniture and furnishing stores

Mailing, photocopying, blueprinting and duplicating services

Newsstands

Offices

Paint stores

Pharmacies

Photo-finishing labs

Restaurants without the sale of alcoholic beverages

Shoe repair shops

Watch, clock and jewelry repair

- (2) *Special review uses*: Any of the above-permitted uses greater than three thousand (3,000) square feet GFA

Car washes

Commercial recreation uses only as listed below:

Arcades

Batting cages

Boat Rentals

Bowling alleys

Canoe and kayak rentals

Day camps

Driving ranges

Golf courses

Handball courts

Ice skating rinks

Miniature golf

Parks

Playing fields

Racquetball courts

Riding stables

Roller skating rinks

Schools and camps for sports instruction

Swimming pools

Tennis courts

Waterslides

Gravel and/or sand extraction

Mixed use developments which include residential uses

Other retail uses similar in nature to those listed above

Restaurants with the sale of alcoholic beverages for on-premise consumption

- (b) *Entryway general commercial zone (EGC)*. The purpose of the entryway general commercial zone is to provide a specialized classification for hotels, restaurants and other tourist-related facilities near major highway interchanges.

- (1) *Permitted uses*:

Accessory uses and structures associated with a permitted principal structure

Apparel and accessory stores

Automobile and truck sales (new and used)
Automobile rental agencies
Automotive service stations
Bakeries, retail
Banking and financial institutions
Barber and beauty shops
Book and stationery stores;
Broadcasting studios, radio and television
Car washes;
Coin-operated laundry and dry-cleaning pick up station
Commercial recreation uses only as listed below:
 Arcades
 Batting cages
 Boat rentals
 Bowling alleys
 Canoe and kayak rentals
 Day camps
 Driving ranges
 Golf courses
 Handball courts
 Ice skating rinks
 Miniature golf
 Parks
 Playing fields
 Racquetball courts
 Riding stables
 Roller skating rinks
 Schools and camps for sports instruction
 Swimming pools
 Tennis courts
 Waterslides
Convenience stores, with or without gas sales
Food stores
General merchandise stores
Hardware stores
Home furniture and furnishing stores
Hotels/Motels
Laundry and dry-cleaning establishments
Mailing, photocopying, blueprinting and duplicating services

Newsstands
Offices
Paint stores
Pharmacies
Photo-finishing labs
Recreational vehicle sales and service
Restaurants without the sale of alcoholic beverages
Retail nurseries, lawn and garden supply stores
Shoe repair shops
Signs, computer controlled variable message
Theaters (Indoor)
Tire sales
Watch, clock and jewelry repair
Wholesale uses not to exceed three thousand (3,000) square feet gross floor area (GFA)

(3) *Special review uses*

Campgrounds

Commercial Recreation uses only listed as below:

Go-cart tracks

Rodeos

Roping arenas

Gravel and/or sand extraction

Mixed use developments which include residential uses

Other retail uses similar in nature to those listed above

Restaurants with the sale of alcoholic beverages for on-premise consumption

Truck stops

Veterinary clinics

a. Boarding

b. Outpatient Only

Wholesale uses not to exceed ten thousand (10,000) square feet gross floor area (GFA)

Zoos

(c) *Entryway mixed use zone (EMU)* The purpose of the entryway mixed use zone is to provide for commercial recreation development and a mixture of low intensity residential and low intensity commercial/office use. This zone allows for low impact commercial and residential development that will have minimal adverse effect on adjacent natural resources and existing uses.

(1) *Permitted uses:*

Accessory uses and structures associated with a permitted principal structure

Campgrounds

Commercial recreation uses only listed as below:

Batting cages

Boat rentals

Canoe and kayak rentals

Day camps

Driving ranges

Golf courses

Handball courts

Ice skating rinks

Miniature golf

Parks

Playing fields

Racquetball courts

Riding stables

Schools and camps for sports instruction

Swimming pools

Tennis courts

Mixed use developments (incorporating Office/Commercial uses permitted in the EGC zone and residential uses)

Residential, Single-family

Residential, Multi-family

Restaurants without the sale of alcoholic beverages for on-premise consumption

(2) *Special review uses:*

Commercial Recreation uses only listed as below:

Go-cart tracks

Rodeos

Roping arenas

Gravel and/or extraction

Restaurants with the sale of alcoholic beverages for on-premise consumption

(d) *Entryway Light Industrial (ELI)*. The purpose of the Entryway Light Industrial zone is to provide large lots located directly accessible to arterial and other transportation systems for warehousing and light manufacturing and allow for limited commercial facilities for the adjacent community and interstate travelers.

(1) *Permitted uses:*

Accessory uses and structures associated with a permitted principal structure

Automotive service stations

Auto repair

Auto supply stores

Bakery, wholesale

Broadcast studios, radio and television

Bus terminal operation with or without maintenance facilities

Car washes

Coin-operated laundry and dry cleaning with pick up station

Convenience stores, with or without gas sales

Cabinet and furniture manufacture
Engineering, physical and biological research laboratories
Funeral homes, mortuaries, and crematories
General warehousing and compartmentalized storage under 250,000 square feet
GFA
Heavy equipment sales and service
Hotels/motels
Laundry and dry-cleaning establishments
Light manufacturing:
 Computer and office equipment (SIC-357)
 Household audio and video equipment and audio recording (SIC-365)
 Communication equipment (SIC-366)
 Electronic components and accessories (SIC-367)
 Measuring, analyzing and controlling instruments, photographic, medical and optical goods, watches, clocks (SIC-38)
Mailing, photocopying, blueprinting and duplicating services
Mobile Home Sales
Offices; professional, private, government
Photo-finishing labs
Recreational vehicle sales and service
Restaurants without the sale of alcoholic beverages
Retail Uses allowed in the entryway general commercial
Retail nurseries, lawn and garden supply stores
Tire sales
Truck stops
Trucking terminal with or without maintenance facilities
US Postal services with or without terminal facilities
Vet clinics
Wholesale trade (except SIC-5093)
(2) *Special review uses:*
 Gravel and/or sand extraction
 Mixed use developments
 Passenger and freight terminals
 Restaurants with the sale of alcoholic beverages for on-premise consumption
 Wood container manufacturing
 Wood building and mobile home manufacturing
 Miscellaneous wood products manufacturing
 Retail over 250,000 GFA
 Warehousing over 250,000 GFA

Sec. 27-1005. - Development standards.

Minimum lot area for all non-residential development shall be twenty-thousand (20,000) square feet in the ELC, EGC, EMU and ELI zoning districts.

Residential developments shall meet the minimum lot area, setbacks, lot coverage and height limits of the Residential 9,600 (R-9,600) zoning district for single family projects or for the Residential Multi-Family - Restricted (RMF-R) zoning district for multiple-family developments, as listed in section 27-308.

Minimum building setback from property line:

	ELC	EGC	EMU	ELI
*Adjacent to Interstate right-of-way	25 feet	25 feet	25 feet	25 feet
*Adjacent to any other right-of-way	25 feet	25 feet	25 feet	25 feet
Adjacent to a residential zone	25 feet	25 feet	25 feet	25 feet
Adjacent to a non-residential zone	10 feet	10 feet	10 feet	10 feet
Structure Height	30 feet	40 feet	30 feet	40 feet
Maximum Lot Coverage	50%	50%	50%	50%

*All arterial setbacks as outlined in section 27-602 must be maintained.

Setback areas not occupied by required bufferyards may be used for, but not limited to the following: display area, driveways and non-required parking.

All current County codes shall apply, including but not be limited to the following: building, zoning, site development, parking and drainage regulations that are not directly addressed in this chapter. Where requirements are addressed in one or more regulations, the most stringent shall apply.

Traffic accessibility studies Current traffic accessibility study requirements in the subdivision and site development regulations shall apply, in addition to those requirements outlined below.

The following uses shall be required to submit traffic accessibility studies:

Drive-through services

Truck stops

Sec. 27-1006. – **Reserved** (formerly Landscaping – refer to new Sec. 27-1100)

Sec. 27-1007. - Building design standards.

- (a) All buildings shall be completed on all sides with an acceptable finishing material. The following materials are acceptable: brick, fluted block, colored textured block, glass, stucco, architectural concealed fastener metal panels, exterior insulation and finishing systems (i.e. Dryvit, etc.), stone or wood. Exposed seam metal buildings shall be prohibited unless covered with an acceptable finishing material.
- (b) Roofs shall be finished with a material that is architecturally compatible in color and design with the construction of the building. Metal roofs, fascia and mansards shall be limited to the following: standing seam, metal shakes or shingles and architectural metal treatments. All mechanical equipment placed on top of any roof shall be screened by a parapet or other similar architectural apparatus being at least the height of the mechanical equipment. Pitched roofs are encouraged whenever possible.

- (c) Long, flat facades, having local street or interstate highway frontage, having more than one hundred (100) lineal feet are prohibited. Buildings over one hundred (100) feet in length shall incorporate one of the following: recesses, off-sets, angular forms, landscaping features or other architectural features such as bell towers, clock towers, to provide a visually interesting shape. The break in the facade shall be minimum of eight (8) feet in length. A single uninterrupted length of a facade shall not exceed one hundred (100) lineal feet. It is encouraged that each offset area contain landscaping or other similar amenities which will complement the offset area.

Sec. 27-1008. - Additional provisions for commercial uses.

- (a) *Storage of merchandise.* Any permitted storage of merchandise outside an approved building 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. However, promotional displays, vehicle sales lots and plant materials may be displayed outside of an approved building or enclosed area so long as they are placed appurtenant to a building wherein the business displays the bulk of its goods for sale. In addition, retail nurseries shall be exempt from the enclosure of plant materials. Bufferyards or required landscaping shall not be used for the displaying of merchandise. Chain link or other type of wire fencing is prohibited.
- (b) *Site lighting:*
 - (1) All outdoor lighting shall be designed, located and mounted at heights no greater than:
 - a. Eighteen (18) feet above grade for non-cutoff lights; and
 - b. Thirty-five (35) feet above grade for cutoff lights.
 - (2) Maximum Illumination. All outdoor lighting shall be designed and located such that the maximum illumination measured in footcandles at the property line shall not exceed three-tenths (0.3) footcandle for non-cutoff lights and one and five-tenths (1.5) footcandles for cutoff lights.
- (c) *Storage of junk.* No person shall store junk, partially or completely dismantled vehicles, or salvaged materials in any commercial zone outside a building. In the case of automobile repair shops, such materials must be 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.
- (d) *Solid waste area.* All solid waste storage facilities 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. Chain link or other type of wire fencing is prohibited.

Sec. 27-1009. - Signs.

- (a) *Intent.* This section shall not regulate official traffic or government signs; the copy and message of signs; signs not intended to be viewed from a public right-of-way; window displays; product dispensers and point of purchase displays; scoreboards on athletic fields; flags of any nation, government or fraternal organization; gravestones; barber poles; religious symbols; or any display or construction not defined herein as a sign.
- (b) *Definitions.* Words and phrases used in this section are defined in this section. Principles for computing sign area are outlined in subsection (e) of this section.
 - (1) *Animated sign:* Any sign that uses movement or change or lighting to depict action or create a special effect or scene.
 - (2) *Area of sign:* The entire area of a sign including the area within a perimeter which forms the outside shape including the frame, forming an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. The frame of a sign may be excluded from the area where such frame conveys no message and is constructed or affixed for aesthetic reasons beyond the necessary supports.

For computing the areas of any wall or canopy sign which consists of letters mounted or painted on a wall or canopy, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters. (See below subsection E for calculation of sign area.)
 - (3) *Banner sign:* Any sign (other than an official flag) made of cloth, paper or fabric of any kind, which is used to attract attention, whether or not imprinted with words or characters.

- (4) *Beacon*: Any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same lot as the light source; also, any light with one (1) or more beams that rotate or move.
- (5) *Building marker*: Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.
- (6) *Canopy sign*: Any sign that is a part of or attached to any awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area, and which does not extend horizontally beyond the limits of the canopy.
- (7) *Changeable copy sign*: A sign whose informational content can be changed or altered by manual or electric, electro-mechanical or electronic means. Changeable signs include the following types:
 1. *Manually activated*: Signs whose alphabetic, pictographic or symbolic information content can be changed or altered by manual means.
 2. *Electrically activated*: Signs whose alphabetic, pictographic or symbolic informational content can be changed or altered on a fixed display surface composed of electrically illuminated or mechanically driven changeable segments. Electrically activated signs include the following two (2) types:
 - a. *Fixed message electronic signs*: Signs whose basic informational content has been pre-programmed to include only certain types of information projections, such as time, temperature, predictable traffic conditions or other events subject to prior programming.
 - b. *Computer controlled variable message electronic signs*: Signs whose informational content can be changed or altered by means of computer-driven electronic impulses.
- (7) *Copy*: The graphic content of a sign surface in either permanent or removable letter, pictographic, symbolic or alphabetic form.
- (8) *Directional/informational sign*: An on-premise sign giving directions, instructions or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs. The sign may contain a logo provided that the logo may not comprise more than twenty (20) percent of the total sign area.
- (9) *Director*: The planning director of the county or his/her designee.
- (10) *Flag*: Any fabric, banner or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision or other entity.
- (11) *Freestanding sign*: Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure, including monument signs.
- (12) *Government sign*: Any temporary or permanent sign erected and maintained by the city, county, state or federal government for traffic direction or for designation of or direction to any school, hospital, historical site or public service, property or facility.
- (13) *Height of sign*: The vertical distance measured from the highest point of the sign to the crown of the adjacent street, not including the interstate highway.
- (14) *Lot*: Any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record, that is recognized and intended as a unit for the purpose of transfer or ownership.
- (15) *Maintenance*: For the purposes of this chapter, the cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the structure of the sign.
- (16) *Monument sign*: A sign mounted directly to the ground with maximum height not to exceed six (6) feet.
- (17) *Nonconforming sign*: A sign which was erected legally, but which does not comply with subsequently enacted sign restrictions and regulations.
- (18) *Portable sign*: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

- (19) *Principal building*: A structure accommodating the principal use to which the property is devoted. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages and other clearly accessory uses shall not be considered principal buildings.
 - (20) *Projecting sign*: A sign, other than a flat wall sign, which is attached to and projects from a building, wall or other structure not specifically designed to support the sign. Supports shall be covered in a neat and orderly fashion. Guy wire support is prohibited.
 - (21) *Roof sign, above-peak*: Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
 - (22) *Roof sign, integral*: Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.
 - (23) *Setback*: The distance from the property line to the nearest part of the applicable building, structure or sign, measured perpendicularly to the property line.
 - (24) *Sign*: Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.
 - (25) *Street*: A public way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated which has been dedicated to or acquired for public use and which extends the full width between right-of-way lines.
 - (25) *Street frontage*: The length of the property line of any one (1) premises along each public right-of-way it borders excluding alleys, serviceways and the interstate highway.
 - (26) *Suspended sign*: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
 - (27) *Temporary sign*: A non-permanent sign erected and maintained for a specific limited period of time.
 - (28) *Wall sign*: Any sign attached parallel to, painted on the wall surface or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface. Wall signs shall not exceed twenty-two (22) inches in depth measured from the face on the wall on which the sign is mounted.
 - (29) *Wind-driven sign*: Any sign consisting of one (1) or a series of two (2) or more banners, flags, pennants, ribbons, spinners, streamers or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind or breeze.
 - (30) *Window sign*: Any sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.
- (c) *Signs prohibited*. All signs not expressly permitted under this section or exempt from regulation hereunder in accordance with the following section are prohibited. Such signs include, but are not limited to:
- (1) Beacons;
 - (2) Wind-driven sign, except flags as defined in this section;
 - (3) Strings of lights not permanently mounted to a rigid background, except those exempt under the following section;
 - (4) Inflatable signs and tethered balloons;
 - (5) Portable signs;
 - (6) Animated signs;
 - (7) Above-peak roof signs;
 - (8) Banner signs;
 - (9) Abandoned signs;

- (10) Snipe signs or signs attached to trees, telephone poles, public benches, streetlights or placed on any public property or public right-of-way; and
 - (11) Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said signs (this does not apply to signs or lettering on buses, taxis, or vehicles operating during the normal course of business).
- (d) *Signs not requiring permits.* The following types of signs are exempted from permit requirements but must be in conformance with all other requirements of this section:
- 1. Construction signs of sixteen (16) square feet or less;
 - 2. Special event or holiday lights or decorations;
 - 3. Nameplates of two (2) square feet or less;
 - 4. Public signs or notices, or any sign relating to an emergency;
 - 5. Real estate signs; (see below subsection I, 2)
 - 6. Political signs; (see below subsection I, 4)
 - 7. Interior signs not visible from the exterior of the building; and
 - 8. Directional signs not to exceed twelve (12) square feet in area or six (6) feet in height.
- (e) *Calculation of sign area.* The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two (2) identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure, the sign area shall be computed by the measurement of one of the faces.
- (f) *Maintenance.* All signs shall be properly maintained. Exposed surfaces shall be clean and painted if paint is required. Defective parts shall be replaced.
- (g) *Lighting.* Unless otherwise prohibited by this section, all signs may be illuminated.
- (h) *Changeable copy.* Unless otherwise specified by this section, any sign herein allowed may use manual, or fixed message electronic sign.

Computer controlled variable message electronic signs shall be permitted provided that the bottom of the reader board is ten (10) feet above the crown of the adjacent road. Computer controlled variable message electronic signs shall not be permitted in the entryway light commercial (ELC) and the entryway mixed use (EMU) zones.

(i) *Signs permitted in residential districts:*

- (1) One (1) non-illuminated sign for each street frontage of a construction project, not to exceed forty-eight (48) square feet in sign area. Such signs may be erected thirty (30) days prior to beginning of construction and shall be removed thirty (30) days following completion of construction.
- (2) One (1) non-illuminated real estate sign per lot or premises not to exceed sixteen (16) square feet in sign area for residential properties and thirty-two (32) square feet for commercial properties. Such signs must be removed fifteen (15) days following sale, rental or lease of the real estate involved.
- (3) One (1) non-illuminated attached building nameplate per occupancy, not to exceed two (2) square feet in sign area.
- (4) One (1) non-illuminated political sign not to exceed sixteen (16) square feet in sign area. Such signs shall not be erected more than forty-five (45) days prior to the election or referendum concerned and shall be removed ten (10) days following such election or referendum. Political signs may be placed only on private property and only with the permission of the property owner.
- (5) One (1) subdivision sign per street frontage not to exceed forty-eight (48) square feet in sign area in each location.
- (6) One (1) identification sign per entrance to apartment or condominium complex, not to exceed thirty-six (36) square feet in sign area.

(j) *Signs permitted in commercial districts:*

- (1) All signs permitted in residential districts as listed in above subsection I.

- (2) The total square footage of all signs located on the property, including, but not limited to freestanding, wall, projecting, integrated roof, canopy, under-canopy and directional signs, shall not exceed three (3) square feet in sign area for each lineal foot of property frontage. This frontage shall be calculated using local streets, not the interstate highway.
 - (3) One (1) freestanding sign within the interchange/entryway zoning district may be installed to a height of forty (40) feet and may be a maximum of three hundred-fifty (350) square feet if the principal purpose of such signs is to address interstate traffic. The sign must be oriented perpendicularly to the interstate so the sign is visible to the interstate traveler. In addition, the property must be adjacent to the interstate right-of-way.
 - (4) Freestanding signs which do not address interstate traffic may be installed to a maximum height of twenty-four (24) feet and may have a maximum size of one hundred-fifty (150) square feet.
 - (5) The setback for the leading edge of freestanding signs shall be a minimum of ten (10) feet.
 - (6) No sign may be placed or designed so as to simulate or interfere with traffic control devices or official highway directional/informational signs.
 - (7) One (1) freestanding sign per frontage, including the interstate highway, shall be allowed. Where a street frontage exceeds five hundred (500) feet, one (1) additional freestanding sign may be allowed per five hundred (500) foot increment. Freestanding signs shall have a minimum distance of one hundred-fifty (150) feet between signs. The total square footage of all freestanding signs shall not exceed the total allowable square footage for freestanding signs.
 - (8) Wall signs shall not exceed twenty (20) percent of the square footage of the wall area upon which they are installed. Electric awning and canopy signs shall not exceed twenty (20) percent of the square footage of the wall area upon which they are installed. The combination of wall signs, electric awning, canopy signs and projecting signs shall not exceed twenty (20) percent of the allowed wall sign area.
 - (9) Integrated roof signs may be used instead of wall signs. The integrated roof sign size shall not exceed the allowable size for a wall sign. Integrated roof signs shall be constructed so as to conceal all structures and fastenings. The height of the sign shall not exceed the roof to which it is attached.
 - (10) Projecting signs may be used instead of any wall or freestanding signs provided they do not project beyond the property line and maintain a clearance of ten (10) feet over sidewalk and fourteen (14) feet over any parking lot, driveway or crown of the street, whichever is higher. Projecting sign size shall not exceed the allowable size for a wall sign.
 - (11) One (1) under-canopy sign for each separate occupancy or separate entrance not to exceed eight (8) square feet in sign area. Under-canopy signs must have a minimum clearance of nine (9) feet from the sidewalk.
 - (12) Window signs shall not cover more than thirty (30) percent of the window area.
 - (13) On-site directional signs as required.
- (k) *Shopping center signs:*
- (1) Shopping centers shall be allowed one (1) freestanding sign directory sign per frontage. The sign shall not exceed one hundred-fifty (150) square feet plus five (5) percent of the one hundred-fifty (150) square feet per tenant. Maximum sign size shall not exceed three hundred-fifty (350) square feet.
 - (2) Shopping centers signs shall not exceed the maximum allowable freestanding signage.
 - (3) Shopping center signs cannot be used if the Common Signage Plan is used.
- (l) *Common signage plan:*
- (1) *Common signage plan.* If the owners of two (2) or more contiguous or adjacent (disregarding intervening streets and alleys) lots or the owner of a single lot with more than one building (excluding accessory buildings) or multiple use buildings file with the planning director for such lot(s) a common signage plan conforming with the provisions of this section, a twenty-five (25) percent increase in the maximum total sign area shall be allowed for each included lot. This bonus shall be allocated within each lot as the owner(s) elects.
 - (2) *Provisions of common signage plan.* The common signage plan shall contain all of the following information:
 - a. An accurate plot plan of the lot, at such scale as the Planning Director may reasonably require;

- b. Location of buildings, parking lots, driveways, clear vision triangles and landscaped areas on such lot;
- c. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the lot(s) included in the plan under this chapter; and
- d. An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not.
- e. Window signs may simply indicate the areas of the windows to be covered by window signs and the general type of the window signs (e.g., paper affixed to window, painted, etched on glass, or some other material hung inside the window) and need not specify the exact dimension or nature of every window sign.

The common signage plan shall also specify standards of consistency among all signs on the lots affected by the plan with regard to:

- a. Color scheme;
- b. Letter or graphic style;
- c. Lighting;
- d. Location of each sign on the building(s);
- e. Material; and
- f. Sign proportions.

- (3) *Limit on number of freestanding signs under common signage plan.* The common signage plan, for all lots with multiple uses or multiple users, shall limit the number of freestanding signs to a total of one (1) for each street on which the lots included in the plan have frontage and shall provide for shared or common usage of such signs. Where street frontage exceeds five hundred (500) feet, one additional freestanding sign may be allowed per five hundred (500) foot increment.
 - (4) *Other provisions of the common signage plan.* The common signage plan may contain other restrictions as the owners of the lots may reasonably determine.
 - (5) *Consent.* Common signage plan shall be signed by all owners or their authorized agents in such form as the Planning Director shall require.
 - (6) *Procedures.* Common signage plan shall be included in any development plan, site plan, planned development or other official plan required by the city or county for the proposed development and shall be processed simultaneously with such other plan.
 - (7) *Amendment.* Common signage plan may be amended by filing a new common signage plan that conforms with all requirements of the chapter then in effect.
 - (8) *Existing signs not conforming to common signage plan.* If any new or amended common signage plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance, within five (5) years, all signs not conforming to the proposed amended plan or to the requirements of this section effective on the date of submission.
 - (9) *Binding effect.* After approval of a common signage plan, no sign shall be erected, placed, painted or maintained, except in conformance with such plan, and such may be enforced in the same way as any provision of this chapter. In case of any conflict between the provisions of this section and common signage plan, the section shall control.
 - (10) *Dissolution of common signage plan.* If the signatories of a common signage plan wish to dissolve the common signage plan, written notice must be submitted to the planning director. All signs on the property for which the common signage plan was dissolved must bring all signs into conformance with this section within thirty (30) days of the date written notice was submitted to the planning director.
- (m) *Nonconforming signs.* Existing signs which do not conform to the specific provisions of this section may be eligible for the designation "legal nonconforming" provided that:
- (1) The planning director determines such signs are properly maintained and do not in any way endanger the public;

- (2) The sign was installed in conformance with a valid permit or variance or complied with all applicable laws on the date of adoption of this section; and
- (3) The sign owner registers the sign with the planning director within six (6) months of the adoption of this section. If the owner fails to register the nonconforming sign with the planning director, the sign then must be brought into compliance with this section within thirty (30) days.

A legal nonconforming sign may lose this designation if:

- (1) The sign is relocated or replaced; or
- (2) The structure or size of this sign is altered in any way except toward compliance with this section. This does not refer to change of copy or normal maintenance.

The legal nonconforming sign is subject to all requirements of this section regarding, safety, maintenance, and repair. However, if the sign suffers more than fifty (50) percent damage or deterioration, as based on appraisal, it must be brought into conformance with this section or removed.

(n) *Construction specifications:*

- (1) All signs shall be installed in compliance with the Building Code and the National Electric Code (NEC).
- (2) Reserved
- (3) All electrical freestanding signs must have underground electrical service to such signs.

Sec. 27-1010. - Special review process. Special reviews shall follow the procedure as outlined in sections 27-1509.

Sec. 27-1011. - Variances. Variances from this chapter shall follow the process outlined in sections 27-1511.

SECTION 27-1100. – LANDSCAPING (amended May 2019)

Section 27-1101 Purpose.

The purpose of this section is to provide landscaping and performance standards that:

- A. Enhance and promote a unique image for the Yellowstone County urbanizing area.
- B. Protect the public health, safety and welfare by:
 1. Increasing parking lot traffic safety by guiding the circulation of cars and people and lowering traffic speeds;
 2. Minimizing noise, air, water and visual pollution;
 3. Screening and buffering incompatible land uses;
 4. Reducing the amount of reflected glare and heat absorbed in and around developments;
 5. Breaking up large expanses of parking lots;
 6. Preserving property values and neighborhood characteristics by lessening the impacts of potentially incompatible uses; and
 7. Providing screening from wind.
- C. Conserve water resources by:
 1. Promoting the use of xeriscaping and drought-tolerant naturalized plantings; and
 2. Promoting the utilization of storm water detention as an irrigation source.
- D. Ensure that landscaping is an integral part of the site design and development process.

Section 27-1102 Applicability.

A. General Applicability

1. The provisions of this article are applicable to all new development as follows:

Table 27-1101.1: Landscaping Applicability

Landscape Type	Section	A-1	A-S	1 & 2 Family zones	MF in R zone	RMF & RMF-R	Non Res Use in R zone	P	RP NC ELC EMU	CC EGC	HC C I ELI	HI
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Key: ✓ = Applicable, ✗ = Not Applicable

Street Frontage	27-1103	X	X	✓ All districts and uses located on a public street								
Bufferyards	27-1104	X	X	X	✓	✓	✓	✓	✓	✓	✓	✓
Parking Lot Landscaping	27-1105	X	X	X	✓ Any parking lot with 10 or more spaces							
Tree Preservation Options	27-1106	X	X	X	✓	✓	✓	✓	✓	✓	✓	✓

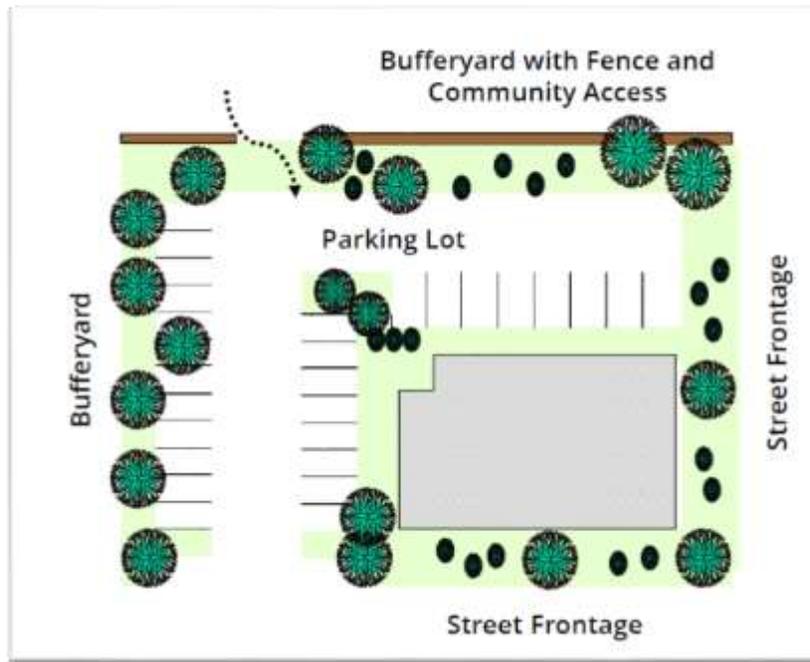


Fig. 27-1102.A: Sample locations of landscape areas

B. Proportionate Compliance

1. **APPLICABILITY TO REDEVELOPMENT AND INFILL: PROPORTIONATE COMPLIANCE.** To encourage redevelopment, continuing property investment, and infill development, it may be necessary to determine site appropriate adjustments to applicable development standards that will allow the development to take place while applying proportional development standards. This section identifies the process for determining specific site compliance with a proportionate standard.

2. **LIMITED TO SPECIFIC SECTIONS.** A request for proportionate compliance is limited to development standards in the following sections.

- (a) Section 27-1103, Street Frontage Standards
- (b) Section 27-1104, Bufferyard Standards
- (c) Section 27-1105, Off-Street Parking Lot Standards

3. **ELIGIBILITY FOR PROPORTIONATE COMPLIANCE.** Proportionate compliance for landscape standards applicable to a specific development or structure type may be requested for development types in Table 27-1101.2 according to the calculation described in Section 4, below.

Table 27-1101.2: Applicability of Development Standards

Structure Type	Res. Multi-Unit	Mixed-Use	Comm.	Ind.
New Development				
Percent compliance with development standards				
New Development	100	100	100	100
Infill, Conforming Lot	90	90	90	90
Infill, Nonconforming Lot	70	70	70	70
Existing Development				
GFA or off-street parking space change less than 10 %	n/a	n/a	n/a	n/a
GFA or off-street parking space change between 10% and 75%	See Sec. 4(b), below.			
GFA or off-street parking space change greater than 75%	100	100	100	100
Interior Redevelopment Only	Parking lot landscaping may be applicable, see Sec. 27-1200 and Sec. 4(a), below			
Nonconformities				
<i>See Section 27-400 for applicability of nonconformity standards</i>				

4. MEASURING REQUIRED COMPLIANCE

(a) Interior Changes: Where development changes are wholly internal to the existing structure, only the parking landscaping requirements of this Code may be applicable. This requirement may be waived by the planning director where the applicant can show there is sufficient existing parking to service the intended new use(s). Increases in required off-street parking greater than 10% of the existing required off-street parking may require proportional compliance with the parking lot landscaping requirements.

(b) Gross Floor Area (GFA) Changes and Off-Street Parking Space Changes: The landscape standards shall apply to all increases in GFA or required off-street parking space changes as follows:

(1) Minimal Change. Square footage or required off-street parking changes that increase the total gross floor area of a structure or the number of required off-street parking spaces by less than 10 percent, as determined by the zoning compliance permit application, shall not be required to comply with these development standards.

(2) Proportionate Change. Square footage or required off-street parking changes that increase the total gross floor area of a structure or the number of required off-street parking spaces by more than 10 percent but less than 75 percent, as determined by the zoning compliance permit application, shall require a corresponding percent increase in compliance with these development standards or until the site reaches compliance, whichever is less.

(3) Full Compliance. Square footage or required off-street parking changes that increase total gross floor area of a structure or the number of required off-street parking spaces by 75 percent or greater, as determined by the zoning compliance permit application, shall be required to fully comply with these standards.

(c) Measurement is based on changes to an individual structure that is subject to improvements, regardless of the total number of structures on the site.

5. TEN-YEAR TIMEFRAME

Any application by property owners to expand or replace part of an existing structure shall remain on record for 10 years from the date of work completion. Any subsequent application by the same property owner(s) to expand or replace part of an existing structure shall be cumulative to any requests made within the previous 10 years. The total shall be used by the county to determine the property owner's necessary level of compliance.

Section 27-1103 Landscape Plan.

A. APPLICABILITY

1. Landscaping in compliance with this article shall be required for any new construction, and expansion of existing structures. All plans submitted in support of a zoning compliance permit shall include a landscape plan where appropriate.

2. A landscaping plan must be approved by the planning director before the issuance of a zoning compliance permit.

B. LANDSCAPE PLAN PREPARATION

1. Landscape plans shall be prepared with materials that meet the requirements of Section 27-1107 and that:

- (a) Are appropriate to the conditions in which they are planted;
- (b) Have noninvasive growth habits;
- (c) Encourage low maintenance, high quality design; and
- (d) Are otherwise consistent with the intent of this article.

2. Landscape plans shall be prepared as follows:

- (a) Lots of 1.5 acres or larger: the plan shall be prepared by a licensed landscape architect.
- (b) Lots smaller than 1.5 acres: applicants are encouraged to work with a nurseryman or landscape design professional to meet the requirements of this article.

A list of appropriate plant species for Billings and Yellowstone County can be obtained from the Planning Department.

C. INFORMATION REQUIRED

The landscaping plan shall contain the following elements:

- (a) Scale: no smaller scale than 1"=40'
- (b) Property lines, easements, and public rights-of-way, including clear vision triangles.
- (c) Topographic information and final grading adequate to identify and properly specify planting for areas needing slope protection.
- (d) Buildings or structures - both new and existing.
- (e) An estimated count and approximate location of all existing trees, four inches in diameter or larger, measured at four and a half feet above grade, and identification of all trees within that group that are identified for removal and the required characteristics of all trees for tree preservation credit. A tree count is not required for areas of the site that will not be disturbed during construction.
- (f) Drive approaches, parking spaces, light standards, circulation and pedestrian walkways.
- (g) Landscaping materials:
 - (1) Location and spacing of proposed plant materials.
 - (2) Location of existing trees or landscaping to be preserved or eliminated.
 - (3) Types and location of new vegetation identified by botanical and common names and listed on a plant schedule.
 - (4) Size of materials, in diameter and height at installation and maturity.
 - (5) Quantity of each planting materials to be used.
 - (6) Types and location of inorganic landscaping material.
- (h) Location of walls, fences, screening, and refuse storage areas.
- (i) Location of any proposed retaining walls, indicating size and material to be used in the construction of the wall.
- (j) Methods of protecting the landscaped areas.
- (k) Proposed treatment of all ground surfaces (concrete or asphalt paving, pavers, turf or gravel).

D. PROCEDURE FOR LANDSCAPE PLAN REVIEW

1. LANDSCAPE PLAN REVIEW

The planning director shall consider the approval criteria in Section 27-1103.D.2 below when reviewing the landscape plan.

2. APPROVAL CRITERIA

The planning director may approve a landscape plan upon a finding that the application meets all of the following criteria, as applicable:

- (a) The landscape plan conforms to all requirements of this article and is consistent with the currently adopted growth policies and any other applicable plans.
- (b) The plant materials or landscape features are designed and situated in a manner that makes the project visually compatible with its surroundings to the greatest extent possible.
- (c) The landscape design includes the installation of a diversity of species and sizes of vegetation with preference given to locally naturalized vegetation.
- (d) If required, preservation of existing, locally naturalized vegetation is incorporated into the landscape design.
- (e) No plant materials or landscape features are situated in such a manner to inhibit vehicle sight distances established in Section 27-615 or otherwise create a traffic hazard.
- (f) No woody plant materials are situated within any utility easement unless shrubs or other limited height materials are of a size that has been approved by the utility provider.
- (g) 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.
- (h) The design, selection, and layout of such landscaping is such to minimize maintenance requirements.

E. POST APPROVAL

1. SITE SPECIFIC AND BINDING

Approved landscape plans shall be binding upon the applicants and their successors and assigns. No zoning compliance permit shall be issued for any building or structure where landscaping has not been provided in accordance with the required and approved landscape plan, or any approved modifications thereto.

2. EXPIRATION OF UNBUILT LANDSCAPE PLANS

Approved landscape plans shall expire one year after approval if a zoning compliance permit has not been issued, or the approved use has not been established. In the event that the landscape plan expires due to the passage of this time period, a new landscape plan application must be submitted for approval in the same manner as an original application. An extension not to exceed one year may be granted by the planning director prior to expiration.

3. MODIFICATIONS TO LANDSCAPE PLANS

The holder of an approved landscape plan may request a modification to the document, or the conditions of approval, by submitting amended documents to either the planning director or the original approving body.

F. PERMIT AND SECURITY

1. LANDSCAPING INSTALLED WITHIN ONE YEAR OF ISSUANCE OF ZONING COMPLIANCE PERMIT

(a) All landscaping and screening material, organic and inorganic, shall meet the standards of Section 27-1106 and be in place within one year of the issuance of a zoning compliance permit. If installed, 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 zoning compliance permit application.

(b) If the timing of the project and seasonal limitations prevent planting within the one-year period, security as described in this section may be provided and the planting period may be extended accordingly.

2. SECURITY REQUIRED

(a) When the timing of a project delays the installation of the landscaping beyond the 1-year time period, a performance bond or letter of credit for 150 percent of the landscaping materials and labor costs shall be posted with the planning department to ensure the placement of the required landscaping.

(b) The property shall be inspected by the planning director to make sure that the required landscaping has been planted before release of the security bond or letter of credit.

(c) The installation of the required landscaping may be delayed until the next suitable planting season with written approval from the planning director.

3. MAINTENANCE AND INSPECTION

(a) Trees, shrubs, fences, walls, irrigation improvements, and other landscape features depicted on plans approved by the county shall be considered elements of the project in the same manner as parking, building materials, and other details are elements of the plan. The landowner, successors in interest or agent, if any, shall be jointly and severally responsible for the following:

(b) Landscaped areas shall be irrigated as necessary to maintain required plant materials in good and healthy condition. Irrigation plans shall be submitted with development plans and shall contain all construction details for an automatic system.

(c) All landscaping and irrigation may be subject to periodic inspection for compliance to approved plans.

Section 27-1104 Street Frontage Landscaping.

A. REQUIRED STREET FRONTAGE LANDSCAPING

1. The area along any property line that abuts a public street right-of-way shall be provided a landscaped area at least five feet wide that is planted with street trees.

2. The required total number of street trees shall be calculated at one tree per 50 lineal feet of frontage. Fractions shall be rounded up to the next whole number.
3. Street trees do not need to be spaced at 50-foot intervals; the placement and landscaping design shall be at the discretion of the property developer in consultation with their landscape designer or landscape architect.



Fig. 27-1104.A: Sample illustration of new street trees installed on a commercial site.

B. LOCATION AND CALCULATIONS

1. Measurement

(a) Generally: The street frontage landscape area depth is measured from the property line inward.

(b) Boulevard: Street frontage yards located along a boulevard shall be measured from the leading edge of the sidewalk. Where there is a drainage swale between the road edge and the sidewalk, the street frontage yard shall be measured from the property line inward.

2. Up to 30 percent of required street frontage landscaping may be permitted within a County right-of-way with the issuance of an encroachment permit.

3. Street frontage landscape areas may overlap required yards and be located within required setbacks.

4. Access driveways shall not be subtracted from the linear frontage in calculations of the amount of landscaping required. If there are driveways along the frontage or property line, required landscaping shall be condensed into the remaining landscaping area.

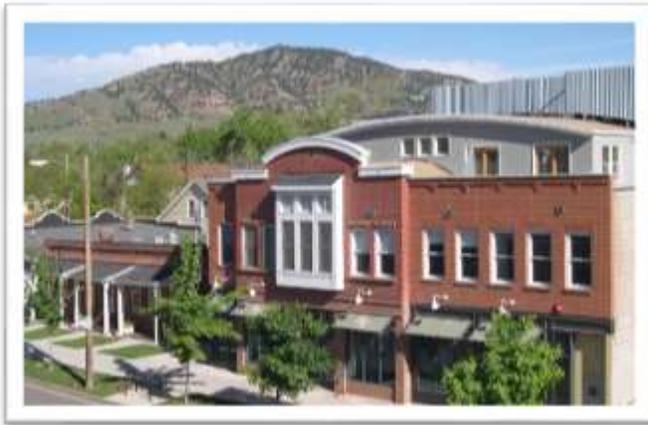


Fig. 27-1104.B (left) Street trees planted along a mixed-use redevelopment

C. PLANT MATERIALS

1. Street tree species shall be chosen from the Billings and Yellowstone County Plant List.
2. The street front landscape yard shall be planted in 75 percent organic materials, excluding turf grass or other material that requires regular mowing. The remaining 25 percent may be covered in inorganic materials.
3. Generally applicable plant materials standards are located in Section 27-1107.
4. The use of coniferous trees is not permitted in street frontage yards.

Section 27-1105 Bufferyards.

A. REQUIRED BUFFERYARDS

1. APPLICABILITY

- (a) The exterior boundary of a lot that adjoins a different zone district, structure, or use, and does not adjoin a public street right-of-way, shall meet the bufferyard requirements shown in Table 27-1105.1 below.
- (b) A lot may require a combination of street frontage yards and bufferyards depending upon the types of surrounding streets and development.

2. TYPES OF BUFFERYARDS

- (a) There are three types of landscaping bufferyards defined in this section that are intended to accomplish the following:
 - (1) B1: Visual Enhancement is intended to create a partial visual separation between uses or districts.
 - (2) B2: Filtered Screen is intended to create a semi-opaque visual separation between uses or districts.
 - (3) B3: Screened Separation is intended to provide both space and a partial visual separation between uses or districts. This bufferyard is intended for use where a new development is located adjacent to a district or use that is significantly different in intensity, such as a residential district next to an industrial district.
- (b) The dimensions and planting requirements for each type of bufferyard is specified in Table 27-1105.2.

Placeholder for illustration

Fig. 27-1105.A: Sample illustration of a B2 bufferyard

3. ADDITIONAL STANDARDS AND INSTRUCTION

- (a) If a use or district does not conform with the categories identified in Table 27-1105.1, the planning director shall determine which category best matches the use.
- (b) A six-foot high sight-obscuring fence or wall shall be provided on the property line where a commercial or industrial use or structure is adjacent or across an alley from residential uses.

- (1) A continuous hedge may be substituted for the required fence or wall, as long as it has a minimum height at installation of three feet and reaches six feet or more at maturity.
- (2) Chain link fencing is allowed within a bufferyard where a sight obscuring fence is required so long as the chain link fence has sight-obscuring slats installed.

Table 27-1105.1 Required Bufferyards

Key: B1, B2, or B3 = required bufferyard (see Table 27-1105.2 for requirements), F = Fence required per 27-1105.A.3, X = no bufferyard required

Proposed Development

		Agriculture (A-1 & A-S)				Residential – All Types				General Commercial: RP, NC, CC , and P				Entryway				Heavy Comm/Industrial: HC, CI, and HI				
		Structure/ Use	Ag	SFR	MF R	Non - Res	SFR	MF R	Mixe d Use	Non - Res	SFR	MF R	Mixe d Use	Non - Res	ELC	EG C	EM U	ELI	HC	CI	HI	
Existing Development	Agriculture	AG	X	X	X	X	X	B1	B1	X	X	B1	B1	X	X	X	X	X	X	X	X	
		Single Family	X	X	B1	B2	X	B1	B2	B2	X	B1	B2	B2	B2	B3	B2	B3	B3	B3	B3	B3
		Multi Family	X	B1	X	B2	X	X	B2	B2	X	X	B2	B2	B2	B3	B2	B3	B3	B3	B3	B3
		Non-Res	X	B2	B2	X	B2	B2	B1	X	B2	X	B1	X	B1	B2	B2	B2	B2	B2	B2	B2
	Residential	Single Family	X	X	B1	B2	X	B1	B2	B2	X	B1	B2	B2	B2	B3	B2	B3	B3	B3	B3	B3
		Multi Family	X	B1	X	B2	B1	X	B2	B2	X	X	B2	B2	B2	B3	B2	B3	B3	B3	B3	B3
		Mixed Use	X	B2	B1	B1	B2	B1	X	B1	B2	B2	X	B1	X	X	X	B2	B2	B2	B3	
		Non-Res	X	B2	B1	X	B2	B1	B1	X	X	B1	B1	X	X	X	X	B2	B1	B1	B1	
	General Commercial	Single Family	X	X	B1	B2	X	B1	B2	B2	X	B1	B2	B2	B2	B3	B2	B3	B3	B3	B3	B3
		Multi Family	X	B1	X	B2	B1	X	B1	B2	B1	X	B2	B2	B2	B3	B2	B3	B3	B3	B3	B3
Mixed Use		X	B2	B1	B1	B2	B1	X	B1	B2	B2	X	B2	X	X	X	B2	B1	B1	B1		

	Non-Res	X	B2	B1	X	B2	B1	B1	X	B2	B1	B1	X	B1	B2	B1	B2	B2	B2	B2
Entryway	ELC	X	B2	B2	B1	B2	B2	X	B1	B2	B2	X	B1	X	B1	X	B1	B2	B2	B2
	EGC	X	B3	B3	B2	B3	B3	X	B2	B3	B3	X	B2	B1	X	B1	B1	X	X	B2
	EMU	X	B2	B2	B1	B2	B2	X	B2	B2	B2	X	B1	X	B1	X	B1	B1	B1	B3
	ELI	X	B3	B3	B2	B3	B3	B2	B2	B3	B3	B2	B2	B2	B1	B2	X	X	X	B1
Heavy Comm/ Industrial	Hwy Comm.	X	B3	B3	B2	B3	B3	B2	B2	B3	B3	B2	B2	B2	X	B1	X	X	B1	B1
	CI	X	B3	B3	B2	B3	B3	B2	B2	B3	B3	B2	B2	B2	X	B1	X	B1	X	B1
	HI	X	B3	B3	B2	B3	B3	B3	B2	B3	B3	B3	B2	B2	B2	B3	B1	B1	B1	X

B. STANDARD BUFFERYARD TYPES

The bufferyard dimensional and planting requirements are established in Table 27-1105.2, and a menu of landscape points is established in Table 27-1105.3. Landscape point allocations may be enhanced through the use or conservation of bonus materials as identified in Table 27-1105.4.

1. STANDARD TYPES OF BUFFERYARDS

Different buffer widths and planting requirements may be specified in this section according to the following standard landscape buffering types:

Table 27-1105.2: Standard Bufferyard Types			
Requirement	B1	B2	B3
Planting Area Width (min. avg., ft.)	6	10	10
Total Points Required [2] (per linear foot of property line)	0.30 points per lin. Ft.	0.50 points per lin. Ft.	1.1 points per lin. Ft.
Min. Tree Points	none	0.35 points per linear ft.	0.60 points per linear ft.
Min. Shrubs/Plant Points	0.10 points per linear ft.	0.05 points per linear ft.	0.05 points per linear ft.
Max. % Non-organic Landscape Materials	25	25	25
Max. Organic Groundcover in Turf Grass	Not permitted	N/A	N/A
Opaque Screen Fence	Optional	Optional	Required
Open Fence	Optional	Optional	N/A

2. DESIGN

Placement and landscaping design shall be at the discretion of the developer, including the placement of the required trees within the required bufferyard.

3. LOCATION AND CALCULATIONS

- (a) Bufferyard depth is measured from the property line inward. Where a buffer area overlaps another buffer area, the area of overlap of one bufferyard shall be subtracted from the total required landscape point calculation to avoid double counting.
- (b) Bufferyards may be located within required yards and setbacks.
- (c) Access driveways shall not be subtracted from the linear frontage in calculations of the amount of landscaping required. If there are driveways along the frontage or

property line, required landscaping shall be condensed into the remaining site perimeter landscaping area.

4. LANDSCAPE POINTS

(a) Required bufferyard landscaping is calculated in landscape points. The following table identifies the landscape points awarded for various planted or preserved landscape materials. Plant material standards are provided in Section 27-1107.

Table 27-1105.3: Landscape Points			
Landscape Material	Landscape Points		
	Newly Installed (caliper)	Newly Installed Naturalized (caliper)	Existing Retained (diameter)
Deciduous Trees:			
Greater than 8"	n/a	n/a	27
From 4" to 8"	n/a	n/a	17
From 2.5" to 4"	21	27	n/a
From 1.5" to 2.5" or multi-stem	13	17	n/a
Coniferous Trees, Height:			
Greater than 10'	21	25	27
From 8' to 10'	13	15	17
From 6' to 8'	9	9	12
Shrubs, Plants & Ground Cover:	Points per square feet	Points per square feet: naturalized	
Perennials/ground cover	17 per 500	27 per 500	
Annual flower bed	17 per 500	22 per 500	
Lawn grass	13 per 1000	n/a	
Hardscape Materials:	Points		
Split rail fence	0.20 per lineal foot		
Screening fence (opaque)	0.40 per lineal foot		
Organic mulch	13 per 500 sq. ft.		

Table 27-1105.3: Landscape Points

Landscape Material	Landscape Points		
	Newly Installed (caliper)	Newly Installed Naturalized (caliper)	Existing Retained (diameter)
Ornamental pavers, decorative rock mulch	6 per 250 sq. ft.		
Landscape boulders, 3 feet or greater in height	10 per boulder		
Seating	0.40 per linear foot		
Public amenities (See Sec. B.4(b))	10 per amenity		

(b) Public amenities may be included in a bufferyard that is generally accessible by the public or by adjacent residential development. Public amenities shall meet the following standards:

- (1) Outdoor seating plaza or sheltering structure with a minimum useable area of 180 square feet;
- (2) Public art, including but not limited to sculptures, fountains, clocks, or murals with an installed value equal to or greater than ½ of one percent of the construction value of the structure.
- (3) Sidewalk planters between the sidewalk and the building.
- (4) Pedestrian paths that connect residential development to the adjacent development or to an existing or proposed public walkway system.

5. BONUS CALCULATION

(a) Bonus landscape points may be awarded for landscaping that meets the following standards:

Table 27-1105.4 Bonus Landscape Points	
Retained Existing Trees and Plant Materials	Bonus Landscape Points (% increase)
Trees of exceptional quality ¹ due to size, large canopy cover, trunk diameter, rareness, age, or species	25
300+ square feet with a minimum of 1 tree of 4" caliper or greater or 10 feet in height or greater	15
500+ square feet with a minimum of 2 trees 4" caliper or greater or 15 feet in height or greater	20
800+ square feet with a minimum of 3 trees 4" caliper or greater or 18 feet in height or greater	25
Use of Local, Naturalized Vegetation in New Planting	
Use of 50 – 75% local, naturalized plant materials	10
Use of 75 – 99% local, naturalized plant materials	15
Use of 100% local, naturalized plant materials	20
Notes:	
1 – Cottonwood, Elm and Ash species do not qualify for this bonus	

(b) Landscape and Bonus Point Standards

(1) Points awarded for retained vegetation in perimeter buffers may only be applied in the buffer area along the same lot line where the vegetation is found.

(2) Any trees preserved on a site in required landscaping areas that meet the specifications in this section and are not identified on the Billings and Yellowstone County Plant List may, at the discretion of the planning director, be credited toward meeting the tree requirements of any landscaping provision of this article.

(3) Any tree for which landscape points or bonus points are given shall be in a condition that encourages long-term survival and in a location that conforms to the intent and standards of this section.

(4) Existing trees that are preserved and receive landscape points or bonus points shall be marked on the landscape plan and the amount of bonus points shall be indicated. Any trees which receive points and are later removed shall be replaced with the number of trees for which landscape points was received.

Section 27-1106 – Off-Street Parking Lot Landscaping

A. APPLICABILITY

The following requirements shall be applicable to all new off-street surface parking lots with 10 or more spaces.

B. REQUIRED LANDSCAPE AREA

1. All surface parking lots shall incorporate the following interior landscaping:
 - (a) All parking stalls shall be within 132 lineal feet of a required parking lot landscape area. For purposes of determining tree spacing, parking spaces may be counted in any rational sequence.
 - (b) Landscape terminal islands that are a minimum of nine feet wide and four feet shorter, at the entry end, than the adjacent parking stalls in the parking row shall be provided at the ends of each parking row.
 - (c) Parking lots with 100 or more spaces shall also be divided into subsections of no more than 50 spaces with landscape divider strips shall be placed between the sections.



Fig. 27-1106.A Sample parking lot landscape area layout



Fig. 27-1106.B Left: Landscape islands with storm water infiltration;



Fig. 27-1106.C Right: Landscape divider with bio-swale

C. LANDSCAPE AREA DESIGN

1. A landscape divider strip that separates either parking rows or parking lots shall be allowed to count a sidewalk located within this divider strip toward a part of the required off-street parking lot landscaping. The intent of this sidewalk is to help facilitate safe pedestrian movement. This sidewalk must meet the following criteria if it is to be counted toward the required landscaping:
 - (a) The sidewalk has a five-foot wide walking path and shall add two feet for vehicle overhang, if the sidewalk abuts a parking stall.
 - (b) The sidewalk extends the entire length of the divider strip. The ends of the sidewalk shall be ADA compliant.
 - (c) The sidewalk is bordered on at least one side by landscaping, of which the sidewalk cannot account for more than 50 percent of the area of the divider strip.
2. Landscaped areas within parking lots or the along perimeter of the property must be protected from vehicular traffic through the use of concrete curbs, extruded asphalt or other approved permanent barriers.
3. No paving shall be permitted within four feet of the center of a tree.

D. PLANT MATERIALS

1. All of the required parking lot landscaped areas must contain a minimum of 75 percent organic landscaping material, with a maximum of 25 percent inorganic landscaping material. Approved sidewalks are not counted toward the percentage of inorganic material unless specifically provided for in this section.
 - (a) A landscape divider strip shall be planted with one tree every forty feet.
 - (b) Islands shall be planted with one tree and at least 75 percent of the ground plane shall be covered with organic material that will remain in place on the island through typical local weather. Turf grass is prohibited in or on parking lot landscape islands. Deciduous trees are encouraged within the parking lot.
2. Clear vision areas where the parking lot access drive enters from a public right-of-way must be maintained as required in Section 27 -615 and as illustrated in Section 27-618. Plant materials within these clear vision areas must be trimmed down to no more than 30 inches above grade, or in the case of trees, the lowest branch height trimmed up to 8 feet above grade.
3. Landscaping for civic and commercial uses must reach 50 percent coverage within two years of the approval of a zoning compliance permit.

E. WATER CONSERVATION DESIGN

1. Where appropriate, the use of porous pavement and/or specially designed brick or block should be considered to increase on-site water retention for plant material, replenishment of groundwater supplies and to reduce problems associated with runoff.
2. Parking lots shall be designed so as not to drain into or across public sidewalks, adjacent property, or directly into natural watercourses. Curbs used to protect landscape islands should have 18 to 24-inch-wide curb cuts at frequent intervals to allow storm water infiltration. The surface of landscape islands and divider strips shall be concave to help channel surface water runoff. The following drainage structures are permitted within parking lot landscape areas:
 - (a) Rain gardens,
 - (b) Bio-swales
 - (c) Drainage easements, and
 - (d) Drainage inlets.



Fig. 27-1106.D: Curb cut to allow drainage

F. SNOW STORAGE

1. A portion of the site equal to five percent of the surface areas to be plowed shall be provided as one or more snow storage areas that:
 - (a) Are adjacent to and within 20 feet of the edge of the pavement to be plowed;
 - (b) Are located so as not to interfere with the safe movement of pedestrians and traffic, including outside of any required clear vision areas;
 - (c) Are provided with appropriate drainage and where refreezing of any sheet drainage will not pose safety issues; and
 - (d) Remain accessible, useable, and clear of obstructions.
2. Plowed snow may be placed in a required bufferyard or parking lot interior landscape area that has been designed as follows:
 - (a) Snow storage areas shall be planted with plant materials that are salt-tolerant and that can withstand the weight and compaction of the snow. Mulch shall cover less than 30 percent of the landscape area within three years of installation.
 - (b) Trees, shrubs and other woody plants shall be protected from adjacent snow storage areas by separation by a minimum at grade separation from tree trunks or shrubs of four horizontal feet, or planters, elevated landscaping elements, walls or other approved mechanisms.



Fig. 27-1106.E Snow storage area

Section 27-1107 Tree Protection During Construction

A. GENERAL REQUIREMENTS

If the developer and designer intend to acquire landscape or bonus points for retained trees and landscaping, then tree protection during construction shall conform to the requirements of this section and the requirements relevant to construction in the American National Standards Institute (ANSI) publication A300 standards.

B. PROTECTIVE FENCING REQUIRED

Tree protection requirements shall apply to existing trees that are to receive credit for preservation. Such trees shall be surrounded by a temporary fluorescent colored fence that shall be constructed around the drip line of each tree, or group of trees to be preserved, prior to any grading or construction on the property.

1. The fencing shall be rigidly supported and maintained during all construction periods at a minimum height of four feet above grade.
2. All trees required to be fenced shall be clearly marked in a method approved by the planning director to notify inspectors the subject tree, or trees, are to be fenced at all times during construction.
3. Fencing may only be removed with the planning director's written permission, or upon approval of the final landscaping inspection.

C. OWNER'S RESPONSIBILITY

The owner or developer shall be responsible for the erection of any and all fences necessary to protect any existing or installed trees from damage both during, and after construction.

D. SHOWN ON SITE OR LANDSCAPING PLAN

The tree protection fencing shall be clearly shown on the site plan or landscape plan.

E. INSPECTION PRIOR TO LAND DISTURBANCE

All tree protection measures shall be inspected and approved by the applicant or landscape design professional responsible for the final landscape plan prior to start of any land disturbing activities.

F. PROHIBITED ACTIVITIES

The following activities are restricted or prohibited within the area contained by the tree protection fence:

1. Storage is prohibited within the fenced areas, including storage of heavy equipment, building materials, or soil.
2. Installation of underground utilities should be avoided within the area enclosed by the temporary fence. If installation of underground utilities is necessary, tunneling shall be used under the entire tree protection area. Tunneling must occur below the main lateral level of roots, or at least two feet below the surface, whichever is greater. Tunneling shall be done from both directions. Soil shall be backfilled in the tunnels.
3. Road and grade cuts (for basements and foundations) shall be outside the area enclosed by the temporary fence.
4. Minimal grading within 20 feet of the tree protection area may be allowed provided it does not impound water during wet periods or increase the drainage rate so that water tables are lowered.

G. TIME LIMIT FOR COMMENCING CONSTRUCTION AFTER CLEARING LAND

Where land is cleared and construction does not begin within 9 months from the date of the zoning compliance permit issuance, the owner shall be required to replant or re-seed the cleared property to its original vegetative cover based on tree counts and other information originally submitted to the county. A six-month extension of this limit may be issued at the discretion of the planning director.

Section 27-1108 Landscaping Material Standards

A. COMPLIANCE WITH LANDSCAPE PLAN

1. Plants shall conform to the measurements specified in the plant schedule submitted with the landscaping plan.
2. Homeowner associations and other similar organizations may not establish landscaping standards that conflict with the naturalized plant or water conservation provisions of this article as approved in an individual zoning compliance permit landscape plan.
3. It is recommended that a professional horticulturist, nurseryman or design professional be consulted to determine the proper time to move and install all plant materials, so that stress to the plants will be minimized.

B. PLANT SELECTION

1. Tree and plant materials shall be selected for: energy efficiency and water efficiency; adaptability and relationship to the native environment; color, form and pattern; ability to provide shade; soil retention; and resistance to fire. The overall landscape plan shall be integrated with all elements of the project, such as buildings, parking lots, and streets, and to achieve a desirable microclimate and minimize energy demand.
2. The Billings and Yellowstone County Plant List shall identify appropriate naturalized plant species for use in required landscaping areas. Applicants may suggest species that are not included on the list and shall provide documentation from a reputable source, such as a state agency or university, of the naturalized status of the species in the Billings and Yellowstone County region.
3. Naturalized vegetation within sensitive land and resource areas shall be preserved unless the county approves an alternative naturalized landscaping plan that preserves significant desirable naturalized vegetation.
4. If turf areas are included in landscaping, they must use a sod or seed mix specifically cultivated to thrive in the conditions present at the particular site.
 - (a) The use of non-naturalized, high water consumptive turf or other monoculture seeding is discouraged.
 - (b) The applicant must provide information regarding the composition of a sod or seed mix as part of the detailed plant list as required.
 - (c) No person or organization shall impose private covenants, conditions, deed clauses, or other agreements that require the installation of turf or prevent the

utilization of water efficient landscaping, provided such landscaping receives appropriate approval. No person shall prohibit landscaping materials and designs solely on the basis that they make use of water-efficient landscaping.

C. MEASUREMENT

1. CALIPER

(a) Caliper measurement shall be taken six inches above the ground level for field grown stock and from the soil line for container grown stock, which should be at or near the top of the root flare, and six inches above the root flare for bare root plants, up to and including the four-inch caliper size interval (i.e., from four inches up to, but not including, 4½ inches). If the caliper measured at six inches is four and one-half inches or more, the caliper shall be measured at 12 inches above the ground level, soil line, or root flare, as appropriate.

Note: Seldom are tree trunks perfectly round. The most accurate measurement will result from the use of a diameter tape. Caliper measurements taken with manual or electronic "slot" or "pincer" type caliper tools should be the average of the smallest and largest measurements.

(b) Trees with multiple stems: When a caliper measurement is included in the specifications, the specifications shall also include the method used to determine the caliper measurement, shown below:

- (1) The number of required trunks and the minimum caliper of each required trunk.
- (2) The caliper of only the largest trunk, with all other required trunks within a certain caliper range of the largest trunk (e.g., by percent or within two smaller caliper sizes).
- (3) The caliper specified is one-half (1/2) of the caliper of the three largest required trunks.
- (4) The caliper specified is the average of all required trunks.

2. HEIGHT AND SPREAD (COVERAGE)

(a) Height measurement shall be taken from ground level for field grown stock and from the soil line for container grown stock, which should be at or near the top of the root flare, and from the root flare for bare root plants.

(b) Spread measurement shall be the average spread of the branches of the plant, without leaves for deciduous shrubs, including leaves for evergreens.

(c) For deciduous shrubs, height measurement shall extend to the top of all canes meeting the height specification, as appropriate to the plant type.

(d) For evergreens, height measurement shall not be taken at the tip of the leader, but should be taken at the midpoint between the uppermost whorl(s) and the tip of the leader.

D. GENERAL STANDARDS

The following criteria and standards shall apply to landscape materials and installation:

1. PLANT MATERIALS LIST

The planning department shall maintain a suggested and prohibited plant list as necessary to identify plant material requirements or prohibitions within the county. Where a species is chosen for a landscape plan that is not identified on a county plant list, the applicant shall provide information about growth and spacing characteristics on the landscape plan. Plant information shall be taken from objective sources, including professional landscape organization websites or nursery cut sheets. Plant materials identified in any prohibited plant list may not be used in landscaping.

2. QUALITY

All trees and shrubs used for landscaping shall have well-developed leaders, tops, and roots characteristic of the species, cultivar, or variety per American National Standards Institute (ANSI) Z60.1, a copy of which is on file in the planning office, and shall show evidence of

proper nursery pruning per the same standard. All plant materials must be free of insects, diseases, mechanical injuries, and other objectionable features at the time of planting.

3. COVERAGE

(a) Grass, ground cover, shrubs, organic mulch, and other organic landscape materials shall be used to cover at least 75 percent of open ground.

(1) Open ground includes all fill slopes and hillsides, regardless of the angle of the slope.

(2) Open ground also includes all fill rock and shot rock slopes that must be covered with an appropriate depth of soil to allow for the healthy growth of the coverage.

(3) "Top dressing" landscaping materials such as mulch, bark, etc., can be incorporated into a landscape plan where appropriate, and can be used to cover up to 25 percent of open ground.

(b) No area required to be landscaped shall include any artificial trees, plants, or turf; impervious surfacing other than sidewalks, decorative pathways or other public amenities as described in Section 27-1105; or any carpeting designed as a visual substitute for lawn or other groundcover.

(c) Areas devoted to pasture, farm crops, or undeveloped areas of a parcel shall not be considered landscaped for the purpose of fulfilling any landscape requirements.

4. TREES

Trees used for landscaping shall be a species common to, or adapted to this area of the state, and not identified as prohibited on any county plant list. Trees shall have the following characteristics:

(a) Size

(1) Canopy trees shall be deciduous trees that have a minimum height of 30 feet at maturity. All canopy trees shall have a caliper width of at least one and one-half (1.5) inches at time of planting.

(2) Understory trees shall be deciduous trees that have a maximum height of less than 30 feet at maturity. All understory trees shall have a caliper width of at least one (1) inch at time of planting.

(3) Coniferous trees shall have a minimum height of 20 feet at maturity. All coniferous trees shall be at least four (4) feet in height at time of planting.

(4) Street trees shall be canopy trees and shall have a minimum caliper of one and a half (1.5) inches.

(b) All trees shall conform to the American National Standards Institute (ANSI) Z60.1, a copy of which is on file in the planning office.

5. SHRUBS, HEDGES, AND ORNAMENTAL GRASSES

(a) Shrubs shall have the following characteristics:

(1) Small or dwarf deciduous shrubs that typically do not grow to a mature height or spread exceeding three feet shall have a minimum height of twelve inches with a minimum of four canes.

(2) Intermediate deciduous shrubs with a mature height or spread of three to seven feet shall have a minimum height of 18 inches with a minimum of four canes.

(3) Large or tall deciduous shrubs with a mature height exceeding seven feet shall have a minimum height of 24 inches and a minimum of five canes. Where these shrubs have a narrow habit the minimum number of canes may be reduced to one.

(b) Ornamental grasses shall be a minimum of 18 inches in height at time of planting.

(c) Hedges, where installed as a bufferyard screen, shall be planted and maintained so as to form a continuous, unbroken, solid, visual screen which will be at least three (3) feet in height at the time of planting and achieve a minimum height of six (6) feet within five (5).

6. GROUND COVER, PERENNIALS, AND ANNUAL PLANTING AREAS

Ground covers, perennials, and annual planting areas used in lieu of grass in whole, and in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within one year after time of planting.

7. LAWN GRASS

Grass areas may be sodded, plugged, sprigged, or seeded, except that sod or other erosion control products shall be used in swales, berms, or other areas subject to erosion.

8. FRACTIONS IN THE CALCULATION OF NUMBER OF TREES AND SHRUBS.

In the calculation of trees and shrubs for any required landscaping, all fractions shall be rounded to the nearest whole number.

E. INTERFERENCE AND VISIBILITY

1. All landscaping shall be sized and located so that it does not interfere with utilities, easements or fire hydrants.
2. All landscaped areas must comply with the clear vision standards for intersections as established in Section 27-615 and as illustrated in Section 27-618.

F. IRRIGATION SYSTEMS

1. GENERAL STANDARDS

Where a property owner or tenant opts to install an in-ground permanent irrigation system, the following standards shall apply:

- (a) The landscape plan shall identify the area of approximate installation of an automatic irrigation system, its maintenance, and intended uses. The landscape plan must note and delineate all irrigated and sod areas.
- (b) Irrigation systems must be installed prior to plant materials.
- (c) Irrigation systems with a precipitation rate exceeding 0.75 inches per hour shall be prohibited on areas exceeding 1,000 square feet with a slope greater than 30 percent unless:
 - (1) Infiltration trenches, vegetated swales, bio detention areas, and similar facilities as approved by the county are employed to reduce runoff, or
 - (2) The landscape designer specifies an alternative design or technology that clearly demonstrates to the county's satisfaction no runoff or erosion will occur. Prevention of runoff and erosion must be confirmed during the final landscape inspection.

2. LOW-FLOW IRRIGATION SYSTEMS

Low-flow irrigation devices shall be used in all narrow or irregularly shaped landscape areas less than eight feet wide in any direction to avoid overspray and runoff.

- (a) System design shall be: surface drip system, subterranean drip system, micro-spray, or a combination of these systems.
- (b) A hose bib system may be used for irrigation when a landscape area is less than 1,000 square feet in size and when all portions of the area are within 100 feet of a hose attachment.

3. AUTOMATIC OPERATION

- (a) All systems shall be equipped with timers and scheduled to operate during evening or early morning hours to minimize evaporation rates.
- (b) All automatic underground sprinkler systems shall be equipped with rain and freeze sensors.

Section 27-1109 - Fences, walls and hedges.

A. Applicability

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

B. Height.

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

C. Setbacks required.

1. Front Yard

The maximum height for fences, walls, or hedges in a required front yard setback is four feet. Front yard setback are defined in sections 27-308 or 27-309.

2. Side and Rear Yards.

(a) Fences, walls or hedges between a height of four and six feet may be erected or maintained in any side or rear yard setback. Fences may not block a clear vision areas pursuant to subsection D, below.

(b) Any fence, wall or hedge in excess of six feet shall meet all of the yard setback requirements for structures as defined in sections 27-308 or 27-309.

3. Exceptions

None of the above setback requirements shall apply to lands located in the agricultural-open space (A-1), controlled industrial (CI), or heavy industrial (HI) zones.

D. Setbacks for clear vision areas.

No fence, wall or hedge greater than 30 inches in height maybe erected or maintained in any zoning district within a clear vision zone pursuant to Section 27-615 and as illustrated in Section 27-618.

E. Materials

1. Residential and Commercial Zones.

(a) Generally: All fences in residential, agricultural and commercial zoning districts shall be constructed from materials which are commonly used for fencing and shall not be constructed from railroad ties, wood pallets, tires, rubble or salvaged material.

(1) Commonly used fence materials include wood, brick, stone, split railing, chain-link, wire, vinyl, ornamental iron work.

(2) Materials not listed are subject to special review.

(b) Bufferyard Fencing: Required bufferyard fencing may be constructed of any of the materials identified in Section E.1(a) along with powder-coated or vinyl coated chain link fence.

(1) Where an opaque screening fence is required between uses – such as residential next to heavy commercial or industrial – solid vinyl, wood or similar solid fencing, or powder-coated or vinyl-coated chain link fence with opaque (solid) inserts shall be installed.

(2) An existing fence of the proper height and materials that is located on the property line where a bufferyard fence is required may be retained. Where an existing fence is not compliant with this section, the property owner who is required to install the bufferyard fence shall replace the existing fence with a compliant fence.

2. Industrial Zones. All fences in industrial zoning districts shall be constructed from materials commonly used for fencing and shall not be constructed from railroad ties, wood pallets, rubble, or salvaged material.

(a) Commonly used fence materials include wood, brick, stone, split railing, chain-link, wire, vinyl, ornamental iron work, finished or coated steel or aluminum building panels.

(b) Materials not listed are subject to special review.

3. Material exception—Barbed wire or electric fence.

(a) Barbed wire and electrically charged fencing is allowed in the A-1 and A-S districts within Yellowstone County. When electrically charged fences are used in an A-1 or A-S district, such fences shall be posted with warning signs or fluorescent markings at intervals not to exceed 150 feet, where such fences are adjacent to public rights-of-way.

(b) Electrically charged fencing is allowed in commercial or industrial districts within Yellowstone County provided that such fences shall be posted with warning signs or fluorescent markings at intervals not to exceed 150 feet, where such fences are adjacent to public rights-of-way. Barbed wire fencing is allowed in commercial or industrial zoning districts when such material is located not less than eight feet above grade.

Section 27-1110 Administrative Relief

A. PURPOSE

Administrative relief is provided to add flexibility in the application of a specific landscaping regulation when a standard is inapplicable or inappropriate to a specific use or design proposal. Administrative relief may be applied to up to a total of 10 individual landscape standards for any site.

B. POLICIES

1. The planning department recognizes that the specific landscape requirements in this section cannot and do not anticipate all possible landscape situations. In addition, the planning department 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 department 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 department generally assigns the following priorities for compliance with the landscape requirements:

(a) First, adjacent residential uses should be buffered,

(b) Second, an attractive appearance of the project should be provided along adjacent streets by landscaped setbacks and trees,

(c) Third, the parking areas and building elevations which form major public views of the project should be visually softened and enhanced by trees and other plantings.

3. Compliance with the requirements, such as the third priority above, should not be "forced" into a site design. For both visual effect and ease of maintenance, relatively few, but larger landscaped areas, which are integrated with the other elements of the site design, are generally encouraged. In addition, relatively numerous and smaller landscaped areas, which are not integrated with the other elements of the site design, are generally discouraged.

4. However, the granting of administrative relief should not always mean that a requirement is reduced without compensation. For example, the granting of a reduced bufferyard depth should be compensated by the planting of additional trees, shrubs or other plants.

C. APPLICATION

1. A written request for administrative relief shall be submitted to the planning director or his/her designee either before or in conjunction with the zoning compliance permit review process. The written request shall include a justification in terms of the findings necessary to grant administrative relief. The written request shall close with a section for the planning department's use which will include a block for the decision of approval/denial, the planning director or his/her designee's signature, and decision date. The written request with decision shall be attached to the plan or retained in the applicable file, as appropriate.

2. The planning director must make all of the following findings in order to grant administrative relief:
 - (a) The strict application of the regulation in question is unreasonable given the development proposal or the measures proposed by the applicant or that the property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same general area and such conditions will not allow a reasonable use of the property in its current zone in absence of relief;
 - (b) The intent of the landscaping section and the specific regulation in question is preserved; and
 - (c) The granting of the administrative relief will not result in an adverse impact upon surrounding properties.
 - (d) Proportional compliance as outlined in this section is not appropriate for the location and development planned.
3. The planning director shall render a decision on the request within 15 working days of receipt of the request and all required information. An appeal of the planning director's decision may be made to the board of adjustment with jurisdiction over the property, within 30 days after the decision. At this time, the appeal will be put on the agenda for the next board of adjustment meeting which allows for the required public notice.

Section 27-1111 Administration and Enforcement

The administration and enforcement of this section shall reside with the planning director as stated in sections 27-1602 and 27-1603.

SECTION 27-1200. - OFF-STREET PARKING AND LOADING STANDARDS

Sec. 27-1201. - Intent.

The intent of this section is to reduce traffic congestion and the need for parking on public streets and hazards caused thereby; to provide off-street parking and off-street loading berths adequate for each type of development in terms of both quantity and location. This chapter shall only apply to property located outside the limits of the City of Billings but within the unincorporated jurisdictional area.

Sec. 27-1202. - Definitions.

For the purposes of this section, certain words and phrases are defined and shall be construed as herein set forth in this section:

- (a) *Number of employees*: The largest number of employees who are on the premises during the peak working shift, as determined by zoning coordinator.
- (b) *Parking lot*: A structure or an area other than a public street or alley, together with ways of ingress, egress, isles, and maneuvering and backing areas, designed or used for the temporary parking of motor vehicles serving a use permitted in the district in which such parcel is situated, and available for public use whether free, for compensation, or an accommodation for customers or clients.
- (c) *Off-street parking space*: An area, other than a public street, alleyway or other public property (and exclusive of off-street loading spaces) permanently reserved or set aside for the parking of one (1) motor vehicle.

Sec. 27-1203. - Parking requirements—General.

There shall be provided at the time of erection of any building or structure or at the time of any change in occupancy of any building or structure minimum off-street parking accommodations meeting the provisions of this section.

Sec. 27-1204. - Expansion and enlargement.

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 this chapter, provided, however, that no parking space be provided in the case of enlargement or expansion is less than ten (10) percent of the parking spaces required for the enlarged facility as specified in this chapter. Nothing in this provision shall be construed to require off-street parking spaces for the portion of such building existing on November 6, 1973.

Sec. 27-1205. - Nonconforming uses.

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 nonconforming, provided that all regulations herein governing the location, design, size and space standards and operation of such facilities are adhered to.

Sec. 27-1206. - Combined or mixed occupancies.

In the case of mixed uses, the total requirements for the various uses shall be computed separately. The total requirements are to be the sum of the area computed. Off-street parking facilities for one (1) use shall not be considered as a substitute for joint use.

Sec. 27-1207. - Use not specified.

In the case of a use not specifically mentioned in this chapter, the requirements for off-street parking facilities shall be determined by the zoning coordinator. Such determination shall be based upon the requirements for the most closely comparable use listed.

Sec. 27-1208. - Reduction in spaces.

Off-street parking spaces existing and actually being used for the parking of automobiles or other motor vehicles in connection with the use of an existing building shall not be reduced in number or size, during the entire life of such building or land use, below that which would be required for a new building or use of a similar type.

Sec. 27-1209. - Fractional spaces.

If the number of off-street parking spaces hereinafter required contains a fraction, such number shall be rounded up to the next highest whole number.

Sec. 27-1210. - Joint use.

The zoning coordinator may authorize the joint use or lease of off-street parking facilities for the following uses or activities under the conditions specified:

- (a) Up to fifty (50) percent of the required off-street parking for primarily "nighttime" uses such as theaters, bowling alleys, bars or restaurants and related uses may be supplied by the parking requirements for primarily "daytime" uses such as banks, offices, retail uses, personal service establishments, clothing, food, furniture, manufacturing or wholesale and related uses.
- (b) Subsection A of this section may be reversed so that parking for "nighttime" uses may be used for "daytime" uses.
- (c) Up to fifty (50) percent of the parking facilities required by this chapter for churches or auditoriums may be supplied by the parking facilities provided for primarily "daytime" uses.
- (d) Conditions required for joint use or lease. The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use, shall be located within five hundred (500) feet of such parking facilities, in addition to which:
 - (1) The application shall show that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which a joint use of off-street parking facilities is proposed.

- (2) The applicant shall present to the zoning coordinator a legal agreement (lease) executed by the parties concerned for joint use or lease of off-street parking facilities. The lease must be for a minimum of ten (10) years and contain a notification requirement whereby the planning department will be informed in writing of any termination or complication experienced during the term of the lease. The legal document shall be recorded with the county clerk and recorder.

Sec. 27-1211. - Design standards —Location.

- (a) Off-street parking area(s) as required by this chapter shall be located as specified herein:
 - (1) Single- and two-family dwellings: On the same building site with the dwelling they are required to serve.
 - (2) Multi-family dwellings, townhouses, retirement homes, lodging, boarding and bed and breakfast houses: Within one hundred (100) feet of the use to be served.
 - (3) Hospitals, sanitariums, convalescent nursing homes, rest homes, homes for the aged and asylums: Within six hundred (600) feet for employees and three hundred (300) feet for visitors.
 - (4) Other uses not specified above: Within four hundred (400) feet of the use they are required to serve.
- (b) Where a distance is specified, such distance shall be measured in walking distance measured from the nearest point of the parking facility to the nearest point of the lot such facility is required to serve. The off-street parking shall not be located across a major arterial street except when both properties are contiguous to an intersection with traffic control lights. Off-street parking should not be located across a minor arterial or collector street from the business or residence.
- (c) Off-street parking areas must be accessible by a public street or alley, and shall be owned or leased by the owner or lessee of the building or use being served by such parking. Such parking lot shall be maintained as a parking lot so long as the building and/or use served is in operation or until another suitable parking area is established for such building or use.
- (d) Customer access via an alley to any commercial use on a lot which is adjacent to an alley and which abuts a residential zone shall not be permitted over that alley. Employee parking may be allowed in the alley if the alley is paved and if the parking will not conflict with the adjacent residential uses.
- (e) Required parking spaces shall be located so as to preclude backing maneuvers onto any public right-of-way from any use, with the exception of single- and two-family dwellings, as defined in this Resolution. Required parking spaces shall not be located in any required front or side yard, except for detached single-family dwellings, townhouses and manufactured homes. See section 27-602 for Arterial Setbacks on required parking.
- (f) A drive approach permit must be obtained from the county public works department prior to constructing any access.

Sec. 27-1212. - Design standards—Off-street loading spaces.

- (a) Off-street loading berths shall be provided on the same lot as the use it serves and shall not be located within the required front setback.
- (b) No loading berths shall be located closer than fifty (50) feet to a residentially zoned property, except when the berth area is enclosed, or screened by a six (6) foot minimum high wall or solid fence and the loading berth shall also meet the required setbacks from the adjacent residentially zoned property.
- (c) Each loading berth shall be designed with access to a public street or alley and so designed as not to interfere with normal traffic movement. No loading berth shall be located in the alley if it is adjacent to a Residential zone.
- (d) Each berth shall be not less than twenty (20) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height.

- (e) Loading berths shall not be considered as off-street parking spaces.
- (f) All or part of the required loading berths may be within buildings.
- (g) Off-street loading—Retail and commercial. In any district, any building or part thereof having a gross floor area of ten thousand (10,000) square feet or more which is to be occupied by a use requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one (1) off-street loading space, plus one (1) additional loading space for each twenty thousand (20,000) feet or fraction thereof of gross floor area. Such loading space shall be located so as to preclude backing maneuvers on the public right-of-way.
- (h) Off-street loading—Warehouse and wholesale. Off-street loading space for warehouse, wholesale shipping and similar facilities will be determined by the zoning coordinator or county public works director. Such loading space shall be located so as to preclude backing maneuvers on the public right-of-way.

Sec. 27-1213. - Design standards—Size of parking spaces and aisles.

- (a) The minimum width of two-way aisles shall be twenty-six (26) feet. Off-street parking spaces parallel with a wall, fence, or curb shall be a minimum of twenty-two (22) feet in length. Angle parking with one ingress/egress shall be prohibited if there is only one isle of parking.
- (b) Off-street parking spaces shall have a minimum dimension of nine (9) feet in width. All other minimum dimensions will be based upon standards on file in the county public works director's office.

Sec. 27-1214. - Handicapped parking requirements.

Parking spaces shall be provided for the handicapped and shall be clearly signed or marked with a stenciled notation on the pavement designating such use. Such parking spaces shall be located closest to the handicapped accessible entrance with an accessible route provided to that entrance and approved handicapped parking signs shall be posted. The size and number of handicapped parking stalls shall comply with the current Americans with Disabilities Act (ADA) policies and rules.

Sec. 27-1215. - Construction specifications.

- (a) *Surfacing.*
 - (1) Every off-street parking, loading and driveway area shall be paved with asphaltic or portland cement concrete, except for single-family development on individual lots.
 - (2) Surfacing shall be designed by accepted engineering methods, subject to the approval of the county public works director.
- (b) *Drainage.* All off-street parking and loading areas shall be graded and drained so as to adequately dispose of all surface water generated by that impervious surface. Surface water shall not be drained across public sidewalks or alleys. Drainage plans for uses requiring more than ten (10) parking spaces shall be submitted to and approved by the county public works director prior to the issuance of a building permit.
- (c) *Walkways.* Walkways a minimum of five (5) feet in width shall be provided between any building and adjacent parking lot. Where sidewalk curbs serve as wheel stops, an additional two (2) feet of sidewalk width is required.
- (d) *Lighting.* Lighting used to illuminate a parking area shall be arranged in such a manner as to not be a hazard to passing motorists or constitute a nuisance of any kind. Where said parking area is within one hundred and fifty (150) feet of any property zoned Residential by this Resolution and where the parking area is directly visible by the residents within one hundred and fifty (150) feet, illuminating devices shall be shaded in a manner as to direct light away from the residential property.
- (e) *Wheel stops.* Wheel stops shall be installed at least thirty (30) inches from all adjacent sidewalks, fences and walls. Such stops shall be either a concrete piece at least sixty (60) inches long and five (5) inches high and affixed securely to the parking surface, or a continuous concrete curb. This

requirement may be modified, provided other design features will be equally effective in prohibiting a vehicle from obstructing a sidewalk or making contact with a walk, fence or landscaped area, and which will promote safe pedestrian access.

- (f) *Traffic control devices.* Parking spaces shall be designated by pavement markings. All traffic control devices such as pavement markings, signs, rails, curbs and other similar development proposals shall be installed and completed as shown on the approved plans.
- (g) *Maintenance.* Maintenance of all areas provided for off-street parking shall include repair and maintenance of drain and repair of traffic control devices, signs, lights, standards, surfacing materials, curbs and sidewalks.
- (h) *Accesses.* The accesses to parking lots shall be approved by the county public works department or the Montana Department of Transportation, depending upon jurisdiction.
- (i) *Improvement schedule.* All parking area improvements to include surfacing, drainage, walkways, lighting, landscaping, screening, traffic control, etc., shall be installed before occupancy of the building or use to be served by such parking. Where parking area improvements will not be completed before occupancy of the building, a performance bond or an irrevocable letter of credit will be accepted for the completion of the required improvements. The performance bond or letter of credit shall be equal to one and one half (1½) times the cost of the parking area improvements to be completed. A cost estimate for improvements not installed at the time of occupancy shall be presented to the building official for approval. Performance bonds or letters of credit will not be released until all required improvements shown on the approved plan are installed and accepted. Foreclosure proceedings shall be brought against the performance bond or irrevocable letter of credit if the required improvements have not been completed within twelve (12) months of the posting of the bond or letter of credit.

Sec. 27-1216. - Required parking and loading spaces for specific uses.

Required parking spaces shall be in conformance with the following table and where alternative standards are indicated, the greater requirement applies in conflicting computation. For uses not listed below, see section 27-1207.

Specific use	Required parking and loading spaces
Residential single-family or duplex dwelling	2 parking spaces per dwelling unit
Residential multi-family dwelling	1 parking space per one (1) bedroom dwelling unit
	1½ parking space per two (2) or more bedroom dwelling unit
Fraternity and sorority	1 parking space per two (2) sleeping rooms or 1 parking space per three (3) beds, whichever is greater
Retirement homes and housing projects for the elderly which have received a declaratory ruling from the Montana human rights commission allowing sale or lease of the units exclusively to persons sixty (60) years of age or older*	1—6 dwelling unit(s) require 0.5 parking space per dwelling unit
	7—18 dwelling units require 0.33 parking space per dwelling unit
	Over 18 dwelling units require 0.25 parking space per dwelling unit, with a minimum of 5 parking spaces
	* Conversion to apartments will require the building to meet the residential multi-family dwelling parking requirements
Boarding, lodging, bed and breakfast houses, and similar uses	1 parking space per dwelling or lodging unit
Motels / hotels	1 parking space per sleeping room plus ½ parking space per employee per shift
Hospitals and institutions	With less than 100 beds based upon state licensed bed count:

	1½ parking spaces for each one thousand (1,000) square feet of total area or 1.2 spaces per bed
	With over 100 beds based upon state licensed bed count: 1.2 parking spaces per bed
Convalescent nursing homes and retirement homes	1½ parking spaces per one thousand (1,000) square feet
Day care, nursery and preschools	1 parking space per employee and 1 parking space per six (6) children
Schools: elementary and junior high (public or private)	5 parking spaces plus 1 per classroom with minimum auditorium requirements
Schools: high school, college, vocational and trade (public or private)	1 parking space per employee and 1 parking space per five (5) students
Banks, business and professional offices	1 parking space per three hundred (300) square feet of floor area
Medical and dental offices or clinics	1 parking space per two hundred (200) square feet of floor area
Libraries and museums	1 parking space per five hundred (500) square feet of floor area
Theaters, auditoriums, stadiums, sports arenas, and other similar open assemblies	1 parking space per four (4) fixed seats or 1 parking space per one hundred (100) square feet of assembly space without fixed seats
Skating rinks, dance halls, and recreation establishments	1 parking space per two hundred (200) square feet of floor area
Bowling alleys	6 parking spaces per alley
Churches, auditoriums, bingo parlors, and other similar places of assembly	1 parking space per four (4) fixed seats or 1 parking space per one hundred (100) linear inches of pew or 1 parking space per sixty-five (65) square feet of floor area used for assembly purposes
Mortuaries and funeral homes	1 parking space per four (4) seats
Private clubs and lodges	1 parking space per two hundred (200) square feet of floor area
Restaurants and bars	1 parking space per one hundred (100) square feet of floor area
Restaurants, with drive-in service	1 parking space per eighty (80) square feet of floor area, with 10 parking spaces minimum
Retail stores - less than five thousand (5,000) square feet	1 parking space per two hundred (200) square feet of floor area
Retail stores - greater than five thousand (5,000) square feet	25 parking spaces plus 1 parking space per three hundred (300) square feet in excess of five thousand (5,000) square feet
Furniture, appliance, household, and equipment sales	1 parking space per six hundred (600) square feet
Open sales area, trailer sales and rental, manufactured home sales, and garages	1 parking space per one thousand five hundred (1,500) square feet of sales area
Service stations, automobile repair and services	1 parking space per eighty (80) square feet of gross floor area, with 10 spaces minimum (pump lanes not counted as parking spaces)
Convenience store/gas combination	1 parking space per eighty (80) square feet of gross floor area, with 10 spaces minimum (pump lanes not counted as parking spaces)
Specific use	Required parking and loading spaces
Motor vehicle and boat showrooms, machinery sales and service, plumbing, heating and ventilating, upholstery, building material supplies, sales and service	1 parking space per one thousand (1,000) square feet plus 1 parking space per employee

Manufacturing uses, research, testing or repair of materials or commodities and processing, assembling, all industries	1 parking space per two (2) employees on maximum shift, but not less than 1 parking space per eight hundred (800) square feet of gross floor area
Wholesale establishments	5 parking spaces for the first one thousand (1,000) square feet of area and 1 additional space for each one thousand (1,000) square feet or 0.6 spaces per employee
Warehousing or storage buildings, freight terminals	10 spaces for the first twenty thousand (20,000) square feet of area and 1 additional space for each additional ten thousand (10,000) square feet or 0.6 spaces per employee

SECTION 27-1300. - PLANNED DEVELOPMENTS

Sec. 27-1301. - Intent statement.

The intent of this zoning district is to provide flexible land use and design regulations through the creation of individualized planned developments (PD). It is further the intent to encourage unique development or re-development through a flexible, timely and efficient process. Developments which utilize innovative, progressive planning and site design techniques and methods to allow a mixture of land uses, densities, setbacks and building heights will be encouraged. In addition, this zone is intended to encourage the preservation and enhancement of the physical characteristics of the site.

It is further intended that each PD zone will be a separate zone, each having differing design criteria to provide for the uses and improvements based on its particular site specific situation.

Sec. 27-1302. - Objectives.

The planned development (PD) zoning district is intended to include and promote consideration of the following:

- (a) To permit the development or enlargement of planned industrial, commercial, residential or mixed use development zones, while protecting the character and quality of adjacent uses.
- (b) To permit clusters of multiple family developments in appropriate locations within single family residential or commercial zones.
- (c) To permit flexibility in design and use of an individually owned property or a group of separately owned properties to allow for economy, convenience and amenity in development.
- (d) Preserve, enhance and retain the existing natural environmental qualities in the landscape such as topographic variation, views, water areas and native vegetation.
- (e) Ensure adequate provision of public services such as water, sewer, public safety, public parks, open space, storm water control and vehicular and pedestrian circulation.
- (f) Encourage patterns of development which decrease automobile travel and encourage trip consolidation and promotes the use of public transit, bicycles and walking as effective modes of transportation, thereby reducing traffic congestion and degradation of the existing air quality.

Sec. 27-1303. - PD zone guidelines.

A PD zone is intended to replace the previous zoning classification of the subject property. Areas rezoned in accordance with this chapter shall be designated with a "PD-_" preceding a numerical designation (example: PD-1) and each new PD district shall be added as an amendment to the zoning regulations.

The PD zoning district is unique among the zoning districts in that it allows zoning and/or site development standards to be "customized" to fit its particular site and/or development situation. With due consideration of public safety, the Governing Body can approve a PD that permits greater or lesser standards in such areas as density, use, bulk, height, parking, signage, traffic circulation, landscaping, lot

sizes or other elements. This may also include permitting the development of amenities such as tennis centers, swimming centers, and other recreational activities such as an equestrian center, provided that such an amenity is an integral part of the overall development scheme of the PD. However, these considerations for allowing greater or lesser standards should be balanced within the PD. For example, permitting greater density in a PD could be approved, in exchange for a greater amount of open space than a similar project, not located in a planned development zone, would be required to provide.

Sec. 27-1304. - PD application process.

A PD zone shall be established by following the procedure described below, which includes review by county staff, the county zoning commission and the governing body, including the participation of interested citizens.

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

If the project is required to go through the subdivision review process, it is recommended that this platting process occur concurrently with the PD zone change process.

Sec. 27-1305. - PD zone change submittal requirements.

The applicant or his/her authorized agent shall submit the following information to the planning department to begin the PD zone change process (see also section 27-1508, county zoning commission):

- (1) Legal description of the subject parcel(s), along with a map showing the dimensions, acreage and location of the parcel(s);
- (2) A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, from the exterior boundaries of the tract(s);
- (3) Two (2) sets of gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list;
- (4) The names and addresses of the owner(s) of the subject property and their agent(s), if any, along with the recorded property owner's signature;
- (5) A development plan which shall consist of the following:
 - a. A written text description of the PD, which will be added as an amendment to the zoning regulations. The subjects addressed in the text amendment may refer back to the zoning regulations or site development regulations for the PD's standards or describe the PD's unique standards. This amendment should address some or all of the following subjects:
 1. Purpose
 2. Underlying land use classification(s)
 3. Permitted uses
 4. Special review uses
 5. Prohibited uses
 6. Minimum or maximum lot sizes
 7. Minimum setbacks
 8. Maximum lot coverage
 9. Maximum height
 10. Permitted projections
 11. Density

12. Building design standards
13. Signs
14. Fencing
15. Landscaping in perimeter bufferyards and/or parking areas
16. Open space
17. Bicycle and/or pedestrian facilities
18. Application of site development standards
19. Vehicular access
20. Outside storage
21. Parking area development standards
22. Loading and unloading areas
23. Installation of improvements
24. Lighting
25. Other required documents
26. Other regulations

This list is not intended to be a complete list of all potential subjects which can be addressed in the PD amendment.

- b. A site plan or master plan which shows the specific location of proposed land uses, i.e. lot(s) and block(s), along with building envelopes (for multiple family, commercial or industrial uses only), designated parks and/or open space, site circulation, etc. Plans for small scale projects should resemble site plans, by showing specific locations of building(s), parking, landscaping, etc. Larger scale projects, however, do not need to show exact building footprints, but may be used to illustrate possible locations within the approved building envelope.
- (6) A tabulation of the total land use area and percentage thereof designated for various proposed uses. The PD should include a balance between areas which are developed and those designated as open space or park. For commercial/industrial developments, landscaped areas may also be counted towards open space;
 - (7) General circulation patterns indicating both public and private vehicular, pedestrian and bicycle ways. A traffic accessibility study will be required for any project that exceeds five hundred (500) vehicle trips per day;
 - (8) Relationships of present and future land uses to the following: the surrounding area; the 1990 Yellowstone County Comprehensive Plan; the Billings Urban Area Transportation Plan; BikeNet; any specific master plan or neighborhood plan adopted for the area and any other pertinent county plans;
 - (9) A statement of provisions for ultimate ownership and maintenance of all parts of the development;
 - (10) A preliminary report indicating provisions for storm drainage, solid waste disposal, grading and public or private utilities;
 - (11) Proposed development phasing, if any, and an approximate time schedule for development;
 - (12) Payment of all applicable fees; and
 - (13) Any other information the applicant believes will support his/her request or other information as requested by the zoning coordinator or planning department.

The planning department shall review the application for completeness. If the application is determined incomplete by the planning department, the zoning coordinator or his/her designee shall notify the applicant of all deficiencies. Once the application is determined complete, the application will proceed to be processed as described in the following sections.

Sec. 27-1306. - Planning department review and responsibility.

The zoning coordinator or his/her designee, upon receiving a complete application for a PD zone change and development plan shall do the following:

- (1) Distribute copies of the PD zone change and development plan to appropriate departments of the ~~the~~ county to fully evaluate the impact of the planned development upon public facilities and services;
- (2) Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its relationship to the comprehensive plan;
- (3) Notify, by mail, the applicant and/or his/her authorized agent at least five (5) days prior to the date of the preliminary review of the date, time and place of such review;
- (4) Notify, by mail, all property owners within three hundred (300) or more feet, as determined by the zoning coordinator, from the exterior boundaries of the property subject to the PD zone change, at least fifteen (15) days in advance of the time, date, place of the preliminary review, along with the existing and proposed use(s) and the development plan; and
- (5) Place notice of the preliminary review on the property subject to the PD zone change at least fifteen (15) days in advance of the date of public hearing.

Sec. 27-1307. - Preliminary review by the development review committee.

The preliminary review is intended to provide an opportunity for the development review committee to review the PD zone change and development plan with the applicant and surrounding property owners. The surrounding property owners are encouraged to give their comments during the period prior to the preliminary review meeting so that the developer can be made aware of any major differences or concerns on the part of the surrounding property owners.

The zoning coordinator or his/her designee shall conduct the preliminary review and lead the DRC in examining the PD zone change and development plan. The DRC shall also make a recommendation on the PD zone change and development plan. The DRC, applicant and/or surrounding property owners shall be allowed to discuss any concerns in the proposal. Any changes/deficiencies found at the preliminary review should be incorporated into the proposal and resubmitted to the zoning coordinator. This resubmittal shall be returned to the DRC for review, along with a recommendation which will be forwarded to the zoning commission.

The applicant shall be allowed to withdraw the application at any time prior to the publication of the legal advertisement for the public hearing before the zoning commission, without penalty regarding the four (4) month or one (1) year waiting periods. After publication of the legal advertisement, any withdrawal shall be governed by the requirements found in sections 27-1508.

Sec. 27-1308. - Zoning commission action.

The zoning commission, shall review and hold a public hearing on the PD zone change and make a recommendation to its governing body on the zone change, as specified in section 27-1508 (county zoning commission), subsection (d). In addition, the zoning commission shall also make a recommendation to its governing body on the development plan.

Sec. 27-1309. - Governing body action.

The governing body with jurisdiction over the project shall review, hold a public hearing and take action on the PD zone change as specified in section 27-1508 (county zoning commission), subsection (e). In addition, the governing body shall also take action on the development plan.

Sec. 27-1310. - Modification of the approved development plan.

Any modification of the approved development plan requested by the developer shall be processed using the same procedures for a new application, as set forth in above sections 27-1304 through 27-1309. However, minor modifications may be approved by the zoning coordinator if he/she makes the following findings:

- (1) No change in the overall character of the development;
- (2) No increase in the number of residential units greater than two (2) percent;
- (3) No additional allowed uses;
- (4) No reduction in open space greater than two (2) percent; and
- (5) No change in the approved minimum setbacks, maximum lot coverage or maximum allowed height.

Section 27-1400 – Reserved.

SECTION 27-1500. - COUNTY ZONING COMMISSION AND COUNTY BOARD OF ADJUSTMENT

Section 27-1501 through 27-1506 – Reserved

Sec. 27-1507. - County zoning commission created.

There is hereby created a Yellowstone County zoning commission to consist of five (5) members residing on property, any part of which lies within the Unincorporated Jurisdictional Area of this chapter but outside the limits of the City of Billings. The members are to be appointed by the board of county commissioners for a term of two (2) years and the terms of the members shall be staggered so that a minimum number of terms shall expire in any one (1) year. At the first regular meeting of the county zoning commission, the commission shall select a chairman and adopt written procedures for the conduct of its responsibilities as established in this section.

The members of said county zoning commission are required to attend all county zoning commission meetings advertised publicly, except in the case of an excused absence. The presence of three (3) members shall constitute a quorum.

The duties and powers of the county zoning commission shall be to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and to hold public meetings and make recommendations to the board of county commissioners on all requests to amend, supplement, change, modify or repeal the regulations, restrictions and boundaries in the zoning districts. The board of county commissioners shall not take any action until it has received a final report from such commission.

Sec. 27-1508. - Amendments to chapter.

- (a) *General.* The regulations, restrictions and boundaries set forth in this chapter may, from time to time, be amended, supplemented, changed or repealed by the board of county commissioners provided, however, that no action on any application for amendment, change or repeal may be taken until the application has first been processed and advertised in accordance with the provisions of this chapter.
- (b) *Application for map amendments.* Unless initiated by the board of planning or board of county commissioners, all applications for an amendment to the official map, or to the text of this chapter must be submitted in person by the property owner, the contract purchaser or the authorized agent of the property owner. Proposals to amend this chapter, except for the official zoning map, may also be initiated by the county zoning commission. An application for an amendment affecting the same property shall not be submitted more than once every twelve (12) months.

Each application to amend the official map or text shall be filed with the zoning coordinator, and each application shall be submitted under the following conditions:

- (1) The applicant or his/her authorized agent shall submit the following information to the planning department to begin the zone change process:
 - a. Legal description of the subject parcel(s), along with a map showing the dimensions, acreage and location of the parcel(s);
 - b. The names and addresses of the owner(s) of the subject property and contract purchasers, if any, and their agent(s), if any, along with the recorded property owner's signature;
 - c. A zone change plan which shall consist of the following:
 - i. A written description of the proposed zone change including the area in square footage or acres to be included in the zone change.
 - ii. If there are multiple zone changes proposed, the location and area of each specific new zoning district.
- (2) The planning department shall provide a list of surrounding property owners within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s) to the applicant or his/her agent based on the submitted information.
- (3) The applicant or his/her agent shall conduct a pre-application neighborhood meeting to explain the proposed new zoning and receive comment from the surrounding property owners. The applicant or his/her agent shall notify in writing the persons on the surrounding property owner list as provided in subsection (2) and the planning department of the date, time and location of the pre-application neighborhood meeting. The written notification shall be mailed at least seven (7) calendar days prior to the scheduled meeting. The written notification shall include all the materials noted in subsection 27-1508 (b) 1. The pre-application neighborhood meeting shall be conducted at least seven (7) calendar days prior to the submittal of the proposed zone change to the planning department. The applicant shall obtain a roster of the names of the persons that attend the pre-application neighborhood meeting and make a record of the minutes of the meeting.
- (4) Once the pre-application neighborhood meeting has been conducted the applicant or his/her agent may submit a zone change application and it shall include, but not be limited to, the following information:
 - a. A legal description of the tract(s) proposed to be rezoned;
 - b. A map showing the dimensions, acreage, and location of the tract(s) and adjacent land uses;
 - c. The present and proposed classification for the tract(s);
 - d. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s);
 - e. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list;
 - f. The names and addresses of the owner(s) of the land and their agents, if any, along with the recorded property owner's signature; and
 - g. Payment of all applicable fees.
 - h. A signed statement affirming the pre-application neighborhood meeting was conducted in conformance with the requirements of Section 27-1508 (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.
- (5) Any application for an amendment to the official map must be submitted together with all applicable fees, to the zoning coordinator twenty (20) days prior to the date of the public hearing before the Yellowstone County zoning commission.
- (6) An application may be withdrawn at any time prior to the publication of the legal advertisement for the public hearing before the county zoning commission without respect to the twelve (12) month waiting period. After legal notice for the county zoning commission

public hearing has been published, the request for withdrawal shall be submitted to the planning department office at least twenty-four (24) hours prior to the public hearing. The county zoning commission may allow withdrawal of the application, after advertisement of the zoning commission public hearing has been published, by a majority vote of the members present, without prejudice with respect to the twelve (12) month waiting period after the application has first been submitted. However, no application shall be allowed to be withdrawn more than once within the twelve (12) month period after the application shall have first been submitted.

- (7) An applicant requesting a zone change may request a thirty (30) day delay on the hearing of his/her application before the county zoning commission. The request for the delay and reasons must be submitted in writing to the planning office or chairman of the county zoning commission twenty-four (24) hours in advance of the public hearing. Approval of a delay shall require a majority vote of the members present, without requiring county commission approval of the delay. Only one such delay shall be allowed on any application.
- (c) *Planning department action.* The zoning coordinator, upon receiving an application for rezoning an area or a particular piece of property, shall do the following:
- (1) Consult with other departments of the /or county to fully evaluate the impact of any zoning change upon public facilities and services including, but not limited to schools, drainage, traffic and related facilities;
 - (2) Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its correspondence with the growth policy;
 - (3) Publish notice of the application in a newspaper of general circulation at least fifteen (15) days in advance of the date of the county zoning commission public hearing. The notice shall contain: the classification sought, the location of the property, the date, time and place of the county zoning commission public hearing and that the proposed zone change information is on file for public inspection at the office of county clerk and recorder;
 - (4) Notify, by mail, the applicant and/or his/her authorized agent at least five (5) days prior to the date of the county zoning commission public hearing of the date, time and place of such hearing;
 - (5) Notify, by mail, all property owners within three hundred (300) feet of the exterior boundaries of the property subject to the rezoning of the date, time and place of the county zoning commission public hearing and the existing and proposed classification at least fifteen (15) days in advance of that date. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet if he/she determines that the proposed rezoning of the property would likely have a substantial impact on the surrounding land uses;
 - (6) Place notice of the county zoning commission public hearing and board of county commissioners public hearing on the property subject to rezoning and in four (4) other public places at least forty-five (45) days in advance of the date of the board of county commissioners public hearing; and
 - (7) Report his/her findings and conclusions in writing to the county zoning commission, which report shall be a matter of public record.
- (d) *County zoning commission action.* The county zoning commission shall review and take action upon each application in accordance with the provisions of this chapter, and after a public hearing for which the application has been legally advertised. Each application shall be presented to the county zoning commission by the zoning coordinator or his/her designee, together with his/her findings and conclusions on the matter. The county zoning commission may, by a majority vote of the members present, delay action for a period not to exceed thirty (30) days, without prejudice to the applicant. A report of the commission's recommendation and the zoning coordinator's findings and conclusions shall be submitted to the board of county commissioners.

The county zoning commission shall make a recommendation to the board of county commissioners to:

- (1) Approve the application; or

- (2) Deny the application.

The county zoning commission shall submit its recommendations in writing along with a statement indicating its reasons for the recommendation to grant, deny, or allow withdrawal of the amendment within fifteen (15) days following the public hearing. In no case shall the county zoning commission make a recommendation that an amendment be granted for an amendment that was not legally advertised.

In making its recommendation to the board of county commissioners for an amendment to the official map or text of this chapter, the county zoning commission shall consider, among other things, the following:

- (1) Whether the new zoning is designed in accordance with the growth policy;
 - (2) Whether the new zoning is designed to secure from fire and other dangers;
 - (3) Whether the new zoning will promote public health, public safety and general welfare;
 - (4) Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
 - (5) Whether the new zoning will provide adequate light and air;
 - (6) Whether the new zoning will effect motorized and nonmotorized transportation;
 - (7) Whether the new zoning will be compatible with urban growth in the vicinity of cities or towns;
 - (8) Whether the new zoning considers the character of the district and the peculiar suitability of the property for particular uses;
 - (9) Whether the new zoning will conserve the value of buildings;
 - (10) Whether the new zoning will encourage the most appropriate use of land throughout Yellowstone County; and
 - (11) Whether the new zoning will, as nearly as possible, be compatible with the zoning of nearby cities and towns.
- (e) *Board of county commissioners action.* Notice of the board of county commissioners public hearing shall be published once a week for two (2) weeks in a newspaper of general circulation. The notice shall contain the time, date and place of the board of county commissioners public hearing, the boundaries of the proposed district, the general character of the proposed zoning district or regulations and that the proposed zoning regulations or district boundary change are on file for public inspection at the office of the county clerk and recorder. Before taking any action on an application for an amendment to the official map, or amendment to the text of this chapter the board of county commissioners shall first consider the findings and recommendations of the county zoning commission. In no case shall the board approve an amendment for a classification other than the one advertised. The board shall:
- (1) Approve the application;
 - (2) Deny the application;
 - (3) Allow withdrawal of the application; or
 - (4) Delay action on the application for a period not to exceed thirty (30) days.

Sec. 27-1509. - Special review by county zoning commission.

- (a) *General.* Although each zoning district is primarily intended for a predominant type of use, there are a number of uses which may or may not be appropriate in a particular district depending upon all the circumstances of the individual case. For example, the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets and potential environmental effects, all may indicate that the circumstances of the development should be individually reviewed. It is the intent of this chapter to provide a system of review of such uses so that

the community is assured that the uses are compatible with their locations and with surrounding land uses, and will further the purpose of this chapter and the objectives of the comprehensive plan.

- (b) *Application procedure.* An application for a special review may be submitted by the property owner, contract purchaser or his/her authorized agent. Such application shall be filed with the zoning coordinator and shall be submitted under the following conditions:
- (1) The application shall include, but not be limited to, the following information:
 - a. A legal and general description of the tract(s) upon which the special review use is sought;
 - b. A map showing the dimensions, acreage and location of the tract(s);
 - c. The names and addresses of the owner(s) of the tract(s) and his/her authorized agent, if any, along with the recorded property owner's signature;
 - d. A certified list of the names and addresses of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s);
 - e. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list;
 - f. A site plan showing major details of the proposed development including but not limited to: the location of proposed and existing buildings and structures; off-street parking and loading; service and refuse areas; means of ingress and egress; landscaping, screening, signs and open space areas;
 - g. The application must be accompanied by the payment of all applicable fees; and
 - h. Any other information the applicant believes will support his/her request or other information as requested by the zoning coordinator or planning department.
 - (2) An application may be withdrawn or amended at any time prior to the publication of the legal advertisement for the public hearing before the county zoning commission. After legal notice for the county zoning commission public hearing has been published, the request for withdrawal shall be submitted to the planning department office at least twenty-four (24) hours prior to the public hearing. The county zoning commission may allow withdrawal of the application, after advertisement of the zoning commission public hearing has been published, by a majority vote of the members present, without prejudice with respect to the twelve (12) month waiting period after the application has first been submitted. However, no application shall be allowed to be withdrawn more than once within the twelve (12) month period after the application shall have first been submitted.
 - (3) An applicant may request a delay for a period not to exceed thirty (30) days on the hearing of his/her application before the county zoning commission. The request for the delay and reasons must be submitted in writing to the planning office or chairperson of the county zoning commission twenty-four (24) hours in advance of the public hearing. Approval of a delay shall require a majority vote of the members present, without requiring county commission approval of the delay. Only one (1) such delay shall be allowed on any application.
 - (4) The application must be submitted, together with all applicable fees, to the zoning coordinator twenty (20) days prior to the date of the public hearing.
- (c) *Planning department action.* The zoning coordinator, upon receiving an application for a special review use, shall do the following:
- (1) Consult with other departments of the county to fully evaluate the impact of the use contemplated under the special review application upon public facilities and services;
 - (2) Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its correspondence with the comprehensive plan;

- (3) Advertise notice of the application in a newspaper of general circulation fifteen (15) days in advance of the date of the county zoning commission public hearing. The notice shall contain the time, date and place of the county zoning commission public hearing;
 - (4) Notify, by mail, the applicant and/or his/her authorized agent, of the time, date and place of the public hearing five (5) days in advance of that date;
 - (5) Notify the property owners, by mail, within three hundred (300) feet of the exterior boundaries of the tract(s) subject to the special review of the time, date, place and proposed use at least fifteen (15) days prior to the public hearing date. The zoning coordinator may notify property owners within a distance greater than three hundred (300) feet if he/she determines that the proposed use would be such as to have a substantial environmental impact on the surrounding land uses;
 - (6) Place notice of the public hearing on the property subject to the special review fifteen (15) days in advance of the public hearing; and
 - (7) Report his/her conclusions and findings, in writing, to the county zoning commission, which report shall become a matter of public record.
- (d) *County zoning commission action.* The county zoning commission shall consider each application in accordance with the provisions of this chapter, and at a public hearing at which time the application has been legally advertised. Each application shall be presented to the county zoning commission, by the zoning coordinator or his/her designee, together with his/her conclusions and findings on the matter. The county zoning commission may, by a majority vote of the members present, delay action for a period not to exceed thirty (30) days, without prejudice to the applicant. A written report of the commission's decision and recommendation and the zoning coordinator's report shall be submitted to the board of county commissioners.

The county zoning commission shall make a recommendation to the board of county commissioners to:

- (1) Approve the application;
- (2) Conditionally approve the application; or
- (3) Deny the application.

Recommendations from the county zoning commission shall be based on findings of fact and shall be transmitted to the applicant, or his/her agent and the board of county commissioners within fifteen (15) days of the date of the public hearing before the commission.

Before approving a special review use, the county zoning commission shall find that the contemplated use:

- (1) Complies with all requirements of this chapter;
- (2) Is consistent with the objectives and purposes of this chapter and the comprehensive plan; and
- (3) Is compatible with surrounding land use or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further, the county zoning commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

- (1) Street and road capacity;
- (2) Ingress and egress to adjoining streets;
- (3) Off-street parking;
- (4) Fencing, screening and landscaping;
- (5) Building bulk and location;
- (6) Usable open space;
- (7) Signs and lighting; and/or

- (8) Noise, vibration, air pollution and similar environmental influences.
- (e) *Board of county commissioners action.* Notice of the board of county commissioner's public hearing shall be placed in a newspaper of general circulation. The notice shall contain the time, date and place of the board of county commissioners public hearing. Before taking any action on an application for a special review use, the board of county commissioners shall first consider the findings and recommendations of the county zoning commission. In no case shall the board approve a special review use other than the one advertised. The board shall:
- (1) Approve the application;
 - (2) Conditionally approve the application;
 - (3) Deny the application;
 - (4) Allow withdrawal of the application; or
 - (5) Delay the application for a period not to exceed thirty (30) days.

Sec. 27-1510. - County board of adjustment.

- (a) *Created.* There is hereby created a Yellowstone County board of adjustment consisting of five (5) members residing on property, any part of which lies within the unincorporated jurisdictional area of this chapter. The members are to be appointed by the board of county commissioners for a term of two (2) years and the terms of the members shall be staggered so that a minimum number of terms shall expire in any one (1) year.
- (b) *Proceedings.* Meetings of the county board of adjustment shall be scheduled at a regular time each month and special meetings may also be called by the chairperson. The chairperson may cancel the regular monthly 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. In exercising its powers and duties under this chapter, not less than three (3) members of the board shall constitute a quorum.

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. The board shall keep records of its examinations and other official actions, all of which shall be public record and shall be filed in the office of the Yellowstone County board of planning, with copies forwarded to the board of county commissioners and zoning coordinator within thirty (30) days. The official minutes of the board's proceedings shall be signed by the chairperson or acting chairperson. The decision of the board shall become effective immediately, unless otherwise directed by the board. The board shall adopt bylaws for the conduct of its affairs and responsibilities under this chapter.

- (c) *Hearing, appeals, notices.* Appeals to the county board of adjustment may be taken by any person aggrieved or by any office, department or bureau of the county affected by any decisions of the administrative officer. Such appeal shall be taken within a reasonable time, not to exceed thirty (30) days, by filing a notice of appeal specifying the grounds thereof with the officer from whom the appeal is taken and with the county board of adjustment. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed was taken.

The county board of adjustment shall fix a reasonable time for the hearing of appeal, not to exceed thirty (30) days, give public notice thereof, as well as due notice to the parties in interest, and render a decision within a reasonable time not to exceed ten (10) days thereafter. At the hearing any party may appear in person, by agent or attorney.

- (d) *Appeals, stay of proceedings.* An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the county board of adjustment, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate, a stay would in his/her opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order which may be granted by the county board of

adjustment or 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) *Powers and duties.* The county board of adjustment shall have the following powers:
- (1) 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 resolution adopted pursuant thereto;
 - (2) 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.
- (f) *Decision and appeals.* In exercising the above mentioned powers, the county board of adjustment may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken. The concurring vote of three (3) 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 matter upon which it is required to pass under such resolution, or to effect any variation in the application of this chapter.

Any person aggrieved by any decision of the county board of adjustment, or any affected taxpayer, or any officer, department, board or bureau of the county may appeal the board's decision, subject to the following procedure:

- (1) Present to a court of record a petition setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the decision of the board;
- (2) That all action permitted by a grant of variance pursuant to the authority granted herein shall be stayed pending a petition to a court of record. The stay shall continue until the court has made a final determination;
- (3) If the county 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 denied and may immediately proceed by appeal as provided in this section 27-1510(F).

If an application for an administrative review or variance is denied by the county board of adjustment, another application shall not be filed within a period of one (1) year from the date of denial.

Sec. 27-1511. - County variances.

- (a) *Authority.* The county board of adjustment shall have the authority to grant a variance from the terms of the chapter 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 chapter would result in unnecessary hardship.
- (b) *Application procedure.* An application for a variance shall be filed with zoning coordinator under the following conditions:
- (1) The application shall include, but not be limited to, the following:
 - a. A legal and general description of the tract(s) upon which the variance is sought;
 - b. The names and addresses of the owner(s) of the land subject to the variance, and his/her agent, if any, along with the recorded property owner's signature;
 - c. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s); and

- d. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list.
- (2) The applicant shall present a map showing the location of the property for which the application is submitted, and its relationship to adjoining property;
 - (3) The applicant shall present a dimensioned site plan of the property for which the application is submitted which shall include, but not be limited to, the following:
 - a. The location and dimension of all vehicular points of ingress and egress, drives, off-street parking spaces, channelization's and traffic circulation;
 - b. The location and size of all existing and proposed buildings, structures and improvements; and
 - c. The existing buildings, structures and improvements shall be labeled as such and indicated by a solid line. The proposed buildings, structures and improvements shall be labeled as such and indicated by a dashed or dotted line.
 - (4) The application shall state reasons why the variance is being sought and shall specify the facts of hardship upon which the request for a variance is based;
 - (5) The application must be submitted at least twenty (20) days prior to the date of public hearing;
 - (6) The application must be accompanied by the payment of all applicable fees; and
 - (7) An application for a variance may not be withdrawn or amended by the applicant after the legal advertising as required by this Section shall have first appeared. However, the county board of adjustment may, by a two-thirds vote of all members, allow the application to be withdrawn without prejudice with respect to the twelve (12) month limitation of this chapter.
- (c) *Planning department action.* The zoning coordinator, upon receiving an application for a variance, shall do the following:
- (1) Consult with other departments of the county to fully evaluate the impact of the variance contemplated under the application upon public facilities and services;
 - (2) Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its correspondence with the comprehensive plan;
 - (3) Place notice of the time, date and place for the public hearing in a newspaper of general circulation fifteen (15) days in advance of the date set for the public hearing;
 - (4) Notify, by mail, the owner(s) of the property and/or his/her agent, of the time, date and place of the public hearing five (5) days in advance of that date;
 - (5) Notify the property owners, by mail, within three hundred (300) feet of the exterior boundaries of the property subject to the variance of the time, date, and place of the public hearing and the proposed variance request at least fifteen (15) days prior to the public hearing. The zoning coordinator may notify property owners within a radius of more than three hundred (300) feet, if he/she determines that the proposed variance would likely have a substantial impact on the surrounding land uses;
 - (6) Place a notice of the time, date and place of the public hearing on the property fifteen (15) days prior to the hearing date; and
 - (7) Report his/her findings, in writing, to the county board of adjustment, which report shall be a matter of public record.
- (d) *County board of adjustment action.* The county board of adjustment, before it grants a variance 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 chapter 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 chapter 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 chapter and with the comprehensive plan;
- (5) In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with this Resolution. 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 Resolution;
- (6) The board 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; and
- (7) Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this Resolution in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the same district.

SECTION 27-1600. - ADMINISTRATION AND ENFORCEMENT

Sec. 27-1601. - Intent.

It is the intent of this chapter to provide for the efficient, reasonable, and impartial enforcement of this chapter by authorizing an enforcement officer, the basic procedures for complying with the chapter and the penalties for violations.

Sec. 27-1602. - Administration.

- (a) The zoning coordinator is hereby given the authority to administer the provisions of this chapter for the unincorporated jurisdictional area of Yellowstone County.
- (b) 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 his/her responsibility to present any applications or requests to the appropriate board or commission.
- (c) It shall further be the responsibility of the zoning coordinator to aid the various boards, commissions and departments in transmitting appeal records to the board of county commissioners and to otherwise promote procedural regularity in the administration of this chapter. The position of zoning coordinator shall be within the organizational structure of the Yellowstone County board of planning.
- (d) The zoning coordinator shall not have authority to act in any final reviewing capacity any questions as to interpretation or enforcement shall be determined by the appropriate board, commission or department, unless such authority is specifically allowed in a chapter.

Sec. 27-1603. - Zoning enforcement officer.

It shall be the duty of the zoning coordinator or his/her designee to be the enforcement officer for the zoning regulations. He/she is hereby given the authority to enforce the provisions of this chapter for the unincorporated jurisdictional area of Yellowstone County.

Sec. 27-1604. - Penalties for violation.

- (a) A violation of this act or any chapter adopted pursuant thereto, is hereby declared to be a misdemeanor and shall be punishable by a fine not exceeding five hundred dollars (\$500.00) or imprisonment in the county jail not exceeding six (6) months, or both, and in addition shall pay all costs and expenses involved. Each day such violation continues shall be considered to be a separate offense.

- (b) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this act, or of any resolution made under authority conferred hereby, the proper authorities of the county may institute any appropriate action or proceedings, in addition to other remedies, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct, or abate such violation to prevent the occupancy of such building, structure, or land to prevent any illegal act, conduct, business, or use in or about such premises. For the purposes of enforcing this section, the county shall attempt to obtain voluntary compliance at least thirty (30) days before filing a complaint for a violation of this part that is subject to the penalties under subsection (a) above.

SECTION 27-1700. - SEPARABILITY CAUSE, REPEAL OF CONFLICTING RESOLUTIONS AND EFFECTIVE DATE

Sec. 27-1701. - Provisions of this chapter developed to be minimum standards.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare.

Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

Sec. 27-1702. - Separability clause.

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

Sec. 27-1703. - Repeal of conflicting resolutions and effective date.

Resolutions or parts of resolutions in conflict with this Resolution are hereby repealed to the extent necessary to give this chapter full force and effect. This Zoning Resolution for the unincorporated 4½ Mile Jurisdictional Area of Yellowstone County shall become effective on February 1, 1998.

Sec. 27-1704. - Schedule of fees, charges and expenses.

The board of county commissioners shall establish a schedule of fees, charges and expenses and a collection procedure for appeals and other matters pertaining to this chapter. Said schedule may be amended from time to time by resolution of the board of county commissioners. No zone change, special review or variance shall be issued unless or until such costs, charges, fees or expenses have been paid in full nor shall any action be taken on proceedings before the county board of adjustment or zoning commission unless or until charges and fees have been paid in full to the planning and community services department.

SECTION 27-1800. – Reserved.